INFLUENCE OF EAST AFRICA COMMUNITY CUSTOMS UNION ON THE PERFORMANCE OF THE OIL INDUSTRY IN KENYA

BY

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DECLARATION

This research project is my original work and has not been submitted for examination in any other university.

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D61/60058/2010

This research project has been submitted for examination with my approval as university supervisor.

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DEDICATION

This research project is dedicated to my son Jayden Wachira for your much love and aspiration.

May you go beyond this!

TABLE OF CONTENTS

LIST OF FIGURES

LIST OF TABLES

LIST OF ACRONYMS AND ABBREVIATIONS

EAC	East Africa Community
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
SADC	Southern Africa Development Community
NTB's	Non-Tariff Barriers
CU	Customs Union
EU	European Union
FTA	Free Trade Agreement
GE	General Equilibrium
GNI	Gross National Income
IMF	International Monetary Fund
PTA	Preferential Trade Agreement/Area
RoO	Rules of Origin
SADC	Southern African Development Community
UN	United Nations
VAT	Value-Added Tax
WAT	Weighted Average Tariff
WCO	World Customs Organization
WTO	World Trade Organization

ABSTRACT

Performance means change and proactive change is essential in a dynamic business environment. Performance is the main goal of any business organization. The Customs Union has the potential to form the basis for expanding trade in the region. The EAC Customs Union assist to level the playing field for the region's producers by imposing uniform competition policy and law, customs procedures and external tariffs on goods imported from third countries, which should assist the region to advance its economic development and poverty reduction agenda. However, there has been no empirical study that has focus on determining the effects of East African Community Customs Union on the performance of Oil Industry in Kenya. This study therefore, sought to fill the existing knowledge gap by answering the question on what are the effects of East African Community Customs Union on the performance of Oil Industry in Kenya. This research adopted descriptive research design for the study. The study carried out a census of all the 14 oil companies in Kenya (ROK, 2011). The study population comprised the general manager, financial manager and human resource from every company making a total of 42 respondents. A questionnaire was used as primary data collection instrument. The questionnaire included closed and open ended questions which sought views, opinion and attitude from the respondents which might not have been captured by the closed ended questions. The data was then summarized, coded and tabulated. Descriptive statistics means and standard were used to analyze the data. Data presentation was done by the use of pie charts, bar charts and graphs, percentages and frequency tables for easy of understanding and interpretations. From the findings, the study established that implementation of the Customs Management Act started in January 2005 has been successful. The study established that implementation of the Customs Management Act influence trade performance in Kenya to a very great extent. Efficiency and effectiveness of customs procedures has a significant influence on the trade performance in Kenya. This is evidenced by the performance of Oil trade in Kenya among East Africa Community which has been high since introduction of Customs union. From the findings, the study concludes that customs union lead to an increase in trade between the members of the regional organization. The strong negotiation, low risk of conflicts in trade, pool of market power, a harmonized reduction in internal and external trade barriers, greater economies of scale is in turn an important indicator of the positive effects of East African Community Customs Union on the performance of the oil industry in Kenya. To reap the benefits of Customs Union from EAC to the fullest possible extent, oil companies in Kenya needs to address problems that could negate the potential benefits from the EAC CU. To maximize the benefits of the EAC membership, policy makers need to initiate measures to harmonize tariffs under COMESA, the EAC as well as under the different RIAs to address the shortcomings of shared jurisdiction between the different regional initiatives since the present responsibility for enforcement is not demarcated precisely.

CHAPTER ONE

INTRODUCTION

1.1 Background of the study

Regional economies have become the core of social life and policy making (Schiff, 2010). The new regionalism tends to focus on various regional conditions geographic social, resources, technology, and market (Pearce, 2000). The Customs Union has the potential to form the basis for expanding trade in the region. In today's economic terms a Customs Union is a form of macro-economic integration between two or more countries based on the elimination of internal customs borders and the establishment of common import and export tariffs. According to Nixon, (2003), in the hierarchy of macro-integration, the Customs Union stands in the middle, between a Preferential Customs Area, where member states trade at preferential tariffs or on a duty-free basis, and a Political Union, where the common market place is accompanied by a unified economic policy (Newlyn, 2003)

The formation of the Customs Union (CU) of Belarus, Kazakhstan and the Russian Federation is probably the most important trade policy change in Central Asia in recent years. Past efforts at regional integration have often focused on removing barriers to free trade in the region, increasing the free movement of people, labor, goods, and capital across national borders, reducing the possibility of regional armed conflict, and adopting cohesive regional stances on policy issues, such as the environment, climate change and migration. Such an organization can be organized on either super national or intergovernmental decision-making institutional order, or a combination of both. (DeRosa,Obwona and Roningen, 2002)

Recently, customs duty are used in many countries to meet a wide range of objectives. These include increasing foreign direct investment (FDI), employment, exports as well as facilitating the transfer of technology and skills. They are also expected to create linkages with the rest of the nation's economy by stimulating the use of local raw materials and semi-finished goods as well as promote the growth of ancillary industries (Seyoum and Manyak, 2004). Customs Duty in many developed nations has been used as a policy instrument to attract foreign capital for export industries and to make the maximum use of the country's comparative advantage (Seyoum and Manyak, 2004).

By moving towards the creation of one economic region through the Customs Union, EAC created a single market of over 90 million people and a combined GDP of around US$30 billion motivating the implementation of customs union (Hope, Bhowon and Ruhindi, 2003). Currently, trade in the region is carried out under different external tariff, customs regulations, procedures and documentation influencing operation of enterprises in different sectors in the region with cross-border business operations to exploit the comparative and competitive advantages offered by regional business locations, without having to factor in the differences in tariff protection rates, and added business transaction costs arising from customs clearance formalities (Rahedi, 2003).

Oil Companies strategy plays an important part in determining the competitiveness of oil industry in the global market (Aryeete and Oduro, 1996). As governments embrace trade liberalization, oil firms have become increasingly exposed to fierce competition from a growing array of international suppliers (Wasilwa, 2008). These competitive pressures have stimulated a range of strategic changes across industries. An important survival tool for oil firms is the formulation of a global marketing strategy cost leadership/differentiation (Andraz and Rodrigues, 2010).

1.1.1 Concept Customs Union

A customs union is a type of trade bloc which is composed of a free trade area with a common external tariff. The participant countries set up common external trade policy, but in some cases they use different import quotas (DeRosa, Obwona and Roningen, 2002). Common competition policy is also helpful to avoid competition deficiency. In the theory of economic integration, a Customs Union is supposed to be the third stage of integration after a Preferential Trade Area and a Free Trade Area. However, the Treaty for the Establishment of the East African Community provides that a Customs Union shall be the first stage in the process of economic integration (East African Business Council, 2005). Therefore, real economic integration in the region will commence with the coming into being of the Customs Union. The Customs Code of the Customs Union lays out a number of amendments to the existing tariff regimes to create a common code which includes a single external customs tariff and simplified procedures for licensing of goods and intellectual protection of property across the three countries, along with dropping duties on mutual trade (Mizulin, 2009).

The broad objectives of the Customs Union include elimination of internal tariffs and non-tariff barriers in order to facilitate the formation of a large single market and investment area, harmonization of trade policies between partner states and other countries (such as by way of the Common External Tariff (CET) and creation of a single customs territory to enable partner states to enjoy economies of scale with a view to supporting economic development in the region (East African Community, 2000). The Protocol requires the partner states to co-operate in adopting uniform tariff classification of goods, establish common terms and conditions governing temporary importation procedures and adopt common procedures for establishment and operation of export promotion schemes and free ports (East African Community, 2004).

The EAC Customs Union will assist to level the playing field for the region's producers by imposing uniform competition policy and law, customs procedures and external tariffs on goods imported from third countries, which should assist the region to advance its economic development and poverty reduction agenda (EAC, 2005).

1.1.2 EAC Customs Union

The East African Community (EAC) is a regional organization mandated by the Governments of Kenya, Tanzania, Uganda, Rwanda and Burundi to spearhead the East African economic, social and political integration agenda. The Treaty for the establishment of the EAC was signed in November 1999 and entered into force in July 2000. The Treaty sets out a bold vision for the eventual unification of the EAC Partner States. It sets a Customs Union (CU) as the first step of integration (EAC, 2000).

The East African Customs Union Protocol was signed on March 2, 2004 after more than four years of protracted negotiations and became operational on January 1st, 2005. The Customs Union initially comprised Kenya, Uganda and Tanzania. It has since been expanded to include Rwanda and Burundi, who will officially join in July 2009. It was expected that the Customs Union would come to be fully implemented in January 2010, after the 5-year transition period (EAC Business Council, 2005).

Consensus has been reached on various areas which include common commodity description and coding system; common rules of origin; disputes settlement anti dumping regulations, subsidies and countervailing measures, regulation on free ports and common export promotion schemes (Ibid). In general, the Customs Union has opened up business opportunities in the region and has paved way for improved business climate. It has generated a liberalized cross-border trade, through the adoption of common policies to minimize customs clearance formalities as well as enhance predictability of economic policies (Fox, 2004).

The EAC Customs Union will assist to level the playing field for the region's producers by imposing uniform competition policy and law, customs procedures and external tariffs on goods imported from third countries, which should assist the region to advance its economic development and poverty reduction agenda. Further to this, the customs union will promote cross-border investment and serve to attract investment into the region, as the enlarged market with minimal customs clearance formalities, shall be more attractive to investors than the previously small individual national markets (Viner, 2005). In addition, the Customs Union will offer a more predictable economic environment for both investors and traders across the region, as regionally administered CET and trade policy will tend to be more stable (Adams, 2003). Private sector operators based in the region with cross-border business operations will be able to exploit the comparative and competitive advantages offered by regional business locations, without having to factor in the differences in tariff protection rates, and added business transaction costs arising from customs clearance formalities. The regionally based enterprises will also get better protection, as enforcement of the CET will be at a regional level.

1.1.3 Oil Industry in Kenya

Prior to liberalization in October 1994, an important attribute of Kenya's oil industry was a comparatively high level of government's direct involvement, and an equally low level of private sector participation. Seven marketing and distribution companies were responsible for procuring and importing their own oil (Mugisa, Onyango and Mugaya, 2009). After liberalization many independent oil companies emerged. Currently there are 85 registered oil companies in Kenya of which six are major. The major oil companies includes; Kenya Shell Ltd, Total Kenya Ltd, Kenol/Kobil (Kenya oil Ltd), Oil Libya Kenya Ltd, National Oil Cooperation (NOC) and Engen. Kenya Shell Ltd and Total Kenya Ltd are multinationals. The others are either local or regional companies. The major oil companies control about 75% of the market share and own major oil installations within the country. For example Kenya shell owns petroleum storage facilities in Nairobi and Mombasa, liquefied petroleum gas (LPG) filling plant in Nairobi and lubricants blending plant in Mombasa (Mecheo and Omiti 2003).

The major oil companies have a distinct brand, which completely differentiates them from the others. For example Kenya Shell, Kenol/Kobil and Total have lubricants and LPG brands that belong to them independently. These brands offer them company identity and help them extend brand loyalty among their customers. Major oil companies also run a nationwide network of retail outlets. For example Kenol /Kobil Petroleum Limited have an elaborate retail network in Kenya, with over 180 service stations. The two companies are strong players in the market, commanding a market share of over 20% (Petroleum Insight – Magazine of the Petroleum Institute of East Africa 1st Quarter 2009). Despite boost in the number of independent oil distribution companies in Kenya after 1994 liberalization, the major oil companies have maintained their position through acquisitions and mergers. In 2006 Kenya Shell Limited acquired the share holding of BP in Kenya increasing its market share from 15% to 25% in 2008. Oil Libya acquired Exxon Mobil share holding in Kenya in 2007. Recently Total Kenya acquired all the assets of Chevron in Kenya.

1.2 Research Problem

Many firms use customs duty to facilitate global sourcing and collaborative supply chain networks (Goldstein and Quenan 2002). Dispersing certain activities across the transnational value chain to lower costs and gain competitive advantage is considered a successful global business strategy (Jayawickrama and Thangavelu, 2010). In short, customs duty allows firms to leverage differences between economic areas to support cost-effective production (Hoekman and Olarreaga, 2001). Efficiency seeking elements of multinational company's global strategies

The subject of customs union has attracted limited research interest despite the growth of customs union in many countries reduce national welfare by creating distortions in the economy and another that underscores their positive role in industry host countries (Luzio, and Greenstein, 1995). Even though it was recognized that the customs union would generate major benefits by bringing about greater competition among domestic oil firms, it was acknowledged that in the short run oil firms that stood to gain most were those that were already competitive (EAC, 2000). Oil companies in Kenya operates in East Africa community initiate and transmit the export supply response through the establishment of affiliates and collaboration with local firms (Rhee and Belot, 2012). Vernon (1966) states that Oil firms shift production to different locations to attain cost competitiveness with the building up of competition as the product cycle reaches maturity. These locations feed the local markets in host countries as well as those in other countries. The Kenya Oil operating companies in East Africa concentrated in low and medium-technology oil sectors characterized by increased import competition(Schiff, M. (2010). Despite the critical role of customs union in East Africa Community oil industry, there has been scanty or no empirical studies that focuses on effects of customs union on specific sectors in the East Africa Community market

Previous study has focus on eastern and southern Africa (COMESA). For instance Rahedi carried out a study on effects of the common market for eastern and southern Africa (COMESA) on the export of manufactured products from Kenya. However, there has been no empirical study that has focus on determining the effects of East African Community Customs Union on the performance of Oil Industry in Kenya. This study therefore, sought to fill the existing knowledge gap by answering the question, what are the effects of East African Community Customs Union on the performance of Oil Industry in Kenya?

1.3 Research Objective

The research objective of this study was to determine the effects of East African Community Customs Union on the performance of the oil industry in Kenya.

1.4 Value of the study

The outcome of this study will be important to various bodies as follows:

The study will contribute to generation of knowledge and information for decision making that would improve and bring in some harmonization in the oil industry within the EAC. The study will be helpful to the companies in monitoring the oil industry within EAC and formulate and implement effective strategies in response to the market needs.

The study will be significant to the governments who will find the study valuable in formulating policies to promote and safeguard oil industry in the Kenya, how strategies and vision plans can be initiated to meet the regional market. The government of Kenya through its Ministries such as East Africa and Trade Affairs, Industrialization stands a higher and better chance to benefit as being the number one employer in the implementation of EAC policies.

The study will be significant to the scholars and researchers and academicians. The study will also contribute to the existing body of knowledge in the area of EAC customs union and specifically how it affects the oil industry in Kenya. The study will as well make a significant contribution to academic literature in the field of human resource management in Kenya.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter explored the various theories relating to custom union. It also looks at the general overview of the East African Community, the oil industry in Kenya as well as the concept of custom union. And finally studies that have been conducted in both the developed and developing countries with regard to custom union in relation to its effect on performance of oil industry.

2.1 Overview of Custom Union

A customs union (CU) is a form of trade agreement under which certain countries preferentially grant tariff free market access to each other's imports and agree to apply a common set of external tariffs to imports from the rest of the world (Shams, 2003). That is, they enter into a free trade agreement (FTA) and apply a common external tariff (CET) schedule to imports from nonmembers. A CU can be thought of as a deeper form of integration than an FTA, generally requiring more coordination and a greater loss of autonomy. The countries making such an arrangement agree to eliminate tariffs and other restrictive regulations on trade among them. It is a discriminating trade arrangement since the liberalization only includes the countries that are members of the customs union and they formulate and administer a common foreign trade policy in regard to tariffs and other trade restrictions against third countries (UNECA, 2006).

CUs have been around for a long time and were once more prevalent than FTAs. Early efforts toward economic integration were generally driven by the desire to establish a political union, and the members were willing to relinquish some political autonomy (Pearce, 2000). CUs usually involve a relatively large number of geographically contiguous countries and generally take longer to negotiate and implement than do PTAs, and they entail a certain loss of policy-making autonomy. By 2009, they accounted for less than 10 percent of the regional integration arrangements notified to the WTO. CUs are less numerous than PTAs, but they generally have much larger memberships. They also tend to cover much larger geographic areas. The four main CUs in Latin America—the Central American Common Market (CACM), the Andean Community (CAN), the Caribbean Community (CARICOM) (Stahl, 2005).

The existing and planned CUs in Sub-Saharan Africa—the Economic and Monetary Community of Central Africa , the East African Community(EAC), the Southern African Customs Union (SACU),the West African Economic and Monetary Union(WAEMU), the Economic Community of West African States (ECOWAS), the Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC), and the Economic Community of Central African States (ECCAS)—take in virtually every country in the region. Many countries in the Middle East and North Africa regions are members of the Gulf Cooperation Council (GCC), the Arab Customs Union (ACU), or both (Venebles, 1999)

CU remains a central component of regional integration strategy in many developing regions. For many developing countries, the design and implementation of a CET, along with the elimination of intraregional trade barriers, continue to be key drivers of trade policy reform and to occupy an important place in policy debates (Pearce, 2000). Given that customs duties constitute a significant source of government revenues in most of those countries, choosing the appropriate mechanism for collecting and allocating customs revenues is an important challenge for officials (Robson, 1998).

2.2 Theoretical Literature

There are various theories which explain the benefit of CU in different regional economic integrations. This study relies on Viner's model as the point of reference to the impact of CU in Tanzania's intra East Africa trade performance (Pearce, 2000). According to Schiff and winters (2003), a well-crafted trade bloc can raise efficiency and economic welfare among its members. It is known that Free Trade Areas (FTAs) change the prices of imports from partner states as a result of tariffs reduction. The effective reduction of price changes the patterns of demand which may lead to adjustment of trade and output flows (Mistry, 2000).

This is achieved through facilitation of consumer choice and increasing competition among producers. When countries reduce obstacles to trade, markets enlarge giving more efficient producers' entry into countries where prices are naturally high (Newlyn, 2003). This is best explained by the theory of trade creation and diversion based on the conventional interpretation of Viner's (1950). Trade diversion occurs when a CU like the EAC-CU diverts trade away from a more efficient supplier outside the EAC region, towards a less efficient supplier within the union. This is likely to either reduce Tanzania's national welfare or improve despite the trade diversion. On the other hand, trade creation occurs when a CU creates trade that would not have existed otherwise without the formation of the CU. In this case, as a result, supply will come from a more efficient producer of a given product. Gains occur if higher-cost domestic production is replaced by cheaper imports from one/or all EAC partner states (Otieno and Shinyekwa, 2011).

CUs tend to move price relationships between products to or away from equality with the real rates of transformation between the corresponding products (equalization of all relative prices and rates of transformation is the condition for optimization) tariff elimination among member countries brings relative prices and rates of transformation to equality while moving in the opposite direction the relationship between imports from partner countries and from third countries (Robson, 1998). Therefore, imports from partner countries produce gains, because of the first effect, and, simultaneously, losses, because of the second effect; consequently, what matters the most in determining the net effect of a CU is the relationship between purchases of domestic products and imports from third countries (Obwona, *et al*, 2005).

Modifying assumptions upon which the analysis is based or putting more emphasis on none strictly trade effects of CUs, affects considerably the set of conditions forming the economic case for CUs. Some economists attribute big potential gains to economies of scale (that comprise cost-reduction effects and trade suppression effects) or to enhanced efficiency. Others estimate that the order and timing of tariff reductions can be as important to a country as is the agreed final state of the CU (Kemp, 2000). Allowing for increasing returns (and "strategic" trade policy) may also change dramatically the set of generalizations arising from CU theory and makes possible the consideration of the redistribution of world welfare in favor of the countries initiating a CU as the true purpose of CUs.

2.3 Rationale of Customs Union

There are many possible rationales for choosing a CU over an FTA, including political and economic ones. Some regional groupings consider the establishment of a CU a prerequisite for the future establishment of a political union, or at least some deeper form of economic integration, such as a common market (Kasekende, and Ng'eno, 2000). The African Economic Community provides an illustration. Some groups, such as CARICOM, consider a CU to be a useful way of pooling market power, coordinating trade policies, and combining efforts to negotiate with the rest of the world. The more intense degrees of coordination and interaction associated with a CU can foster trust and familiarity among the parties and may even decrease the risk of conflicts, as has been the case with the European Union (EU). The fact that the external tariff is agreed with other parties through a legal agreement may help reform minded governments lock in their trade policies and can shelter them from domestic lobbies (Chiumya, 2010).

On a lower level, a customs union can simply be a practical device for avoiding trade deflection while facilitating more fluid trade flows among member states. In the simplest form of an FTA, member countries grant free trade to each other but effectively maintain sovereignty over the conduct of trade policy vis-à-vis the rest of the world (Schiff and Winters, 2004). Thus, the tariffs charged to nonmember suppliers will vary across members. This could lead to opportunities for trade deflection a situation in which goods from outside the FTA are shipped to a low-tariff country and then transshipped tariff-free to the high-tariff country. Such roundabout shipping patterns, which have the sole purpose of exploiting the existing tariff differential, are inherently inefficient and can create friction among members (M.A. Consulting group, 2012).

One way to avoid such wasteful trade deflection is for the members of the FTA to adopt a rules-of-origin system. Rules of origin can take various forms, but generally they require that goods (or value added) qualifying for tariff free trade be produced within the FTA and that imports from outside the FTA pay the tariff of the final destination country, even if they pass through another member country .In practice, rules of origin are particularly complex, and their implementation costs can be high. They necessitate significant internal border controls to ensure compliance and to collect the relevant customs duties (Baldwin, 2009).

Another way to prevent trade deflection is to establish a customs union, which would require all members to apply the same external tariff to imports coming from outside the union. Because of the common external tariff that is the absence of tariff differentials across members), the potential for trade deflection and the need for intra - union border inspections are, theoretically, minimized (Bliss, 2001). In a fully implemented customs union, it is no longer necessary to maintain internal border controls for customs duty purposes or to design and implement the cumbersome and costly rules of origin that are necessary in a free trade area in which members have different external tariff structures (Venebles, 1999).

The simplification offered by a CU can greatly facilitate cross-border trade, which is especially relevant because existing CUs generally involve geographically contiguous countries, reflecting the traditional objective of regional integration (Lyakurwa, 1997). In this regard, a CU can approximate a larger single market (as compared with a number of separate markets in an FTA), which can generate greater economies of scale, as well as pre competitive pressures. These, in turn, can greatly benefit consumers and can translate into lower business costs and enhanced competitiveness for member countries (Venebles, 1999).

2.4 Factors Driving the Design and Level of the Customs Union

A well-designed and generally accepted CET is crucial for the sustainability of a customs union. National tariffs must be harmonized at some agreed level, taking into account not only the often-conflicting positions of each member but also the various special interests within each member. Setting the level of the CET in a consensual manner could be a complex undertaking, entailing long and involved negotiations between member country governments, which are subject to lobbying by different interest groups. For instance, it took the EU 11 years (1957 to 1968) to complete its CET, and Mercosur members took four years just to agree on their nonagricultural CET (UNECA, 2006).

In many developing-country customs unions, the difficulties of agreeing on a common external tariff and on the distribution of revenues have proved to be so great that the resulting tariff schedules tend to include numerous country or sector-specific exceptions and sensitive lists (Ngugi, 2009). Although the CARICOM CET is largely in place, it allows broad scope for tariff reductions and suspensions, as well as for national derogations. The CET in Mercosur does not cover all sectors, and it includes special regimes for the automotive and sugar sectors (Lang, 2006). In some CUs, temporary national exemptions are allowed for example, EAC members Kenya and Tanzania were allowed to unilaterally reduce tariffs on selected grain imports. Derogations and safeguards are widely used in most CUs. Not only can these exceptions reduce the transparency and effectiveness of the CU, but they also can complicate trade negotiations and increase transaction costs. Furthermore, they reintroduce the potential for trade deflection the very phenomenon that the CU is designed to prevent (Stern, Francois and Schumacher, 1999).

Like most other forms of regional integration agreements, a CU is inherently preferential and is, thus, discriminatory against third parties. An important question is thus whether a CU provides incentives for selecting higher or lower external tariffs than those in, say, an FTA (Tybout, 2000). An often-stated objective of most customs unions among developing countries is to promote a harmonized reduction in internal and external trade barriers in order to better integrate the region into the multilateral trading system. There are, however, arguments that seem to suggest that CUs create pressures for more protectionism. Like other integration initiatives, CUs permit member countries to combine their market size and thereby increase their market power. Since trade policy is set jointly, this measure could strengthen their incentive to adopt high CETs in order to improve their terms of trade. That is, they can reduce global demand for an imported product, and thereby decrease the import price, by charging higher tariffs. The larger the size of the union, the stronger this pro-protectionist effect will be (Venebles, 1999).

The internal process of decision making within the CU could also place upward pressure on tariffs. The joint, consensual determination of the external tariffs may provide incentives to agree on higher CETs, since these imply higher preference margins and benefit partners' firms. (Protection is afforded to all producers in all CU member countries. CU members will internalize this fact and will choose a higher external tariff (Freund and Ornelas 2010). Accordingly, one can think of a situation in which each CU member feels strongly about protecting a particular sector but would like lower tariffs on the other sectors (Uzio and Greenstein, 1995).

Winters (1996) argues, this may create a prisoner's-dilemma outcome under which the CET would provide high protection in all sectors, even though each country would be better off with low protection in all sectors. The establishment of a CU also changes the power of lobbies, but it is not clear whether the result will be stronger or weaker demand for protection. It is possible that lobbying pressure within a CU may be diluted, compared with national lobbying for protection within an FTA. As Winters (1996) suggests, it is more costly to lobby for a tariff increase in a CU than in an individual FTA member country because there may be more opposition to overcome or more representatives to influence. Moreover, the returns to lobbying activities are less under a CU, given that an extra 1 percent tariff protection becomes available to all members. Panagariya and Findlay (1996) provide a formal treatment of the argument that a customs union is a more effective instrument for diluting the power of interest groups than is an FTA. The high cost and low returns of lobbying under a CU could lead to a free-rider problem in lobbying, and all lobbying could end up taking place in one country. The author finds that such a process would yield a lower (common) external tariff under a CU than under an FTA. The larger the size of the customs union, the lower the resulting (lobbied) level of common external tariff would be (Stahl, 2005).

2.5 Effects of Customs Unions in oil industry

In order to isolate the impact of a CU, it is useful to start with a case in which an FTA is already in place that is trade is already liberalized among the partners) and member countries are considering establishing a customs union by harmonizing their external tariff duties (Shafaeddin, 2000). Domestic producers will face more competition from nonmembers, but this will be offset by consumer gains resulting from lower prices and, potentially, by higher tariff revenues. Although adopting a lower CET may not lead to tariff-jumping investment, the higher returns associated with the more liberal economic environment could attract efficiency-seeking investments. Krueger (1995) has argued that if the CET level is chosen as the union’s average tariff for a given commodity, an FTA will not lead to more net trade creation than a CU. Furthermore, as long as the CET is set below the tariff level of the high-cost country, an FTA will not be more welfare enhancing than a CU (Maasdorp, 1999).

In the actual implementation of a CET, an individual CU member will generally have to increase its external tariffs on certain products while decreasing them on others (Tybout, 2000). The overall impact will depend on the balance. Kemp (2000) demonstrate the existence of conditions that suffice to ensure that a CU is welfare enhancing. In particular, they show that if the CET is chosen so that trade with the rest of the world is kept unchanged, then following the establishment of a CU, welfare could potentially increase for all parties, including nonmembers, contingent on compensatory transfers. This increase occurs because any additional trade between CU members would be welfare-enhancing trade creation (Nixon, 2003).

According to EAC (2011), generally, by 2008, the economic performance of the entire EAC region improved greatly; this is in terms of growth in output and per capita income of the member states. Yongzheng and Gupta (2005) using time-series data, conducted a study on Regional Trade Arrangements in Africa. Their findings show that the impact of the RTAs on intra-African trade seems to have been small or insignificant (Robson, 1998). As a share of the continent's global trade, intra African trade declined over much of the 1970s before it recovered in the 1980s and the first half showing no obvious trend over time except perhaps WAEMU, whose intraregional trade has increased in recent years due to the improved performance of the CU. They further argue that for many RTAs, intra-arrangement trade as share of their total external trade remains below intra-African trade as share of total African external trade prospective (Luzio, and Greenstein, 1995).

Using the WITS-SMART simulation model, Otieno and Shinyekwa, (2011) in their paper provides insights on the effects of the East African Community Customs Union principle of asymmetry on Uganda with regard to trade, welfare and revenue effects since 2005. The end to the phased tariff reduction on category B products (these products were treated as sensitive products in 2005) increased trade creation and welfare effects. This effect shall have a reflection on consumer surplus in terms of reduced prices (Shafaeddin, 2000). The results also suggest that government shall incur a tariff revenue loss which should not be ignored given the fluctuating growth in the general trade tax revenue; hence the need to strengthen domestic ability to mobilise revenue or seek alternative source of funding (Nixon, 2003).

Odhiambo (2010) argues that NTBs in EAC, like in any other region, result in delays and increased costs which ultimately hinder the free movement of goods and services. Removal of NTBs is much more effective in boosting intra-regional trade that the method of tariff liberalization. This is to say that, returns in terms of welfare gains, growth, employment generation and poverty reduction are more likely to be realized by addressing NTBs, than through tariff liberalization. Mugisa and Mugoya (2009) conducted their study on evaluating the implementation and the impact of EAC-CU covering the three original Partner States, namely Kenya, Tanzania and Uganda. Using descriptive statistics, their results were that there are some uncertainties regarding the establishment of the regional integration and others saw it as unrealistic although the general finding was that the EAC-CU has generally led to increased cross-border and EAC extra regional trade in all Partner States.

Geneva Resource Centre (2010) conducted a study on the Non-Tariff Barriers in trading within the East African Community (EAC), focusing on trade trends among member countries before and after the introduction and implementation of the protocol. The study which is based on the documentary review found out that, there has been decreasing trend in the intra EAC trade among the member countries.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter presents the methodology that was used to conduct the study. It covers the research design, the target population, data collection instruments and procedures and the method of data analysis.

3.2 Research Design

This research adopted descriptive research design for the study. The descriptive design refers to a set of methods and procedures that describe variables (Babbie, 1998). This research design involves gathering data that describe events and then organizes, tabulates, depicts, and describes the data. Descriptive studies portray the variables by answering who, what, and how questions (Babbie, 1998). According to Mugenda and Mugenda (2004), descriptive design is a process of collecting data in order to test hypothesis or to answer the questions of the current status of the subject under study.

The design was deemed appropriate because it would provide a great depth of responses resulting in a better and elaborate understanding of the phenomenon under study where the population of interest in oil companies in Kenya was selected for the study.

3.3 Target Population

A population is a well defined or set of people, services, elements, events, group of things or households that are being investigated (Ngechu (2004), This definition ensures that population of interest is homogeneous. The study carried out a census of all the 14 oil companies in Kenya (ROK, 2011). The study population comprised the general manager, financial manager and human resource from every company making a total of 42 respondents.

3.4 Data Collection

A questionnaire was used as primary data collection instrument which was divided into two parts. The first part included the demographic and operational characteristics designed to determine fundamental issues including the demographic characteristics of the respondent, while the second part focused on the main issues of the study. The questionnaire included closed and open ended questions which sought views, opinion and attitude from the respondents which might not have been captured by the closed ended questions. The questionnaires were administered through drop and pick method to the respective oil company managers.

The questions were designed to collect qualitative and quantitative data (Cooper and Schindler, 2008). The structured questions were used in an effort to conserve resources and collect quantitative data while the unstructured questions were used so as to encourage the respondent to give an in-depth of any information on issue of the study. Secondary data on performance of Oil industry trend was collected.

3.5 Data Analysis and Presentation

The collected data was thoroughly examined and checked for completeness and comprehensibility. The data was then summarized, coded and tabulated. Descriptive statistics means and standard were used to analyze the data. Data presentation was done by the use of pie charts, bar charts and graphs, percentages and frequency tables for easy of understanding and interpretations. The content analysis was used to analyze the respondents' views on effects of East Africa customs duty on performance of Oil industry in Kenya.

CHAPTER FOUR

DATA ANALYSIS AND PRESENTATION OF FINDINGS

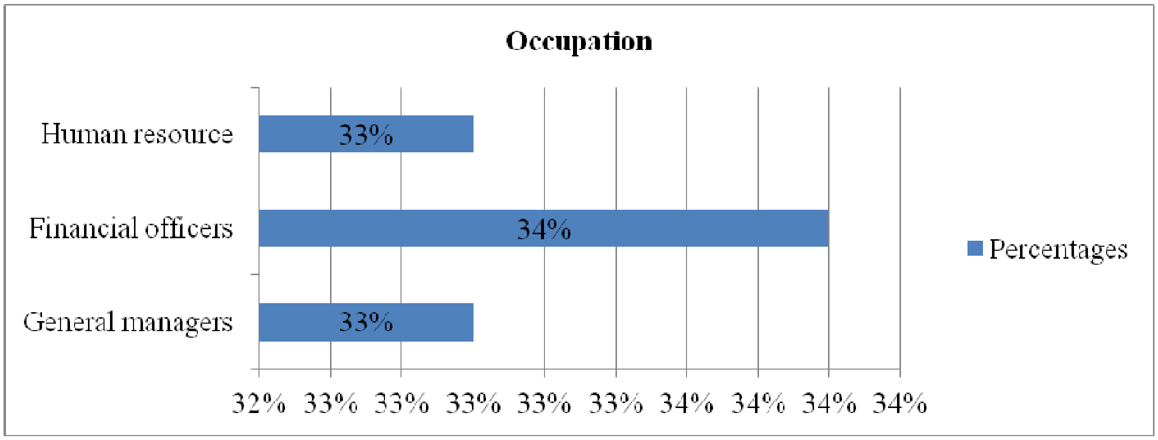
4.1 Introduction

This chapter presents the findings of the study on the effects of East African Community Customs Union on the performance of the oil industry in Kenya. It elaborates on the response rate, presents findings under specific objectives and presents overall comparison of the factors. The study population was 42 respondents out of which 39 respondents completed and returned the questionnaires. This constituted to 92.85% response rate. The researcher administered the questionnaire with the help of the research assistants and hence the high rate of respondent’s rate. Mugenda and Mugenda (2003) indicated that respondents of 50%, 60% and 70% response rate is sufficient for a study therefore 92.85% responses was excellent. Data was analyzed using frequencies and percentages and then presented in form of tables, pie charts and graphs.

4.2 General Information on Respondents

Occupation of the respondents

Figure 4. 1 Occupation of the respondents



The study sought to know the respondents occupation and occupation area of work. From the findings, 33% of the respondents were general managers, 34% were financial officers while 33% of the respondents were human resource.

Respondent's highest level of education

Table 4. 1 Respondent's highest level of education

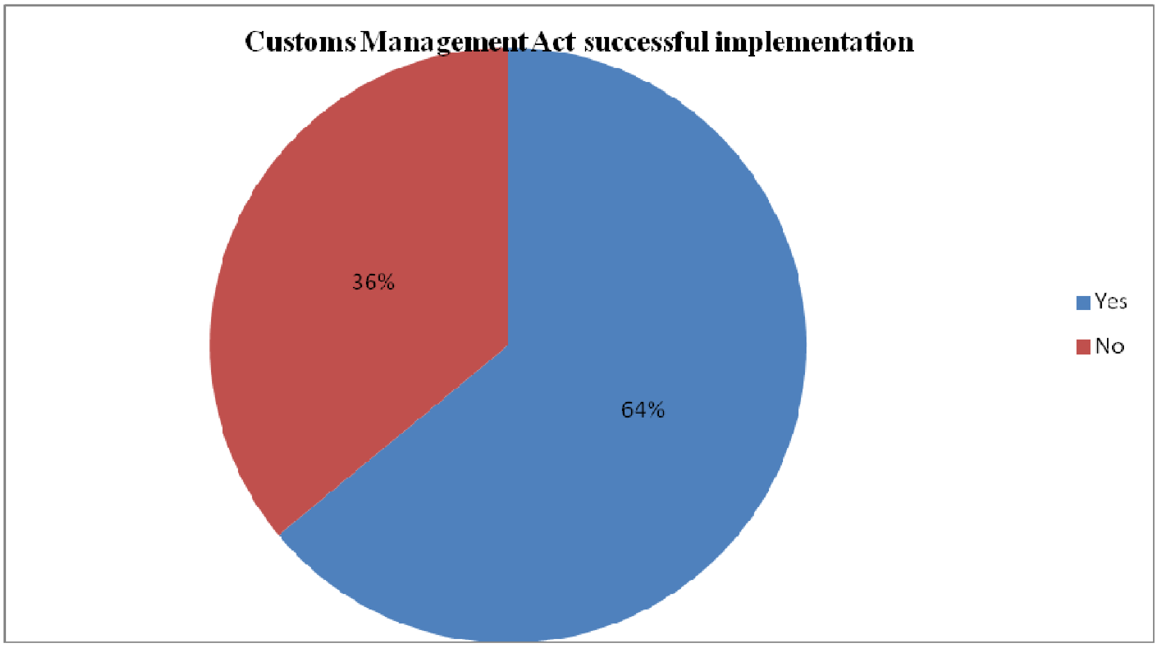
	Frequency	Percentages
University	26	62
College	11	26
Other	5	12
Total	42	100

The study sought to investigate the highest academic qualifications attained by the respondents. From the findings, majority 62% of the respondents indicated that they had attained university level of education, 26% of the respondents indicated that they had attained college level of education while 12% of the respondents specified that they had attained masters and PhD level of education. This implied that the oil companies in Kenya employ literate individual hence they were able to understand the information required by the study.

4.3 Effects of East African Community Customs Union on the performance

Whether implementation of the Customs Management Act started in January 2005 been successful

Figure 4. 2 Implementation of the Customs Management Act



The study sought to know whether implementation of the Customs Management Act started in January 2005 has been successful. From the findings, majority 64% 0f the respondents indicated that Customs Management Act started in January 2005 has been successful while 36% of the respondents indicated that Customs Management Act started in January 2005 has not been successful. Respondents further stated that under the provisions of the Customs Management Act, the oil company operates successfully with the EAC-Customs Union legislation in January 2005. Additionally, the East African Community Customs Management Act, 2004 borrowed many of the principles, standards and recommended practices such as transit, inward and outward processing, application information technology and export processing zones. This is in line with EAC Business

Council (2005), which states that it was expected that the Customs Union would come to be fully implemented in January 2010, after the 5-year transition period.

Factor that has led to implementation of East Africa Community Customs Union

Table 4. 2 Factor that has led to implementation of East Africa Community Customs Union

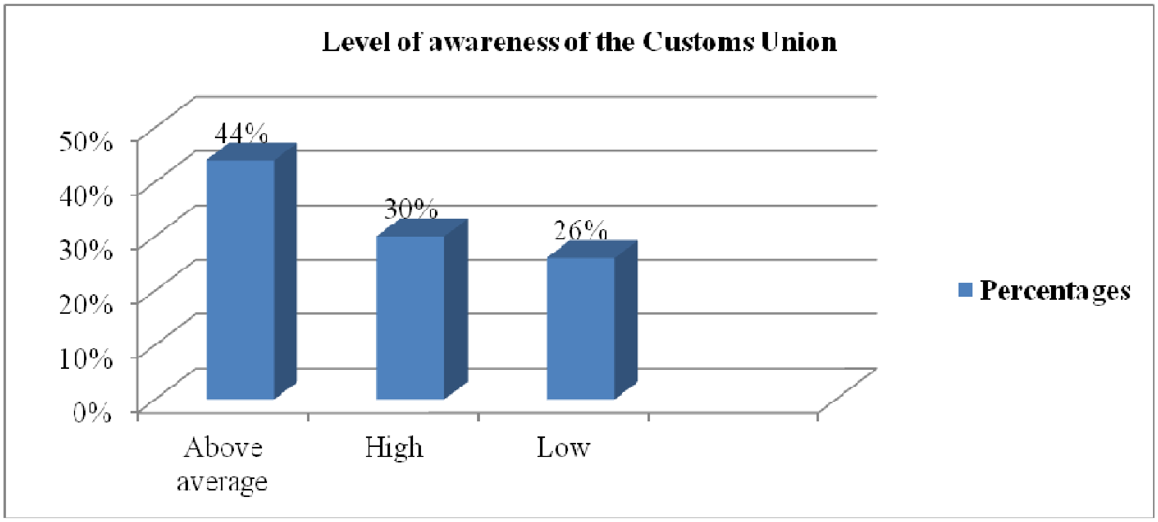
Statement	Moderately extent	Very great extent	Very great extent	Mean	Standard deviation
Pooling market power	6	14	22	4.72	0.67
Coordinating trade policies among member of EA state	14	12	16	4.35	0.33
Combining efforts to negotiate with the rest of the world	2	14	24	4.87	0.81
Interaction associated with a CU can foster trust	10	11	19	4.44	0.48
Decrease the risk of conflicts in trade	4	8	30	4.73	0.75
Avoiding trade deflection while facilitating more fluid trade flows among member of EA states	3	12	27	4.68	0.70
Generate greater economies of scale	1	8	33	4.89	0.87
Promote a harmonized reduction in internal and external trade barriers	9	19	14	4.46	0.51

The study sought to investigate the extent to which the given factors have led to implementation of East Africa Community Customs Union. From the findings, majority of the respondents indicated that indicated that generating greater economies of scale, combining efforts to negotiate with the rest of the world, decreasing the risk of conflicts in trade, pooling market power and avoiding trade deflection while facilitating more fluid trade flows among member of EA states have led to implementation of East Africa

Community Customs Union to a very great extent as indicated by a mean of 4.89, 4.87, 4.73, 4.72 and 4.68 with standard deviation of 0.87, 0.81, 0.75, 0.67 and 0.69. The study further found that most of the respondents indicated that promoting a harmonized reduction in internal and external trade barriers, interaction associated with a CU can foster trust and coordinating trade policies among member of EA state factors have led to implementation of East Africa Community Customs Union to a great extent as indicated by a mean of 4.46, 4.44, 4.40 and 4.35 with standard deviation of 0.51, 0.48, 0.47 and 0.33 respectively. This is in line with East African Community (2000), which states that the broad objectives of the Customs Union include elimination of internal tariffs and non-tariff barriers in order to facilitate the formation of a large single market and investment area, harmonization of trade policies between partner states and other countries by way of the Common External Tariff (CET) and creation of a single customs territory to enable partner states to enjoy economies of scale with a view to supporting economic development in the region. This implies that the establishment of a Customs Union has been as a result of various beneficial factors.

Level of awareness of the Customs Union among oil trade companies

Figure 4. 3 Level of awareness of the Customs Union among oil trade companies



The study sought to know the level of awareness of the customs union among oil trade companies in Kenya. From the findings, most 44% of the respondents indicated that the level of awareness of the customs union among oil trade companies in Kenya is above average, 35% said its high while 14% of the respondents indicated that the level of awareness of the customs union among oil trade companies in Kenya is low. This implies that despite the many benefits that the Customs Union bring to oil trade companies and the generally positive connotations Kenya enjoys, level of awareness and support for the Customs Union is not overwhelming amongst the population at large.

Extent to which implementation of the Customs Management Act influence trade performance in Kenya

Table 4. 3 Customs Management Act influence trade performance in Kenya

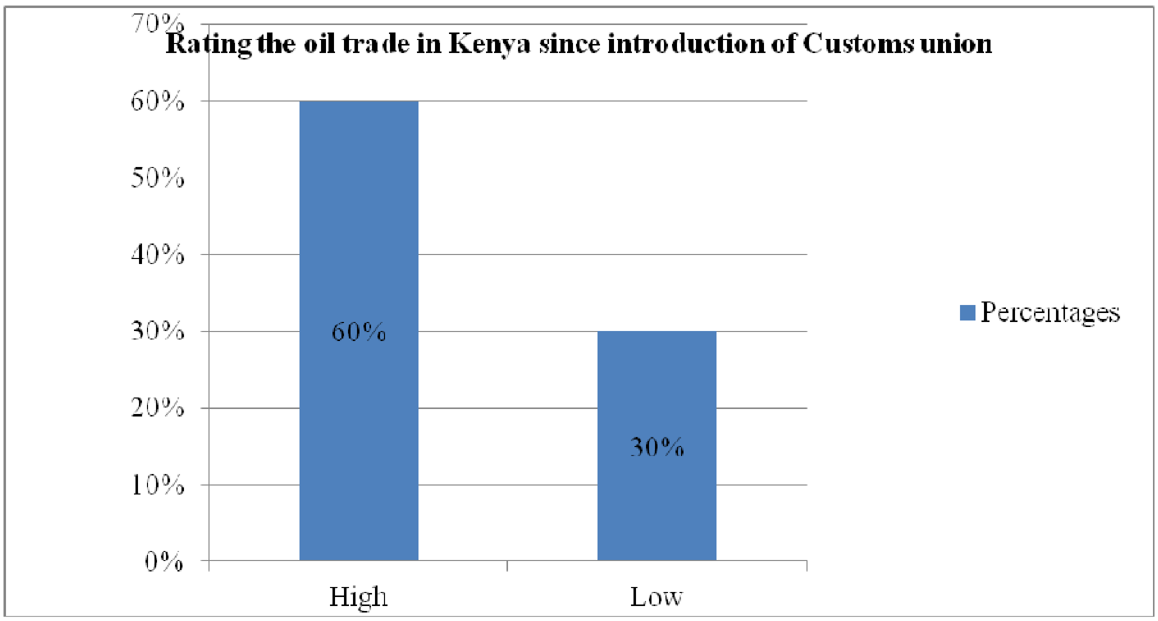
	Frequency	Percentages
To a very great extent	32	78
To a great extent	6	14
To a Moderately extent	4	10
Total	42	100

Table 4.3 above shows the response on the extent to which implementation of the Customs Management Act influence trade performance in Kenya. Majority 76% of the respondents indicated that implementation of the Customs Management Act influence trade performance in Kenya to a very great extent, 14% indicated to a great extent while 10% of the respondents indicated that implementation of the Customs Management Act influence trade performance in Kenya to a moderate extent. The study found that there has been accurate, predictable, and speedy movement of goods across the border which has offered an attractive feature in the strategy of trade performance in Kenya. The certainty, clarity, flexibility, &timeliness have been realized in Kenya as a result of implementation of the Customs Management Act.

This is in line with Pearce (2000), who stated that Customs Management Act remains a central component of regional integration strategy in many developing regions. For many developing countries, the design and implementation of a Customs Management Act, along with the elimination of intraregional trade barriers, continue to be key drivers of trade policy reform and to occupy an important place in policy debates. This implies that efficiency and effectiveness of customs procedures has a significant influence on the trade performance in Kenya.

Rating the oil trade in Kenya among East Africa Community since introduction of Customs union

Figure 4. 4 Rating the oil trade in Kenya



Respondents were requested to rate the oil trade in Kenya among East Africa Community since introduction of Customs union as indicated on figure 4.4 below. Form the findings, majority 60% of the respondents indicated that oil trade in Kenya among East Africa Community performance has been high since introduction of Customs union while 30% of the respondents said that the oil trade in Kenya among East Africa Community was medium since introduction of Customs union. This is in accordance with the Petroleum Insight (2009), which states that in 2006 Kenya Shell Limited acquired the share holding of BP in Kenya increasing its market share from 15% to 25% in 2008. Oil Libya acquired

Exxon Mobil share holding in Kenya in 200. Recently Total Kenya acquired all the assets of Chevron in Kenya. This implies that since introduction of Customs union, oil trade in Kenya has fully exploited the opportunity of global trade in an increasingly hostile environment.

Influence of Common External Tariff (CET) on trade performance in oil industry in Kenya

Table 4. 4 Influence of Common External Tariff (CET) on trade performance in oil industry in Kenya

	Strongly agree	Agree	neutral	Mean	Standard deviation
Has greatly liberalized the oil industry in East Africa Community through	2	10	30	4.86	0.77
Reduction of oil export taxes	0	7	35	4.91	0.87
Has enhanced predictability for oil exporters and investors in Kenya	8	16	18	4.64	0.73
Has led to an increase in oil imports under the 3 tariff bands at 63.6%	6	17	19	4.73	0.69
Has led to an increase in tariff dispersions within petroleum products in the oil industry in Kenya	9	18	15	4.49	0.57
Led to deviation from regionally agreed rates of petroleum products	16	14	12	4.40	0.43

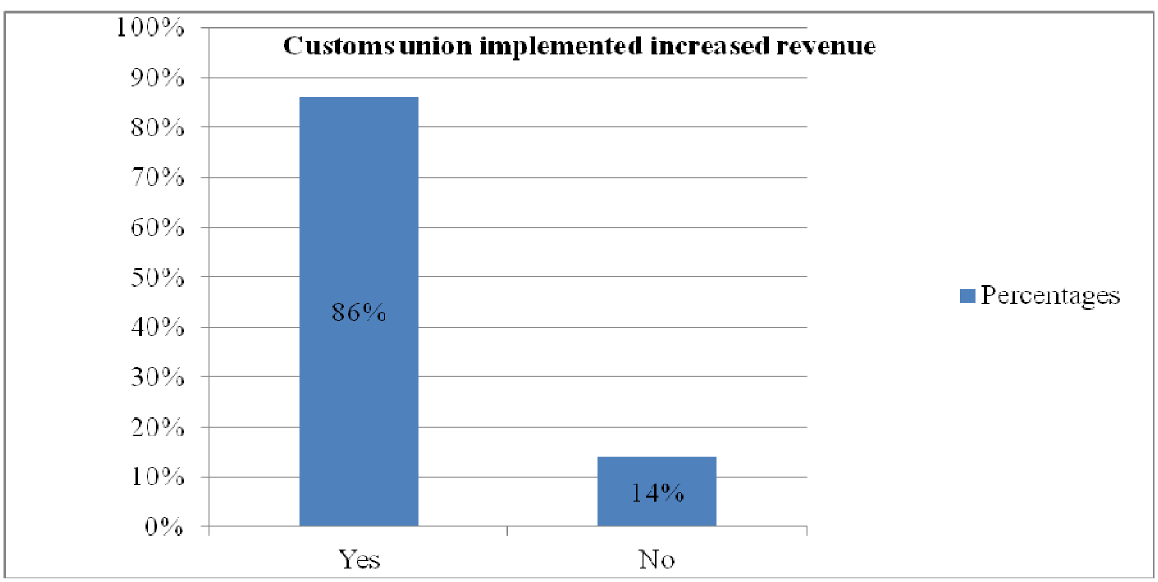
Table 4.4 presents the extent respondents agreed with the given statements on influence of Common External Tariff (CET) on trade performance in oil industry in Kenya. From the findings, majority of the respondents strongly agreed that there has been reduction of oil export taxes, CET has greatly liberalized the oil industry in East Africa Community

through, that CET has led to an increase in oil imports under the 3 tariff bands at 63.6% and has enhanced predictability for oil exporters and investors in Kenya as indicated by a mean of 4.91, 4.86, 4.73 and 4.64 with standard deviation of 0.87, 0.77, 0.69 and 0.73. From the findings, most of the respondents agreed that CET has led to an increase in tariff dispersions within petroleum products and has led to deviation from regionally agreed rates of petroleum products in the oil industry in Kenya as indicated by a mean of 4.49 and 4.40 with standard deviation of 0.57 and 0.43 respectively. This is line with Venebles (1999), who stated that the joint, consensual determination of the external tariffs may provide incentives to agree on higher CETs, since these imply higher preference margins and benefit partners' firms. This implies that a well-designed and generally accepted CET is crucial for the sustainability of a customs union.

Indicate in the table below the performance of your oil company before and after the introduction of Customs Union in East Africa Community?

Whether customs union implemented increased revenue in oil industry in Kenya

Figure 4. 5 Customs union implemented increased revenue



The question on whether customs union implemented in East Africa Community increased revenue in oil industry in Kenya was posed to respondent and the following responses emerged.

Majority 86% of the respondents indicated that customs union implemented in East Africa Community increased revenue in oil industry in Kenya while 14% said that is does not increased revenue in oil industry in Kenya. Respondents stated that customs union plays a critical role not only in meeting the goals of the governments but also in ensuring effective controls that secure revenue, compliance with national laws, ensuring security and protection of society.

Using the WITS-SMART simulation model, Otieno and Shinyekwa, (2011) in their paper provides insights on the effects of the East African Community Customs Union principle of asymmetry on Uganda with regard to trade, welfare and revenue effects since 2005. This implies that there is significant scope for revenue improvement as a result of customs union implementation in Kenya.

Revenue increase in oil industry in Kenya

Table 4. 5 Revenue increase in oil industry in Kenya

	Strongly agree	Agree	Neutral	Mean	Std deviation
Improvements in economic performance	6	18	18	4.61	0.66
Improvement in tax administration like simplification of tax laws and regulations, improvement in staff competencies	8	16	18	4.51	0.59
Growth in oil trading activities attract investors in Kenya	0	17	25	4.88	0.64
Greater reliance on other taxes (income tax, VAT) other than trade taxes (import duties)	3	19	20	4.65	0.60

Table 4.8 presents the extent to which respondents agreed with the given statement concerning revenue increase in oil industry in Kenya. From the findings, majority of the respondents strongly agreed that revenue increase in oil industry in Kenya has led to growth in oil trading activities and attraction of investors, greater reliance on other taxes such as income tax, VAT other than trade taxes (import duties) as indicated mean of 4.88 and 4.65 supported by standard deviation of 0.64 and 0.60. Most respondents agreed that revenue increase in oil industry in Kenya has led to improvements in economic performance and in tax administration that is simplification of tax laws and regulations as well as improvement in staff competencies as indicated by a mean of 4.61 and 4.51 with standard deviation of 0.66 and 0.59.

Influence of EAC Customs Union on oil industry investment

Table 4. 6 Influence of EAC Customs Union on oil industry investment

	Strongly agree	Agree	Neutral	Mean	Standard deviation
Led to harmonising oil investment policies in Kenya	3	15	24	4.64	0.73
Increase in incentives such as government subsidies to improve performance in the region	5	5	32	4.73	0.69
Improve effectiveness of oil trade laws	5	18	19	4.60	0.51
Experience variations in minimum capital threshold requirements increasing oil trade performance	5	12	25	4.53	0.56
Increase Cross-border oil investments in other EAC members	5	10	25	4.50	0.47

From table 4.6 above, majority of the respondents strongly agreed that EAC Customs Union has led to increase in incentives such as government subsidies to improve performance in the region, led to harmonising oil investment policies and improve effectiveness of oil trade laws in Kenya as indicated by a mean of 4.73, 4.64 and 4.60 with standard deviation of 0.69, 0.73 and 0.51. Most of the respondents agreed that the companies experience variations in minimum capital threshold requirements increasing oil trade performance and cross-border oil investments in other EAC members as in dated by mean of 4.53 and 4.50 with standard deviation of 0.56 and 0.47.

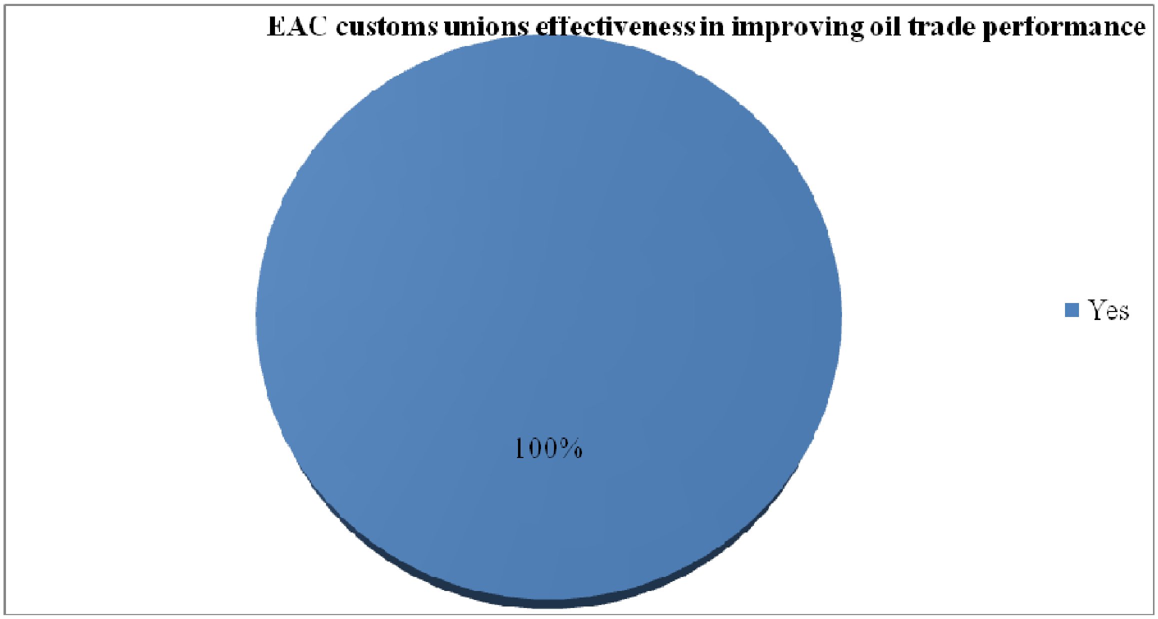
Institutions in oil industry increase in efficiency due to Customs Union in EA

	Frequency	Percentages
Yes	31	73
No	11	27
Total	42	100

Responses on the institutions in oil industry increase efficiency due to Customs Union in EA varied as presented on table 4.6 above. Majority 73% of the respondents indicated that institutions in oil industry increase in efficiency and improve trade performance due to introduction of customs union in EA while 27% of the respondents indicated that institutions do not increase in efficiency due to of Customs Union. Respondents cited the following achievement institutions in oil industry derive from the Customs Union introduction in EA: Goods move faster and more efficiently, reduced clearance requirements, benefiting under the zero tariff regime, shorter lead times in supplying customers in the EAC and increased competition. This concurred with (Nixon, 2003) who state that following the establishment of a CU, welfare could potentially increase for all parties, including nonmembers, contingent on compensatory transfers. This increase occurs because any additional trade between CU members would be welfare-enhancing trade creation. This implies that oil business entities in Kenya benefits on efficiency and improved trade performance due to introduction of customs union.

East Africa Community customs unions effectiveness in improving oil trade performance

Figure 4. 6 EAC customs unions effectiveness in improving oil trade performance



Introduction of East Africa Community customs unions has been effective in improvement of oil trade performance in Kenya, a position supported by all the respondents. Given the liberal trade regime which EAC Customs Union has introduced in the region, a higher impact on business turnover has been achieved oil industry in Kenya.

Challenges affecting effectiveness of East Africa Community customs union in improving Oil trade performance

Table 4. 7 Challenges affecting effectiveness of EAC customs union in oil trade performance

	Moderately extent	Great extent	Very great extent	Mean	Std deviation
Slow implementation of decisions reached	0	19	23	4.67	0.54
Appeals system not yet working properly in spite of existence of appropriate provisions under the existing laws	10	10	22	4.56	0.67
Conflicting interests at national and regional levels (promotion of trade and investment vs revenue maximization	5	19	18	4.77	0.87
Duty drawback claims – slow, long and	5	9	28	4.74	0.63
National sovereignty	6	15	21	4.79	0.63
Lack of a well-informed standards programme	0	11	31	4.87	0.71
Financial constraints	11	15	16	4.42	0.47
Structural rigidities	10	19	13	4.37	0.34
Lack of efficient dispute settlement	12	10	20	4.48	0.55

Table 4.7 presents analysis of extent to which respondents agreed on the challenges affecting effectiveness of East Africa Community customs union in improving Oil trade performance in Kenya. Majority of the respondents indicated that lack of a well-informed standards programme, national sovereignty, conflicting interests at national and regional levels and slow implementation of decisions reached regionally affecting effectiveness of East Africa Community customs union in improving oil trade performance in Kenya to a very great extent as indicated by a mean of 4.87, 4.79, 4.77 and 4.67 with standard

deviation of 0.71, 0.63, 0.87 and 0.54. Most of the respondents indicated that appeals system that are not yet working properly in spite of existence of appropriate provisions under the existing laws affecting effectiveness to a very great extent as indicated by a mean of 4.56 with standard deviation of 0.67. The study further found that most of the respondents indicated that lack of efficient dispute settlement mechanism, financial constraints and structural rigidities challenges effectiveness of EAC customs union in improving oil trade performance in Kenya to a great extent as indicated by a mean of 4.48, 4.42 and 4.37 with standard deviation of 0.55, 0.47 and 0.34.

CHAPTER FIVE:

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter summarizes the findings of the study that relates to the research questions set out at the beginning of the study, seeking to show these questions have been answered by the study. The chapters also draws conclusion made from the findings of the study for implementation or as a background document for further research

5.2 Summary of the findings

From the findings, the study established that implementation of the Customs Management Act started in January 2005 has been successful as indicated by majority 64% of the respondents. Under the provisions of the Customs Management Act, the oil company operates successfully with the EAC-Customs Union legislation in January 2005. The establishment of a Customs Union has been as a result of various beneficial factors. The study revealed that the various factors that have led to implementation of East Africa Community Customs Union to a very great extent are generation of greater economies of scale, negotiation with the rest of the world, to decrease the risk of conflicts in trade, pooling market power and avoiding trade deflection, promoting a harmonized reduction in internal and external trade barriers, interaction associated with a CU can foster trust and coordinating trade policies among member of EA state. However the level of awareness of the customs union among oil trade companies in Kenya have been revealed to be above average, despite the many benefits that the Customs Union bring to oil trade companies and the generally positive connotations Kenya enjoys.

The study established that implementation of the Customs Management Act influence trade performance in Kenya to a very great extent. This is evidenced by the accurate, predictable and speedy movement of goods across the border which has offered an attractive feature in the strategy of trade performance in Kenya.

Efficiency and effectiveness of customs procedures has a significant influence on the trade performance in Kenya. This is evidenced by the performance of Oil trade in Kenya among East Africa Community which has been high since introduction of Customs union.

There has been reduction of oil export taxes, CET has greatly liberalized the oil industry in East Africa Community through, CET has led to an increase in oil imports under the 3 tariff bands at 63.6% and has enhanced predictability for oil exporters and investors in Kenya. CET has led to an increase in tariff dispersions within petroleum products and has led to deviation from regionally agreed rates of petroleum products in the oil industry in Kenya**.** Customs union implemented in East Africa Community increased revenue in oil industry in Kenya. The study reveals that that customs union plays a critical role not only in meeting the goals of the governments but also in ensuring effective controls that secure revenue, compliance with national laws, ensuring security and protection of society.

Revenue increase in oil industry in Kenya has led to growth in oil trading activities and attraction of investors, greater reliance on other taxes such as income tax, VAT other than trade taxes (import duties). Revenue increase has also led to improvements in economic performance and in tax administration that is simplification of tax laws and regulations as well as improvement in staff competencies.

EAC Customs Union has led to increase in incentives such as government subsidies to improve performance in the region, harmonised oil investment policies and improved effectiveness of oil trade laws in Kenya. The study established that the companies experience variations in minimum capital threshold requirements increasing oil trade performance and cross-border oil investments in other EAC members.

Majority 73% of the respondents indicated that institutions in oil industry increase in efficiency and improve trade performance due to introduction of customs union in EA. institutions in oil industry derive faster movement of products, reduced clearance requirements, zero tariff regime, shorter lead times in supplying customers in the EAC and increased competition due to the Customs Union introduction in EA.

Introduction of East Africa Community customs unions has been effective in improvement of oil trade performance in Kenya, a position supported by all the respondents. However the effectiveness has been challenged by lack of a well-informed standards programme, national sovereignty, conflicting interests at national and regional levels and slow implementation of decisions reached regionally. appeals system that are not yet working properly in spite of existence of appropriate provisions under the existing laws, lack of efficient dispute settlement mechanism, financial constraints and structural rigidities challenges effectiveness of EAC customs union in improving oil trade performance in Kenya to a great extent.

5.3 Conclusion

Introduction of customs union in East African Community constitute an increasingly significant feature of the trade system. In 2004, the Committee published a report that envisaged accelerating the unification process, recommending that the integration stages be pursued not sequentially but in parallel. However, this strategy has been successful as the internal trade within the EAC has been higher than in many other regional organizations.

From the findings, the study concludes that customs union lead to an increase in trade between the members of the regional organization. The strong negotiation, low risk of conflicts in trade, pool of market power, a harmonized reduction in internal and external trade barriers, greater economies of scale is in turn an important indicator of the positive effects of East African Community Customs Union on the performance of the oil industry in Kenya. Additionally, the East African Community Customs Management Act, 2004 borrowed many of the principles, standards and recommended practices such as transit, inward and outward processing, application information technology and export processing zones. This is in line with EAC Business Council (2005), which states that it was expected that the Customs Union would come to be fully implemented in January 2010, after the 5-year transition period.

The study concludes that the broad objectives of the Customs Union include elimination of internal tariffs and non-tariff barriers in order to facilitate the formation of a large single market and investment area, harmonization of trade policies between partner states and other countries by way of the Common External Tariff (CET) and creation of a single customs territory to enable partner states to enjoy economies of scale with a view to supporting economic development in the region. Abolishing customs barriers and non-tariff barriers boosts the volume of trade and prompts growth

From the researcher perspective the simulation results show adverse effects from the EAC Customs Union. The certainty, clarity, flexibility and timeliness have been realized in Kenya oil companies have been as a result of implementation of the Customs Management Act. The argument that level of awareness and support for the Customs Union is not enough, and would be exposed to the more developed and competitive Kenyan producers and that the design and implementation of Customs Management Act be addressed to be key drivers of trade policy reform and to occupy an important place in policy debates is valid.

The study concludes that since introduction of Customs union, oil trade in Kenya has fully exploited the opportunity of global trade in an increasingly hostile environment.

Consensual determination of the external tariffs provides incentives to agree on higher CETs, since these imply higher preference margins and benefit partners' firms. With regard to trade, welfare and revenue effects since 2005 there is significant scope for revenue improvement as a result of customs union implementation in Kenya.

The study further concludes that proponents of the Customs Union are running a proactive communications campaign and have managed to stimulate economic competitiveness of nations and in the growth of international trade and the development of the global marketplace. The study finally concludes that following the establishment of EAC custom union, the oil business entities in Kenya benefits on the efficiency and improved trade as evidenced by the faster movement of products, reduced clearance requirements, zero tariff regime and shorter lead times in supplying.

5.4 Recommendation

EAC Customs Union has led to increase in incentives such as government subsidies to improve performance in the region, harmonised oil investment policies and improved effectiveness of oil trade laws in Kenya. Companies experience variations in minimum capital threshold requirements increasing oil trade performance and cross-border oil investments in other EAC members.

To reap the benefits of Customs Union from EAC to the fullest possible extent, oil companies in Kenya needs to address problems that could negate the potential benefits from the EAC CU. To maximize the benefits of the EAC membership, policy makers need to initiate measures to harmonize tariffs under COMESA, the EAC as well as under the different RIAs to address the shortcomings of shared jurisdiction between the different regional initiatives since the present responsibility for enforcement is not demarcated precisely.

This finding illustrates existence of exploited EAC custom union potential at oil firm level. To enhance this potential, it is necessary for an analysis at product level to be commissioned to show the EAC market potential and to determine impediments and devise strategies for businesses to apply in order to capture the market potential.

5.5 Limitations of the Study

The researcher encountered various challenges that tended to hinder access to information sought by the study. The respondents approached were reluctant in giving information fearing that the information sought would be used to intimidate them or print a negative image of the institutions.

The researcher handled the problem by carrying with her an introduction letter from the University and assured them that the information they would offer would be treated confidentially and it was to be used purely for academic purposes.

The study also faced constraints time and financial resources. The researcher budgeted and only focussed on completing the study in specific period of six month to achieve objective of the study.

5.6 Suggestion for further research

This study was mainly concerned with the effects of East African Community Customs Union on the performance of the oil industry in Kenya. Further research should be done in order to ascertain the driving forces behind the implementation East African Community Customs Union by the oil companies and their implications for the success of the oil companies' performance in the trade market.

REFERENCES

Adams, C. (2003). For Good and Evil: The Impact of Taxes on the Course of Civilization. Lanham, MD: Madison Books.

ADB (African Development Bank). 2000. Regional integration in Africa. *African development report 2000*.Oxford: Oxford University Press.

Arndt, C. and Tarp .F. (2007) 'Trade Policy Reform and the Missing Revenue', *Journal of African Economies*, 17 (1): 131-60.

Aryeetey, E. and Oduro, A. (1996) 'Regional Integration Efforts in Africa: An Overview', in J. J. Teunissen (ed.), *Regionalism and the Global Economy: The Case of Africa*, FONDAD, The Hague Vol. 23

Baldwin, R. E. (2009) 'The Case against Infant Industry Tariff Protection', *The Journal of Political Economy*, 77 (3): 295-305.

Bliss, C. (2001) 'The Design of Fiscal Reforms in Revenue Constrained Developing Countries', *Economic Journ*al, Vol.102 (413): pp. 940-51.

Bora, B. P., Lloyd J., and Pangestu, M. (2000) "Industrial Policy and the WTO", *The World Economy*, 23 (4): 543-59.

Busse, M. and Shams, R. (2005) 'Trade Effects of the East African Community', *The Estey Center Journal of International Law and Trade Policy*, 6 (1): 62-83.

Chiumya, C. C. (2010). Regional Trade Agreements: An African Perspective of Challenges for Customs Policies and Future Strategies, World Customs Journal.

Cooper, D. R. & Schindler, P. S. (2008) *International Edition: Business Research Methods*. (8th ed.); New Delhi; MacGraw-Hill.

DeRosa, D., Obwona A. M. and Roningen, V. O. (2002) The New EAC Customs Union: Implications for Ugandan Trade, Industry, Competitiveness, and Economic Welfare, Kampala.

EAC (2011) Development Strategy (2011/12 – 2015/16) *Deepening And Accelerating Integration.* One People, One Destiny.

EAC, (2000) the Treaty for the establishment of East African Community, *Published by East African Community Secretariat in conjunction with the German Agency* for Technical Cooperation

EAC, (2004). Protocol on establishment of the East African Community Customs Union. *Published by the EAC Secretariat*, Arusha Tanzania

East African Business Council (2005) 'A Study on Non-Tariff Barriers and Development of a Business Climate Index in the East Africa Region', *Report prepared by GTZ and Daima Associates*, Arusha.

East African Community (2000) *The Second EAC Development Strategy 2001-2005*, EAC Secretariat, Arusha.

East African Community (2005) 'East African Community Customs Union: Common External Tariff: Annex 1', in '*The EAC Customs Union Protocol*', East African Community Secretariat, Arusha.

Ebrill, L., Trotsky, J., and Gropp, R. (1999). Revenue Implications of Trade Liberalization. *International Monetary Fund Occasional Paper 180*. Washington, D.C.

Fox, J. (2004) 'An Evaluation of Trade Capacity Building Programs: Regional Trade Agreements: A Tool for Development', *PPC Evaluation Working Paper*: 5, 1-13, October.

Francois, J. and Hall . K. H. (2003) 'Global Simulation Analysis of Industry-Level Trade Policy', *World Bank Technical Paper*, Version 3.0: 21 April 2003, mimeo, Washington D.C.

Francois, J. F. and Reinhardt, A. K. (1997) Applied Methods for Trade Policy Analysis: An Overview', in J. F. Francois and A. K. Reinhardt (eds.), *Applied Methods for Trade Policy Analysis: A Handbook,* Cambridge University Press, Cambridge.

Goldstein, A. and Quenan, C. (2002) *Regionalism and Development in Latin America: What implications for Sub-Saharan Africa?*' 2nd International Forum on African Perspectives hosted by African Development Bank & OECD Development Centre, Paris.

Grubel, H.G. (1966) 'The Anatomy of Classical and Modern Infant Industry Arguments', *Weltwirts chaftliches Archive*, Vol. 97: pp. 325-42

Hangi, M. Mbilinyi, A. and Lunogelo, H. (2009). The Global Financial Crisis and Tanzania: Effects and Policy Responses, the Economic and Social Research Foundation (ESRF), Dr es Salaam

Hoekman, B. F. N. and Olarreaga, M. (2001) 'Eliminating Excessive Tariffs on Exports of Least Developed Countries', World Bank Policy Research Working Paper No: 2604, Washington D.C.

Hope, D. V. Bhowon, and Ruhindi, F. (2003). East African Community—Study to Develop a

Jayawickrama, R. and Thangavelu ,B. (2010), "An Assessment of the impact of a COMESA Customs Union", *African Development Review,* Vol.22(2): pp. 331-345.

Johnson, H. G. (1965) 'The Theory of Tariff Structure, With Special Reference to World Trade and Development,' in H. G. Johnson and P. Kenen's *Trade and Development*, Geneva.

Kasekende, L. and Nagendo, N. K. (2000) 'Regional Integration and Economic Integration in Eastern and Southern Africa', in A. E. Oyejide, I. Collier, P. (eds.), *Regional Integration and Trade Liberalization in Sub-Saharan Africa: Framework, Issues and Methodological Perspectives*: *Volume 1,* Macmillan Press Ltd, London.

Kee, H. L., Nicita , A. and Olarreaga, M. (2004) 'Import Demand Elasticities and Trade Distortions', World Bank Policy Research, *Working Paper Series* No: 3452, Washington D.C.

Kee, H. L., A. Nicita and M. Olarreaga (2005) . Estimating Import Demand and Export Supply Elasticities', Econometric Society 2004 North American Summer Meetings No: 368.

Kemp, M.A. (2000) A Contribution to the General Equilibríum Theory of Preferential Trading, North-Holland Publishing, Amsterdam

Kohli, U. (1991) '*Technology, Duality and Foreign Trade*', Harvester Whetsheaf, London.

Krueger, A. O. and Tuncer, B. (1982) An Empirical Test of the Infant Industry Argument', *The American Economic Review*, 72 (5): 1142-52.

Kwaku, D. (1995). The African Economic Community: Problems and Prospects', *Africa Today*, 42 (4): 1-35.

Lang, R. (2006) 'A Partial Equilibrium Analysis of the Impact of the ECOWAS-EU Economic Partnership Agreement', paper presented on *Multilateralism, Bilateralism, and Development*, 9th GTAP Annual Conference on Global Economic Analysis, 14-18 June 2006, Addis Ababa.

Luzio, E. and Greenstein, S. (1995) 'Measuring the Performance of a Protected Infant Industry: The Case of Brazilian Microcomputers', *Review of Economics and Statistics*, 77 (4): 622-33.

Lyakurwa, W. (1997) 'Regional Integration in Sub-Saharan Africa: A Review of Experiences and Issues', in A. E. Oyejide and I. Collier (eds.), *Regional Integration and Trade Liberalisation in Sub-Saharan Africa: Framework, Issues and Methodological Perspectives: Volume I*, Macmillan Press Ltd, London.

M.A. Consulting group, (2012) Attainment of a Single Customs Territory in a fully fledged Customs Union for the EAC

Maasdorp, G. (1999) '*The Establishment of an East African Trade Regime*', final report prepared for the Secretariat of the Commission for East African Co-operation, East African Community Secretariat, Arusha.

McKay, M. A, C. and Morrissey, W.O. (1998) 'Study on the Economic Impact of Introducing Reciprocity into the Trade Relations between the EC and EAC Countries', CREDIT, University of Nottingham, Nottingham.

Mistry, P.S. (2000) 'Africa's Record of Regional Cooperation and Integration,' *African Affairs*, 99: 553 – 57.

Mugenda, O. M. and Mungenda, A. G. (2003) *Research Method Quantitative & Qualitative Approaches*: Nairobi Kenya: acts Press.

Mugisa, E., Onyango, C. and Mugaya, P. (2009) An evaluation of implementation and impact of the East African Community Customs Union

Musonda, F. (1998) "Customs Duty Harmonization in East Africa: Tanzania Case Study." *Unpublished manuscript* January.

Newlyn, W. (2003) Gains and Losses in the East African Common Market', in Robson, P. (ed.), *International Economic Integration*, Penguin Books Ltd, Harmondsworth.

Ngugi, C. G. (2009). Factors Influencing Resolution of Commercial Disputes in the COMESA Regions. *Unpublished MBA Project* University of Nairobi

Nixon, F. I. (2003) Economic Integration and Industrial Location: An East African Case Study, Longman Publishers, Nairobi.

Otieno, L. and Shinyekwa, I. (2011). Trade, Revenue and Welfare Effects of the East African Community Customs Union Principle of Asymmetry on Uganda: *An Application of Wits-Smart Simulation Model*. Economic Policy Research Centre.

Pearce, I.F. (2000) *International Trade*, book I; Macmillan, London, pp. 210-224

Rahedi, S., R. (2005), Economic and Welfare Impacts of the EU-Africa Economic *Partnership Agreements*, *Working Paper*. African Trade Policy Centre for Economic Commission for Africa.

Rahedi, W. (2003)-Effects of the common market for eastern and southern Africa (COMESA) on the export of manufactured products from Kenya. *Unpublished MBA Project* University of Nairobi

ROK (2011). Economic Report.

Rhee, S. and Belot, M. (2005), Economic and Welfare Impacts of the EU-Africa Economic Partnership Agreements, *Working Paper 10*: African Trade Policy Centre for Economic Commission for Africa.

Robson, P. (1998), *The Economics of International Integration*, Routledge Press, London.

Schiff, M. and Winters , L.A. (2004), *Regional Integration and Development*, Washington DC, World Bank and Oxford University Press.

Schiff, M. (2010) ‘Multilateral Trade Liberalization, Political Disintegration, and the Choice of Free Trade Areas versus Customs Unions’, *World Bank Policy Research Working Paper Series* No. 2501, Washington D.C.

Seyoum, K., K. and Manyak, N. (2009), Assessing the Welfare Effects of the East African Community Customs Union’s Transition Arrangement on Uganda”, *Journal of Economic Integration*, vol 24(4): pp.685 – 708

Shafaeddin, M. (2000) ‘*What Did Fredrick List Actually Say*’, UNCTAD Discussion Papers, 153: 1-22, December.

Shams, R. (2003) ‘*Trade Imbalances and the Political Economy of a Transitional Fund in the EAC*’, HWWA Discussion Paper 242: 1-18**,** Hamburg Institute of International Economics.

Stahl, H. M. (2005) ‘*Tariff Liberalization Impacts of the EAC Customs Union in Perspective*’, TRALAC Working Paper, No: 4: 1-36, Trade Law Centre for Southern Africa, Johannesburg.

Standard Investment Bank, 2012; Kenya oil and gas sector overview

Stern, R. M., Francois, J. and Schumacher, B. (1999) ‘*Price Elasticities in International Trade: An Annotated Bibliography,*’ Macmillan Press Ltd, London.

Tybout, J. R. (2000) ‘Manufacturing Firms in Developing Countries: How Well Do They Do, and Why?’ *Journal of Economic Literature*, 38 (1): 11-44.

UNECA (2004) *Assessing Regional Integration in Africa*, United Nations Economic Commission for Africa, Addis Ababa.

UNECA (2006) Assessing Regional Integration in Africa: Rationalising Regional Economic Communities, United Nations Economic Commission for Africa, Addis Ababa.

Venebles, A. J. (1999) ‘Integration Agreements: A force for Convergence or Divergence: Proceedings of the World Bank ABCD Conference’, *Policy Research Working Paper Series* No. 2260.

Viner, J. (2005). *The Customs Union Issue*. Carnegie Endowment for International Peace, New

Wasilwa T. W. (2008). Challenges posed by common market for eastern and southern Africa (COMESA) on sugar millers in Kenya. *Unpublished MBA Project*

York.

APPENDIX

Appendix I: Questionnaire

BACKGROUND INFORMATION

1. Occupation..

Area of work --

(Please tick where applicable)

2. What is your highest level of education?

Secondary [ ] College [ ] University [ ]

Any other, kindly specify…………………………………………………………

3. Has implementation of the Customs Management Act started in January 2005 been successful?

Yes [ ]

No [ ]

Give reasons for your answer……………………………………………………………….

4. Indicate the extent to which the following factor that has led to implementation of East Africa Community Customs Union. (1=No Extent,2=Less extent, 3=Moderately extent, 4= Great extent and 5= Very great extent

Statement	1	2	3	4	5
Pooling market power					
Coordinating trade policies among member of EA state					
Combining efforts to negotiate with the rest of the world					
Interaction associated with a CU can foster trust					
Decrease the risk of conflicts in trade					
Avoiding trade deflection while facilitating more fluid trade flows among member of EA states					
Generate greater economies of scale					
Promote a harmonized reduction in internal and external trade barriers					

5. What is the level of awareness of the Customs Union among oil trade companies in Kenya?

High [ ]

Above Average [ ]

Low [ ]

Very Low [ ]

6.. To what extent has implementation of the Customs Management Act influence trade performance in Kenya?

i. To a very great extent [ ]
ii. To a great extent [ ]
iii. To a Moderately extent [ ]
iv. To a less extent [ ]
v. To no extent [ ]

7.. Kindly rate the oil trade in Kenya among East Africa Community since introduction of Customs union?

i. High [ ]
ii. Medium [ ]
iii. Low [ ]

8. To what extent do you agree with the following statements on influence of Common External Tariff (CET) on trade performance in oil industry in Kenya?

	Strongly agree	Agree	neutral	disagree	Strongly disagree
Has greatly liberalized the oil industry in East Africa Community through					
Reduction of oil export taxes					
Has enhanced predictability for oil exporters and investors in Kenya					
Has led to an increase in oil imports under the 3 tariff bands at 63.6%					
Has led to an increase in tariff dispersions within petroleum products in the oil industry in Kenya					
Led to deviation from regionally agreed rates of petroleum products					

9. Does customs union implemented in East Africa Community increased revenue in oil industry in Kenya

Yes [ ]

No [ ]

Give reason for your answer………………………………………………………………………………………
…………………………………………………

10. Indicate the extent to which you agree with the following statement concerning revenue increase in oil industry in Kenya, Where (1=Strongly Disagree 2=Disagree, , 3=Moderately agree, 4= Agree and 5= Strongly agree

Statement on revenue increase	Strongly agree	Agree	neutral	disagree	Strongly disagree
Improvements in economic performance					
Improvement in tax administration (e.g. simplification of tax laws and regulations, improvement in staff competencies, etc);					
Growth in oil trading activities; investors in Kenya					
Greater reliance on other taxes (income tax, VAT, etc) other than trade taxes (import duties).					

11. To what extent do you agree with the following statement concerning influence of EAC Customs Union on oil industry investment.(1=Strongly Disagree,2=Disagree, , 3=Moderately agree, 4= Agree and 5= Strongly agree

	Strongly agree	Agree	Neutral	disagree	Strongly disagree
Led to harmonising oil investment policies in Kenya					
Increase in incentives such as government subsidies to improve performance in the region					
Improve effectiveness of oil trade laws					
Experience in variations in minimum capital threshold requirements increasing oil trade performance					
Increase Cross-border oil investments in other EAC members					

12. Have institutions in oil industry increase in efficiency to improve trade performance in Kenya due to introduction of Customs Union in EA.

Yes [ ]

No [ ]

13. Has the introduction of East Africa Community customs unions been effective in improving oil trade performance in Kenya?

Yes [ ]

No [ ]

Give reasons for your answer

………………………………………………………………………………………………..

15.To what extent do you agree with the following challenges affects effectiveness of East Africa Community customs union in improving Oil trade performance in Kenya).(1=No Extent,2=Less extent, , 3=Moderately extent, 4= Great extent and 5= Very great extent

	1	2	3	4	5
Slow implementation of decisions reached regionally					
Appeals system not yet working properly in spite of existence of appropriate provisions under the existing laws					
Conflicting interests at national and regional levels (promotion of trade and investment vs revenue maximization					
Duty drawback claims – slow, long and cumbersome					
National sovereignty					
Lack of a well-informed standards programme					
Financial constraints					
Structural rigidities					
Lack of efficient dispute settlement mechanism					

Appendix II: List of Studies on Impact of EA Custom Duty in Oil Industry

McIntyre, M. (2005), Trade Integration in EAC: An Assessment of Oil Industry in Kenya, IMF Working Paper Vol. 5 (143), Washington D.C

Mwangi, K. & Othiambo, D. (2011) , Regulatory framework on Oil Industry in Kenya . Economic Report.

World Bank (2006). Kenya Country Oil Data Profile: