TRADE FACILITATION:

Issues for Kenya and Kenya's Position at the WTO

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Abstract

This study analysed trade facilitation according to the July package, discussed trade facilitation organs, identified trade facilitation concerns for Kenya and analysed the benefits and costs of Kenya negotiating a multilateral agreement on trade facilitation. According to WTO (2004), the July package, trade facilitation is the expedition of the movement, release and clearance of goods including goods in transit. The negotiations mainly concern themselves with the border issues of trade facilitation. The modalities for negotiating the trade facilitation agreement provide for Special and Differential treatment as well as for technical assistance and support to the developing and least developed countries to enable them implement the resultant agreement commitments, particularly those related to infrastructural development.

The study found that Kenya has trade facilitation issues, which need to be addressed both at the border and behind the border. The border trade facilitation issues include: port congestion, delays in cargo, complicated and duplicative customs procedures, complex and non-transparent administrative requirements, high costs of clearing and processing information resulting from limited automation and from rent seeking behaviour, wrong declarations and transit cargo delays. Behind the border trade facilitation issues are related to transport and the transport related infrastructure.

Costs for Kenya related to implementation of the resultant trade facilitation agreement include: investment costs related to port and customs operations infrastructure, upgrading and human resource capacity building of the key institutions involved in international trade processes, and costs related to development or changes to existing domestic legislation to accommodate the agreement requirements.

Benefits for Kenya include: saving of costs due to less documentation, reduced delays and other more efficient procedures, which reduce trade transaction costs. These savings could amount to Ksh. 10 billion per year. Benefits will be spread to those participating in international trade particularly the government (customs Services' Department) and the traders. The gains are expected to spill over to other sectors of the economy leading to increased welfare for consumers and producers as well. For more benefits, Kenya should go beyond implementing the 'at the border' trade facilitation, and pursue both national and regional trade facilitation initiatives targeting 'behind the border issues'. The proposed negotiation position for Kenya is that:

- The Kyoto Protocol forms the basis for the best practice and that based on these guidelines, each developing and least developed country should identify the measures that they are willing to implement based on their capacities.

- As a part of Special & Differential treatment (S&D and in addition to longer transitional implementation periods, developing and least developed countries should make their commitments at a later date after the developed countries make theirs. Meanwhile the developing and the least developed countries will be implementing trade facilitation measures in line within their capabilities.

The developed countries make more firm commitments and assurances to providing technical assistance and support to the developing and the least developed countries. If IMF and World Bank will be providing such assistance, then it should not have conditionalities attached to it. Commitments and the related implementations should be conditioned to the developed and least developed countries' provision of the necessary support and capacity building.

- Developing and Least Developed Countries should identify and decide for themselves the type of support, i.e. financial, technical and capacity building that they need.

1. Introduction

1.1 Background information

Trade Facilitation has been defined as a comprehensive and integrated approach to reducing the complexity and cost of the trade transaction process, and ensuring that all these activities can take place in an efficient, transparent and predictable manner, based on internationally accepted norms, standards and best practices. More elaborately, the European Commission General Affairs Council (2002) defines trade facilitation as simplifying all requirements and procedures related to imports and exports. This is in particular with regard to customs processes, import licensing, customs valuation, transit rules and pre-shipment inspection, drawing on the highest international standards and in conformity with the provisions of the WTO, including those elaborated pursuant to the Doha Development Agenda (DDA)[1].

The need for trade facilitation has arisen from the growth in volumes of trade, declining levels of tariffs following trade liberalization after the conclusion of the Uruguay Round as well as from the increase and availability of modern technology. International trade at the border has particularly been associated with excessive documentation, lack of transparency, limited use of modern customs techniques, in adequate transit regimes, lack of rapid legal redress, excessive release and clearance times, lack of co-ordination and cooperation between customs and other inspecting agencies, and inadequate procedures especially the lack of audit-based controls and risk assessment techniques. Combined, these factors lead to losses in business and to high Trade Transaction Costs (TTCs). Generally, TTCs account for some 2-15 per cent of traded goods' value (OECD, 2003).

1.1.1 Trade facilitation at the WTO

Trade facilitation is one of the four[2] WTO Singapore issues, which first appeared on the WTO Agenda in the Ministerial Conference held in Singapore in 1996. Although work in this area began immediately after this conference, there was no much progress made towards the launch of negotiations in this area in the consecutive WTO Ministerial conferences of Seattle, Doha and Cancun, although the Doha Development Agenda had proposed that the negotiations begin after the Cancun Conference. Negotiations following the Cancun Conference led to the launch of trade facilitation negotiations through the adoption of WTO General Council's decision of 1 August 2004 (Commonly known as the July Package).

Although the WTO has no multilateral agreement on trade facilitation, GATT (1994) has articles aiming to achieve trade facilitation. The most important of these articles are articles V, VIII and X. Key features of these articles include:

- **Article V**

Article V of GATT 1994 provides for freedom of transit via routes most convenient for international transit without discrimination[3]. Except in the failure to comply with applicable customs laws and regulations, transit traffic is not to be subjected to unnecessary delays or restrictions or unnecessary charges, regulations and formalities. Products that have been on

[1] The Doha Development Agenda (WTO, 2001) defines trade facilitation as measures for expediting the movement, release and clearance of goods, including goods in transit.

[2] The other three Singapore issues are: the relationship between trade and investment, transparency in government procurement and competition policy.

[3] Without making distinction based on the vessels flag, the place of origin, departure, entry, exit or destination, or to the ownership.

transit on arrival to their destinations are to be treated as if they had been transported from their place of origin to their destination directly.

- **Article VIII**

Article VIII is on fees and formalities with respect to international trade[4]. All fees and charges (all non- tariff fees and charges) are to be limited in amount to the approximate cost of services rendered and are not to represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes.

The Article also stresses on the need to reduce the number and diversity of the fees and charges, the frequency and complexity of import and export formalities and to decrease and simplify import and export documentation requirements. In addition, on request by a contracting party, a contracting party should review the operation of its laws and regulations in the light of the provisions of this Article. Further, contracting parties are not to impose substantial penalties for minor breaches of customs regulations or procedural requirements.

- **Article X**

This article is on transparency on international trade processes' requirements. It provides for the parties to publish promptly the laws, regulations, judicial decisions and administrative rulings of general application, which they effect. Decisions for publication include those with respect to the classification or the valuation of products for customs purposes, rates of duty, taxes, other charges, requirements, restrictions and prohibitions on imports or exports or on the transfer of payments or affecting their sale, distribution, transportation, insurance, warehousing inspection, exhibition, processing, mixing or other use, and agreements affecting international trade policy. Any measures and requirements for export and import businesses are to be non-discriminatory and their enforcement should be after their official publication. Each party is to maintain judicial, arbitral or administrative tribunals or procedures for prompt review and correction of administrative action relating to customs matters.

1.1.2 The revised Kyoto Convention

The World Customs Organisation (WCO) is one of the key institutions[5] that have done work on customs procedures and trade facilitation. The most relevant and influential of the WCO instruments on the on going WTO trade facilitation negotiations is the revised Kyoto convention.

This convention, better known as the international convention on the simplification and harmonization of customs procedures was effected in 1974 and was recently revised and updated to reflect and meet the current demands of governments and international trade. The revised protocol was adopted in June 1999 as the guideline for modern and efficient Customs procedures in the 21st century. It will enter into force three months after 40 Contracting Parties[6] to the Kyoto Convention (1974) have signed the Protocol of Amendment. Kenya is not a contracting party to this convention. The convention aims at enhancing predictability and efficiency in international trade. Some key issues discussed in the protocol include:

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[4]Imports and exports included here include consular transactions, such as consular invoices and certificates; quantitative restrictions; licensing; exchange control; statistical services; documents, documentation and certification; analysis and inspection; and quarantine, sanitation and fumigation.

[5] Other institutions that have done substantial work in trade facilitation include: UNCTAT, UNECE and the International Chamber of Chamber of Commerce (ICC).

[6] As of April 2005 the Contracting Parties to the Convention who had signed the convention were 38.

- **Clearance and other custom formalities**

Customs is to limit data required in goods declaration to that necessary for the assessment and collection of duties and taxes, the compilation of statistics and the application of Customs Law. The time period within which the applicable duties and taxes are assessed is to be stipulated in national legislation and the assessment is required the soonest after the Goods declaration is lodged or the liability is otherwise incurred.

- **Duties and taxes**

National legislations are to define the circumstances, when liability to duties and taxes is to be incurred, the time period within which the applicable duties and taxes are assessed and the conditions and factors on which the assessment is based. The time taken to determine the rates, methods that may be used to pay the duties and taxes, persons responsible for the payment, the period within which the Customs may take legal action to collect duties and taxes not paid on due date also need to be legislated. The rate of interest chargeable on duties and taxes not paid on due date and the conditions of application of such interest also has to be legislated. The rates of duties and taxes are to be published officially.

- **Security**

National legislation is to indicate cases where security is required and specify forms in which the security is to be provided and the customs is to determine the amount of such security. Charges on the security are to be as low as possible and are not to exceed the amount potentially chargeable on taxes and duties.

- **Customs control**

Goods, including means of transport, entering or leaving the customs territory are subject to customs control. The control is however to be limited to that necessary to ensure compliance with the Customs Law. Risk management will be used to determine which persons or goods, including means of transport, should be examined and to what extent. Customs control systems are to include audit-based controls. The Customs is to use information technology and electronic commerce to the greatest possible extent to enhance Customs control.

- **Application of technology**

Customs are to apply information technology to support Customs operations, where it is cost-effective and efficient for the Customs and for trade. These include introduction of computer applications, which use relevant internationally accepted standards. Introduction of information technology is to be carried out in consultation with all relevant parties directly affected.

- **Relationship between the customs and third parties**

Persons concerned may transact business with the Customs either directly or by designating a third party to act on their behalf and the national legislation is to set such conditions as well as the circumstances under which they are not to transact business with a third party.

- **Information, decision and rulings supplied by customs**

The Customs is to ensure that all relevant information of general application with respect to Customs law is available to any interested person and should provide information on relevant matters requested by interested persons.

- **Appeals in custom matters**

The national legislations are to provide for a right of appeal in Customs matters. This provides persons directly affected by a decision or omission of the Customs to have a right of appeal.

The above issues clearly underscore the key principle of the Kyoto convention, the commitment by Customs administrations to provide simplification, transparency and predictability for all those involved in aspects of international trade. In addition, the convention sets out new and obligatory rules for its application, which all Contracting Parties are to accept without reservation.

1.1.3 Progress at WTO

Since the 1st August 2004 mandate on trade facilitation, the WTO Negotiating Group on Trade Facilitation has held several consultative meetings on this subject. Several proposals have been presented on various areas of trade facilitation. Proposals presented are briefly discussed in Table 1.

Table 1: A summary of submitted proposals on trade facilitation

Key Proposal area	Specific issues raised in the proposals
i. Publication and availability of trade regulations.	Type of information to be made available, this includes all laws and regulations related to trade, details of inspection for safety purposes, penalty provisions against the breach of international trade formalities among others. Proposed measures of publishing this information include use of the Internet, establishment of enquiry points or Single National Focal Points (SNFP) or Information Centres, and providing the WTO Secretariat with websites containing detailed and updated information.
ii. Time period between publication and implementation	The need to have some reasonable time between publication of the regulations and measures and their implementation or enforcement.
iii. Consultation on the new and amended rules	Provision of prior-consultation for the parties interested in the international trade processes.
iv. Advance ruling and the right of appeal.	Establishment and development of advance rulings and right of appeal.
v. Fees and charges	Establish parameters, disciplines and objective criteria related to fees and charges. Reduction of number and diversity of fees charged.
vi. Import and export formalities	Commitment to non-discrimination in terms of requirements and procedures.
vii. Consular transactions	Prohibition of consularization fees.
viii. Border agency co-ordination	One-stop shop to allow traders to present data to one agency.
ix. Release and clearance of goods	Allow clearance in advance of arrival to allow claim of goods immediately after importing so long as the goods are not selected for physical examination. Need to use Risk Analysis Technology in customs clearance.
x. Tariff classification	Requirement to apply objective criteria.
xi. Goods in transit	Strengthened non-discrimination and disciplines on fees, charges formalities and documentation requirements.

There are also proposals on technical assistance, Special and Differential treatment (S&D) and on capacity building. The African group and a group of Latin American Countries have each submitted a cross-cutting proposal on Special and Differential treatment.

The proposal by the African group requires that the S&D be reflected in legally and binding provisions that are precise, effective and operational; provide policy space for developing countries and LDCs (so that such countries can decide when, how and when to undertake implementations). S& D should also condition implementation of the new commitments to the effective, adequate, long-term and sustainable technical and financial assistance and support for capacity building.

1.2 Objectives of this study

The objectives of this study are to:

- Examine the meaning of Trade Facilitation under the July Package and the issues under trade facilitation.
- Analyse the issues for Kenya under trade facilitation.
- Examine the structure of Kenya's trade facilitation organs showing where there are inefficiencies in service delivery.
- Analyse the costs and benefits of Kenya negotiating a multilateral agreement on trade facilitation.
- Establish a negotiation position for Kenya.

1.3 Methodology

In undertaking this study, 2 key approaches were used:

- **Consultations**

Consultations with the Customs Services Department[7] were undertaken with the aim of providing current information especially on the progress towards implementation of the Customs Reform Programme (CRP).

- **Review of relevant current documents on trade facilitation**

A variety of documents were reviewed in this study, most of which provided valuable data used in the analysis. Some of those documents reviewed are the July Package, the revised Kyoto Convention and the Time Release Study for Kenya (KRA, 2002).

Analysis of the costs and benefits Kenya negotiating a multilateral trade facilitation agreement was based on experiences of Asia Pacific Economic Cooperation member countries, which have implemented trade facilitation reforms in the recent past.

1.4 Organization of this paper

The rest of this paper is organized in six key parts: part 2 discusses the meaning of trade facilitation according to the July package. Parts 3 and 4 discuss the organs involved with trade facilitation and the issues of trade facilitation in Kenya respectively. Part 5 assess the costs and benefits of Kenya negotiating a multilateral agreement on trade facilitation while part 6 concludes the study and proposes the negotiation position on trade facilitation for Kenya at the WTO.

[7] Particularly, the study benefited from the discussions held between the author and the Senior Assistant Commissioner, Customs Services Department, Mrs. Alice Etole.

2. The meaning of Trade Facilitation according to the July Package

According to WTO (2004), the July package, trade facilitation is expedition of the movement, release and clearance of goods including goods in transit[8]. The aim of negotiations in trade facilitation is to clarify and improve relevant aspects of Articles V, VIII and X of GATT (1994) with a view to further expediting the movement, release and clearance of goods, including goods in transit. Negotiations also aim at enhancing technical assistance and support for capacity building in the area of trade facilitation. The negotiations further aim at providing for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.

Trade facilitation as defined in the July package borrows a lot from documents such as European Council (2002). This definition is however limited to the border processes of international trade. It does not consider behind the border processes such as transport infrastructure, weighbridge operations and vehicle road -worthiness (and police checks) and driving license issues especially of the transit vehicles, which are equally important for goods, both at the domestic market as well as those in transit. For transit goods, issues of transport, weighbridges and insurance are of particular importance especially for Kenya. All these 'behind the border' processes affect the efficiency of international trade and raise trade transaction costs as well.

Trade facilitation 'at the border' mainly targets the use of information technology to improve the efficiency of port operations, while behind the border trade facilitation involves physical and market infrastructure development.

2.1 Trade Facilitation negotiation modalities

The modalities for negotiating trade facilitation suggest several things:

- First, the principle of special and differential treatment (S&D) for developing and least developed countries with respect to implementation of the agreement is provided for. This S&D treatment is expected to go beyond the granting of traditionally longer transition periods for implementing commitments on the part of least and developing countries. The extent and the timing of entering into commitments are to be related to the developing and least-developed WTO member countries implementation capacities, and that these countries would not be obliged to undertake investments in infrastructure projects beyond their means.

- Secondly, Least Developed Countries (LDCs) will be required to undertake commitments in line with their individual development, financial and trade needs or their administrative and institutional capabilities. Members particularly the developing and Least Developed Countries are to identify their trade facilitation needs and priorities. WTO members are to address the concerns of developing and Least Developed Countries related to cost implications of proposed measures.

- Thirdly, technical assistance and support for capacity building for developing and LDCs to enable them to participate fully and benefit from the negotiations is expected from the developed country's WTO members.

[8] Article V of GATT 1994 describes traffic in transit as goods (including baggage), vessels and other means of transport (except aircrafts in transit), when their passage across a territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the borders of the country across whose territory the traffic passes.

- Fourthly, support and assistance for LDCs and developing member countries is also expected to help them implement the commitments resulting from the negotiations, in line with the nature and scope of the commitment, particularly where commitments implementation require support for infrastructure. The commitments by developed countries to provide such support are however limited.

  Where support and assistance for such infrastructure is required but not forthcoming, and the developing or least-developed country continues to lack the necessary capacity, implementation for such a country's commitment will not be required. Members are to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.

- Lastly, with a view to making technical assistance and capacity building more effective and operational as well as ensuring better coherence, members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard. Negotiations shall take into account relevant work of the WCO and other relevant international organizations in trade facilitation.

There are two issues at the forefront in trade facilitation negotiations with respect to the July package: efficiency and transparency of the international trade transactions. Taking the WCO[9] procedures as the guiding principle, the negotiations will have several implications for the WTO member countries:

- The negotiations will result into a multilateral agreement, where members will be required to make commitments.
- The negotiations will also entail member countries to implement the made commitments within a given timeline, failure to which a country could be legally challenged.
- The commitments will entail member countries to change or enact legislations to facilitate trade, publish regulations and measures related to trade. They will also require modernization of the customs and the related operations. Modernization will in particular require financial resource to put in place the necessary infrastructure including computerisation and more efficient handling and conveyance equipment. The modernization will consequently require development of human resource and capacity building to handle such modern processes.

[9] The revised Kyoto Protocol

3. Structure of Kenya's Trade Facilitation Organs

3.1 Goods clearance process

Before we discuss the trade facilitation organs in Kenya, it is helpful that we analyse goods clearance and release process in Kenya. Transit goods account for about 20% of the total entries (KRA, 2004). Clearance of goods in Kenya is done in several points:

A. The Sea Port (Kilindini Port in Mombasa)

Before 1st July 2005, import goods documents were lodged at the Mombasa long room for processing of all relevant taxes, after which they would be dispatched to Central Documentation Office (CDO) at the Kenya Ports Authority (KPA) offices located within Kilindini Port, some four Kilometers from the long room. The detailed customs clearance procedure at the seaport of Mombasa before 1st July 2005 is presented in Figure 1.

- **Lodgment of Entry**

The clearing agent presents to the customs a declaration made on a Single Entry Document (form C 63). A receiving clerk stamps the entry with a receiving stamp, indicating the date and time of lodgment. He further verifies that the following documents are attached to the entry: original invoice, original bill of lading, import declaration form (IDF), clean report of finding (CRF) and IDF deposit slip.

- **Pooling of Entry**

Here, the documents, which have been forwarded by the clerk, are entered into the computer for processing. After which they are forwarded to the head of declaration (HDO) long room for allocation.

- **Allocation of Entry**

The entries are allocated to officers for processing. The date and time of allocation is indicated on the entry.

- **Entry Processing**

The processing officers check the declarations and based on their findings, pass, reject or refer the entry to a senior officer, who after checking, stamps it. The rejected entry is returned to the clearing agent for corrections and amendments, after which it is re-lodged.

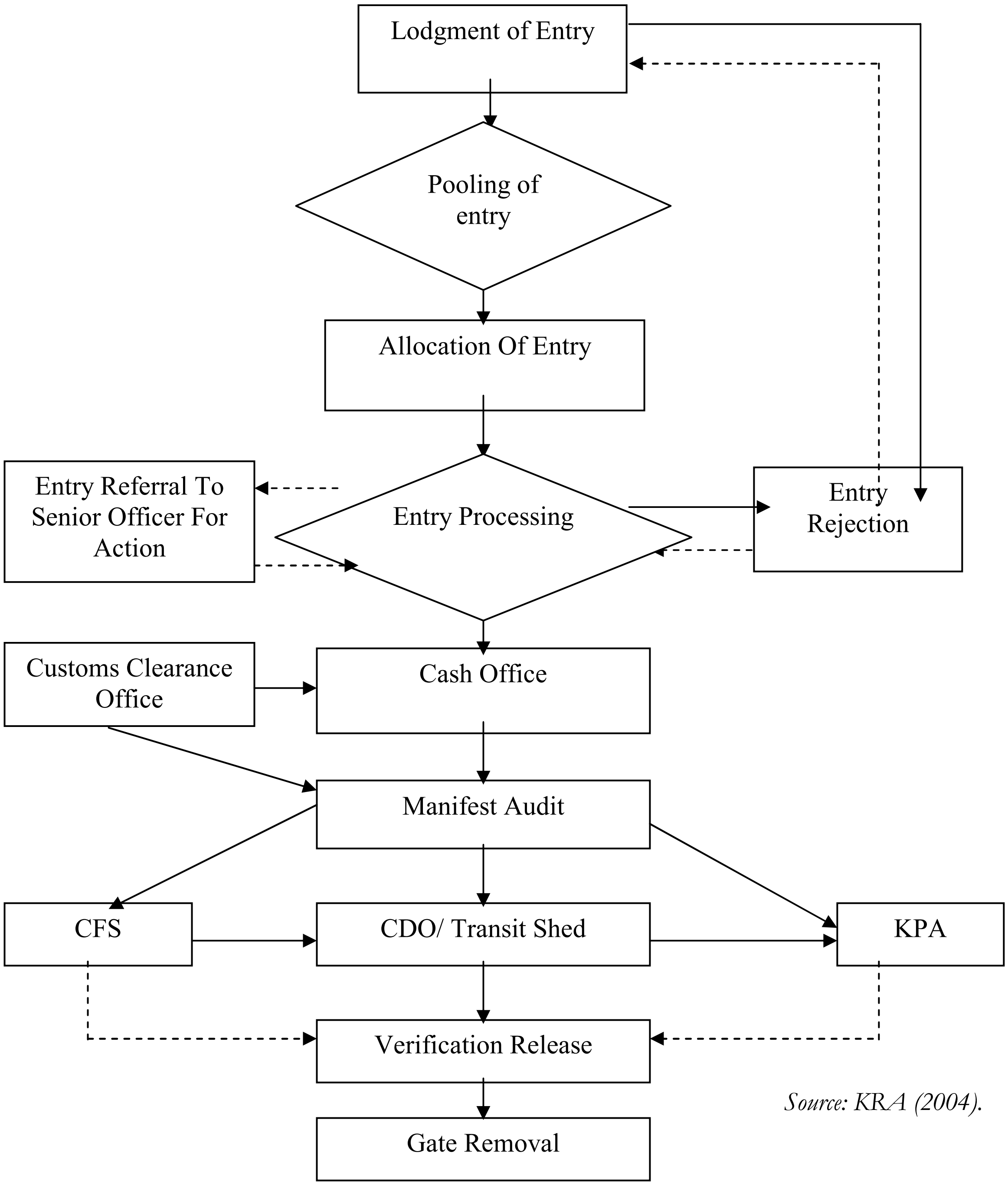
- **Dispatch to Cash Office**

Passed entries are collected, recorded and dispatched to cash office. At the cash office, details of the entry pool number, name of the clearing agent and the amount of duty payable are recorded.

- **Cash Office**

The long room accountant compares the taxes payable on the entry against the payments made to the bank. The cashier validates this information in the main computer, further generating cash abstract for use at the time of goods removal from the customs territory and from the central documentation office. The entry is numbered, split and forwarded to Customs Clearance Audit (CCA) section.

Figure 1: Customs Clearance Procedure



Source: KRA (2004).

- **Customs Clearance Audit**

Here the entries are checked and targeted for 100% verification.

- **Manifest Audit**

Officers at the manifest section compare the ship manifest with the declaration on the entry, for purposes of confirming the declared quantity, weight and goods description. If the declaration is not in order, it is stopped and the agent asked to comply before dispatch for physical verification at the release sheds.

- **Central Documentation Office (CDO)/Transit Shed**

The entries are checked and compared against the cash abstract. If details are in accord, the release orders are dispatched to the port authority or container freight operator to facilitate collection of their handling charges. Entries are thereafter dispatched to the sheds where the goods are located for verification.

- **Verification and Release by Customs**

Goods are deposited at the verification area for either 100% verification or otherwise. After the goods are examined, a report is prepared after which the goods are released to the clearing agent.

- **Removal from Customs territory**

The clearing agent processes the gate pass with the Port Authority or transit shed operator. Goods are then loaded on the truck and moved to the gate where the Customs preventive officers record the truck details and release goods from the customs territory.

The above process is long and manual, with the clearance documents having to pass through over 12 different officers. Since 1st July 2005, the Kenya revenue Authority has implemented the Customs Modernization programme whose aim is to automate the clearance process, therefore quickening the whole process.

B. The Airports

Main airports include the Jomo Kenyatta International Airport (JKIA) and Eldoret Airport. Entries are lodged for assessment and collection of the relevant taxes in long rooms, which are located within the airports. Verification and release of goods is done at the various sheds within the airport. There are special arrangements for customs procedure of release of goods, which are granted to particular goods including perishables, magazines and newsprint through the JKIA station.

C. Inland Container Depots (ICD)

The Embakasi and Kisumu pier stations handle all importations that are discharged in Mombasa and transported by railway to the Inland Container Depots (ICD). For Embakasi, the documents are lodged at the long room located at Times Tower for processing and collection of the relevant taxes before being dispatched to ICD Embakasi for verification and release. The ICD at Embakasi is located at about 15 Kilometers from long room at Times Tower. Lodgment of declarations is done after Customs clearing agents make payments of the self-assessed taxes at the bank.

D. The Land border-crossing points

Document lodgment and collection of the relevant taxes together with verification and release are done within the land border stations[10]. Most of these stations lag behind in computerization especially due to lack of electrification. In such cases, entries are lodged and processed manually. There is also lack of verification bays and lifting equipment leading to the goods being examined and released without being off-loaded from the importing/exporting truck.

The Malaba Station[11] is particularly important because it handles goods on transit to and from the Great Lakes Region comprising of Uganda, Congo DRC, Rwanda and Burundi.

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[10] There are several border-crossing points including, Namanga, Kisumu, Malaba, Taveta, Busia, Lunga Lunga, Moyale, Mandera and other smaller points.

[11] Located at the Kenya-Uganda border

The average time taken to clear and release imported goods from various clearance points is presented in table 2.

Table 2: Time taken to clear goods at various port stations in Kenya (days)

Procedure	Station		
	Sea Ports	**Airports**	**Land border posts**
Arrival to lodgment	3 20:01	2 22:21	0 06:40
Lodgment to release	6 12:02	2 06:18	0 11:00
Release to removal	0 19:42	0 07:37	0 02:43
Total arrival to release	10 07:53	5 11:26	0 20:18
Average Arrival to release time	*6 days, 12 hours and 2 minutes*		

Source: ***KRA Database, 2004***

The average clearance time at different ports in Kenya is 6 and half days. Clearance at the seaport takes the longest time (over 10 days, with an upper limit of 18 days) compared to clearance at other border points (Table 2). The clearance time at the seaport in Kenya is much higher compared to those of the developed world, for instance in Belgium and Greece is 30 minutes and 1 day respectively. It is however comparable to the average sea clearing time for Egypt of 10 days and for Lebanon, which is 6 days (Ghoneim and Gohar, 2004). Clearance at the border posts takes relatively the shortest time, probably because the volume of goods passing through these points is relatively lower, there is no off-loading of goods for inspection and other goods are on transit and do not have to undergo rigorous custom processes. On average, the lodgment of documents to the period the goods are cleared for removal from the customs territory takes the longest period, probably due to the customs procedures, which are undertaken at this point in time. The delays at this point have for long been associated with the manual document processing at the long rooms. Time taken to clear goods in Kenya also dependents on the goods' regime and the class and type of goods being handled (Annex 1).

Export goods clearance

Clearance of export goods faces similar documentation issues as imports, particularly with respect to certification, export permits and duty clearance. The clearance is much dependent on the type of export and the destination market requirements. Export certification in Kenya is undertaken by the various Competent Authority agencies. They include: the department of Veterinary Services (DVS) for livestock and animal related products including honey, the Department of Fisheries (DoF) for fish and fisheries related products, Kenya Plant Health Inspectorate Service (KEPHIS) for Plant and plant related products including horticultural produce and by the Kenya Bureau of Standards KeBS. These institutions are located in Nairobi while the exporters are located in various parts of the country for instance; some fisheries' exporters are based in Kisumu and Mombasa. The exporters therefore have to travel to Nairobi to get the necessary certification and permits, a process which clearly consumes time, increases cost to the business and which could be simplified and made less costly through electronic processing. Export processing in Kenya takes a much shorter time compared to import processing.

3.2 Trade Facilitation organs in Kenya

The organs involved in trade facilitation in Kenya include: Customs services Department (formally the Customs and Exercise Department), Kenya Ports Authority, Kenya Railways, Customs Clearing and Forwarding agents, Ministry of health, Department of Veterinary Services, Kenya Bureau of Standards, Kenya Plant and Health Inspectorate Service and the Narcotic Police.

- **Clearing and Forwarding Agents**

There are over 300 private clearing and forwarding agents in Kenya. Most of these agents are members of Kenya International Freight and Warehousing Association (KIFWA). Currently, it is only the clearing agents who are authorized to lodge documents by KRA. A key constraint facing the agents is that some of them are not well versed with the electronic goods clearance process, however on implementation of the electronic clearing system; KRA has been training the agents on its use.

- **Customs Services Department (CSD)**

The Customs Services Department is perhaps the most important of the trade facilitation organs in Kenya. The Department is the largest[12] of the four departments of the Kenya Revenue Authority (KRA), a parastal. Alone, it accounts for over 50% of all KRA staff, who are distributed in all gazzetted entry and exit points including several preventive outposts in certain strategic locations within the country.

The activities of CSD involve collection and accounting of revenue, security and trade facilitation, compilation of trade statistics for economic planning and enforcement of prohibitions and restrictions. It also enforces prohibitions and restrictions particularly the regulations that prevent illegal trade such as hazardous wastes.

KRA has recently implemented a Custom Reform Programme, whose main aim has been to automate the customs process, targeting reducing goods clearance time to 48 hours. The reform programme has, to a great extent reduced use of manual systems. Lodgment of documents is through computers and the whole process now requires only one signature.

The programme also has a Computerised Risk Management System (CRMS), therefore limiting the number of goods that are to undergo physical verification. The computerized risk assessment is based on factors such as the importing company and the clearing agent characteristics, the country of origin and so on and so forth. Although the customs department is at a transitional period, it is still characterized by delays in document processing and governance issues.

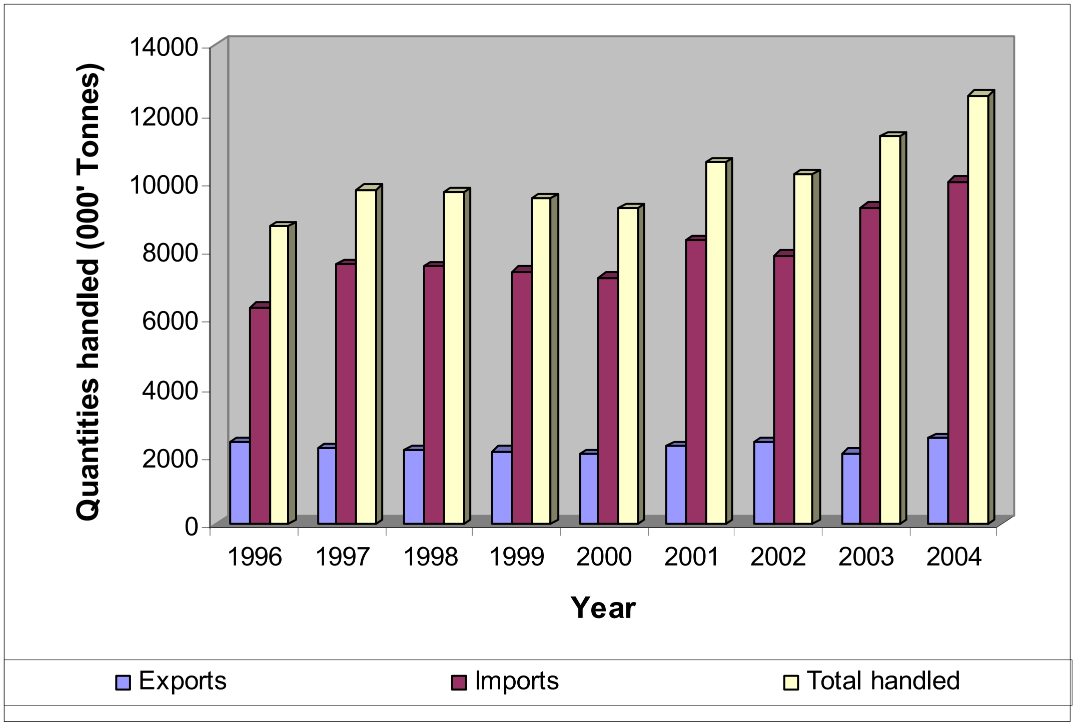
Constraints facing the Customs Services' Department include: limited scanners at the port of Mombasa, limited automation and loading facilities at the border point stations, financial constraints especially to computerize and improve the necessary infrastructure at the land borders, limited human resource capacity and limited skills to undertake post-audit procedures.

- **Kenya Ports Authority (KPA)**

Kenya Ports Authority (KPA) is the parastatal that manages the seaports in Kenya, the main ones being the port of Mombasa at Kilindini and the Port of Lamu. The Authority also manages the inland container depots (ICDs). The cargo handled through the ports, particularly the port of Mombasa has been increasing (Figure 2).

[12] In terms of countrywide operations, manpower and in amounts of revenue collected.

Figure 2: Trends in cargo handled at the Port of Mombasa (1996-2004)



Source: *Republic of Kenya (2004, 2005)*

Most of the cargo handled is import material comprising of dry cargo and oils. Cargo handled for export market destinations has been relatively low but steady over the years (Figure 2).

The port of Mombasa consists of 16 deep-water berths with a total quay length of 3,044 metres and a maximum dredged depth of 11 Metres. Its important infrastructure, include bulk oil jetties, handling facilities for coal clinker and cement and a three-berth container terminal as well as inland container terminals in Nairobi, Kisumu and Eldoret. The rated capacity of the port is 22 million tonnes annually, while the cargo handled has been on average around 8 million tonnes per annum, rising from 9.2 million in the year 2000 to 10 million in 2002, 12 million in 2003 and 13 million in 2004. Between 2002-2003, the growth of containerized traffic represented one of the highest growth rates in the world (24.5%). Transit traffic increased from 1.5 million Tonnes to 2.4 million Tonnes (some 60% increase) in 1997 and 2001 respectively and currently accounts for about 20 % of all port traffic. The increases in traffic could be due to improvements in cargo handling, which is as a result of port reforms in the recent past.

The Kenya Ports Authority has recently implemented some programmes to improve particularly the port of Mombasa operations. These include: introduction of a Seamless Block Train Service to provide cargo services between Nairobi and Kampala, suspension of the Vessel Delay Surcharge (VDS), Equipment Modernization Programme, Information Communication Technology (ICT) Programme, and implementation of Maritime Security Requirements and purchase of Container Scanners. In addition, it has amended sections 10(a) and 30 of the Tariff Acts to harmonize late documentation charges with those of storage.

Although the above implemented initiatives have to some extent improved the services at the port of Mombasa, the port is still faced with several challenges including: Insufficient port rail and port road interfaces, goods theft, congestion at the Container Terminal, which contributes to delays in release of goods and increase in storage charges. The performance of port equipment is low, averaging to about 40% (Republic of Kenya, 2004). In the 2003 a total of 6007 hours were lost due to a various operations problems.

The government of Kenya has proposed privatization and commercialization of KPA, as the way forward to improving the Mombasa port operations. Other measures to improve the Authority's and the port operations include: rehabilitation of port facilities and enhancement of the performance of rail-mounted gantries to cope with the rise of rail bound containers. Currently, only 30% of upcountry containers go by rail. Integration of information technology network between Kenya Ports Authority, Kenya Revenue Authority, Kenya Railways and other port users, is expected to shorten processing of documents to 1 day. Currently processing of documents between these agencies takes 2-4 days. Proper documentation will also reduce proliferation of goods theft at the port. There are also proposals to operationalise the Inland Container Depot (ICD) at Eldoret, to serve some of the transit countries.

The Authority being a parastatal lacks enough financial resources to invest on upgrading and modernizing of the port facility. The Authority is also inefficient and is faced with governance issues as well.

- **Organs involved at the goods release stage**

Once the goods have gone through the customs processes, their release may be subject to physical verification. Before the implementation of the Customs Reform Programme (CRP), entries that were free of physical inspection made up to 50.5% of the total entries. Of the 49.5 of those subject to physical inspection, 70.5%, 27.5% and 2.3% were subject to random, detailed and scanner inspections respectively (KRA, 2004).

With the CRP, selection of goods to undergo the verification process is undertaken through a Computerised Risk Management System (CRMS). Depending on this system of analysis, some goods could be released immediately; others could be subjected to the scanning process while others will have to be 100% inspected. Organs involved at the verification stage include:

- Kenya Bureau of Standards (KeBS): KeBS takes samples of the imports to test for the standards.
- Kenya Plant Health Inspectorate Service (KEPHIS): KEPHIS take samples to test for phytosanitary concerns especially with the import of plant and plant related material.
- Port Health, who control for the quality of food stuffs,
- Ministry of Health, who control for quality of Medicinal drugs, and,
- Narcotics police[13] (mainly at the port of Mombasa), who control drug smuggling.

The main constraint with respect to the above verification agents is that they are located at various sheds. This increases the time taken before goods can be released and provides a loophole for rent seeking behaviours.

In addition, Key institutions such as KeBS and KEPHIS lack the necessary capacity in terms of the state of arts equipment to undertake urgent laboratory tests and analysis of the samples when required. All the institutions also lack human resource with adequate skills to undertake the various mandates.

[13] They work together with Mombasa Anti Smuggling Team (MAST).

- **Kenya Railways Corporation (KRC)**

Kenya Railways Corporation (KRC) is an important trade facilitator as it operates container-carrying trains between Kipevu (Mombasa) and the inland container depot at Embakasi (Nairobi) and Kisumu. Kenya Railways transport currently account for 25% while roads account for 75% of the total freight traffic (Republic of Kenya, 2004). It also handles transit traffic to and from land-locked countries in the East and Central African region. Transits via Nairobi-Kampala corridor account for over 70% of the total transit in the Eastern and Central Africa region.

Kenya Railways Corporation (KRC) oversees the operations of Kenya Railways. The Corporation operates under a multiplicity of statutes and regulations including the KRC Act and the State Corporations Act. It also operates under several Government of Kenya (GoK) Ministries including the Ministry of Transport (MoT), Ministry of Finance (MoF) and the Office of the President (OP) as well. Consequently, it is not independent except in matters of setting tariffs.

Constraints facing KRC include: lack of independence as the corporation currently falls under different ministries, cash flow problems, limited of quality skilled staff, limited integration with other modes of transport, lack of investment funds to rehabilitate, extend the railway line and replace old wagons. High debts, low productivity of assets and human resource as well as governance are other constraints facing the corporation.

Combined these factors have contributed to poor management of railways, poorly maintained locomotives and wagons, low punctuality of the locomotives and low locomotive turn around, declining volumes of freights, increase in train derailments and inefficiencies in Corporation operations. These have contributed to high freight tariffs.

3.3 Need for a coordinated approach in implementing trade facilitation reforms

There are various programmes and initiatives aimed at improving trade facilitation in Kenya, both at the national and at the regional level.

The establishment of the East African Customs Union, together with the enactment of the East African Customs Management Act (EACMA) will undoubtedly guide trade facilitation in Kenya and indeed in all the other EAC Partner States of Uganda and Tanzania. The Act among other issues emphasizes Articles 5 & 6 of the Customs Union Protocol, which provides for exchange of information and trade facilitation, including Joint border controls for easy border clearance. The Act further provides for licensing of the Inland container Depots (ICD) to ease the process of duty collection at the ports of entry. It also provides for clearance by pipeline given the existence of pipeline operations in Kenya and Tanzania and the prospects of the pipeline being extended to Uganda. Duty collection at the ICD and pipeline clearance will particularly expedite transit goods processes.

The reform programmes currently being undertaken by KPA and KRA do not exhibit a coordinated approach. Each institution, being under a different Government of Kenya Ministry is pursuing its own reform and modernization agenda. The ministries of Finance, Transport as well as Trade and Industry should develop a central coordinating mechanism whose aim would be a coordinated approach in implementing trade facilitation agenda in Kenya.

4. The Issues for Kenya under Trade Facilitation

The process of clearance of goods in Kenya has been characterised by the following issues:

- Port congestion, which affects turn-around time for feeder vessels and railway wagons.
- Delays. Goods clearance at the port of Mombasa takes an average of over 10 days and up to 18 days.
- Complicated and duplicative Customs procedures.
- Complex and non-transparent administrative requirements, often pertaining to documentation.
- High costs for processing information resulting from limited automation.
- High costs of the clearance process due to rent seeking behaviour perpetuated by the long, complex and non- transparent administrative requirements.
- Wrong declarations.
- Limited consultations of the interested parties in the event of processes and formalities change.
- Inadequate publication of the relevant information (e.g. information on tariff structure and requirements for implementation of the EAC Customs Union.
- Transit cargo also faces delays, with their clearance time averaging 12 days but could go up to 20 days (Annex 1).

Wrong declarations particularly with respect to the taxes[14], is by far the single most element complicating and delaying the clearance process. This process requires the intervention of the importer, the clearing agent and the customs officials.

[14] Declaration is based on self-assessment.

5. Costs and Benefits for Kenya Negotiating a Multilateral Agreement on Trade Facilitation

Several countries particularly those of the Asia Pacific Economic Cooperation (APEC) have implemented customs reform programmes in the recent past. Before discussing the benefits for Kenya from implementing such programmes, it may be interesting to briefly high light two of such cases.

- **Singapore customs reform**

Before implementation of customs reform in Singapore, traders were required to submit up to 21 different forms and physically deliver them to 23 different government agencies for processing, a process which could take between 15 and 20 days to complete and up to a further two days for approval. The customs reform implemented (TradeNet), involved computerization of the customs process. Traders prepare a single permit application for submission to the various regulatory authorities, which, they can file in their own offices for electronic transfer to the relevant agencies for processing and approval, a process, which takes only a few minutes. When approved, the permits are returned electronically to the traders, who can print hard copies in their offices. This has contributed to a major reduction in time on the importers side of complying with regulatory and customs requirements.

- **Thailand's electronic data interchange (EDI) system**

Before the implementation of the Thailand's EDI system, it used to take up to three days to complete customs processing. The EDI system in Thailand allows for customs documentation to be transferred via an online system. Traders can link to the system or use a licensed customs broker. With this system, traders are required to meet customs officers for only verification. With this system, it takes less than a day. The system quickened and simplified the Country's customs procedures.

5.1 Costs for Kenya negotiating a multilateral agreement on trade facilitation

Kenya among other developing countries has been skeptical to undertaking legal commitments at the WTO related to trade facilitation, mainly because the commitment calls for implementation, which may require more resources than she can afford. This is true given that Kenya already has implementation issues with some of the already signed WTO agreements. Commitments result to timeliness, which can greatly exert an additional resource burden for a country like Kenya.

If Kenya commits to the WTO Trade facilitation agreements (which are mainly at the border reform programmes), there are investment costs that are related to implementation. These costs include:

- **Infrastructural investment costs**

Infrastructure will be important for automation of the customs and the other goods' clearance and release procedures. Customs processes account for the largest time in clearing and releasing of goods in Kenya (Table 3), mainly because it has for a long time been based on a manual system.

Table 3: Time between processes in long rooms (days)

Procedure/ station	Nairobi	JKIA	Namanga	Malaba
Lodgment to allocation	1 00:22	0 16:37	-	1 05:18
Lodgment to acceptance	3 09:47	1 00:35	0 02:35	2 09:41
Lodgment to cash office	4 08:24	1 14:22	0 07:19	2 17:25
Lodgment to manifest	4 09:23	1 18:53	-	3 12:48
Lodgment to CDO	5 07:23	-	-	5 08:12

Source: *KRA Database (2004)*

In Nairobi and Mombasa long rooms (the key clearing points), customs procedures take about 50% of the total time taken to clear and release goods, with the documentation process being the most time consuming process of the international Trade Transaction processes.

The Customs Reform Programme implemented by the KRA is a milestone towards the automation process of the custom's processes, but still a lot more needs to be done. Specific infrastructure needed to expedite clearance, inspection and release of goods in all Kenyan border custom points include:

- Loading and of-loading equipments including cranes,
- Scanners
- Computers,
- Computerised Risk Management Systems (CRMS).

Upgrading of loading and off loading equipment will go a long way towards improving the efficiency of port operations related to containerized cargo. Currently containerized cargo takes an average of 12 days to clear and the clearance could even go to 21 days (Annex 1).

Related to the computers is the relevant software to enable the data interchange between the customs and the clearing agents. In addition, the automated customs process will also require to be updated as and when necessary to keep pace with the changes in technology. This contributes to operating costs, which could be levied on the users or could be born by the government.

In addition, the government will have to invest in provision of reliable electricity supply to complement the functioning of the modern equipment and operations. The current port of Mombasa reform programme is expected to cost KSh. 700 Million.

In Chile, the total investment cost of implementing an automated customs system amounted to USD 5 million in the early 1990s while in Jamaica, the introduction of the Automatic System for Customs Data (ASYCUDA) with included the overall requirements analysis, the development of software suites, data communication equipment and computers costed about USD 5.5 million. Chinese Taipei updated its air cargo clearance system in 2000 at a cost of USD 5 million, and improved its existing ocean-going cargo system in 2004 for about USD 6.5 million. Updating the existing automated system in Philippines from a DOS to a Windows-based platform costed about 40 per cent of the original system installation.

In addition, there will be a cost associated with publication of trade-related regulations and measures. Availing the information in whatever ways such as Internet will also have a cost implication.

- **Investment costs on human resource capacity building**

This is an imperative if the modernized infrastructure and the automated customs processes have to be successfully implemented. Training will particularly be needed on the operation of the modern equipment including the computers. Currently KRA is training the clearing and forwarding agents on the electronic processing of documents.

- **Investments on upgrading of the key facilitation institutions**

This will particularly include upgrading of the institutions such as KPA, KRA, KeBS and KePHIS to perform their tests and analysis in a much more efficient manner. Improving the data interchange between the key institutions involved in trade facilitation process is another necessary investment cost that the government should brace itself to incur.

In addition, there is a need to establish and develop an institution that will act as a National enquiry point for all trade related matters.

- **Legislative costs**

The government will also incur a cost of developing a legislation or policy on trade facilitation. This is particularly important for mounting the necessary political will needed to implement the commitments. This is relatively less costly as compared to the infrastructural investment costs. In addition the government may need to change some of the customs and the related operation legislations to reflect the new multilateral trade agreements.

- **Developing and instituting an effective monitoring system**

For an effective implementation of the trade facilitation commitments, there is a need for a monitoring system.

- **Unemployment costs**

Computerization and use of more efficient systems for clearing and release of goods may contribute to unemployment.

5.2 Benefits for Kenya negotiating a multilateral agreement on trade facilitation

It is widely believed that trade facilitation is an important factor in achieving trade and investment liberalization as well as complementing good governance initiatives. Trade facilitation reforms lead to improved market access, lower business costs and increased efficiency. The gains of trade facilitation accrue to traders, other businesses, consumers, governments and indeed to the whole economy.

Although Kenya has trade facilitation issues leading to inefficiencies and trade transaction costs, implementing a trade facilitation programme is expected to reduce the international trade transaction process, but not to entirely eliminate them. Some regulatory aspects are important and must remain.

If Kenya implements a trade facilitation programme, she should expect to benefit both directly and indirectly. These benefits accrue to those involved in the international trade processes. These benefits include:

- **Cost savings**

Cost saving accrues to both the traders and the government (the Customs Department). On the part of traders, automation of the customs process leads to lower clearance and goods release time, which benefit traders in several ways:

- Reduced time required for obtaining and completing customs documentation.
- Greater certainty in customs procedures.
- Faster delivery of goods.
- Reduced handling and storage costs.
- Increased efficiency due to the reduced need to prepare and deliver customs documentation physically.
- Greater transparency and access to information.
- Reduced loss of business opportunities. This is particularly important for goods whose demand cannot be forecast well in advance, such as goods targeting a seasonal market.
- Reduced depreciation and product loses. This includes depreciation costs on one hand due to spoilage of products particularly fresh produce, and to delays of items with immediate information content, such as newspapers.

On the part of the Kenyan government, savings will arise from;

- Reduced staff costs
- Reduced paper and printing costs
- More efficient use of resources, releasing resources to be used for inspections and other key customs activities as some staff will be deployed to perform other roles
- Reduced document storage costs
- Increased efficiency of customs procedures
- Reduced management and administration costs

The total estimated reduction in trade transaction costs in APEC ranged from 2.9% to 14.8% for industrialized and industrializing countries respectively (OECD, 2003). Cost saving for all APEC members corresponded to an increase in APEC average per capita GDP of 4.3 per cent (OECD, 2003).

In Philippines, customs reform contributed to importers saving at least 1.5 per cent of the imported item value (Department of Foreign Affairs and Trade, DFAT, Australia 2001). The Customs department cost savings amounted to around US$20 per transaction (OECD, 2003).

Cost saving for Kenya with implementation of customs reform

Several studies have attempted to quantify the potential impact of trade facilitation on trade flows and income levels (OECD, 2003).

Some of these studies have been based on the findings of an UNCTAD study (UNCTAD, 1994), that medium term gains from trade facilitation amount to around 2-3% of the total traded goods. Relating these findings to former Soviet Union's value of international trade, Molnar and Ojala (2003) found that reduction in trade transaction costs would lead to savings of about US$ 1 billion per year. In a similar analysis (DFAT, 2001) found that reduction in TTC in APEC region would yield about USD 60 billion annually. Other studies have used gravity model, computable general equilibrium (CGE) models and GTAP models.

To give an estimate of the magnitude of costs savings that can be realized by Kenya implementing a customs reform, we use the approach followed by Molnar and Ojala (2003) and (DFAT, 2001), which relates the findings of 2-3% value of total international trade to cost savings after implementation of a customs reform. Table 4 shows the value of international trade for Kenya for the period 1999-2003.

We assume that, if Kenya implements customs reform, there will be cost saving in the range of 2-3% of the value of international trade. We use the average 2.5% to estimate the cost savings associated with such customs reforms.

Table 4: Value of international trade for Kenya (1999-2003, Ksh Millions)

Year	1999	2000	2001	2002	2003
Exports	122,559	134,527.4	147,589.9	169,283.4	183,153.5
Imports	206,400.6	247,804	290,108.2	257,710	281,843.9
Total	328,959.6	382,331.4	437,698.1	426,993.4	464,997.4
2.5% *	**8224**	**9558.3**	**10942.5**	**10674.8**	**11624.9**

Source: *Republic of Kenya (2004)*

*Estimated by the author

The estimation shows that on implementing customs reforms that lead to a faster goods clearance process, and assuming that the reformed process leads to reduction in trade transaction costs equivalent to 2.5% of the value of Kenya's international trade, on average, Kenya could save about KSh. 10 Billion per year. This amount is equivalent to 1.1% of the country's GDP.

The above savings are reductions in inefficiencies existing in the pre-reform period (which do not benefit the public or private sector). They represent income gains for traders and consumers.

It is expected that the reduced inefficiencies lead to lower prices in the domestic market. The reduced differential between domestic and international prices is likely to stimulate additional trade, further specialization according to comparative advantage, and lead to dynamic adjustments. The economic welfare gains therefore tend to be higher than those derived using existing trade flows as the basis for the calculations (OECD, 2003).

- **Increased customs revenue on the part of the government**

Increased efficiency in custom processes will encourage more international trade flows. Automation may also reduce governance concerns associated with the manual custom processes. Most of the governance issues in Kenya are associated with wrong (lower) tax declarations.

Increased revenue could also be as a result of increase in trade associated with simplified and more efficient international trade processes. Analysis by APEC (2002) showed that implementing trade facilitation programmes has led to increase in intra-APEC trade of about 21 per cent, per year.

- **Indirect benefits to the economy**

The increased customs revenue collection together with the customs's department savings can be used to finance other areas of public expenditure. In addition, increased imports increase the availability of goods and lead to lower prices. The cost of production for both export and domestic market which use imported inputs will also be lower. Consumers will therefore benefit, their welfare being better off. All these contribute to economy wide benefits.

The Economy wide annual benefits to Singapore are estimated at US$ 2.3 billion, while for Thailand they are US$ 1.2 billion (OECD, 2002).

6. Conclusion and Kenya's Position on Trade Facilitation at the WTO

6.1 Conclusion

This study has found that Kenya has trade facilitation issues at both the border and behind the border. Trade facilitation at the WTO level is concerned with the border issues leaving0 out the 'behind the border issues', which are equally important, and which could have a more multiplier effect on the economy.

When Kenya commits herself to negotiate a multilateral trade facilitation agreement at the WTO, she should be wary of the cost implications related to the necessary commitment investments particularly in the area of port and customs operations infrastructure, upgrading and human capacity building of the key institutions involved in international trade processes, and costs related to development or changes to existing domestic legislation to accommodate the agreement requirements.

Implementation of the resultant agreement is likely to benefit Kenya through increased customs revenue, saving of costs due to less documentation, reduced delays and other more efficient procedures, which reduce trade transaction costs. The cost savings are estimated at KSh. 10 billion per year.

Benefits from trade facilitation reforms will be spread to those participating in international trade particularly the government (customs Services' Department), and the traders. The gains are expected to spill over to other sectors of the economy leading to increased welfare for consumers and producers as well.

For more benefits, Kenya should go beyond implementing the 'at the border' trade facilitation. She should pursue both national and regional trade facilitation initiatives, through the New Partnership for Africa Development (NEPAD) programmes and East African Community (EAC) targeting behind the border issues.

6.2 Kenya's position on Trade Facilitation at the WTO

Kenya's position on the multilateral trade facilitation agreement negotiations is presented below.

- Kenya agrees that there is a need to make the international trade procedures more transparent, simple and that best practice should be made use of. The best practice however should be basic and should provide a guide to the measures developing and least developed countries should undertake. The Kyoto Protocol could form the basis for the best practice.

  Based on these guidelines, each developing and least developed country should identify the measures that they are willing to implement based on their capacities.

- Kenya welcomes the S&D provisions in the implementation of the resultant agreement and proposes that as a part of S&D, and in addition to longer transitional implementation periods, developing and Least Developed Countries **make their commitments and the related implementations** at a later date after the developed countries make theirs. Meanwhile the developing and the least developed countries will be implementing trade facilitation measures in line with their capabilities.

The time difference is particularly important because the LDCs and developing countries have lower capacities to undertake the implementations and again they start their implementation from a lower platform compared to the developed countries. The extended period before these countries make and implement their commitments will give LDCs and the developing countries some ample time to better plan and initiate the implementation process and enable them to make their commitments from a higher platform.

- **Technical assistance is very essential. Kenya however proposes that the developed countries make more firm commitments and assurances to providing technical assistance and support to the developing and the least developed countries**. If IMF and World Bank will be providing such assistance, then it should not have conditionalities attached to it.

  Developing and least developed countries need financial support particularly to develop customs and port infrastructure including loading and off-loading equipment, conveyance equipment, computers, upgrading and capacity building of the institutions involved in international trade processes and support for human capacity building.

- Commitments and the related implementations for developing and Least Developed Countries, where such countries are lacking the capacity to undertake the implementation, **should be conditioned to the developed countries provision of the necessary support and capacity building**.

- Developing and Least Developed Countries should identify and decide for themselves the type of support, i.e. financial, technical and capacity building that they need.

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8. Annexes

Annex 1: Average release time by import classes

1. By Goods Regime	Airports	Land Border Posts		Seaports	
	Mean	Mean	Std Dev	Mean	Std Dev
(a) Dutiable					
Arrival to removal	5 06:05	2 15:41	4 04:51	9 03:46	7 22:16
Arrival to lodgment	1 19:21	1 10:16	3 17:57	3 01:41	6 05:22
Lodgment to release	2 04:27	1 03:10	2 01:00	6 03:12	3 10:36
Release to removal	0 06:07	0 04:02	0 08:12	0 09:03	0 20:24
(b) Non-dutiable					
Arrival to removal	5 23:30	-	-	9 09:05	8 12:16
Arrival to lodgment	1 22:39	-	-	3 02:18	5 14:25
Lodgment to release	2 09:09	-	-	6 22:26	5 03:06
Release to removal	0 07:32	-	-	0 19:44	1 01:05
(c) Exempt/Relief					
Arrival to removal	6 11:24	0 07:07	0 00:10	10 21:09	8 11:51
Arrival to lodgment	2 13:19	0 01:02	0 00:03	5 18:50	7 13:55
Lodgment to release	2 20:10	0 05:23	0 00:44	6 14:21	3 06:55
Release to removal	0 12:26	0 00:41	0 00:37	0 16:29	0 19:54

	Airports		Land Border Posts		Seaports	
	Mean	Std Dev	Mean	Std Dev	Mean	Std Dev
(d) Transit						
Arrival to removal	4 21:51	0 07:59	0 14:01	1 01:14	12 06:54	8 11:17
Arrival to lodgment	0 14:15	1 05:43	0 02:31	0 07:15	3 22:31	6 15:52
Lodgment to release	3 01:54	4 03:03	0 08:57	0 16:10	6 22:57	3 23:23
Release to removal	0 12:39	1 00:56	0 02:31	0 17:25	2 03:42	2 08:42
(e) EPZ						
Arrival to removal	4 06:53	3 11:38	-	-	11 14:10	7 21:23
Arrival to lodgment	1 21:41	3 01:33	-	-	3 18:37	5 14:19
Lodgment to release	1 00:03	0 15:49	-	-	8 08:47	3 22:43
Release to removal	0 04:49	0 06:47	-	-	0 17:05	0 15:37
(f) MUB						
Arrival to removal	2 15:30	-	-	-	22 06:52	0 23:48
Arrival to lodgment	1 13:50	-	-	-	8 08:09	6 05:44
Lodgment to release	1 01:10	-	-	-	10 13:28	3 02:16
Release to removal	0 00:30	-	-	-	0 02:24	0 02:15
(g) Warehousing						
Arrival to removal	4 13:21	1 15:48	-	-	11 05:43	6 21:17
Arrival to lodgment	1 13:14	1 18:40	-	-	3 15:50	5 20:56
Lodgment to release	1 17:49	1 00:08	-	-	9 04:59	3 23:50
Release to removal	0 05:09	1 07:22	-	-	0 17:44	0 13:04

3. By Type of inspection	**Airports**		**Land Border Posts**		**Seaports**	
	Mean	**Std Dev**	**Mean**	**Std Dev**	**Mean**	**Std Dev**
(a) PSI						
Arrival to removal	6 03:08	3 10:34	2 04:05	3 13:14	8 23:21	7 15:56
Arrival to lodgment	1 20:18	2 14:51	1 06:34	3 13:00	3 00:26	6 01:04
Lodgment to release	2 07:53	1 11:49	0 12:53	0 14:22	6 04:38	3 11:35
Release to removal	0 07:48	0 14:21	0 06:16	0 10:44	0 08:48	0 13:30
(b) Destination inspection						
Arrival to removal	1 05:13	-	3 05:56	5 12:24	11 03:51	7 20:15
Arrival to lodgment	0 03:53	0 05:30	2 14:06	5 01:54	6 00:41	6 15:45
Lodgment to release	0 12:04	0 11:17	0 15:16	0 16:00	5 11:58	4 08:10
Release to removal	0 00:49	0 00:48	0 02:21	0 04:48	1 02:21	2 10:28
(c) Exempt						
Arrival to removal	5 08:14	2 16:53	0 12:57	1 05:04	12 01:39	8 06:55
Arrival to lodgment	1 20:43	2 05:45	0 01:21	0 01:25	3 158:39	6 07:17
Lodgment to release	2 05:30	1 15:27	0 08:07	0 13:151	7 14:00	4 04:35
Release to removal	0 07:03	1 15:21	0 03:30	1 00:22	1 12:14	2 00:54

	Airports		Land Border Posts		Seaports	
	Mean	**Std Dev**	**Mean**	**Std Dev**	**Mean**	**Std Dev**
(b) Others						
Arrival to removal	5 06:16	0 15:45	-	-	11 16:50	-
Arrival to lodgment	3 03:33	2 04:45	-	-	2 18:45	-
Lodgment to release	2 01:17	1 14:44	-	-	7 21:05	-
Release to removal	0 01:26	0 01:44	-	-	1 01:00	-
2. By Type of Cargo						
(a) Containerised						
Arrival to removal	-	-	0 14:34	1 02:05	12 09:50	8 11:54
Arrival to lodgment	-	-	0 02:31	0 07:22	4 07:24	6 11:09
Lodgment to release	-	-	0 09:26	0 17:08	7 15:40	4 02:27
Release to removal	-	-	0 02:36	0 17:43	1 06:42	1 18:26
(b) LCL						
Arrival to removal	5 09:27	2 19:09	0 12:17	0 09:36	8 08:07	6 15:21
Arrival to lodgment	1 21:11	2 07:01	0 00:52	0 00:29	2 20:35	6 11:43
Lodgment to release	2 05:39	1 15:26	0 12:59	0 09:16	5 14:47	3 03:18
Release to removal	0 07:04	0 15:10	0 00:48	0 00:48	0 06:14	0 12:18
(c) Others						
Arrival to removal	6 17:16	3 11:29	2 06:09	3 20:17	8 03:07	7 00:09
Arrival to lodgment	2 07:57	3 23:22	1 03:28	3 05:15	2 03:47	5 12:30
Lodgment to release	2 17:20	1 20:17	1 00:30	2 02:14	5 13:31	3 05:18
Release to removal	0 08:50	0 21:55	0 04:21	0 08:41	0 11:18	1 04:38

Source: KRA (2004)

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