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How Common Is the East African Community's Common External Tariff Really? The Influence of Interest Groups on the EAC's Tariff Negotiations

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Abstract

Kenya, Tanzania, and Uganda founded a Customs Union in 2004 and apply a Common External Tariff (CET) on imports to the region. However, the CET has been increasingly destabilized by countries using unilateral exemptions on a wide range of strongly traded goods. This instability undermines progress in regional integration and creates an uneven playing field for business. The article discusses evidence for the influence of interest groups on the observed instability. This study takes a political economy perspective and tracks lobbying behavior from the domestic to the regional level. It looks at the influence of business membership organizations and other interest groups on CET negotiations. The article applies an exploratory, qualitative approach predominantly drawing on data gathered by the author in 25 interviews with experts in Kenya, Tanzania, and Uganda in January 2016.

Keywords

East African Community, Customs Union, Common External Tariff, interest groups, business membership organizations

Introduction

In 2004, Kenya, Tanzania, and Uganda agreed to form a Customs Union (CU) including the introduction of a Common External Tariff (CET). Ten years later, countries have to ask themselves how common their external tariff really is. In 2014, countries applied unilateral exemptions on more than a hundred tariff lines, among which were highly traded goods such as vehicles, rice, and cement. The Union's Director General for Customs and Trade, Peter Kiguta, complains about this practice in an interview with the author (Interview 9[1]): "If the tariff keeps changing, this year it is like this, this year this country asks for that, then this instability brings unpredictability for investors and trade." This phenomenon is part of a larger issue in trade policy. Trade policy-making is rarely driven by considerations of welfare, but is a popular tool for redistribution among different interest groups (Rodrik, 1995).

However, when a country enters a CU, a level is added to the process of negotiating tariff levels. Tariff levels towards nonmember states are now determined in negotiations among the member states of the CU. Interest groups that were influential in one state might not be in another while other groups might be able to align their positions across countries. Similarly, interstate bargaining and the CU's institutional rules and structures will shape the way that tariffs are set. Clearly, CUs provide interesting case studies for the field of international political economy (IPE) to study the forces behind trade policy-making. However, the relatively small number of existing CUs has limited the number of case studies thus far. Especially, little attention has been paid to the advances on the African continent. This article will address the East African Community's (EAC) CU in particular, as it has often been referred to as the most advanced regional economic community (African Development Bank, 2014) and may serve as a model for other CUs on the continent.

This article will study the political economy of the EAC's CET after its establishment from 2005 to 2015. It focuses on discussing how interest group behavior has contributed to the instability of the CET in this period. Since 2005, countries have made increasing use of CET exemption schemes. Guided by domestic interests, they often unilaterally applied a different tariff rate from the CET and avoided the task of consensus-formation on regional CET levels.

Both the changes of essential tariff lines in the CET and the wide use of exemption schemes indicate that the CET

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plays an important role in protecting certain interests. The article will ask how the instability in the CET can be explained and why member states tend to fall back into national exemption schemes for some industries, but agree on regional CET changes for others. The article shows that domestic interest groups are effective in proactively influencing member states in their stance on external tariffs. The EAC's institutional structure enables states to make use of exemption schemes and to put national over regional interests in CET negotiations. A regional approach to tariff-setting is only taken if domestic interests overlap or transnational industries put pressure on governments to stick to harmonized CET levels.

In its analysis, the article will track lobbying behavior from the domestic to the regional level. The article will apply a qualitative approach predominantly drawing on data gathered by the author in 25 key informant interviews. To start, the article will give an overview of the relevant literature. Subsequently, the article will explain the framework of analysis and its methodology. Diving into the case study, the article will provide background information on the EAC CU and its CET. As a next step, the article will turn toward the analysis of the application of the CET from 2005 to 2015, discussing interest groups in the founding Member States of Kenya, Tanzania, and Uganda, and then turn to the dynamics of CET negotiations on the regional level.

Literature Review

Traditionally, the study of international institutions and agreements looked at the level of interstate bargaining (Lake, 2009). However, literature shows that multiple factors of domestic politics shape the national position in the international arena (Aklin, Arias, Deniz, & Rosendorff, 2015). Among them, interest group politics plays an important role. This literature review will discuss the underlying structures of interest group competition in trade policy-making and interest group involvement in political processes, and present some insights on interest group politics on the regional level.

Foundations of Interest Group Competition

To understand the dynamics of interest groups within trade policy debates, one has to outline how losses and gains from trade policy are distributed. Trade theories can give a first hint. The Heckscher–Ohlin model predicts that trade patterns depend on the factor endowments of an economy. Building on these insights, the Stolper–Samuelson theorem suggests that trade liberalization will benefit the owners of the relatively abundant factor and leave the owners of the relatively scarce factors worse off. Resulting from this theory is a class-based division of policy preferences where owners of capital would mostly clash with labor over liberalizing or restricting trade (Rogowski, 1990). This seems to have been a reasonable assumption in many industrialized countries like the United States (Leamer, 1984; Persson & Tabellini, 2000).

The major challenge to the Stolper–Samuelson theorem comes from the Ricardo-Viner model. Due to the immobility of capital and labor, all actors' preferences for trade policy depend on the industry in which they are situated. Thus, conflict is not along class lines or production factors, but along sectors. In a study of industrialized economies, Hiscox (2002) finds that trade conflicts have moved from class lines to sectors with decreasing factor mobility since the mid-20th century. Mayda and Rodrik (2005) also present evidence for the Ricardo-Viner model. Conflicts also often occur within a sector between manufacturers and traders at different stages of the value-chain, which the article will also discuss in the case of the EAC. Underlying all models is the assumption that interests are defined by economic gain. However, other drivers for trade preferences of individuals exist like the degree of nationalist sentiments (Mansfield & Mutz, 2009) or a population's education levels (Hainmueller & Hiscox, 2006). Likewise, other interest groups like civil society organizations or international donors in a developing country setting are often overlooked.

Interest Groups in Trade-Policy Processes

The extent to which interest groups may influence trade policy outcomes depends on how they are organized and integrated into policy-making. Grossman and Helpman (1994, 2001) show that policy outcomes depend on a competition between lobbying activities of different groups. This might include legitimate behavior (e.g., researching on effects of trade policy options), as well as illegal aspects (e.g., bribing ministers to protect special interests). The latter may be especially strong where institutions are weak (Campos & Giovanni, 2008).

The main focus of trade policy analysis on this level has been on firms and industries. The organizational strength of consumers is limited by the free-rider problem and the widespread of potential welfare gains (Baldwin, 1989). Consumers may only exert an influence on trade policy through their voting behavior. In contrast, firms are often well-organized entities that have resources and channels to engage in policy discussions and are directly affected by policies. The strength of industry lobbies depends on the motivation of the largest firm (Bombardini, 2008) as well as industry characteristics like a large capital stock, an inelastic demand function, a small number of capital owners, and that the industry is geographically concentrated. The immobile factors in the manufacturing sector seem to be more concentrated in developing countries (Hung & Quyen, 2007) than the mobile factor. Hence, capital and land are often better organized in developing countries than labor or small-scale farmers. In developing countries, firm heterogeneity determines their involvement in policy-making: Factors like employment size, government ownership, age, or participation in business associations matter for lobbying influence (Hall & Deardorff, 2006; Weymouth, 2012).

Domestic political institutions will affect trade policy-making by aggregating the preferences of interest groups and determining if and how these groups can turn their interests into policy. Here, political systems matter with some evidence pointing to stronger business influence in democracies than autocracies (Keefer, 2007; Weymouth, 2012). On top of that, the type of representative framework plays a role. Lobbying tends to target different institutions depending on whether the country follows a majoritarian or proportional representation system parties (Grossman & Helpman, 2001; Persson & Tabellini, 2002). Yet, the structure of domestic institutions in the EAC only partially reflects the political realities including issues like ethnic voting, corruption, or overly dominant political leaders. Thus, the article will not go deeper into this issue when analyzing interest group politics in trade policy-making.

Interest Groups on a Regional Level

Moving up from the domestic level, the article will also study the influence of regionally organized interest groups on the CET negotiations. The European Union (EU) provides an advanced case study of the impact of interest group influence in a regional integration context. Moravcsik (1998) sees domestic interest groups as the main driver of EU integration. Transnationally organized lobby groups often helped to build bargaining agreements (Moravcsik, 1993). With regard to trade policy-making, Dür (2008) finds that EU trade policy strongly reflects the preferences of economic interest groups. Business groups that are active on multiple levels of EU policy-making and target domestic as well as regional processes are the most successful in getting their voices heard (Eising, 2004). Resource-rich groups are the most effective lobbying groups in the EU context. Likewise, business associations tend to be more active on the regional level than civil society or other nonbusiness groups (Dür & Mateo, 2012). Michalowitz (2007) shows that interest groups were mainly successful in targeting technical aspects of policy rather than more fundamental political directions. Yet, overall there is no clear tendency in the literature if integration has given interest groups better or worse access to political processes (Eising, 2008). This article may contribute to the overall discussion by discussing evidence from both the domestic and regional level in the EAC.

Thoughts on Research Method and Model

The article will connect the instability in the CET to the politics of interest groups discussed above. Given the very limited number of studies on interest group politics and the EAC CET available, the article will adopt an exploratory approach to research (George & Bennett, 2005; Stebbins, 2001). Exploratory research can be a helpful approach to gain insights into previously unstudied fields and understand actors and processes in the background. Unlike confirmatory research, it cannot test hypotheses, but helps to form assumptions and ideas (Stebbins, 2001). Thus, this article will limit itself to setting out bold assertions (Emmel, 2013) for its analysis. It will then present and discuss evidence for and against those assertions gathered with exploratory methods.

The research is built around 25 semistructured expert interviews that the author conducted in Kenya, Tanzania, and Uganda. The existing literature on the EAC CU is limited and focuses mainly on trade and welfare effects of the CU (Buigut, 2012; Busse & Shams, 2003, etc.). Thus, for information on negotiation dynamics and industry-specific details, the author needed to collect new data. Expert interviews are considered an effective tool in exploratory research, as they provide fast access to an unknown field and provide a high insight in aggregated and specific knowledge (Bogner, Littig, & Menz, 2009). Experts according to Meuser and Nagel (1991) are persons who have privileged access to information about groups of persons or decision processes at stake.

In exploratory research, the selection of cases or interviewees cannot be random, but rather follows a purposeful sampling strategy, as one wants to analyze the richest and most telling cases (Emmel, 2013; Reiter, 2013) available. In the case of this article, the author talked to representatives of ministries responsible for trade, revenue authorities, and private sector stakeholders and selected other experts on the topic in all three countries. In addition, interviews were held with key officers at the EAC Secretariat as well as with the East African Business Council. While some key informants were selected based on their positions within organizations, others followed by a snowballing method (Bogner et al., 2009) meaning that already interviewed experts allowed access to additional interviewees.

Interviewing experts as a layperson, as often the case in exploratory interviewing, involves an asymmetry in knowledge, which makes it difficult for the interviewer to follow a structured set of questions (Bogner & Menz, 2009). Thus, the author used a basic set of interview themes tailored to the organization and position of the interviewees. It is important to understand that such exploratory interviews cannot generate completely objective data. Hence, the article relies on anecdotal evidence derived directly from the expert interviews, which the author directly cites from the transcripts. To mitigate this pitfall of exploratory research, the author triangulated interview statements by asking for confirmation from other interviewees or finding supportive information in the literature.

The author asked all interview partners for their consent to be interviewed, recorded, and quoted in this article with their name. Those who did not want to be named are referred to as an anonymous representative of their organization. The appendix provides an overview of all interviews conducted.[2] Finally, for reasons of scope, resources, and political instability, the author did not manage to visit Rwanda and Burundi. Due to their small economic size and their presence in transition schemes, their omission should not distort results.

In the next section, the article will first outline the phenomenon it seeks to explain: the instability in the EAC's CET (composed of unilateral exemptions and CET changes). Subsequently, it will explore evidence on how interest group behavior contributes to the observed CET instability both on domestic and on regional level. Looking at the domestic level, the research will be guided by the following bold assertion:

- If domestic interest groups are strongly organized and lobby on tariff policy, government is more likely to look out for special interests in tariff-setting leading to more CET instability.

Next, the article will explore why states use unilateral exemptions in some cases and regional solutions in others. Thus, the article will look at both regional CET negotiation structures and the role of regional interest groups following two bold assertions:

- If tariff-setting is intergovernmental, domestic interest groups will have a higher impact on tariff negotiations.
- If regional interest groups are actively lobbying, countries are more likely to prioritize regional solutions leading to less CET instability.

The EAC CU and the CET

Design of the CU and the CET

The EAC dates back to colonial times when the British colonial administration treated the region as one, building railway lines and establishing a CU in 1919 between what is now Kenya, Uganda, and Tanzania (Reith & Boltz, 2011). In 1967, the newly independent countries formed the first EAC. After only 10 years, the community collapsed in 1977 due to structural and ideological conflicts (Kibua & Tostensen, 2005; Maasdorp, 1999; McKay, Milner, & Morrissey, 1998). After Uganda settled internal conflicts and Tanzania moved away from socialism in the 1990s, the three EAC states restarted cooperation efforts culminating in the formation of the CU in 2005.

It is governed by the Customs Union Protocol (EAC, 2004a) as well as the 2004 Customs Management Act (EAC, 2004b). Countries eliminated tariffs on intraregional trade and have introduced a CET. All EAC states are members of World Trade Organization (WTO), but had large room to set tariff levels, as their bound tariffs lay far above the applied rates. Nonetheless, negotiating the specifications of the CET, the countries had signed up to the idea of open regionalism aiming at a trade-friendly CET (Interview 9).

The EAC CET has three tariff bands: 0%, 10%, and 25%. As an orientation, the first category incorporates raw materials and capital goods and the second intermediate products. The third band includes most final goods and agricultural commodities produced in the region. Agricultural goods attract a simple average tariff of 20.2%, while nonagricultural goods lie at 12.7% only (WTO, 2012). In addition, there is a list of sensitive products that included 58 tariff lines at the beginning, but has shrunk since (EAC, 2004b, 2012). The list contains mostly agricultural goods as well as a selection of locally manufactured items. The list's items were widely produced in the region and should hence receive special protection from imports.

The CU Protocol included one exemption to the CET, the duty-remission scheme (DRS): For the purpose of export promotion, countries can annually announce a selection of companies that may import specific products duty-free as input for manufacturing. In some cases (e.g., sugar for industrial use), industries were chosen jointly as a region. Moreover, countries apply for so-called "stays of application." Originally, those were meant to smooth the implementation of the CET and stay at some pre-CET levels for a transition period. Yet, it became accepted practice to use the channel to derogate from CET for other reasons. Theoretically, states have to prove that they cannot source enough of a product regionally to be allowed to apply a lower tariff rate or convince the other countries that their industry needs special protection for a limited time. In practice, derogations are rarely based on evidence. EAC stakeholders see this third channel as especially problematic and open for abuse (Interview 9).

Any change of CET or a unilateral derogation of the CET has to be approved by the Council of Ministers, the main executive body of the EAC. Member states prepare their positions on the annual tariff negotiations in consultation with domestic stakeholders. Regional negotiations begin among technical staff. However, the political level regularly makes amendments to their recommendations. Political vetoes are powerful as the EAC works with consensus-based decision-making. The EAC Secretariat has no supranational power in trade and serves predominantly as a facilitator for the negotiations and gives advice on what would be beneficial for the Community.

Finally, countries have kept several national support schemes that are not regulated on regional level. Governments do not have to notify Partner States which industries receive rebates. Especially Kenya's "Tax Remission for Exports Office (TREO)" has been named as causing distortions of the regional market. Yet, this article will focus only on the derogation channels that are accounted for in the CU. The lack of regional oversight makes it hard to analyze schemes like TREO.

Instabilities in the CET

This section will give an overview of the instability in the CET stemming from both unilateral exemptions and CET changes between 2005 and 2015. Representatives of the Secretariat (Interview 1) argue that only a fraction of tariff lines have been unstable since the beginning of the CU.

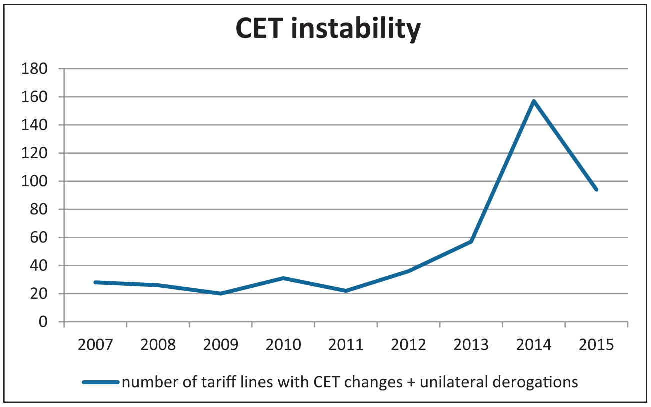

Figure 1. Data: EAC gazettes.
Note. EAC = East African Community; CET = Common External Tariff.

However, the changes incorporate many of the most important tariff lines for local industry and traders like steel, cement, transport equipment, and even some agricultural commodities. Private sector representatives also complain that the CET is being undermined by exemptions and changes (Interview 15; Interview 16). It is difficult to plan for the long term if tariffs can change every year. The Secretariat's Director General for Trade, Peter Kiguta, worries, "For me as DG, I like to see stability in the CET. That it is predictable. That would let EAC have a better environment for trade and investors" (Interview 9).

Looking at Figure 1, one can see that the total instability has increased since the founding of the CU. For further analysis, it is also interesting to focus on which industries have been in the center of the fluctuations and in which countries national approaches occur especially frequently.

In Table 1, one can see that unilateral derogations from the CET have strongly increased from only about 15 to 20 tariff lines in the first 5 years to 56, 107, and 73 in 2013-2015, respectively. Similarly, changes to the regional CET have also been made more frequently.

Looking at the type of goods featured in Table 1, one can identify several categories that appear prominently. First, the agricultural commodities of wheat, barley, rice, and sugar can be found in the unilateral derogations as well as in the DRS. However, industrial goods make up the major share of derogations. Three product categories appear to be especially interesting to single out for analysis: paper and paper products, cement, and iron and steel products. Paper has been in the DRS of all countries to provide their processing industries with cheap inputs. In 2014, 36 tariff lines of paper products were reclassified from final to intermediate goods. Yet, Kenya as well as Tanzania immediately applied unilateral exemptions. Iron and steel products saw a similar development. After a short period of unilateral import protection in the Kenya, Tanzania, and Uganda, the CET was increased on 17 tariff lines. Though, countries also made further unilateral changes to iron and steel tariff lines. Kenya, Tanzania, and Uganda unilaterally increased tariffs on additional products for which no regional consensus could be reached. Cement used to be initially on the list of sensitive items, but was removed temporarily in 2008 and permanently in 2014. When asked to name sectors with regionally active interest groups, interviewees regularly came back to paper, cement, and iron and steel products. Accordingly, the subsequent discussions in this article will often refer back to these industries and discuss connections between these product lines and interest group behavior.

Overall, each derogation and CET change appears very selective and industry- or even product-specific rather than being part of a greater trade policy agenda. This indicates that tariffs have increasingly been used to cater for domestic or regional interest groups. The subsequent analysis will take a closer look at this relationship.

Analysis

Domestic Level

This section will discuss several explanatory factors for the instability of the CET within domestic politics of tariff negotiations before moving on to study the regional negotiation dynamics. It looks at evidence around the first bold assertion presented earlier: If domestic interest groups are strongly organized and lobby on tariff policy, government is more likely to look out for special interests in tariff-setting leading to more CET instability. The article will first give an overview of major interest groups and their preferences on tariffs in the three countries. Thereafter, it will analyze how interest groups are organized domestically and to which degree that has helped them to realize their preferences in tariff negotiations.

Mapping domestic interest groups and their tariff preferences. To understand the landscape of interest groups, one has to establish how the interests in tariff levels are distributed among stakeholders. For this, we look at the manufacturing sector, the agricultural sector, and government interests. Most manufacturing industries favor higher tariffs on goods similar to their production profiles, as they struggle to compete on price with imports. A competition between interests in manufacturing arises between vertically integrated companies and processing companies. A product of Producer A might be an input for Producer B. Producer A is interested in higher tariffs to protect it from imports. Producer B, however, prefers to import the same product cheaply and would like to see lower tariffs. Kiguta (Interview 9) states that this was the major line of conflict in the negotiations for the CET. Several industries identified in the section "Interest Groups on a Regional Level" as having a highly unstable CET experience this upstream versus downstream conflict.

This was, for example, the case for the regional paper industry. A small number of paper producers in Tanzania and Kenya managed to secure high tariffs on imports of raw

Table 1. Overview of CET Instabilities, Composed by Author, Data: EAC (2007-2015) Gazettes.

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Unilateral stay of application (increase compared with CET)									
Total	9	9				1	4	89	54
Kenya		1: tariff line changes overall: epoxide resins				1: towers and masts	3: welding electrodes, plastic tubes; towers and masts	61: Iron and steel products; engine filters; prefabricated buildings; paper products	34: paper products; electronic circuits; iron and steel products; nets; engine filters; smart cards; prefabricated buildings
Tanzania	9 lines change overall: pharmaceuticals; palm oil	8: pharmaceuticals; palm oil						20: iron and steel bars	15: paper; iron and steel bars
Uganda							1: olive oil	8: iron and steel products	5: iron and steel products
Unilateral stay of application (decrease compared with CET)									
Total	10	7	16	15	21	25	52	28	19
Kenya	4: rice		6: wheat; rice	4: rice	4: rice	6: wheat; rice	30: rice; paper; wheat; glucose	7: rice; wheat; glucose	5: rice; aluminum sheets
Tanzania	3: wheat; buses	4: Barley; hoes; buses	6: wheat; buses; trucks	5: buses; tractors; trucks	7: sugar, tractors, wheat, trucks, buses	4: wheat; buses	5: wheat; LABSA	8: Buses; wheat; LABSA; cash registers; electrodes	5: buses; sugar; LABSA
Uganda	3: wheat; buses	3: palm stearin; sodium sulfate; hoes	4: wheat; trucks	6: iron and steel products; wire; trucks; tractors	10: tractors; trucks; wheat; hoes; rails; wires	15: trucks; wheat; hoes; iron and steel products; wires; packaging; barley; buses	17: trucks; buses; wheat; barley; polymers; LABSA; packaging; seed coating	13: trucks; buses; wheat; barley; polymers; LABSA	9: trucks; buses; LABSA; sodium sulfate
Total unilateral derogations	19 tariff lines	16	16	15	21	26	56	107	73
CET changes	9: telephones; paper inputs; grinders; screws	10: palm stearin; cement; oils; sulfates; iron and steel products; cement	4: yoghurt; stove parts; clothing	16: paper inputs; iron and steel products; paint inputs; clothing	1: galvanized wire	10: copper alloys; wire; electrical energy	1: grindstones; railway equipment	50: insecticide; paper; olive oil; welding electrodes; towers and masts; crown corks; bags; flour; cheese; matches; cement	21: plastic tubes; gas containers; iron and steel products ; rice; sugar

Note. CET = Common External Tariff; LABSA = Linear Alkyl Benzene Sulfonic Acid.

paper, while paper converters had to resort to make use of the DRS or lobby for unilateral derogation of the CET (Interview 15). In the iron and steel industries, a similar development took place. The steel value-chain has four major production steps (Interview 12): Most of the smaller producers in the three countries are active in processing intermediate steel products into construction material like roofing sheets or wire mesh. Yet, a few larger companies are engaging in the production of such intermediates from raw iron and steel. These manufacturers have long been lobbying for protective tariffs, but politicians kept tariffs at 10%, mostly for the benefit of downstream processors, the construction industry and their electorate, which tends to be particularly price-sensitive in low-income countries.

For the agricultural producers, the interests are more homogeneous. While there are larger producers in wheat or sugar, most farms are small scale. However, all groups depend on protection through tariffs. Lower tariffs on the import of staple produce such as beans or maize would threaten the livelihood of many. In this sense, food is more sensitive than manufactured products, as the majority of population works in agriculture in all three countries (ILO, 2012). Competition between interest groups enters via the food-processing industries, which are interested in cheap imports of wheat, sugar, and barley. To give producers cheap access to these inputs without opening the door for consumer imports, all countries use the DRS for these goods in most years. In addition, Kenya has been derogating from the CET nearly every year since its existence by applying lower tariffs on rice and wheat, while Tanzania and Uganda did the same for wheat alone. This could be linked to urban consumers' interests in lower food prices which can be enabled by reducing import tariffs on selected staple food.

Thinking about different interest groups among producers and consumers, one has to take into account the particular interests of governments regarding tariffs, too. Two aspects could be especially relevant in this regard: considerations of public revenue and private interests of government officials. Revenue aspects were at the center of the discussions of the CU, but ended up not being highly influential. Since the existence of the CU, the shares of customs and other import duties of total government revenue have decreased in all three countries. Yet, there was consensus during the initial negotiations that revenue aspects should not motivate CET decisions and undermine the policy of open regionalism (Interview 9). The countries accepted that they had to look for alternatives to replace revenue losses from lower tariffs (Interview 17). While certain tariffs, for instance, on vehicles (Interview 18), are still important from a revenue perspective, the influence of these considerations has fallen. For example, cement used to be on the sensitive list with a rate of 55% and produced much revenue due to high consumption. Yet, its tariff rate has been gradually reduced, as the affordability of construction projects increased in importance.

An expert from the EU who was involved in the negotiations on the EAC-EU Economic Partnership Agreement (Interview 23) suggested that vested interests of governments are a decisive factor in EAC trade policy-making. It is difficult to pinpoint where these interests are located exactly, but it is possible to highlight some sectors in each country that are prone to private investments by government officials. Transparency International's Country Director for Kenya, Samuel Kimeu (Interview 10), argues that Kenyan policy-makers often use trade policy to protect their own business investments. Top statesmen in government and opposition are often family members of business leaders. Kimeu further argues, "In any conversation about trade there is an uncle that will be missed" (Interview 10). Kenyan politicians often come from Kenya's richest families that have invested in agriculture, as well as into certain areas of manufacturing (Interview 10; New World Wealth, 2014). Kenyan president, Uhuru Kenyatta, in office since 2013, and his family dominate the regional dairy market, for example. Jensen, Strycharz, and Keyser (2010) argue that vested interests are particularly visible in this area. Dairy received stable protection in the CET with yoghurt and cheese as the only products to be added to the sensitive list since 2015.

In Tanzania and Uganda, politicians are less invested in productive industries (Interview 20). Political stability in Kenya brought about elite networks in which business and political power are often combined in a family or single person (Spooner & Ngunyi, 2006), while politicians in Uganda and Tanzania have acquired wealth more recently. That also affects in which sectors politicians have become economically active. In Uganda, the civil war of the 1980s has stopped politicians from moving into long-term manufacturing investments. They are rather interested in real estate, tourism, or the transport sector (Interview 20; Interview 2). In Tanzania, socialism made it difficult for politicians to become players in business for a long time. Nowadays, politicians' personal interests can be found in construction, transport and mining, as well as in former state-owned companies, especially in cash crops like sugar, for example (Cooksey & Kelsall, 2011). In comparison, the degree of proximity between private and public sector in Kenya is unique. Bagabo's (Interview 2) opinion gives you a glance into this relationship: "When you are negotiating [with Kenya] you don't know if you are talking to the government or the private sector." Their closeness may allow private sector players a better access to the negotiation table than in Tanzania or Uganda.

This section has given an overview of different stakeholder's preferences in tariff-setting, showing that manufacturing interests are less homogeneous than in agriculture and that revenue interests have lost importance for governments, while their members' private business interests may affect tariff levels substantially. Based on this landscape of interest groups, the article will continue to study how the level of organization of these groups contributed to CET instability.

Organization of interest groups. In this section, the article will analyze how the interest groups discussed above are organized and how that corresponds to the extent to which they benefit from tariff-setting.

In Kenya, unilateral tariff increases imply higher protection from imports for a wide array of manufacturing industries including iron and steel processors, paper manufacturers, or fishing net producers. The number of unilateral tariff derogations has been higher than in the other two countries combined (see Table 1). Even though its manufacturing sector is the biggest in the EAC, with 12% of value-added to national GDP and 7% of overall employment, it still makes up only a small share of the economy. Thus, the sector receives a disproportional amount of import protection. Part of the reason may be that the Kenyan manufacturers are strongly organized and are highly engaged in the negotiations of the CET. The Kenya Association of Manufacturers (KAM) is the sole representative for the manufacturing sector, and almost all companies channel their lobbying efforts through the association (Interview 19; Interview 15). KAM is described as politically well connected, having strong technical capacities, and usually being the first private sector actor for the government to consult (Interview 24; Interview 2; Interview 17). Kenyan public sector representatives have unanimously stated that KAM is the most influential domestic negotiation partner on tariff issues (Interview 13; Interview 17). All major CET changes favoring Kenyan industry can be traced back to KAM lobbying efforts. Thus, the organizational strength of manufacturers in Kenya helps to explain CET changes to manufacturing's favor.

Agricultural tariffs have experienced less instability. Kenya unilaterally decreased tariffs on wheat and rice in many years and allowed companies to import cheap sugar for industrial processing. Generally though, the tariffs remained quite high. Yet, the Kenya National Farmers' Federation (KENAFF) is less engaged in tariff negotiations compared with KAM. The Kenya Private Sector Alliance (KEPSA) represents agricultural interests on the CET, but in KEPSA, agriculture is just one among many sectors (Interview 21). The stable high tariff protection for farmers is more likely to be connected to the political importance of agriculture in Kenya. With 59% of the working population in agriculture, farmers are a decisive electoral block that needs to be satisfied. The voice of consumer groups is completely missing in tariff negotiations in Kenya, but politicians have an interest in keeping essential goods affordable to appeal to voters. This could help to explain the constant application of a below-CET rate on rice which is cheaper to import from Asia than from EAC partners (Interview 17).

In the case of Tanzania, the number of unilateral derogations was much smaller. In 2007 and 2008 pharmaceutical manufacturers and in 2014 and 2015 paper manufacturers as well as iron and steel processors received some tariff protection. This corresponds to the observation that no interest group involved in the tariff negotiations is well organized. The main representative for the manufacturing sector is the Confederation of Tanzanian Industries (CTI). Yet, compared with KAM, the organization has been less successful in uniting the manufacturing sector. A source at CTI (Interview 14) stated that they compete with the Chamber of Commerce, Industry and Agriculture (TCCIA) and the Tanzanian Private Sector Foundation (TPSF) over which organization speaks on the industry's behalf on tariff issues. As a result, CTI struggles with membership. Only about 300 of ca. 2000 industrial companies with more than 10 employees are part of CTI. This creates free-rider problems and prevents a harmonized lobbying approach. Moreover, government is seen as less reliable and proactive in engaging with private sector organizations on tariff matters. For instance, CTI complained about the government agreeing to a CET increase on iron products that were inputs for most local processors without consulting CTI on such a proposal. According to CTI, some firms thus prefer to lobby via their private connections with political decision-makers (Interview 14). In these cases, it might be easier for the government to protect cronies with nontariff measures that also shield companies against Kenyan competition. CTI sees Tanzania's local content clause on tobacco for cigarette manufacturing as an example for that practice (Interview 14).

Like in Kenya, agricultural interest groups are not as involved in discussions about tariffs, but tariff levels have remained consistently high with some exceptions: Wheat and sugar for industrial production were repeatedly imported at a below-CET rate. Moreover, the government issued zero-duty import licenses for rice and sugar in 2011 and 2012 without gazetting at the EAC to decrease consumer prices much to the disarray of local farmers (Cooksey, 2016). Yet, most stakeholders are small-scale farmers and have limited capacity to organize (Interview 6). Their political interest is mainly represented through associations of producers of export-oriented cash crops like horticulture, tobacco, or coffee (Interview 2), as well as in the case of small-scale farmers working in outgrowing schemes for politically better connected food-processing industries like sugar, for example. Nonetheless, given that 73% of Tanzanians work in agriculture, there is a political motivation for keeping agricultural tariffs high even without organized pressure. Thus, for Tanzania, the role of organized interest groups in tariff-setting is less clear. Special interests find their way into the negotiations, but rather via more informal networks. For instance, Bagabo (2012) states that the unilateral tariff reductions on heavy-duty vehicles were mainly due to pressure from powerful importers with direct links to government.

Finally, in Uganda, unilateral tariff increases were rare besides protection for some iron and steel products. However, Uganda has had the highest number of unilateral decreases every year making imports cheaper. With the background of Uganda being landlocked and dependent on imports, the association of traders, Kampala City Traders' Associations (KACITA), was observed to be influential in negotiations lobbying for lower tariffs (Interview 9; Interview 11). The Uganda Manufacturers' Association (UMA) is also involved in the tariff discussions, but faces capacity constraints. For instance, a board member of Roofings, the largest Ugandan manufacturer of steel products, told the author that he had personally to sponsor UMA delegations to be able to join regional tariff discussions. In the end, the only national exceptions achieved in the negotiations protected several products of Roofings. Due to the weakness of associations, large companies are also more prone directly to approach government. Paul Bagabo, a local trade policy analyst, argues in an interview: "The firms no longer see the apex body as important. If you have an issue, you go directly. President Museveni will handle it at that level . . . Most of the powerful private sector people have access to him" (Interview 2).

Agricultural groups appear also as less strongly organized. A notable exception here is the sugar sector which is well-connected in Uganda (Interview 25). In general, similar to Kenya and Tanzania, the political importance of agriculture helps to keep agricultural tariffs high (Interview 11).

To conclude this section, let's revisit the bold statement from the beginning: If domestic interest groups are strongly organized and lobby on tariff policy, government is more likely to look out for special interests in tariff-setting leading to more CET instability. The analysis has found some evidence in its favor: In Kenya, where manufacturing was well organized, CET derogations to the group's benefit occurred frequently. In Uganda, organized traders coincide with a large number of import-easing derogations. However, the article also showed that tariff levels have been very favorable to other interest groups that did not show high organizational capacity: In agriculture, high tariffs are politically important due to the large share of rural voters in all countries. Moreover, a large share of fluctuations in the CET seems too specific to be a result of organized group lobbying and might be better explained by informal relationships between individual companies and political decision-makers. Finally, special interests of government individuals are harder to detect, but highly influential in the negotiations nonetheless.

Regional Level

In the previous section, the article showed that tariff preferences in all EAC countries are heavily influenced by domestic interest groups. All countries have strong domestic interests on their mind when entering the annual CET negotiations. Subsequently, the author will demonstrate how the institutional structures of the EAC enable countries to stick to these national positions and how regionally active interest groups affect negotiations.

Institutional structure and derogations. The article will turn to its second bold assertion: If tariff-setting is intergovernmental, domestic interest groups will have a higher impact on tariff negotiations. This section will show how the intergovernmental character of tariff negotiations allowed for the CET instability to evolve, as it strongly facilitates influence of lobbying on the domestic level.

All decision-making in the EAC remains completely intergovernmental: The full authority for trade issues lies with the EAC Council of Ministers (EAC, 2004b). While the tariff negotiations are conducted on the level of technical experts, the ultimate decision is taken by the national Ministers or even Heads of States. This creates a bottleneck prone to the influence of special interest groups which are well connected with high-level decision-makers. Moreover, all countries have to agree to any small amendment of the CET: Every change of individual tariff lines needs full consent from all member states. Thus, CET negotiations are characterized by a quid pro quo of national exemptions.

There are several examples for this practice. In 2014, the CET on paper was decreased from 25% to 10% for 36 tariff lines making inputs cheaper for converters across the region. In 2015, the tariff on 17 iron and steel tariff lines increased from 10% to 25% protecting local manufacturers of these products. While these were steps toward more regional solutions, countries immediately undermined the agreements. Kenya and Tanzania continued to apply high tariffs on paper to protect politically well-connected paper manufacturers.[3] On iron and steel, all countries unilaterally derogated depending on the production profiles of their own companies (Interview 12; Interview 16) leading to the spike in overall derogations notable in Figure 1. Hence, derogations and exemption are used to build consensus. Tanzania could agree to CET reductions without ceasing to protect its politically important paper manufacturer. Similarly, countries could settle for the lowest common denominator like in the iron and steel case, as they have the security of falling back to the exemption schemes.

While derogation and the use of the DRS are a tool to build consensus, countries need consent to use them. For instance, in the case of paper, Tanzania could not simply decide to continue to apply higher tariffs, but needed the consensus of all other states. Theoretically, that would give the Council of Ministers the opportunity to allow derogations only in rare and extreme scenarios, as specified in the Protocol. According to the EAC Secretariat (Interview 1; Interview 9), countries have to prove that they cannot source enough of a product at an acceptable quality and price in the region before applying a lower tariff. However, in practice, a form of logrolling takes place in the Council with respect to CET decisions (Interview 2): Countries will rarely veto the request for an exemption, as each country has several similar demands every year. The practice of mutually accepting unilateral CET derogations goes back to the negotiations of the CU when Kenya and Tanzania gave into a last minute demand by Uganda's president Museveni even before the Protocol had been signed (Interview 2). Since then, it became virtually impossible to argue against national derogations. As there is no supranational authority on tariff-setting, the existing decision-making structures and accepted practices enable the pursuit of national interests and give room to interest groups to affect CET policies by lobbying their national representatives on the domestic level only. Anthony Weru (Interview 21), of the KEPSA, suggests that lobbyists have understood that there is no need to lobby regionally when national decision-makers have means to achieve almost all their objectives:

> Of course, EAC is intergovernmental when it comes to discussions. Decisions are made by government officials, so you get them at the domestic level. By the time they will be moving to Arusha, even the ministry will be interested in protecting its private sector.

Regional lobbying and mutual interests. The previous section has outlined reasons why EAC Partner States manage to push for their national preferences and use exemption schemes. Nevertheless, harmonized CET changes have happened in several cases. As unilateral derogations could be connected to domestic lobbying, regional solutions might be linked to the pressure of regional interest groups. Accordingly, this section discusses the final bold assertion: If regional interest groups are actively lobbying, countries are more likely to prioritize regional solutions leading to less CET instability.

Most of the CET changes observed have affected manufactured goods like iron and steel products, paper, or cement. Manufacturing is still in its infancy in East Africa, but some of the larger industries have reached enough capacity to organize on regional level. Interviewees listed the iron and steel manufacturers, paper converters, sugar refineries, and cement producers as being especially active on the regional level (Interview 1; Interview 16). In 2014, the EAC decreased the CET on raw paper products, which was popular with paper converters. In 2015, the EAC increased the CET on a wide range of iron and steel products. Those were the first two incidences of a comprehensive use of CET to support regional instead of national industry interests. Representatives of the EAC Secretariat argue that this can mainly be contributed to the regional approach of the industries:

> You would not believe it, but all the [iron and steel] associations in Partner States had the regional approach. They all told us the same things. Even when they are not manufacturing a product they say there is a potential and you should protect. (Interview 1)

In the case of cement, the outcome is less obvious, as the CET did not change to the industries' favor. However, the industries' regional lobbying efforts lead to regional debates about CET levels on their products. The level of cement tariffs was one of the most contentious debates in the CET negotiations in 2014 and 2015 after a regionally organized lobby effort of the industry (Interview 16). The EAC even conducted a study that proposed an increase in cement tariffs, but Partner States ultimately decided against it.

Regional lobbying uses two approaches: On one hand, national associations have harmonized their proposals on tariff levels to their respective domestic ministries. On the other hand, the regional association works through the umbrella lobby, the East African Business Council (EABC), which can also submit official proposals on the CET to the negotiators. All in all, every important debate about wider CET amendments can be connected to the effort of a regional industry lobby. This finding supports what the article already saw on domestic level: Private sector groups can actively influence CET levels. Yet, most industries may find it easier or less costly to lobby domestically. The existence of the exemption regime makes this option more likely to succeed. Industries that managed to organize regionally tend to be characterized by larger companies that have invested in multiple EAC countries and a concentrated number of investors (Interview 1; Interview 16). Especially, Kenyan companies have established subsidiaries in Tanzania and Uganda. Roofings, Uganda's largest iron and steel company, stated that they used to focus on domestic lobbying, but started to cooperate with regional players after they started to invest in neighboring countries (Interview 12). In cement, several investors have shares in companies across the region. For example, the French company Lafarge owns shares in all three countries (Lafarge, 2016). Thus, being active in multiple countries facilitates regional organization, but also means that a distorted CET through derogations makes it harder to operate across countries. Hence, a regional presence increases a firm's preference for a stable CET and against national exemptions.

In agriculture, regional lobby groups also exist but are overall less involved in CET negotiations. Nonetheless, there are fewer cases of unilateral derogations by states than in manufacturing. While in manufacturing production profiles differ more strongly and national interests diverge, farmers across the region grow similar crops facilitating governments' agreement on protective tariffs.

Conclusion

Since its introduction in 2005, the EAC's CET has been increasingly destabilized by unilateral derogations from the CET in a wide range of strongly traded tariff lines. This instability in the CET worries private sector and EAC representatives alike. The article has discussed how the influence of domestic interest groups may affect tariff negotiations and the resulting CET instability.

Countries enter tariff negotiations with a strong domestic focus. Governments look out for organized business groups and other vested interests. Institutions are susceptible to special interests, and personal networks play an important role for the outcome of policies. Kenya especially has a well-organized manufacturing sector that manages to align its interests with decision-makers in government. Yet, the preferences of large and well-connected industries are accounted for in the tariff negotiation positions of all countries. Likewise, all governments seem to be interested to keep average agricultural tariffs high to protect a large rural electorate despite repeated derogations for particular sectors like rice or sugar. Vested interests of government representatives also reflect in tariff fluctuations.

The strong influence of domestic interest groups projects itself to the regional level. Discussing CET levels, governments focus on securing protection for their specific local industries rather than considering what is best for the regional economy. Countries are willing to destabilize the CET to secure national tariff preferences by using exemption schemes to an extent that was never foreseen in the CU Protocol. Unilateral derogations from the CET have become an accepted tool to reach consensus in tariff negotiations. As there is consensus-based decision-making in the EAC, each country has the power to block decisions if it does not get its will. Accordingly, countries have developed a practice of logrolling from the start. Requests for derogations from the CET are usually granted, no matter if the criteria are fulfilled. Nonetheless, in some cases, regional considerations triumphed over the protection of national interests. This is true for most of the agricultural tariffs, where domestic interests overlap and countries agree that the CET should remain high and stable to protect farmers and serve as an incentive to invest in the sector. In manufacturing, a harmonized approach to tariff levels mostly occurred where industry has managed to organize regionally and prefers a harmonized tariff over national protectionist schemes.

Finally, future research on the EAC CET could also take into account other explanatory factors. Interviewees raised issues like the impact of ideology, international market prices, or international trade negotiations on CET dynamics. Yet, the results of the paper already offer an interesting insight into the deeper integration dynamics. While lacking ownership of the private sector was one of the key reasons for failure of the first EAC, it now actively shapes EAC politics. Behind all major changes in CET (e.g., paper, steel), the article detected evidence for proactive lobbying of private sector groups. The future success of the EAC CU will depend on how well the member states and the Secretariat balance the involvement of the private sector in the negotiations between lack of interest and lobby capture.

Appendix

List of Interviewees.

No.	Name	Institution	Position	Location of interview	Date of interview
1	Alexander, Ally & Tindamanyire, Donald	EAC Secretariat	Customs Officer/Customs Officer	Arusha, Tanzania	25.1.2016
2	Bagabo, Paul	Freelance	Researcher, consultant on EAC trade affairs	Kampala, Uganda	15.1.2016
3	Bitegeko, Janet	Agricultural Council of Tanzania	Executive Director	Dar es Salaam, Tanzania	20.1.2016
4	Felician, Goodfrey	Tanzania Revenue Authority	Tariff Officer	Dar es Salaam, Tanzania	20.1.2016
5	Ekadu, Francis & Auku, Gerald	Transparency International Uganda	Programme Coordinator/ Programme Officer	Kampala, Uganda	15.1.2016
6	Kafanabo, Buberwa	BEST-Dialogue	Project Officer, Agri Sector	Dar es Salaam, Tanzania	19.1.2016
7	Kapkirwok, Jason & Torrero, Eugene	Trade Mark East Africa	Senior Director/Country Director, South Sudan	Nairobi, Kenya	11.1.2016
8	Kidulele, Gloria	Tanzania Ministry of Industry and Trade	Trade Officer	Dar es Salaam, Tanzania	21.1.2016
9	Kiguta, Peter	EAC Secretariat	Director General Customs and Trade	Arusha, Tanzania	27.1.2016
10	Kimeu, Samuel	Transparency International Kenya	Country Director	Nairobi, Kenya	5.1.2016
11	Kolou, Francis	Uganda Ministry of Trade and Industry	Principal Commercial Officer	Kampala, Uganda	13.1.2016
12	Kyunene, Martin	Roofings Group	Finance and Economic Advisor	Kampala, Uganda	15.1.2016
13	Mwambia, Wanyambura	Kenya National Treasury	Director Economic Affairs	Nairobi, Kenya	8.1.2016
14	Myenyelwa, Akida	Confederation of Tanzanian Industries	Policy & Advocacy Specialist	Dar es Salaam, Tanzania	20.1.2016

(continued)

Appendix (continued)

No.	Name	Institution	Position	Location of interview	Date of interview
15	Ndunge, Wambui	Kenya Association of Manufacturers	Executive Officer, Policy Research and Advocacy	Nairobi, Kenya	12.1.2016
16	Njenju, Adrian	East African Business Council	Trade Economist	Arusha, Tanzania	26.1.2016
17	Ochola, Kenneth	Kenya Revenue Authority	Deputy Commissioner , Customs Services	Nairobi, Kenya	6.1.2016
18	Ogwapus, Annet	Uganda Revenue Authority	Supervisor International Affairs	Kampala, Uganda	13.1.2016
19	Shah, Dhirendra	Biodeal Laboratories ltd	Chairman	Nairobi, Kenya	6.1.2016
20	Ssekalo, Edward	Freelance	Journalist (EAC affairs, business)	Kampala, Uganda	14.1.2016
21	Weru, Anthony & Kikuu, Kiili	Kenya Private Sector Association/Corporate and Regulatory Solutions	Senior Program Officer/Managing Director	Nairobi, Kenya	11.1.2016
22	Anonymous	Tanzania Ministry of Industry and Trade	Representative of Department of Industry	Dar es Salaam, Tanzania	20.1.2016
23	Anonymous	European Union	Representative from the EPA negotiation team	Via Skype	14.12.2016
24	Anonymous	Kenya Ministry of Foreign Affairs and Trade	Trade Officer	Nairobi, Kenya	8.1.2016
25	Anonymous	East African Business Council	NA	Arusha, Tanzania	22.1.2016

Note. The transcripts of the interviews can be requested from the author. EAC = East African Community; EPA = Economic Partnership Agreement.

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Notes

1. Interview codes can be connected to a detailed list of interviewees, see the appendix.
2. Interested readers may request transcripts via email to the author
3. Tanzania protects an individual large paper factory against the interests of a bigger number of smaller converters (Interview 25).

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