Customs and Trade Newsletter

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Spotlight

01

The EAC- CET 2022 & Gazette Changes

Introduction of the 4 band to EAC-CET 2022

The East Africa Community Common External Tariff (EAC CET) 2017 comprised of a three band structure in the form of raw materials and capital goods (0%), intermediate goods (10%) and final goods (25%).

There are items categorized as Sensitive Items (SI) which have import duty rates that are above 25%.

The EAC Ministerial body in charge of Trade and Finance adopted 35% as the fourth band of the EAC CET 2022.

Examples of items covered in the fourth band are Animals such as fish, meats and their products; horticultural produce and their by product; luxurious goods such as human air, wigs, cosmetics, perfumes and beverages.

For manufacturers, the EAC-CET 2022 amendments are a ray of light towards encouraging more local produce within EAC and purchases as well. This will go a long way in ensuring a boost in the manufacturing sector as well as exportation of the manufactured goods within the region and across continents

Sensitive items

Sensitive goods are with extreme high rates of over and above 35% for the selected products. Mostly these include items that each of the EAC countries can produce locally.

These are products that are wholly and fully manufactured/available within the EAC and, thus the higher rate will protect the local industry as no importer will want to incur the higher costs associated with the taxes.

Duty Remission

Duty Remission is a rebate of duties paid on imported inputs (raw materials) when used for the manufacture of goods for export outside of the East African Community region.

Remission is also granted for importers of inputs that are used to manufacture essential goods

The remission applied to the items specified in the EAC Gazette is applicable for only one year.

The essence of remission exemption is to enable reduced import duty on particular items required for export production as a move to increase export growth .

Stay of Application

Stays of application in the EAC-CET grant temporary changes of duty rates of different products for various reasons:

- Protection of local industries
- Promotion of exports
- Protection of the environment
- Health related reasons

With the stay of application, the application of import duty rates as per the EAC CET on specific goods is halted for a period of time.

The stay of application is specific to each EAC member state and they are communicated annually.

The duty rates on specific goods may be increased or decreased depending on the purpose it is serving.

EAC Stay of Application and Remission

The full list of these are contained EAC Gazette Vol.AT1-No.14 dated 30th June, 2022 as approved by the EAC Council of Ministers. Samples for the different member countries are as below.

Burundi

Stay of Application

Description	Rate
Goods imported for implementation of projects under a special operating frame work arrangement with the Government as approved by the Minister responsible for Finance	0%
Worn items of clothing under HS Code 6309	35%
Raw sugar and refined white sugar for industrial use	0%
Baby diapers under HS Code 9619.90	35%
Nails, tacks, and drawing pins, corrugated nails staple other than those of heading 83.05 and similar articles of iron or steel, whether or not with heads of other materials under HS Code 7317	35% or USD 350 / MT whichever is higher

Remission

Description	Rate
Grain Sorghum under HS Code 1007.90	10%
Roasted Malt under HS Code 1107.20	0%
Prepared baking powders under HS Code 2102.30	10%
Other specially prepared for infants under HS Code 2106.90	0%
Photographic plates, film, paper, and textiles, exposed but not developed under HS Code 3704.00	0%
Sacks and bags of polymers of ethylene under HS Code 3923.21	10%
Manufacture of edible salt of sub-heading 2501.00.10	10%
Other wheat & Meslin	0%

Kenya

Stay of Application

Description	Rate
Raw materials, inputs and equipment for the manufacture of textiles and shoes	0% & 10%
Inputs for the assembly of/ manufacture of mobile phones	0%
Unassembled speakers (CKD) under HS Code 8518.21	0%
Unassembled floor, table and wall fans under HS Code 8414.51	10%
Parts of chains for assemblers of chains, bicycles and industrial machinery under HS Code 7315.90	0%
Inputs for manufacture of furniture	a rate of 10% and 0% on specific items for a year.
Listed raw materials for the manufacture of textiles and shoes.	0% & 10%
Manufacture of edible salt of sub-heading 2501.00.10	10%
Other wheat & Meslin	0%

Remission

Description	Rate
Other rubber thread and cord, textile covered; textile yarn, and strip Under HS Code 5604.90	0%
Woven fabrics obtained from high tenacity yarn of nylon under HS Code 5407.10	10%
Plain weave under HS Code 5208	10%
Other fabrics under HS Code 5208.39, 5208.49, 5208.59, 5309.29	10%

Rwanda

Stay of Application

Description	Rate
Goods imported for implementation of projects under a special operating frame work arrangement with the Government- as approved by the Minister responsible for Finance	0%
Electric & Hybrid vehicles -under HS Code 8703 (40 – 80)	0%
Worn items and clothing under HS Code 6309	2.5 USD/Kg
Worn foot-ware under HS Code 6309	5 USD/Kg
Other beet sugar, cane sugar, and other sugar under HS Code 1701	25%
Wheat (wheat grain) under HS Code 1001.99	0%
Telecommunication equipment	0%
Goods imported for the use of armed forces	0%
Refined edible oils under HS Code 1507.90, 1511.90.90, 1512.19, 1512.29, 1515.19, 1515.29, 1515.50	25%

Remission

Description	Rate
Lacquers Under HS Code 3208.20	0%
Other polishes, creams and similar preparations under HS Code 3405.90	0%
Other plates of plastic under HS Code 3921.90	0%
Sacks and bags (including cones) of other plastics (polythene bags) under HS Code 3923.29	0%
Other woven fabrics of silk or of silk waste under HS Code 5007.90	0%
Sewing thread of synthetic staple fibres under HS Code 5508.10	0%

Tanzania

Stay of Application

Description	Rate
Worn items of clothing under HS Code 6309	35%
Cane Sugar (Gap Sugar) imported under a permit issued by the Tanzania Sugar Board	25%
Safety matches under HS Code 3605	25% or USD 1.35 / kg whichever is higher
Horticultural products under HS Code 0604.20, 0604.90, 0714.10, 0808.10, 0808.30	35%
Iron and steel products under HS Code 7209 and 721.23, 7211.90, 7226,92	10% or USD 125 / MT whichever is higher
Crude soya bean oil, Crude groundnut oil, Crude coconut oil, vegetable fats oils under HS Code 1507.10,1508.10, 1513.11, 1514.91, 1515.11	10%
Refined edible oils under HS Code 1507 – 1515	25% or USD 500 / MT whichever is higher

Remission

Description	Rate
Maize corn starch	0%
Other synthetic staple fibres of mixed mainly or solely with wool or fine animal hair under HS	25%
Code 5509.91	0%
Other synthetic staple fibres under HS Code 5509.99	0%
Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber,	10% or USD 125 / MT whichever is higher
leather or other material, of a kind used under HS Code 5911.10	0%
Sewing thread of synthetic staple fibres under HS Code 5508.10	10%
Woven fabrics under HS Code 5806.20	10%
Embroidery of other textiles, in the piece, in strips or in motifs under HS Code 5810.99	10%

Uganda

Stay of Application

Description	Rate
Goods imported for implementation of projects under a special operating frame work arrangement with the Government	0%
Surgical and examination gloves, under HS Code 4015.12,19,90.	10%
Non-alcoholic beer and ready to drink juices, under HS Code 2202.91 and 2202.99.	60%
Mobile phones	10%
Worn items of clothing under HS Code 6309	35%
Television sets under HS Code 8528.72	35%
Doors and their frames of plastic under HS Code 3925.20	35%
Maternity/ mama kits under HS Code 8212.20	0%
Equipment to manufacture textile	0%

Remission

Description	Rate
Raw materials, inputs and equipment for the manufacture of textiles and shoes	0% & 10%
Inputs for the assembly of/ manufacture of mobile phones	0%
Unassembled speakers (CKD) under HS Code 8518.21	0%
Unassembled floor, table and wall fans under HS Code 8414.51	10%
Parts of chains for assemblers of chains, bicycles and industrial machinery under HS Code 7315.90	0%
Inputs for manufacture of furniture	a rate of 10% and 0% on specific items for a year.
Listed raw materials for the manufacture of textiles and shoes.	0% & 10%

02

South Sudan: Customs Services Division Highlight

Sudan as a member of the East African Community, has put in place measures to protect their customs service division that has been derailing over the past years.

The Commissioner for Customs Services Division of the National Revenue Authority has confirmed the use of a Customs Accreditation Permit for all the consignments which are destined for South Sudan from the port Mombasa and Nairobi freight station effective as at 1st July, 2022.

This accreditation was officially communicated in a circular issued by the Commissioner of Customs Services Division of South Sudan on the 27 June 2022.

The aim of adopting this Accreditation permit is in a bid to combat the malpractices being carried out by the clearing agents at Nimule border.

For the last 10 years, the Government of South Sudan has been loosing huge revenues at the Nimule border from customs taxes due to clearing agents who manipulate the invoice values of goods being imported into the country.

This has led to the goods that are destined for South Sudan being dumped in the Republic of Kenya and Uganda because of the lack of a monitoring system in place.

Therefore as a tool to combat the malpractices occurring at the Nimule border for the goods entering South Sudan will therefore be required to enter an 'Accreditation permit application number' before proceeding to the next stage that requires the e-customs portal for tax calculations.

This development is a step in the right direction for the customs sector in South Sudan because it ensures that the trade that has been disrupted at the borders of Kenya and Uganda.

The African Continental Free Trade Area- Insights

The African Continental Free Trade Area (AfCFTA) is flagship project of the African Union's Agenda 2063, a blueprint for attaining inclusive and sustainable development across the continent over the next 50 years. It aims to boost intra-African trade by providing a comprehensive and mutually beneficial trade agreement among the member states, covering trade in goods and services, investment, intellectual property rights and competition policy.

Trade integration across the African continent has long been limited by outdated border and transport infrastructure and a patchwork of differing regulations across dozens of markets.

Governments have often erected trade barriers to defend their markets from regional competition, making it more expensive for countries to trade with near neighbors than countries much further afield.

Our Understanding

This agreement was brokered by the African Union (AU) and was signed by 44 of its 55 member states in Kigali, Rwanda on March 21, 2018. Eritrea is the only country that has not signed the agreement. We attribute this to the fact that it operates a closed economy.

The AfCFTA agreement will create the largest free trade area in the world measured by the number of countries participating. The pact connects 1.3 billion people across 55 countries with a combined gross domestic product (GDP) valued at US$3.4 trillion. It has the potential to lift 30 million people out of extreme poverty, but achieving its full potential will depend on putting in place significant policy reforms and trade facilitation measures.

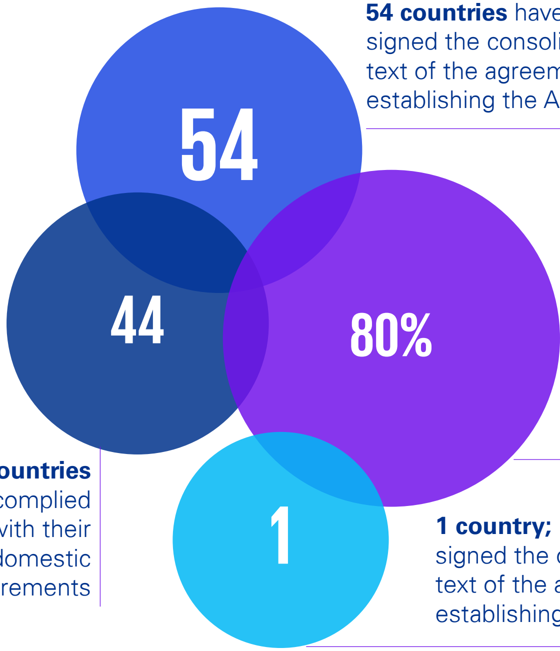
As at May 2022, 43 of the 54 (80%) signatories had deposited their instruments of ratification with the chair of the African Union Commission, making them state parties to the agreement.

The scope of AfCFTA is large. The agreement will reduce tariffs among member countries and cover policy areas such as trade facilitation as well as regulatory measures such as sanitary standards and technical barriers to trade.

Full implementation of AfCFTA would reshape markets and economies across the region and boost output in the services, manufacturing and natural resources sectors.

As the global economy is in turmoil due to the COVID-19 pandemic, creation of the vast AfCFTA regional market is a major opportunity to help African countries diversify their exports, accelerate growth, and attract foreign direct investment.

Status of AfCFTA Ratification



54 countries have signed the consolidated text of the agreement establishing the AfCFTA.

43 (80%) countries have deposited their instruments of AfCFTA ratification.

44 countries have complied with their domestic requirements

1 country; Eritrea as not signed the consolidated text of the agreement establishing the AfCFTA

AfCFTA progress by country

Percentage of MFN/CET tariff lines covered by tariff offers

CEMAC
100%
Non-sensitive, sensitive goods and the products excluded from liberalization

ECOWAS
90%
Only non-sensitive goods with agreed RoO

SACU
80%
Non-sensitive goods with and without agreed RoO.

EAC
71%
Non-sensitive goods with and without agreed RoO.

Under AfCFTA, extreme poverty will decline across the continent with the biggest improvements in countries with currently high poverty rates.

- West Africa would see the biggest decline in the number of people living in extreme poverty—a decline of 12 million (more than a third of the total for all of Africa).
- Central Africa would see a decline of 9.3 million.
- Eastern Africa would see a decline of 4.8 million.
- Southern Africa would see a decline of 3.9 million.
- Countries with the highest initial poverty rates, would see the biggest declines in poverty rates.
- In Guinea-Bissau, the rate would declinefrom 37.9 percent to 27.7 %
- In Mali, the rate would decline from 14.4 percent to 6.8 percent.
- In Togo, it would decline from 24.1 percent to 16.9 percent

The African Continental Free Trade Agreement represents a major opportunity for countries to boost growth, reduce poverty, and broaden economic inclusion. Implementing AfCFTA would:

- Boost Africa's income by $450 billion by 2035 (a gain of 7 percent) while adding $76 billion to the income of the rest of the world.
- Increase Africa's exports by $560 billion, mostly in manufacturing.
- Spur larger wage gains for women (10.5 percent) than for men (9.9 percent).
- Boost wages for both skilled and unskilled workers—10.3 percent for unskilled workers, and 9.8 percent for skilled workers.

AfCFTA and existing regional trade areas

According to an analysis by the World Bank, the policy areas already covered by subregional preferential trade areas (PTAs), such as the Common Market for East and South Africa (COMESA), the East African Community (EAC), the Economic Community of West African States (ECOWAS), and the South African Development Community (SADC), AfCFTA will offer a common regulatory framework, reducing market fragmentation created by different sets of rules.

The AfCFTA will be an opportunity to regulate policy areas important for economic integration that are often regulated in trade agreements. Most PTAs have not achieved in this area and where there has been an attempt the policies are shallow as the world bank report indicates.

AfCFTA and the free movement of people

The free movement of labour will be a key contributor to the successful functioning of the free trade area. We take note that, not all African countries are committed to this concept.

Under AfCFTA, extreme poverty will decline across the continent with the biggest improvements in countries with currently high poverty rates.

East African Community (EAC).

The percentage of MFN/CET tariff lines covered by the tariff offer made by the EAC is 71%. The tariff offers include goods with and without agreed Rules of origin(RoO). Products with a 35% tariff are not included in the tariff offer made by the EAC. These include:

Duty-free tariff lines

These make up 47% of the tariff offer made by the EAC

CET – 10%

These products make up 24% of the tariff offer. The products included are:

- Animal fats
- Cocoa beans
- Oil-cake
- Yard
- Construction vehicles
- Vehicle parts
- Bicycles

CET – 25%

These products comprise 29% of the tariff offer.

The products include:

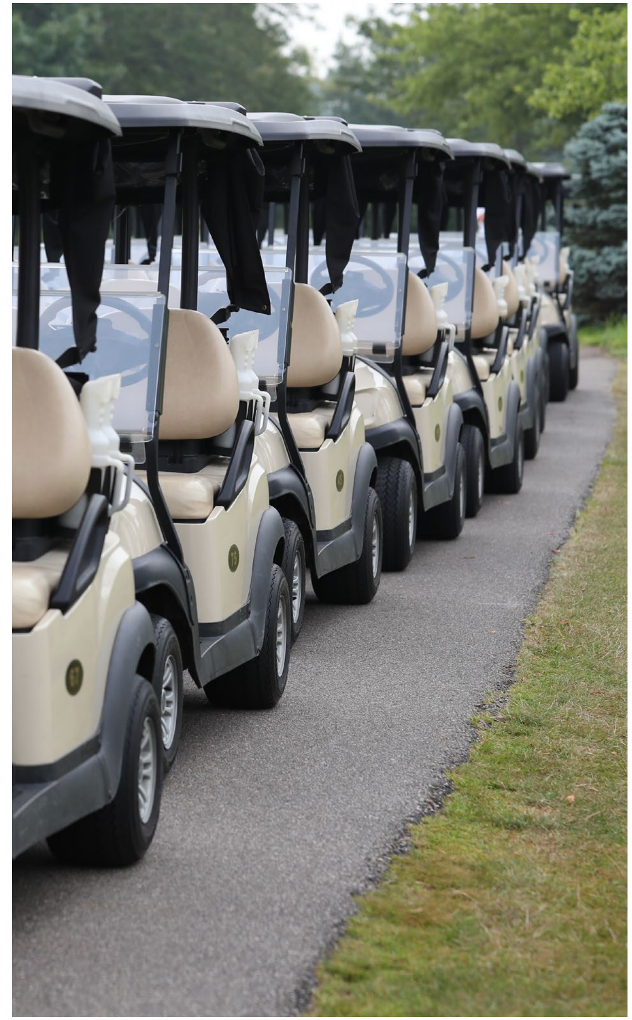
- Fish
- Shelled nuts
- Berries
- Pneumatic tyres
- Blankets
- Floor coverings
- Golf carts

CET – 25% or US$ 200/MT whichever is the highest

These products comprise 0.3% of the tariff offer. They include 12 products of high-speed and silic0-manganese steel.

71%

of MFN/CET tariff lines covered by the tariff offer made by the EAC



Application of AfCFTA offers by state parties

As far as the application of the offers is concerned, a phased-down approach will be used. But this will vary from country to country as some countries are more developed than others. Furthermore, some countries are less industrialized than others, which is making the adoption of these offers difficult as the countries also must take care of their interests.

For the Non-LDC countries, they will each implement a 5-year and 10-year phase-down for non-sensitive goods and sensitive goods respectively. The countries implementing this are mainly members of SACU namely, Namibia, Botswana, Eswatini, South Africa, Lesotho and Botswana. For the LDCs, they will each implement a 10-year and 13-year phased-down approach for non-sensitive and sensitive goods respectively. The customs unions and countries implementing this include CEMAC, EAC, ECOWAS as well as Sao Tome and Principe and Malawi.

The negotiation process of the offers has been met by many policies and practical challenges. As mentioned earlier, African states are at different levels of economic development. There are some industrialised nations such as South Africa, but many countries fall under LDCs. Thirty-three of the world's forty-six LDCs are in Africa. Hence, the tariff offers made by each REC or customs union reflects their needs, even though they are bound by principles and modalities outlined in the AfCFTA agreement. This means that it will be difficult for all countries to comply in equal measure. The more industrialized state parties will be keen to protect their future use of the import tariff as a way of protecting their domestic plans.

The new AfCFTA tariff offers, and rules of origin are pound to be difficult and will take some time before all parties are happy with the agreement, the current integration between different states does not exactly allow for a clean slate exercise, which AfCFTA seeks to start.

04

The Authorised Economic Operator- Highlights

Key Insights

- An Authorized Economic Operator (AEO) is an individual, a business entity or a government department that is involved in international trade and is duly authorized by the Commissioner of Customs to operate as an AEO on fulfillment of requisite supply chain security requirements.
- AEO program is a trade facilitation initiative derived from the World Customs Organization Safe Framework of Standards which the revenue Authorities implemented in a bid to facilitate trade and promote the security of the international trade supply chain.
- The customs departments across EAC, therefore, seeks to build mutual partnerships with businesses that consistently strive to comply with Customs Laws and regulations and in return, such businesses will benefit from the Customs' preferential treatments and simplified procedures in the clearance process proposed under the AEO Program.

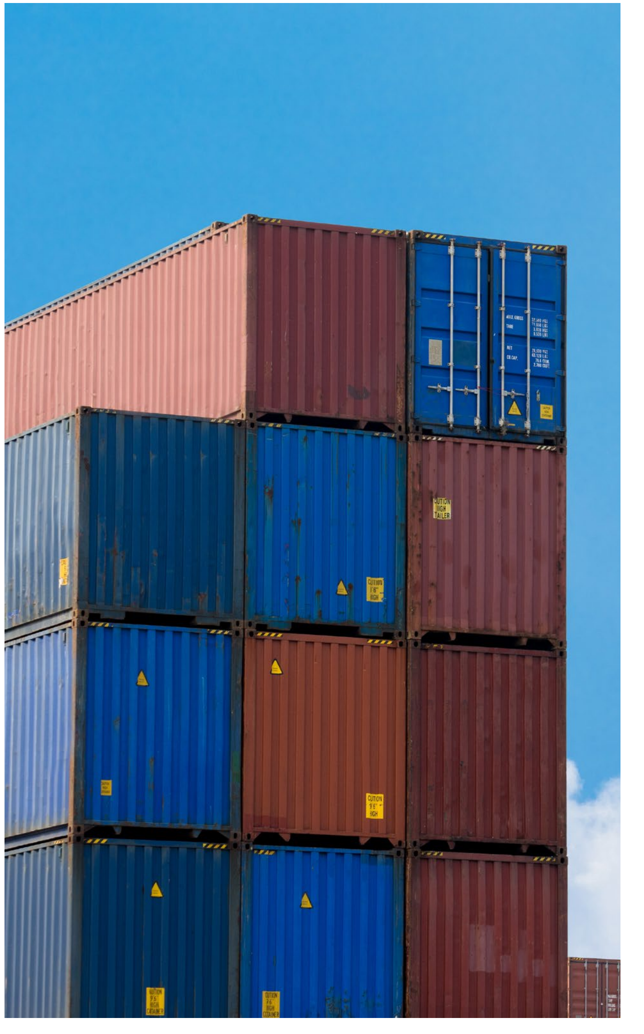
Our understanding

The prospective clients that benefit an Authorized Economic Operator include;

- Manufacturers (who are involved in export and import)
- Customs clearing agents
- Bonded warehouse keepers
- Importers and Exporters
- Transporters
- Freight forwarders
- Carriers

Eligibility

- Established and operated in the Partner State for at least one year
- Good financial credibility which is sufficient to fulfil his or her commitments with due regard to the characteristics of the type of business activity
- Be able to install and use the customs tax systems
- Must have a good compliance history with the respective Revenue Authority .
- Satisfy any other conditions and requirements as the Commissioner may deem necessary.



Step by step process of attaining an AEO status

In order for an individual or a business to attain an AEO status, below is the applicable procedure:

Step 01

Application;

A Self-Assessment Form is submitted to Customs with the relevant supporting documents

Step 02

Vetting of Applicant;

Customs vets the application and all the supporting documents to confirm whether the Applicant is eligible

Step 03

On-site Inspection;

Customs conducts an inspection of the Applicants premises to confirm the information provided in the Self-Assessment Form/application form and supporting documents

Step 04

Authorization;

Upon satisfying all the requirements the applicant is approved as a Customs Authorized Economic Operator by the Commissioner of Customs.

What this means to you

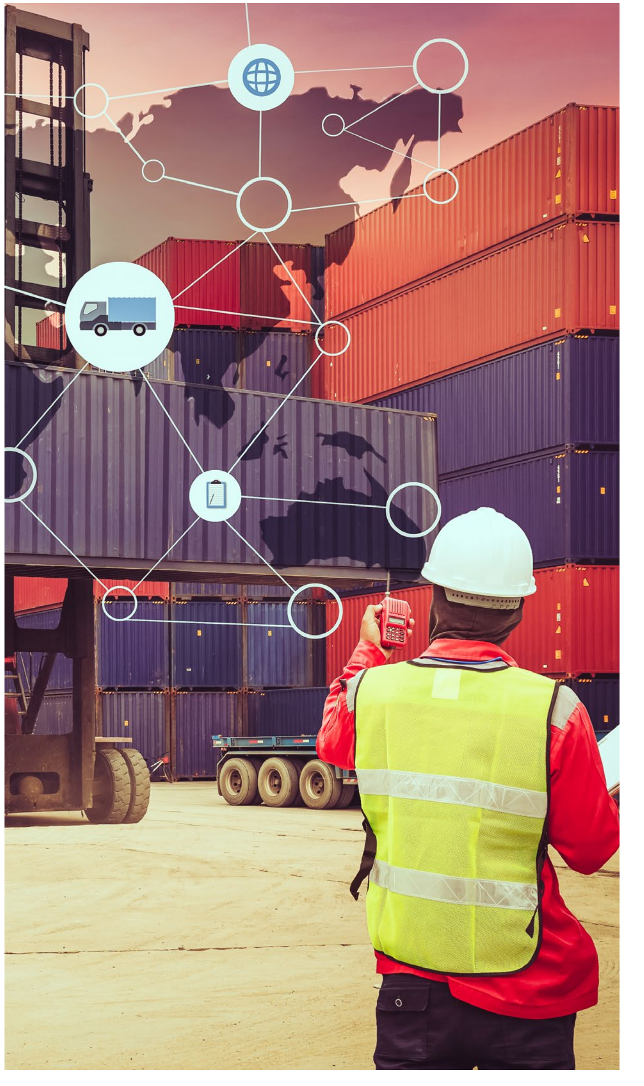
The Regional AEO program (EAC Region)

At the Regional level, the Customs Administrations in the East African Community adopted the Authorized Economic Operator (AEO) Policy Framework that aims at increasing revenue performance through facilitating trade, strengthening the Customs to Business partnership as well as securing the Regional and Global supply chain.

The Regional AEO program, therefore, runs alongside the National Program. An applicant to the Regional AEO is expected to be familiar with the AEO Program after having participated as a National AEO Operator.

Trade facilitation benefits to the Regional AEO operators

The AEO shall be allowed under the EAC Regional Authorized Economic Operator Program to enjoy the following benefits for the following categories of people.



Benefits of AEO

Importers /Exporters/ Manufactures

- Expedited processing of entries/declarations–AEO declarations will be given priority throughout the whole clearance process.
- No physical or document examination except for random or risk-based interventions/exceptional cases. Expedited payment of refund claim: Priority shall be given in the processing of the refund claims.
- Priority to participate in Customs initiatives.

Importers /Exporters/ Manufactures

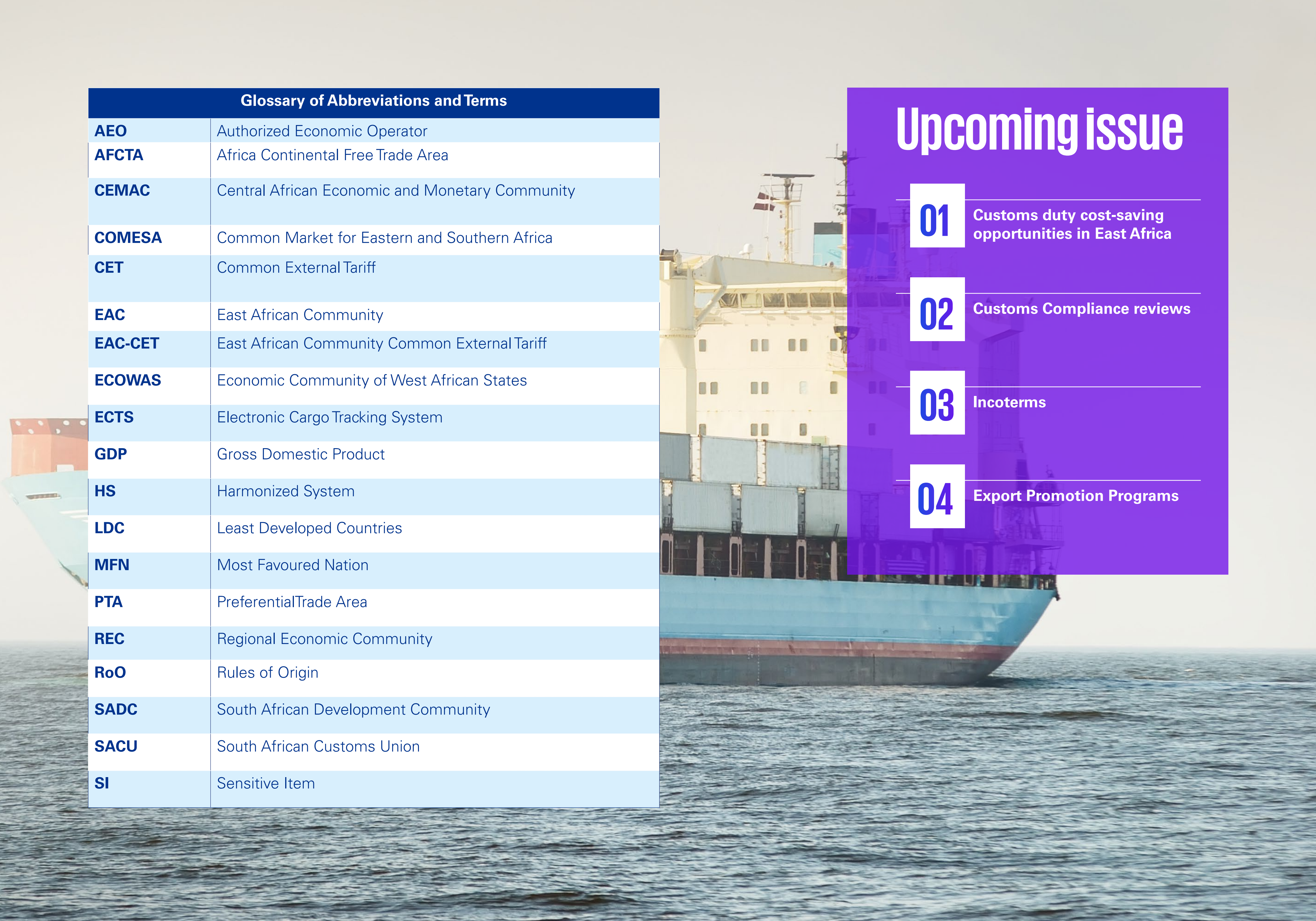
- Guaranteed renewal of transit goods license and any other licenses issued by Customs
- Exemption from the mandatory use of Customs Electronic Cargo Tracking System (ECTS
- Priority clearance at the borders

Customs Agents

- Guaranteed renewal of Customs agent's license
- Priority to participate in Customs initiatives
- Priority treatment in cargo clearance chain
- Waiver of movement bond for AEO

Warehouse Operators

- Self-management of bonded warehouse
- Guaranteed renewal of AEO Warehouse Operator's license
- Reduced Customs security wherever applicable



Glossary of Abbreviations and Terms	
AEO	Authorized Economic Operator
AFCTA	Africa Continental Free Trade Area
CEMAC	Central African Economic and Monetary Community
COMESA	Common Market for Eastern and Southern Africa
CET	Common External Tariff
EAC	East African Community
EAC-CET	East African Community Common External Tariff
ECOWAS	Economic Community of West African States
ECTS	Electronic Cargo Tracking System
GDP	Gross Domestic Product
HS	Harmonized System
LDC	Least Developed Countries
MFN	Most Favoured Nation
PTA	Preferential Trade Area
REC	Regional Economic Community
RoO	Rules of Origin
SADC	South African Development Community
SACU	South African Customs Union
SI	Sensitive Item

Upcoming issue

01 Customs duty cost-saving opportunities in East Africa

02 Customs Compliance reviews

03 Incoterms

04 Export Promotion Programs

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