While customs duties on EAC-originating goods have been completely eliminated in intra-EAC trade, unharmonised excise duties levied on the movement of goods and services across the region continue to restrict trade, creating an unlevel playing field between traders and preventing the EAC Partner States from reaching a deeper level of integration. A recent study made by KPMG for the East African Business Council (EABC) takes stock of the discriminative taxes that currently exist in the EAC Partner States, assessing their impact on intra-EAC trade and investment, and trying to draw lessons from the experience of the European Union in harmonizing such a type of taxes.

Article 83(2)(e) of the Treaty for Establishment of EAC obliges EAC Partner States to “harmonize their tax policies with a view to removing tax distortions in order to bring about a more efficient allocation of resources within the Community”. Article 32 on the harmonisation of tax policies and laws of the Common Market Protocol further states that Partner States have to progressively harmonize their tax policies and laws on domestic taxes with a view to removing tax distortions in order to facilitate the free movement of goods, services, and capital, and the promotion of investments within the Community. In addition, Article 8 of the East African Monetary Union Protocol provides for harmonisation and coordination of fiscal policies and avoidance of harmful tax competition.

Despite all such provisions are in force, the EAC has achieved little, so far, in harmonizing tax policies and laws of its Partner States. Different excise duties and domestic taxes (e.g., different VAT rates,) in each of these States continue to create distortions in cross-border transactions and investment decisions and are sometimes sources of trade disputes by economic operators.

The main challenge that hinders the achievement of the objective of tax harmonization in the EAC is the fear of loss of revenues by governments, especially by low tax countries. This regards particularly excise duties, which in the EAC hit a large number of goods and services, including financial services, beauty or make-up preparations, food, and clothing. Excises are among the indirect taxes that mostly contribute to feed the EAC’s government budgets, but they have a major disadvantage as they are highly regressive because they increase the price of the goods to which they are applied, with repercussions on other sectors of the economy. A typical example is the excise taxes applied on fuel, which not only have a direct impact on car and other means of transport users, but also generate higher transportation costs for traded goods, which in turn make final products more expensive.

Similar fears concern the implementation of the EAC Agreement on the Avoidance of Double

Taxation . Some of the EAC Partner States have been slow in ratifying such Agreement, due to fears of loss of revenue and tax evasion. Signed by Kenya, Rwanda, Uganda, Burundi and Tanzania in November 2010, the Agreement has not yet entered into force because its art. 30 foresees that all the five EAC signatories have to complete their national ratification processes in order apply it (at the moment, Burundi and Tanzania requires not ratified it yet). The consequence that double taxation is another major hurdle for cross-border investment flows, as investment income sourced in one country is taxed in both the country of source and the country of residence of the taxpayer.

The study concludes that a harmonization of excise duty and elimination of discriminative taxes is deemed to lead to anincrease in the volume of intra-EAC trade, contributing to strengthen the economic, political, and social ties that are already existing among the EAC Partner States. It also recommends to remove excise duty on all, non-harmful goods, and services such telecommunication products/ services, as well as financial services, and to introduce environmental taxes such as carbon tax to compensate the revenue losses caused by the elimination of such excises.