5 October 2017

KAM study on implication of the Tripartite Trade liberalisation regime between East African Community (EAC) and South African Customs Union (SACU) on Kenya's manufactured products.

Dear Sir/ Madam,

<u>RE: REQUEST FOR PROPOSALS FOR THE STUDY</u>

Kenya Association of Manufacturers (KAM) is requesting for submission of the proposals for consultancy services in respect to the KAM study on implication of the Tripartite Trade liberalisation regime between East African Community (EAC) and South African Customs Union (SACU) on Kenya's manufactured products offered for tariff liberalization by EAC to SACU and the impact on Kenya's trade with SACU members on the list of products which SACU has offered tariff liberalisation to the EAC.

To facilitate submission of the proposals KAM has enclosed the following:

a) Annex I: Terms of Reference (TOR) for the Study

b) Annex II: Requirements for submission of proposals for consultancy services.

The proposals are to be submitted to AAM Resources, Purshotam House, Chiromo Lane (next to Diagnostics Centre), **<u>by 24 October 2017 at 4.00 pm</u>**. Late submissions will not be opened.

<u>CHIEF EXECUTIVE</u>

ANNEX I

KAM study on implication of the Tripartite Trade liberalisation regime between East African Community (EAC) and South African Customs Union (SACU) on Kenya's manufactured products offered for tariff liberalization by EAC to SACU and the impact on Kenya's trade with SACU members on the list of products which SACU has offered tariff liberalisation to the EAC

TERMS OF REFERENCE

1.0 Background

Kenyan Association of Manufacturers (KAM), a Business Membership Organization with 950 members, is the national and regional leader in policy, research and advocacy on matters affecting industry and businesses. KAM is respected and listened to when it comes to articulating various policy and legislation issues which hurt industry in local, regional and international markets. KAM spends over 80% of her resources on policy and advocacy work related to policy reforms, legislations and regulations which hurt industry at national, county and regional levels. KAM collaborates with Government and its agencies, Development Partners in order to ensure that its 5-pillar manufacturing priority agenda is addressed i.e. general policy framework, a level playing field, competitive manufacturing, making Kenya a manufacturing hub for exports and securing the future of industry.

The Kenya Association of Manufacturers is a member of the National Inter-Ministerial Coordination Committee which oversees Kenya's Regional Integration Implementation Programme (RIIP) that is sponsored by Common Market for Eastern and Southern Africa (COMESA) through National Treasury. Under the program, KAM is mandated to implement specific COMESA regional indicators which are geared towards enhancing regional integration such influencing advocacy on the implementation of the East African Community (EAC), COMESA and Southern African Development Community (SADC) integration referred to as the Tripartite Trade Regime through elimination of non tariff barriers, harmonization of standards and liberalization of tariffs among the members of the three Regional Economic Communities (RECs).

The Tripartite Free Trade Area (TFTA) Regime consist of 26 States, the number is likely to become 27 once South Sudan accedes to TFTA membership. Currently the 26 States account for 57% of the population of the African Union and about 60 percent of its Gross Domestic Product (GDP). The objective of the TFTA is to promote trade in the region through creation of a wider market; increase inter REC and extra REC investment flows; enhance competitiveness of the region in the globalized environment. The hope is that positioning half of Africa as one large common market will allow it to benefit far more from global trade flows, as well as attracting greater investment and large-scale production. The overall objective of the TFTA is to accelerate economic integration, increase economic growth, reduce poverty, attain sustainable economic development and improve the quality of life for the citizens of the Tripartite Members States.

COMESA has 19 member States these are: Djibouti, Egypt, Libya, Eritrea, Ethiopia, Sudan, Comoros, DR Congo, Malawi, Zambia, Mauritius, Seychelles, Zimbabwe, Madagascar, Swaziland, Kenya, Uganda, Burundi and Rwanda. Of these, 8 are also members of SADC while 4 are also members of the EAC.

EAC has Kenya, Uganda, Burundi, Rwanda, Tanzania and now South Sudan which is in the process of acceding to East African Community.

SADC has 15 members, these are: Angola, Botswana, DR Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Seychelles, Zambia and Zimbabwe. 8 of these belong to COMESA as well and one to EAC.

It is important to note that Southern Africa Customs Union (SACU) comprising Botswana, Lesotho, Namibia, South Africa & Swaziland is not treated as a separate REC for purpose of negotiating the Tripartite Free Trade Area but EAC has to negotiate tariff liberalization offers with SACU since both are already established Customs Union with a Common External Tariff. However, SACU is included in the SADC grouping to which all its members belong. Kenya has taken special interest with SACU due to the dominant role that South Africa plays in the SACU and SADC markets.

One of the key deliverables of the Tripartite Free Trade Area phase one negotiations is the liberalization of tariff among its members according to the agreed modalities which are:

- Ultimate goal of tariff liberalization by the Tripartite FTA member States should be approximately 100% of tariff lines, taking into account of general, specific and security exemptions provided for under regional and multilateral trade agreements;
- Countries that are members of existing FTA RECs, will not need to negotiate tariff liberalization under TFTA with other members of the same FTA REC but will consolidate their existing tariff liberalization levels into the TFTA.
- For countries which have not yet liberalized their tariffs fully under their respective FTA RECs and countries which have not yet joined any FTA REC, 60 to 85% of tariff lines should be liberalized upon entry into force of the TFTA.
- The remaining tariff lines under TFTA should be liberalized over an implementation period of 5 to 8 years.

Under the Regional Integration Implementation Programme (RIIP), KAM has been consistent in participating at the regional integration and bilateral meetings which are geared towards addressing regional trade and deepening Kenya's integration with other economic blocks. KAM has an approved RIIP work programme from July 2017 to June 2018 showing activities which were approved by the National Inter-Ministerial Coordination Committee meeting in June 2017 in Naivasha. One of the tasks which KAM is supposed to do under RIIP work programme is to undertake a study on the over view of tariff liberalisation among Tripartite Member States and undertake a comprehensive analysis on the implication and likely impact of the tariff liberalisation between EAC and SACU on Kenya's trade and industry.

2.0 EAC and SACU scenario on tariff liberalisation

EAC and SACU have been trying to finalize their tariff liberalization structure that will be applicable between both parties under the Tripartite FTA. They have exchanged their tariff offers and indicated products of their export interest. At the moment SACU has offered 66.74 percent of its tariff lines(4808) for immediate liberalization leaving a balance of 18.89 per cent required to lock 85% tariff liberalization that is subject to phase down of 5 and 8 years. The remaining 14.83 per cent are under sensitive category.

EAC Common External Tariff (CET) book has 5,440 tariff lines. As at June 2017, for immediate liberalization upon entry into force of the Tripartite FTA, EAC had offered SACU 1,994 tariff lines which attract EAC CET 0% (36.7%) of the EAC CET tariff lines), 1,012 tariff lines (18.6%) which attract 10% EAC CET and 577 tariff lines (10.6%) which attract 25% EAC CET giving a total of tariff lines for immediate liberalization of 3,583 tariff lines giving a total tariff offer to SACU of 65.9% tariff lines for immediate liberalization.

For 5 years phase down, EAC has 37 tariff lines (0.7%) of the tariff lines which attract 10% EAC CET, 1,184 tariff lines(21.8%) which attract 25% EAC CET leading to a total of 1,221 tariff lines(22.4%) of the tariff lines for 5 years phase down. EAC has 94 tariff lines (1.7%) marked as sensitive and negotiable which attract 10% EAC CET, 479 tariff lines(8.8%) which attract 25% CET giving a total of 573 tariff lines(10.5%) negotiable for phase down depending on the negotiations.

3.0 Purpose

The main purpose of the study is to undertake a comprehensive analysis on the implication and likely impact of the Tripartite Trade Regime tariff liberalisation between East African Community (EAC) and South African Customs Union (SACU) on Kenya's trade and industry.

4.0 The scope of the study

The study will give a general overview on the status of tariff liberalization among the Tripartite Member States in the Regional Economic Communities (REC) of EAC, COMESA, SACU and SADC. In each regional economic community, the study will briefly expound on the kind of trade regime that is prevailing among members in terms of tariff liberalisation.

For purpose of this study, the main focus will be on export and import trade between Kenya and SACU members (Botswana, Lesotho, Namibia, South Africa & Swaziland) covering the import and export products and their values in Kenya Shillings which Kenya has been exporting and importing from SACU members in the last 4 years.

The study is expected to come up with 4 scenarios to analyse the implication and impact of tariff liberalisation between East African Community and South African Customs Union on Kenya's trade and industrial subsectors:

i. The first scenario is to apply the actual or current EAC and SACU tariff liberalisation offers EAC i.e. 65.9% tariff liberalization by EAC to SACU and 66.74% tariff liberalization offer by SACU to EAC and analyse the implication and impact on Kenya's trade and industrial sub-sectors covered by the above tariff lines.

ii. The 2nd scenario is undertake an analysis on the impact and implication to Kenya's trade and industrial subsectors if EAC considered tariff lines of SACU's product of export interest up to the level of 85% as agreed in the negotiations modalities while trying to avoid vulnerable products like tea, juices, pharmaceuticals, commercial motor vehicles, processed cereals etc. The SACU list of products of export interest to EAC will be provided by KAM Secretariat.

iii. The 3rd scenario is to undertake an analysis on the impact and implication to Kenya's trade and industrial subsectors if SACU liberalised tariff lines of export interest by EAC to reach levels beyond 85% as agreed in the negotiations modalities while trying to avoid vulnerable products to compete with EAC products such as agricultural products like beef, chicken, eggs, fruits like avocadoes, vegetables etc. Some of these products are over protected by high rate of Common External Tariff by SACU members. The EAC list of products of export interest to SACU will be provided by KAM Secretariat.

iv. The 4th scenario will be to explore the export potential which will arise for Kenyan products if SACU accepted all EAC list of export interest and agreed to go beyond 85% and reach 90% tariff liberalisation.

In each of the above four (4) scenarios, the study is expected to develop recommendations for products which are likely to face competition in Kenya market, if EAC liberalises the tariffs for SACU up to the level of 85%.

The study is expected to develop recommendations for products which are likely to face competition in Kenya market, if EAC liberalises the tariffs for SACU between 85% - 95% and advise on measure Kenya can make to mitigate competition from EAC opening to SACU.

The study will identify Kenya's specific products and industrial sub-sectors that are likely to find new opportunities in the SACU market, where necessary identify the specific countries, once tariff liberalization schedule is at least agreed at 85% or beyond that which is considered as substantial liberalization in WTO language.

5.0 Expected outputs:

5.1 Review State of tariff liberalisation in each regional economic community specifying the percentage of tariff liberalisation in these blocks EAC, COMESA, SADC and SACU and what they have marked as sensitive list.

5.2 Provide an insight of the Trade regime of SACU and clearly identify top key imports from South Africa to Kenya (preferably the top 50 products and their values and Kenya's top exports to South Africa and their values in Kshs Millions. In both cases the export and import data should be for the last four (4) years.

5.3 Identify the strength of SACU countries with emphasize on South Africa on exporting specific products to Kenya and EAC market.

5.4 Identify key Kenyan exports and their values to the South African Market and to other members of SACU in the last four (4) years.

5.5 Give an overall picture on what is likely to happen to Kenya's trade with SACU members once the market is opened to substantial levels, say at 85%, 90% and above 95%.

5.6 Undertake comprehensive analysis and simulations using the existing tariff lists by both parties under the following 4 scenarios:

a) Analyse the current EAC and SACU tariff liberalisation offers and lists of EAC (i.e. 65.9% tariff liberalization by EAC to SACU and 66.28% tariff liberalization offer by SACU to EAC and analyse the implication and impact on Kenya's trade and industrial sub-sectors covered by the above tariff lines.

b) Undertake an analysis on the impact and implication to Kenya's trade and industrial products and their subsectors, if EAC considered tariff lines of SACU's product of export interest up to the level of 85% as agreed in the negotiations modalities while trying to avoid vulnerable products like tea, juices, pharmaceuticals, commercial motor vehicles, processed cereals etc. The lists of products of products of export interest by SACU to export to EAC is available.

c) Undertake an analysis on the impact and implication to Kenya's trade and industrial products and their export potential, if SACU liberalised tariff lines of export interest by EAC to reach levels beyond 85% as agreed in the negotiations modalities while trying to avoid vulnerable products to compete with EAC products such as agricultural products like beef, chicken, eggs, fruits like avocadoes, vegetables etc. Some of these products are over protected by high rate of Common External Tariff by SACU members.

d) Explore the export potential which may arise for Kenyan products if SACU accepted all EAC list of export interest and agreed to go beyond 85% to about 95% tariff liberalisation.

5.7. Identify Kenya's products which are likely to face competition if EAC liberalises the tariffs for SACU up to the levels of 85%, 90% and 95% all of which are substantial liberalization in WTO language.

5.8. Identify Kenya's specific products and industrial sub-sectors that are likely to find new opportunities in the SACU market, where necessary identify the specific countries, once tariff liberalization schedule is agreed at 85% which is considered as substantial liberalization in WTO language.

5.9. Based on the above simulations and analysis based on EAC CET tariff book with 5,540 tariff lines and SACU tariff book with 7,204 tariff lines make overall recommendations on:

a) Products and sectors which will face competition once EAC-SACU tariff liberalization becomes operational immediately and in the next 5 to 8 years after operationalization of the Tripartite trade regime and suggest measures which Kenya should undertake to benefit from SACU market.

b) Give an overall export potential of Kenya's products in the SACU member States once SACU trade regime is open to EAC as witnessed in free Trade Area trade regimes of COMESA and SADC members among the member states assuming eventually that EAC and SADC will eventually open to levels beyond 90%.

6.0 Methodology

6.1 The consultant will collect both quantitative and qualitative information from KAM members who are trading with SACU members, especially South Africa and other countries outside COMESA grouping such as Angola and Mozambique in order to understand the nature of the prevailing trade regime and cross reference with the tariff offers which both parties have offered each other in order to assess

6.2 It is expected that the study will be combination of both desk research and field research.

7.0 Timeframe

We estimate that the study will be conducted within 30 working days. We aim to commission the study on 13th November 2017 and therefore anticipate delivery of the first draft to the Secretariat by 13th January 2018.

8.0 Qualifications of Consultant

The Lead Consultant must have at least Master's degree in economics, statistics, international trade, with demonstrable knowledge and experience in conducting research on Regional Economic Communities and existing customs unions in the Eastern and Southern Africa region. Preferably, knowledge and experience in analysing the effects of trade on industry subsectors as a result of overall regional integration agenda of regional economic communities like EAC, COMESA, SADC and SACU and upcoming trade regimes like Tripartite Free Trade Area and Continental Free Trade Area to the economies of the Member/ Partner States.

9.0 Submission

9.1 To finalize the 1st Draft and submit to KAM Secretariat by 22nd January 2018.

9.2. To present the Draft to KAM Tax and Trade Committee on 8th February 2018.

9.3 To prepare power point for presentation to KAM Tax and Trade Committee on 8th February 2018 and review feedback before finalizing the study.

9.4 A validation seminar to present the findings to KAM members will be held on 22nd February 2018.

9.5. The final study report will be submitted to the Chief Executive of KAM by 8th March 2018.

9.6 To submit to KAM Chief Executive 4 bound copies of the final study as well as a soft copy to KAM contact persons.

10.0. **Confidentiality:**

Great discretion will be taken to ensure the confidentialities of the information collected and discussions with the consultant.

11.0. The contacts for this study are:

i. Ms. Phyllis Wakiaga,
Chief Executive,
Kenya Association of Manufacturers (KAM)
P.O Box 30225 Nairobi 00100
Tel: 02028155531/2;
Office Cell: 0722201368

ii. Mr. Walter N. Kamau – Manager – Trade and Policy
Mobile: 0713460980
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iii. Ms. Lilian Odhek – Trade and Policy Officer
Mobile: 0734789061
Email: lilian.odhek.@kam.co.ke

ANNEX II

Manner of submission

a) Your proposal shall be prepared in the English Language.

b) Your proposal shall comprise the following documents:

   i. Technical component and
   ii. Financial component.

c) Each copy will be on a separate sealed envelope clearly marked and indicating the name of the firm and whether the proposal is technical or financial;

d) 2 copies of the proposal shall be submitted and marked "Original" on one and the second one "Copy". In the event of any discrepancy between them, the Original will govern.

e) Please attach a copy of your PIN and VAT certificate, Tax Compliance certificate, Certificate of Incorporation and CVs of your key professional staff who will be involved in this assignment.

f) All the proposals will be enclosed in one sealed main envelope titled

'TENDER FOR'

KAM STUDY ON IMPLICATION OF THE TRIPARTITE TRADE LIBERALISATION REGIME BETWEEN EAST AFRICAN COMMUNITY (EAC) AND SOUTH AFRICAN CUSTOMS UNION (SACU) ON KENYA'S MANUFACTURED PRODUCTS

Do not indicate the name of the firm in the outer envelope.

Content of Proposal

I) Technical Component [*Not more than 3 pages*]

a) Description of the firm and the firm's qualifications;
b) Proposed approach and methodology;
c) Timing of activities and reports
d) Outputs, including how to measure those outputs;
e) Proposed team structure; showing detailed profiles of proposed project team members, Minimum qualifications:
f) Note that inclusion of such profiles constitutes a commitment to use those members and substitution in the event that the contract is awarded will lead to cancellation of the contract.

ii) Financial (Price Component)

The price component shall have a cover letter wherein your firm / institution's authorized representative affirms the following:

a) A summary of the price;
b) The period of its validity;

In addition, the price component must cover all the services to be provided and must itemize the following:

a) Unit and total fees per person for each team member to be assigned to the mission in the field and a rate for his/her work at the office, if any.
b) Other costs if any (indicating nature and breakdown)
c) Summary of total cost for the services proposed
d) Taxes

Payment terms (provisions)

The policy of KAM is to pay for contractual services based on performance of contractual services rendered or to effect payment upon the achievement of specific milestones.

Evaluation of proposals

A two-stage procedure will be utilized in evaluating the proposals. There will be Technical and Financial Evaluations. The Technical component will form part of the basic requirement for the next stage of financial component.