



CONSULTANCY TO CONDUCT A LEGISLATIVE REVIEW OF THE EAST AFRICAN COMMUNITY CUSTOMS AND MANAGEMENT FRAMEWORK

1.0 Background

The East African Community (EAC) enacted the EAC Customs Management Act 2004 to facilitate the implementation of Customs Matters. Article 2 (2), 5 (2) and of the EAC Treaty provides for the establishment the East African Customs Union and a Common Market.

Article 75 (1) of the Treaty further provides that the Customs Union through protocol shall provide for, *application of the principle of asymmetry; The elimination of internal tariffs and other charges of equivalent effect; The elimination of non-tariff barriers; Establishment of a common external tariff; Rules of origin; Dumping; Subsidies and countervailing duties; Security and other restrictions to trade; Competition; Duty drawback, refund and remission of duties and taxes; Customs co-operation; Re-exportation of goods; and Simplification and harmonisation of trade documentation and procedures.*

The Act has now been in place for over fourteen years and the EAC Secretariat is currently undertaking a comprehensive review of the EAC CMA 2004 and its regulations. The purpose of the review will be to among others address challenges of implementation of the provisions of the law by the Customs Administration;

- a) Obsolete and redundant provisions of the EAC CMA Act 2004;
- b) Inapplicable provisions of the Act in current customs operations;
- c) Interpretations of the Act by different Customs Administrations;
- d) Interpretations of legal provisions by Courts and tax tribunals in Partner States;
- e) Practices that are not sanctioned by law.
- f) Mechanisms and forms used in making advance rulings; and
- g) National legislations, mechanisms and forms used in countering anti-counterfeit.

One of the Objectives of the Treaty is to ensure the enhancement and strengthening of partnerships with the private sector in order to achieve sustainable socio-economic and political development. The review of the EAC Customs Management Act provides an opportunity for realisation of this objective.

It is in this regard that the Kenya Association of Manufacturers (KAM) is seeking to engage a consultant to review the EAC Customs Management Framework with a view of identifying key areas for reform to ensure it achieves the purpose of the EAC Treaty to enhance the effectiveness of the customs union management and support achievement of a sustainable economic development goals at the EAC regional level.

2.0 Objective of the Consultancy

The objective of the consultancy is to undertake a legislative Desk Review Study of the East African Community (EAC) customs framework to inform recommendations to enhance customs management in Kenya and at the EAC level.

1. Existing legislation touching on customs issues at the East African Community to the extent that they comply with East African Treaty and customs protocols requirements; Kenyan laws and international customs obligations.
2. Existing case law precedence set from interpretations of legal provisions of customs legal frameworks by Courts and tax tribunals.
3. Best practice on customs management to inform recommendations.
4. Identify existing gaps based on manufacturing industry experience.
5. Develop a Memorandum with recommendations from the Report to be submitted to the National Government and EAC secretariat.

3.0 Scope of work

The scope of work will cover the following:

- 1) Study and analyse the existing legislation on customs management within the East African Community; existing case law precedence set from interpretations of legal provisions of customs legal frameworks by Courts and tax tribunals; and global best practice on customs management.
- 2) Identify existing gaps from the legislative review study and manufacturing industry experience.
- 3) Draft a legislative memorandum with recommendations from the legislative review study.
- 4) Present the findings at stakeholder meetings for validation purpose.

4.0 Expected outputs

The following are the expected outputs;

1. Inception report with key deliverables and a road map.
2. Draft legislative review study of the East African Community (EAC) Customs framework.
3. Report on feedback and comments from relevant stakeholders gathered during the validation workshops.
4. Final legislative review study of the East African Community (EAC) Customs framework.
5. Memorandum with key recommendations from the Legislative review Study.

5.0 Timeframe and implementation schedule

The consultant will work under the overall supervision of the Kenya Association of Manufacturers, Policy, Research and Advocacy Unit. The consultancy is to be performed over 30 days, starting in the month of June 2019. The proposed timeline excludes the time gap in between relevant meetings between the consultant and stakeholders; as well as time that may be required for KAM to study the output for approval purposes.

Task	No of days	Deliverables	Timeline
Submit an inception report .	2	Inception report	By May 2019
Submit the draft legislative review study of the East African Community (EAC) Customs framework.	20	First draft of legislative review study of the East African Community (EAC) Customs framework.	By mid-June 2019
Participate in 3 meetings (internal and external feedback): <ul style="list-style-type: none"> • 1 meeting with KAM technical internal team. • 1 meeting with manufacturers. • 1 Validation meeting 	7	2 nd Draft Legislative study with incorporated feedback from the meetings.	By June/July 2019
Submit a final legislative review study of the East African Community (EAC) Customs framework and Memorandum with recommendations from the Study.	3	Final Legislative Study and Memorandum approved by KAM.	By June/July 2019.
Total number of days	32 days		

6.0 Qualifications of the Consultant

The consultant (Individual or Firm) must have extensive experience in policy and legislative research, drafting and a clear understanding of customs in Kenya and within the East African Community. In addition, the consultant should:

- Be a holder of a Masters qualifications in law, economics or related social science field. A PhD would be an added advantage.
- At least 10 years of professional experience within the field of Customs, Tax, Law, Regional work at East African Community level.
- Have proven track record, knowledge and experience in addressing customs management issues in Kenya or at a regional context.
- In-depth understanding of the Kenyan and East African Community legal and judicial system.
- Demonstrable experience in working with the various arms of Governments related to the subject matter.

- Have excellent writing and research skills.
- Have excellent communication and project delivery skills.

7.0 Application for consultancy

Interested consultants are requested to submit both physically and electronically the following three documents to procurement@kam.co.ke **by 30th May 2019 stating “KAM EACMA Legislative Review Study”**:

- Technical proposal
- Financial proposal
- Curriculum Vitae and two recommendations (For a firm should contain CVs for all Consultants involved in the Consultancy)
- Copy of KRA PIN Certificate
- Copy of Valid KRA Compliance Certificate
- Registration Certificate

Physical address: KAM Procurement
Kenya Association of Manufacturers
KAM House, 5th Floor
Mwanzi Road, Opposite Westgate Mall
P.O Box 30225 -00100
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Marginalized groups such as youth, women and persons with disability are encouraged to apply.