



# Customs & International Trade

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Q & A



# Customs?

Uphold public interest

# Customs



- The history of customs:
  - ✓ Landed and the non-landed
  - ✓ The Kings take from the land...customary
- Tax collected on goods imported into a territory (customs territory)
- Dependent on international trade
- Could exist together with surcharge taxes (eg Ethiopia and Rwanda)



# Principal Role of Customs



- Revenue raising tool
- Protectionist tool:
  - local vs foreign industries
  - harmful goods
- Trade facilitation - custom union



# Customs Union



- Substitution of a single customs territory for two or more customs territories

What is a customs territory?

A custom territory is defined under Article XXIV (5) of WTO/GATT - any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories



# Customs union vis-à-vis other similar trade arrangements



Type	CIT	CET	Free movement of Capital, Labour, Services and Investment	Common currency	Political Bondage	Examples
Free Trade Area (FTA)	YES	NO	NO	NO	NO	NAFTA, COMESA
Customs Union	YES	YES	NO	NO	NO	EAC
Common Market	YES	YES	YES	NO	NO	EU
Monetary Union	YES	YES	YES	YES	NO	EU
Political Federation	YES	YES	YES	YES	YES	Nigeria, USA, USSR

# Some complexities...



- Delineation of custom territory...is an EPZ within a customs territory?
- Singular policies...EPAs: Rwanda's tiff with USA on *mitumbas*
- Multiple memberships of customs unions
- Rules of origin...trans-shipment
- Evolution of e-commerce...digital solutions



# Some complexities...



- Economic war-fare:
  - ✓ the US-China trade dispute
  - ✓ Economic subsidies
- Royalties as a condition of sale?
- Valuation...balance between customs and income tax valuations

# Customs vs Transfer Pricing



Differences	Customs	Income Tax
Different Objectives	Enhance COGS / Import Value	Reduce COGS / Import Value
Different Law	EACCMA	Income Tax Act
Different Focus	Per unit price of imported goods	Taxable income of importer
Different Time Periods	Entry-by-entry declarations	Annual period
Different Comparable Sets	Product / Industry comparability	Functional comparability
Different Tests	Circumstances of Sale Test / Test Values	Kenyan TP methods
Different Measures if not Arm's Length	Rejection of transaction value / invoice price	Adjustment of transfer price / invoice price

# Broad Customs Regime



- Self-declaration...C17B
- Four-tier tax regime:
  - ✓ Finished goods - 25%
  - ✓ Inter-mediate goods - 10%
  - ✓ Raw materials - 0%
  - ✓ Sensitive goods - higher than 25%



My  
duty?



# Some Recent Developments



- Roll-out of *i*CMS to replace Simba
- Regional Electronic Cargo Tracking System (RECTS)
- Cargo scanning
- Merger of Customs and Border Protection - international best practice
- Ratification of Africa Continental FTA (AfCFTA)

Which ones?



# Some thoughts



- Is customs declining as a source of revenue?
  - ✓ *Artificial Intelligence and 3D printing?*
  - ✓ *Regional economic bodies?*
- Duties under protest?
- Complexities of Most Favoured Nations (MFN) status?



Which ones?



# INTERACTIVE SESSION

