INTERNATIONAL JOURNAL OF RESEARCH AND INNOVATION IN SOCIAL SCIENCE (IJRISS)
ISSN No. 2454-6186 | DOI: 10.47772/IJRISS | Volume X Issue VIII August 2026

Somalia's Trade Landscape: Challenges and Opportunities in Mapping Trade Bottlenecks Focus Area: Strategies, Policies, and Laws

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DOI: https://doi.org/10.47772/IJRISS.2026.100800494

Received: 20 August 2026; Accepted: 25 August 2026; Published: 09 September 2026

ABSTRACT

Somalia occupies a highly strategic position along the Horn of Africa, bordering the Gulf of Aden and the Indian Ocean. This position grants the nation direct access to some of the busiest maritime shipping lanes in the world. However, decades of protracted conflict, institutional fragmentation, and regulatory voids have severely hindered its formal trade capacity. This paper provides a comprehensive analysis of Somalia's trade bottlenecks, focusing specifically on the interplay between strategies, policies, and statutory frameworks. Utilizing a qualitative, multi-stakeholder diagnostic approach, this study maps the institutional friction between the Federal Government of Somalia (FGS) and Federal Member States (FMS). It also evaluates the impact of outdated colonial-era legislation, the absence of standardized quality assurance mechanisms, and the exclusion of the country from global financial clearings due to compliance gaps.

The paper finds that while the country's recent accession to the East African Community (EAC) and ratification of the African Continental Free Trade Area (AfCFTA) offer unprecedented regional integration paths, these opportunities cannot be realized without aggressive domestic legislative harmonization. The study concludes with actionable, targeted recommendations designed to fast-track digital customs deployment, resolve federal-state fiscal gridlocks, modernize commercial dispute resolution mechanisms, and upgrade sanitary and phytosanitary (SPS) frameworks to unlock Somalia's true economic potential.

Keywords: Somalia Trade; Regulatory Harmonization; Customs Modernization; East African Community (EAC); Trade Bottlenecks; Maritime Law; Fiscal Federalism.

INTRODUCTION

Background of the Study

International trade serves as a primary engine for economic growth, structural transformation, and poverty reduction in post-conflict states. For Somalia, the potential of trade is magnified by its geography. Boasting the longest coastline on mainland Africa—spanning over 3,300 kilometers—and sitting adjacent to the Bab-el-Mandeb strait, Somalia is a natural gateway linking East Africa to the Middle East, Europe, and Asia. Despite these intrinsic geographical advantages, Somalia's formal trade indicators remain severely depressed. The economy is heavily reliant on a narrow export base, predominantly livestock and raw agricultural commodities, while facing a structurally massive trade deficit financed primarily by substantial diaspora remittances and international official development assistance (ODA).

Problem Statement

The primary inhibitors of Somalia's trade potential are not merely infrastructure deficits, but rather deep-seated structural, policy, and legal bottlenecks. Following the collapse of the central government in 1991, the country's formal regulatory architecture fractured. As state building progressed over the last decade, a complex dual-layer system emerged: a Federal Government in Mogadishu and multiple semi-autonomous Federal Member States (including Puntland, Jubaland, Galmudug, South West State, and Hirshabelle), alongside the unique status of Somaliland.

This governance model has resulted in overlapping jurisdictions, contradictory customs tariffs, competing revenue collection mechanisms, and an outdated legal framework. Many active commercial laws date back to the 1960s and 1970s, making them utterly incompatible with modern global trade dynamics, digital commerce, or international maritime standards. Consequently, transactions suffer from high costs, extreme legal uncertainty, and pervasive operational delays at ports of entry.

Objectives of the Paper

This paper aims to:

1. Systematically map the critical legislative, policy, and strategic bottlenecks stalling formal trade inside Somalia.
2. Analyze the operational and fiscal friction generated by the lack of constitutional and legislative alignment between the FGS and FMS.
3. Evaluate the opportunities and compliance obligations brought about by Somalia’s entry into regional blocs such as the EAC and AfCFTA.
4. Provide a concrete, policy-oriented roadmap for legislative reform, institutional modernization, and financial reintegration.

LITERATURE REVIEW

Theoretical Framework: New Institutional Economics (NIE)

This paper utilizes the lens of New Institutional Economics, pioneered by Douglass North, which posits those institutions—defined as the "rules of the game" comprising formal statutes, informal customs, and enforcement mechanisms—are the core determinants of economic performance. In international trade, transaction costs (the costs of measuring the valuable attributes of what is being traded and enforcing contracts) dictate a nation's competitiveness.

When formal legal structures are weak, ambiguous, or contradictory, transaction costs escalate exponentially. In Somalia, the absence of predictable commercial courts and standardized customs enforcement forces traders to rely entirely on informal, trust-based networks (*cross-border kinship codes*) and traditional customary law (*Xeer*). While these informal systems successfully preserved basic commerce during state collapse, they lack the scalability, predictability, and international recognition required to support high-value global trade or attract major Foreign Direct Investment (FDI).

The Post-Conflict Trade Dilemma

Extensive literature on post-conflict economic recovery emphasizes that state fragmentation paralyzes trade facilitation. Researchers note that in transitional federations, the decentralization of border management and revenue collection without a clear, constitutionally backed fiscal formula leads to "rent-seeking behavior." Localized authorities often implement ad-hoc tariffs to secure immediate regional revenue, giving rise to internal trade barriers and double taxation. This academic paradigm precisely mirrors the contemporary operational reality across Somalia’s primary transit corridors.

Regional Integration vs. Domestic Compliance Gaps

Recent scholarship regarding African trade blocks suggests that regional agreements (like the EAC Common Market Protocol) are highly effective tools for economic acceleration, provided that participating countries possess the institutional capacity to absorb them. If a domestic regulatory environment fails to match the regional standard, the domestic economy risks being overwhelmed by more competitive regional neighbors. This highlights the urgent need for Somalia to rapidly upgrade its legal infrastructure to avoid being marginalized within its new trading alliances.

METHODOLOGY

This paper adopts a qualitative, diagnostic research design combining secondary documentary analysis with structural policy evaluation. The analysis is structured across three core phases:

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[Phase 1: Legal & Policy Desk Review]
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[Phase 2: Comparative Institutional Mapping]
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[Phase 3: Synthesis & Strategic Gap Analysis]
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1. **Legal and Policy Desk Review:** A rigorous examination of Somalia's active legislative instruments, including the Customs Law of 1961, the Draft Maritime Code, the Somali Bureau of Standards Act, the National Development Plan (NDP-9), and official accession treaties for the EAC and AfCFTA.

2. **Comparative Institutional Mapping:** An analysis of operational processes, revenue collection setups, and jurisdiction overlaps between the Federal Ministry of Commerce and Industry, the Federal Ministry of Finance, and corresponding entities at the Federal Member State level (e.g., port authorities in Mogadishu, Bosaso, and Kismayo).

3. **Strategic Gap Analysis:** Evaluating existing domestic statutory capabilities against the strict compliance requirements of international trade bodies, standard financial compliance regimes (AML/CFT), and regional custom unions.

FINDINGS

The systematic mapping of Somalia's trade environment reveals deep-seated bottlenecks divided across three distinct areas: legislative structures, federal-state operational misalignment, and external standard compliance.

SOMALIA'S TRADE BOTTLENECKS		
LEGAL VACCUMS & ANTIQUATED FRAMEWORKS	FISCAL & FMS ENFORCEMENT FRICTIONS	FINANCIAL & COMPLIANCE DEFICITS

1. Legal Vacuums and Antiquated Frameworks

- **The 1961 Customs Law Anachronism/ amended 2020:** The foundational legal document governing customs enforcement is the Customs Law of 1961/ amended 2020. This statute was written prior to containerized shipping, digital data transfer, automated risk management, or e-commerce. It relies entirely on physical inspections, ledger-based recordings, and visual valuations. This framework provides no legal recognition for electronic bills of lading or digital single-window clearings.

- **Absence of Specialized Commercial Courts:** Somalia lacks functional, specialized commercial benches within its judiciary. Commercial disputes are funneled through standard civil courts, which are severely backlogged and lack personnel trained in complex maritime contracts, letter-of-credit defaults, or intellectual property disputes. Consequently, contract enforcement remains highly volatile.

2. Fiscal and Enforcement Friction Between FGS and FMS

- **Port Tariff Competition:** Because the permanent constitutional review process remains incomplete, there is no binding agreement on revenue sharing or uniform tariff enforcement. Major ports (Mogadishu, Kismayo, and Bosaso) utilize entirely different tariff schedules. FMS authorities frequently offer arbitrary discounts to divert shipping traffic to their specific ports, an issue known as port tariff-shopping.

- **Internal Checkpoints and Double Taxation:** Goods cleared and taxed at a port of entry face secondary and tertiary taxation when crossing internal state borders via overland transport corridors. For example, agricultural products moving from the fertile Shabelle or Juba regions into urban markets are subject to ad-hoc municipal levies by multiple local forces, adding substantial costs to domestic transit.

3. Financial Reintegration and Quality Standard Deficits

- **Correspondent Banking De-risking:** Due to historical concerns regarding Anti-Money Laundering (AML) and Counter-Financing of Terrorism (CFT), international clearing banks maintain a "de-risking" stance toward Somali financial institutions. Somali banks are largely cut off from global correspondent networks, preventing local traders from securing standard, low-cost Letters of Credit (LCs). This forces transactions to rely on cash-in-advance methods or informal transfer mechanisms, limiting trade scale.

- **The Sanitary and Phytosanitary (SPS) Wall:** The Somali Bureau of Standards (SBS) was established by law to enforce quality control, but it lacks international accreditation, modern testing laboratories, and technical funding. As a result, lucrative markets in Europe, Asia, and parts of the Middle East enforce strict bans on Somali meat, livestock, and seafood products due to the lack of trusted health and safety certification.

DISCUSSION

The findings illustrate that Somalia's trade challenges cannot be solved purely through physical infrastructure upgrades, such as building deeper berths or expanding warehouses. The fundamental constraint is an **institutional mismatch** between an archaic, fragmented domestic regulatory framework and a highly sophisticated, rules-based international trading system.

DOMESTIC STRUCTURAL REALITY
• Paper-based Customs (1961 Law) amended 2020. • Fractured FGS-FMS Tariff Lines. • Non-accredited SBS Certification
REGIONAL/GLOBAL EXPECTATIONS
• EAC Common Market Integration • Automated Single-Window Systems • Strict SPS / Quality Standards

ISSN No. 2454-6186 | DOI: 10.47772/IJRISS | Volume X Issue VIII August 2026

The EAC Accession Dilemma

Somalia's formal entry into the East African Community (EAC) represents a major policy milestone. In theory, it grants Somali merchants tariff-free access to a market of over 300 million people and positions its ports as natural transit points for landlocked neighbors like Ethiopia. However, the EAC operates under a strict Common External Tariff (CET) framework and rigid Rules of Origin.

If Somalia fails to harmonize its domestic laws quickly, it will face two immediate risks:

1. Being flooded with cheaper, highly standardized manufactured products from Kenya and Tanzania, crippling local infant industries.

2. Facing structural exclusion if its ports cannot process electronic customs documentation, causing cargo diversion to better-integrated regional hubs like Djibouti or Mombasa.

The Cost of Delayed Legal Harmonization

Maintaining the current regulatory status quo imposes an invisible tax on the Somali economy. The reliance on informal dispute resolution (*Xeer*) works well for low-value local trades but cannot support complex, long-term multi-million-dollar supply chains required for large-scale industrialization or foreign manufacturing investment. Resolving the division of fiscal powers between the FGS and FMS is no longer just a political debate; it is an economic necessity for survival within global trade frameworks.

CONCLUSION

Somalia stands at a historic economic crossroads. The country has successfully passed major milestones, including reaching the HIPC Completion Point for debt relief, joining the EAC, and actively working to implement the AfCFTA. Yet, the underlying machinery of its trade landscape remains broken. The archaic 1961 Customs Law, the costly fiscal standoff between the central government and member states, and the lack of certified safety standards keep Somalia isolated from formal international markets.

To bridge this gap, the nation must pivot from basic survival commerce toward a structured, modern, rules-based trading framework. By prioritizing comprehensive policy reform over ad-hoc infrastructure patches, Somalia can leverage its strategic maritime location to transform from a post-conflict economy into a vibrant regional logistics and trading hub.

RECOMMENDATIONS

To systematically dismantle these trade bottlenecks, the following coordinated actions must be taken by the Federal Government, Federal Member States, and international development partners

STRATEGIC ACTION PILLARS

LEGISLATIVE MODERNIZATION * DIGITAL & STANDARDS *FISCAL & FINANCIAL

Pillar 1: Legislative Modernization and Legal Certainty

- **Enact the Modernized National Customs Act:** Replace the 1961 Customs Law/ amended 2020 with a comprehensive code that explicitly provides legal backing for electronic data interchange (EDI), digital signatures, pre-arrival processing, and automated risk management.

- **Establish Dedicated Commercial Arbitration Benches:** Set up specialized commercial divisions within the regional courts of Mogadishu, Garowe, and Kismayo. Train judicial staff in international trade protocols, maritime law, and international arbitration rules to bypass slow civil court procedures.

Pillar 2: Digital Automation and Standards Accreditation

- **Mandate a Unified Single-Window Customs Platform:** Accelerate the rollout of the Automated System for Customs Data across all major maritime and air gateways. Ensure all border agencies (Immigration, Customs, Commerce) use a singular digital dashboard to eliminate physical paperwork and reduce opportunities for corruption.

- **Empower and Internationally Accredit the Somali Bureau of Standards (SBS):** Direct international donor funding to build certified testing laboratories at major ports. Form long-term partnerships with established international verification agencies (such as SGS or Bureau Veritas) to co-sign Somali health certificates, helping local agricultural and seafood products clear strict foreign SPS barriers.

Pillar 3: Fiscal Harmonization and Financial Reintegration

- **Ratify a Unified Federal Tariff and Revenue Act:** Conclude the political negotiations between the FGS and FMS to establish a single, legally binding national tariff schedule aligned with the EAC Common External Tariff. Create a transparent, automated revenue-sharing formula to eliminate competitive tariff-shopping between ports and ban internal state-to-state transit levies.

- **Strengthen Central Bank AML/CFT Enforcement Platforms:** The Central Bank of Somalia must continue to tighten its monitoring and regulatory oversight of commercial banks and mobile money platforms. Aligning local practices with Financial Action Task Force (FATF) guidelines will help rebuild trust with international correspondent banks, opening access to standard global trade finance.

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