



---

**REPORT OF THE 1<sup>ST</sup> JOINT COMESA-EAC-SADC NTBs MEETING HELD IN  
JOHANNESBURG - SOUTH AFRICA, 9-10 MARCH 2009**

**DRAFT**

## 1.0 Background

- 1.1 The three regional groupings (COMESA, EAC and SADC), are coming up with modalities for a common, comprehensive and holistic approach for the elimination of Non Tariff Barriers to trade in the region.

Article 6 of the SADC Protocol on Trade provides for Member States to:

- a) *Adopt policies and implement measures to eliminate all existing forms of Non Tariffs Barriers and*
- b) *Refrain from imposing any new NTBs.*

- 1.2 The definition of NTBs in the protocol on trade is extensive and includes Customs procedures, Import levies, Import restrictions and prohibitions, road levies and pre-shipment inspection charges, TBT and SPS measures.

- 1.3 On the other hand Article 49 of the COMESA Treaty states that: Except as may be provided for or permitted by the treaty, each of the member states undertakes to remove immediately upon the entry into force of this treaty, all the then existing non tariff barriers to the import into that member state of goods originating in the other member states and thereafter refrain from imposing any further restrictions or prohibitions.

- 1.4 Article 75 of the EAC Treaty specifies that except as may be provided for or permitted by the treaty, the partner states agree to remove all the existing non- tariff barriers on the import into their territory of goods originating from the other partner states and thereafter refrain from imposing any further non tariff barriers.

1.5 Pursuant to the decision of the first Tripartite Summit held in Uganda in 2008, the three RECs, COMESA, EAC and SADC are expected to commence the process of harmonisation of trading arrangements amongst the three RECs, free movement of business persons, joint implementation of inter-regional infrastructure programmes as well as institutional arrangements on the basis of which the three RECs would foster cooperation. The first tripartite technical meeting on the reporting, monitoring and elimination of Non Tariff Barriers was held from 9-10 March 2009 in Johannesburg, South Africa. The meeting, funded by the Regional Trade Facilitation Programme (RTFP), was organised on the backdrop of the proliferation of Non tariff barriers in the region recognising the need to put in place a mechanism for their resolution and elimination, taking into account the dual membership of the Member States within the three RECs.

1.6 The objective of the meeting was therefore to consider the NTBs reporting, monitoring and elimination processes within the three RECs with a view to;

- Develop strategies for collaboration among the three RECS for the elimination NTBS pursuant to the decisions of the tripartite summit of October, 2008 and in addition, provide guiding timeframes for the harmonization of NTBS elimination programmes.
- The harmonized NTBS elimination programmes including the operational modalities would be commonly applied by all the three RECS, thus alleviating the difficulties arising from the implementation of differing strategies, instruments and mechanisms faced by member states belonging to more than one of the three RECS.
- Provide the essential impetus for the establishment of a sustainable framework for future cooperation among the three RECs for joint studies, reviews and other important initiatives on NTB matters.

## **2.0 Attendance**

- 2.1 The meeting was attended by senior officials from the three RECs, Regional Trade Facilitation Programme (RTFP) and designated National and Private sector NTBs Focal points, senior Government and private sector representatives from the following twenty COMESA-EAC –SADC Member States: Angola, Botswana, Burundi, Egypt, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

## **3.0 Opening and Welcome Remarks**

- 3.1 In his opening statement the COMESA Senior Trade Policy Expert, Mr Geoffrey Osoro commended the Government of South Africa for its generosity in hosting the meeting and for the facilities which have been so graciously provided. He observed that the meeting was aimed at forging common strategies at the inter-regional level in response to our shared concerns regarding the continued proliferation of Non Tariff Barriers.
- 3.3 He said the effects of NTBS have been well documented and that they are, to a large extent responsible for the modest trade growth that we witness in our regional economic communities (RECs) and that of even greater concern was the fact that in instances where trade has occurred and is expanding, NTBs have surfaced to take away those modest gains. He said it was therefore a challenge to the objectives of our regional organizations, and also of our collective desires and aspirations that we confront this challenge boldly and for that purpose we need to look beyond the short term gains which are obtained through protectionism by the

imposition of NTBs. He added that we should focus on the bigger picture and the choice of the common good which comes along from the stream of benefits accruing from enlarged and unhindered trade and that in essence we should not allow NTBs to wantonly traverse our trading space displacing and restricting investment, production and trade expansion.

3.4 He added that as individual RECs, there was ample evidence that we had come a long way in the search for solutions, guided by our respective Treaty provisions and the series of Council decisions, and that the three regional organizations have adopted a raft of measures and actions specifically inclined towards freeing our regional trade from the NTBs menace. He said that although modest gains have been made towards alleviating the trade impediments, the fact remains that the framework and foundation has been well established for the sustained treatment of Non Tariff Barriers and that in COMESA, the NTBs elimination process has been facilitated through a policy framework, institutional mechanisms, relevant modalities as well as structures for monitoring and evaluation. He added that this had necessitated the establishment of national enquiry points and national monitoring committees which are in their formative stages, operational modalities for NTBs elimination as well as reporting and monitoring systems through the online facilities which are available for use by all relevant stakeholders.

3.5 He said the convergence of the three organizations at this meeting will provide a valuable forum to comprehensively address a common NTBs agenda and that we should seize this opportunity to establish an inter-regional structure or at the minimum level a sustainable working arrangement which will facilitate the pursuit and realization of the tripartite vision. He added that it was also the expectation of the COMESA Secretariat that this forum will facilitate the establishment for networking

- arrangements between our NTBs focal points for future collaboration on the NTBs matters that will promote private sector exploitation of the vast opportunities that exist due to the large markets prevailing within the three regional groupings.
- 3.6 He thanked the Regional Trade Facilitation Programme (RTFP) for the support that they were providing to this initiative and also the collaboration they were facilitating in the regional groupings of COMESA, EAC and SADC in order to forge a common front towards addressing NTBs within the eastern and southern African region.
- 3.7 In his opening speech the SADC representative, Mr Jabulani Mthethwa, Senior Programme Officer – Trade welcomed participants to the meeting and observed that NTBs by their nature transcend the confines of the individual boundaries and mandates of each of our regional economic communities (RECs) thus necessitating the need for cooperation at the Tripartite level. He noted that all three RECs had attained and gone beyond the minimum conditions of establishing Free Trade Areas thereby going a long way in discounting the limitations posed by tariff barriers to intra-REC trade and that following the decision of the Kampala Tripartite Summit, we are also on the road to establishing an all encompassing single FTA for the whole southern and eastern Africa region.
- 3.8 He said it was therefore imperative that we address the problem caused by NTBs and that for some time now we have cooperated in setting up within our organizations a common mechanism for reporting, monitoring and eliminating NTBs. He said the purpose of the meeting was to ensure that we strengthen that mechanism by making sure that our national and private sector focal and enquiry points have full knowledge on the operation of the system and that we follow up and interact on work already

done on identifying and collating data on existing NTBs in the region. He added that any recommendations and observations made during the meeting would be taken up with our respective structures both at national, regional levels and beyond that at the Tripartite level, which during its recent 5 – 7 March 2009 meeting of the three Secretariats in Dar es Salaam had agreed on the need for more publicity and awareness activities by the RECs of the web-based NTB reporting and monitoring mechanism as well as complimentary use of the traditional paper based and e-mail system.

- 3.9 Finally he reminded the meeting not to lose sight of the fact that the inventory process was only as good as the efforts we each put to trade fairly and the commitment we have to come up with concrete decisions to correct identified NTBs. He said participants to this capacity building meeting were therefore at a vantage position to facilitate this process by ensuring that decision makers played their role and ensure that NTB issues are attended to with the serious attention they deserve at national level.

#### **4.0 ELECTION OF THE BUREAU**

- 4.1 The meeting agreed that the Chair of SADC and host for the meeting, South Africa, represented by Mr. Seth Pule, Deputy Director in the Department of Trade & Industry, chair the meeting with Kenya, the current COMESA Chair as deputy, and the Secretariats of the three RECs as the rapporteurs.

## **5.0 Adoption of the Agenda**

5.1 The meeting adopted the agenda and programme of work for the meeting appended as Annex 1 and 2.

## **6.0 Overview of the Elimination of Non Tariff Barriers in COMESA, EAC and SADC**

6.1 An official from the COMESA Secretariat made a presentation on the overview on the elimination of NTBS in EAC, COMESA and SADC in which he highlighted the following issues:

6.1.1 Non Tariff Barriers have become an important trade policy issue among the three RECs since NTBS are reducing the gains from trade liberalization arising from the reduction of tariffs. Due to their unpredictability and persistence they continue to influence trade patterns and restricting market access to regional exporters thus denying consumers' welfare enhancing opportunities which arise from access to reasonably priced regional imports.

6.1.2 Non-tariff barriers that restrain trade are typically justified on four main grounds, which include safeguarding health, safety, and security of human beings, animals and plants, and against environmental pollution, generally classified under Sanitary and Phyto sanitary (SPS) measures; to protect home industries and consumers; to safeguard national security; to safeguard against revenue loss.

6.1.3 The NTB situation is characterised by great diversity in terms of the specific measures involved, the countries (and borders) where they are

applied and the individual commodities affected, amongst other factors. However, the most common sources of NTBS are Customs Clearance Procedures (Administrative); Non Tariff fees/Transit fees (Administrative); Sanitary and Phyto-sanitary Measures (SPS)/Standards (Health safety and environment); Technical Regulations (Health safety and environment) and Import Regulations -licensing/quotas (Trade Policy).

6.1.4 Such measures when legitimately applied through notification in accordance with Treaty provisions are generally considered as Non Tariff measures. However, when these measures are mis-used and applied as protectionist barriers to trade, they become NTBs.

6.1.5 Efforts for the elimination of NTBs can be categorized into four main thematic areas which include; Policy; Institutional arrangements / Mechanisms; Modalities; Monitoring and evaluation.

6.1.6 In view of the fact that NTBs have a negative impact on trade expansion efforts of the three regional groupings (SADC, EAC and COMESA), modalities for a common and holistic approach has been endorsed through the tripartite arrangements involving EAC, COMESA and SADC. The three regional groups have embarked on implementing the tripartite decision by initially directing efforts towards a common reporting format and an online reporting system.

6.1.7 The challenges which were commonly encountered by the three RECs in the process of eliminating NTBS were; timely response to NTB complaints from member states (Administrative lags); imposition of new trade requirements outside the Treaty and relevant protocols; delayed establishment of NEPs and or NMCs; elaborate dispute resolution mechanism; implementation of the Road Map for the elimination and

relaxation of NTBs ; utilization of reporting tool for NTBs; insufficient budgetary allocation for trade coordination units at country level; disharmonized inter-regional co-operation on NTB elimination; delayed submission and circulation of notification of resolved NTBS by member states.

6.2 In the ensuing discussions, the following issues were raised;

6.2.1 It is essential that member states of the three regional groups adhere to their specific treaty provisions in regard to non imposition of Non Tariff Barriers.

6.2.2 The three regional organizations (EAC, COMESA and SADC) should escalate efforts for establishing inter regional framework for collaboration on NTBs matters in pursuit of the tripartite decisions.

6.2.3 Mechanism for expeditious resolution of NTBS should be operationalised.

## **7.0 Operational Modalities for the elimination of NTBs.**

7.1 An official from the COMESA Secretariat made a presentation on the operational modalities of NTBs outlining the various functions of the National Enquiry Points (NEPs) in each of the COMESA members. The presentation highlighted the features of the operational modalities adopted by the COMESA Council of Ministers to facilitate and guide the elimination process. The operational modalities are structured to include several elements such as institutional structures for facilitating NTBs reporting, responsibilities of key stakeholders, reporting of Non Tariff Barriers, and process for reduction of national and regional NTBs, and technical assistance and other supportive arrangements.

- 7.2 The National Monitoring Committees (NMCs) are the national institutional structures aimed at facilitating NTB reporting, elimination/reduction, monitoring and feedback to business community and will thus be responsible for, defining the process of elimination, defining mandates and responsibilities, confirming deadlines for action and agreeing on recourse to non-action. The NMCs should therefore be formed at the national level and the major responsibilities of key stakeholder institutions clearly outlined for reporting, monitoring and facilitating NTBs elimination process. Further to this, the National Enquiry Points will serve as the Secretariat for the NMCs, under which technical assistance and other supportive measures will be provided. In addition to technical assistance that should be facilitated by the COMESA Secretariat, Member States were also expected to allocate sufficient and timely resources for NTB related work through their national budgets or from trade related technical assistance programmes
- 7.3 The regional and national NTBs reduction process would be based on the adopted matrices for that purpose which has categorized the NTBs along the WTO classification.
- 7.4 In addition, the presentation also enumerated the necessary procedures for notification of Non Tariff Measures in compliance with the treaty provisions of Article 50 which makes it obligatory for Member States to notify COMESA Secretariat of intention to impose a legislative, ministerial or regulatory NTM on any product or service. The notification should include a justification and duration for such an NTM. Circulation of the same to all Member States by the National Focal Point to key stakeholders in the respective country under emergency situations such notification will be made as soon as possible after the issuing of the NTM.

The member state imposing the NTM should simultaneously notify affected Member States expeditiously.

7.5 In the ensuing discussions, the following issues were raised;

- All member states of the three regional organizations should establish the NEPs and the NMCs and also expedite the implementation of the national action plans(matrices for the elimination of NTBs)
- There was need for the harmonization of the operational modalities between the three regional groups of EAC, COMESA and SADC.
- Notification on NTBs should be based on sufficient justification and the inclusion of other requirements including timeframes for application of the NTMs in order to ensure that this process does not constitute legitimate avenues for perpetuating protectionism.
- The regional and national NTBs reduction process should be harmonized for the three regional organizations.
- The Secretariats should take the lead in mobilizing resources for technical support to the NEPS and the NMCS

## **8.0 Presentation on SADC Institutional Mechanism for Reporting, Monitoring & Elimination of NTBs**

8.1 An official from the SADC Secretariat made a presentation on the institutional mechanism for reporting and eliminating NTBs to trade in the SADC region, highlighting the following:-

- i) Objective of the mechanism
- ii) Institutional infrastructure at national and regional levels,
- iii) Roles and responsibilities of the national NTB focal point (NNFP), the private sector focal point (PFP) and SADC Secretariat NTBs Monitoring Unit

- iv) The processes for reporting of NTBs by the business community and NNFPs
- v) The process to be used in the elimination of reported NTBs, emphasizing the timelines for responding to the requests and the need for use of bilateral consultations, Good Offices of the Executive Secretary and the Chairperson of Committee of Ministers of Trade.
- vi) Development of the database to facilitate reporting, storage, retrieval of information on reported NTBs and their elimination.

8.2 The table below indicates the proposed timelines for the reporting and resolution of NTBs within the SADC region:

**Table 1: Proposed approximate Periods for resolution of NTBs within SADC**

<b>Days</b>	<b>ACTION</b>
5 days	Acknowledgement of receipt of a Barrier report from the Business community (Non electronic submission) by the Focal point
15 days	Submission of detailed investigation by the complaining Member State to the Member allegedly violating (establishing a case) or national institution.
15 days	Submission of response by the allegedly violating Member State to the complaining Member State or the institution to the national inquiry focal point.
10 days	Amicable bilateral resolution
45 days	Without Executive Secretary mediation
20 days	Good Offices of the Executive Secretary or Chairperson of Committee of Ministers of Trade Mediation process
65 days	Without invoking Article 32

**Note.** *It is assumed that Member States will do all they can to resolve matters amicably in the spirit of regional integration.*

8.3 In the ensuing discussions, Member States took note of the timelines and observed that resolution of those NTBs impacting/imposed by different arms of government may take a little more time due to the consultative processes some of which may require changes/modifications of the related national policy instruments.

## **9.0 Training on the NTBs Online Reporting and Monitoring Mechanism**

9.1 An Official from the COMESA Secretariat conducted the training and informed the meeting that the COMESA-EAC-SADC NTBs Online Reporting, Monitoring and Eliminating Mechanism was developed with technical and financial assistance from the Regional Trade Facilitation Programme (RTFP) and it is now operational and can be accessed at <http://ntb.africonnect.com>. The system will also be linked to the websites of the three RECs in the near future.

9.2 The following are the benefits of the online reporting, monitoring and eliminating mechanism:

- It allows the public to raise NTB complaints
- It expedites bilateral consultations and resolutions of identified NTBs
- It is an easier means of recording NTBs
- Easier access to NTB complaints log
- Reduced administration for NTBs enquiry points
- Good publicity for NTB resolutions

9.3 The delegates comprising the national and Private sector Focal points, responsible for the day to day administration of the NTBs reporting,

Monitoring and Eliminating system were trained on how to access and process complaints received through the online system, and those received by telephone and fax. The delegates were taken through the online system and made recommendations to improve the system. The major recommendations were that the definitions of Non tariff barriers be simplified in accordance to the WTO categorisation to enable the business community to submit accurate complaints. To this effect, the home page should be modified to include these categorisations.

9.4 The meeting also agreed that details pertaining to the various charges e.g. transit fees, approved decisions technical regulations etc should be listed on the home page.

9.5 Other areas to be modified are:

- A drop down menu to allow for routing of reports to specific RECs. The login box should also give space for full contact details of the complainant; (name, physical contact address, telephone, fax, e-mail).
- The system should also capture information on where the NTB has been reported to; for example the Customs office, relevant Ministries; REC Secretariat; etc.
- Documents accompanying the goods to be attached to the complaint report where necessary.
- Improvement should be made on “**product description**” to enable the system to automatically insert the HS code when the description of the product is typed in.

- **Tariff to Read** “HS Code”
- **Border Posts** – After going through the list of uploaded Border Posts, it was agreed that NNFPs should submit a list of updated Border Posts from their countries. It was also agreed that Border Posts should appear under country names.
- **“Other country name”** should include contact ministries, for example Ministry of Agriculture, Customs offices, etc.)
- **Login** to be moved and inserted just before a complainant starts reporting a NTB.

**9.6** The meeting further agreed that there is need for Member states to undertake sensitization activities including workshops and training on the NTBs Monitoring System. However, concern was raised on the constraints being faced by Member States on financial and technical support. It was observed that the three RECs are currently having financial constraints hence it was proposed that Member States should avail training facilities and the secretariat would conduct the Training. The three RECs should mobilise financial and Technical resource to assist Member States and conduct the training as soon as possible.

## **10.0 Status of Implementation of SADC Action Matrices for elimination of NTBS.**

**10.1** An official from the SADC secretariat made a presentation on the SADC NTBs Action Matrix for use by National Focal Points for reporting and monitoring NTBs pointing out that the matrix captures information on the following two processes:-

- i. The reporting of the complaint either by online, telephone or fax, columns 1-10.
- ii. The reporting on the NTB elimination process under columns 11-20, by the National Focal Points in each Member State. He emphasized that the matrices are important, as they facilitate follow up and negotiations of NTBs reported through the system by all Member States.

10.2 Member States made comments on the status of implementation of the identified NTBs from the NTBs inventories undertaken in 2004 and 2007 in SADC and COMESA and gave summary presentation on the status of implementation of their matrices

10.3 In the ensuing discussions, member states expressed the following views:

- i. That they had received the matrices, and were concerned with the slow speed at which the NTBs resolution process was progressing especially the establishment of NTB structures in Member States.
- ii. Most of the National Focal Points had just been nominated therefore suggested that they needed more time to submit their reports on the NTBs Action plans. It was agreed that the reports be submitted to Secretariat by end of April, 2009.
- iii. That some of the information in the matrices needed further verification as it was their view that the purported NTBs never existed
- iv. That most of the NTBs identified had been addressed over the years hence should not appear in the matrices. It was agreed that Member States report which NTBs had been addressed in the Action Matrix.
- v. That the SADC and COMESA matrices needed to be harmonized to come up with one matrix for the region..
- vi. That those NTBs with policy implications required internal consultations with relevant government departments.

- vii. That there was need to come up with a timeframe for the processing of customs documentation at the border posts to minimise delays.
- viii. The NTBs Matrices to show the following specific issues:
  - a. The end dates of each activity in the elimination processes in the Member States (SADC).
  - b. The period for the classifications of short, medium and long term should be specified in years (SADC).

### **Notifications of Non - Tariff Measures**

10.4 The meeting noted that Non tariff measures imposed by Member States had a negative effect on regional trade and also that some of these NTMs are just imposed without Member State following proper notification procedures. It was also noted that there was need for Member States to follow the notification processes as provided for in the relevant Treaties.

## **11 National and Regional Action Plans (Matrices) for the Elimination of NTBs in COMESA**

11.1 An official from the COMESA Secretariat made a presentation on the regional action plans (NTBs Matrices) for the elimination of NTBs focussing on the comprehensive country surveys conducted by the COMESA Secretariat which covered eighteen countries including Malawi, Mauritius, Zambia, Zimbabwe, Kenya, Uganda, Burundi, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Madagascar, Rwanda, Seychelles, Sudan and Democratic Republic of Congo aimed at providing information on the main NTBs.

- 11.2 The survey focused on the scope and nature of NTBs that affect intra-COMESA trade; products and markets most affected by the NTBs; documentation of exporters' concerns regarding NTBs, that are practiced on products intended for trade within the region; identification of the source country enforcement agencies and specific laws, regulations, practices, and requirements that have to be complied with in order for one to be authorised to trade (export or import);
- 11.3 The NTBs categorization in the survey reports is based on the WTO (7 categories.) and include; Part 1-Government Participation in trade and restrictive practices tolerated by Government.; Part II Customs and Administrative entry procedures; Part III-Technical Barriers to trade; Part IV-Sanitary and Phyto Sanitary measures; Part V- Specific limitations; Party VI-Charges on Imports and Part VII-Other.
- 11.4 The contents of the survey reports comprising of the country specific NTBs were later distilled and configured by the COMESA Secretariat into matrices which are to serve as the national primary tool for the elimination programme for NTBs. The matrices comprise several columns consisting of NTBs category, Country, NTBs description, Impact, Removal/Harmonization, interventions required and the responsibility organization.
- 11.5 The classification regarding whether the impact on the specific NTBs to intra regional trade is high, medium or low has taken account of various factors among which are;
- The restraining effect, value and perceived cost of the NTB on intra regional trade.

- The frequency or number of countries reporting the prevalence of the NTB thus implying the volume of trade affected.
- Whether the NTB has previously been reported to the Secretariat and resolution efforts have been embarked upon i.e. frequency of NTBs incidences.

11.6 The time frame specified in the matrices for the removal of NTBs is commensurate with the precise nature of the NTB;

- Immediate: (0-12) months where the impact is relatively high.
- Medium: 1-2 years where intervention measures may desire longer periods in instances where policy change may be appropriate.
- Low; 2-5 years where extended periods for alleviation may be necessary due to capacity building, policy change, infrastructural development, etc.

11.7 In the ensuing discussions, the following issues were raised;

- The three RECs should harmonize the NTBs elimination matrices and make them more user friendly.
- Information from the on line reporting system be incorporated in the elimination matrices
- The NTBs description segment of the matrices should clearly indicate the reporting country and the imposing country.
- Include 'product code' in the matrix

## **12.0 Non Tariff Barrier Impact Study for COMESA region**

12.1 The consultant from Imani Development International, made a presentation of the draft report on the non-tariff barriers impact study for the COMESA region. He pointed out that the study was still a draft for which comments were invited. In carrying out the study two questionnaires were designed, one for the private sector and another one for the public sector and the questionnaires were administered by the national focal points on NTBs. The findings of the study would be baseline data to be used in future in monitoring whether conditions of doing business within the region were improving or deteriorating. The overall aim of the NTBs Impact Study was to survey and document the real impact of NTBs on intra-COMESA trade. Such impact was measured by actual expenses and time loss to the business community.

12.2 The consultant reported that the study focused on four main areas of NTBs, namely;

- i. Restrictive trade practices;
- ii. Application of Rules of Origin;
- iii. Clearance of goods documentation; and
- iv. Transit/traffic and trucking issues.

Eleven out of the nineteen COMESA countries were surveyed; the remainder could not be surveyed for various reasons.

### **12.3 Conclusions from the private survey**

The findings as contained in the draft study were as follows.

The three major factors affecting private sector operators were:

- Corrupt practices,
- Lengthy clearance processes, and

- Variable transport documentation procedures.

12.4 A significant real financial cost of NTBs to businesses in the region as well as lengthy delays to their shipments. These costs are ultimately absorbed by the consumer in higher prices and/or poor service. Approximate costs incurred were as follows:

- Average direct additional cost of NTBs per shipment was US\$3,500 – excluding bribes!
- It was often taking an average of 6 days to clear goods through Customs.
- Average cost of border delays (where experienced) was 11% of landed cost
- NTBs add on average US\$13,680 per month in direct costs (excluding bribes) to landed cost.
- Companies spend approx US\$145,000 per month on employees' time and accommodation costs due to NTBs and delays.

## **12.5 Conclusions from the Public Sector Survey**

The study revealed that from the public sector perspective the major issues revolved around restrictive trading practices and the application of COMESA rules of origin, ranking as the two highest sources of barriers.

## **12.6 Discussions and recommendations on the draft report of the Study**

In the ensuing deliberations, Member states noted that the report was still at draft stage but however, made substantive comments to be incorporated into the final report. The major concerns were on the accuracy and authenticity of the data used to arrive at certain conclusions particularly the business environment in various Member states, the

sample size used to arrive at the conclusions and the complexity of the questionnaire, In response, the consultant acknowledged some of the difficulties encountered in administering the questionnaires but however, explained that all the information had been obtained from Member States with the facilitation from private sector organisations, and government institutions. He invited Members States to submit their written comments by end of the second week of March 2009. The detailed comments and observations are attached to this report as Annex III The meeting took note of the study recommendations below:

## **12.7 Recommendations from the COMESA NTBs Impact Study.**

- I. Technical assistance and other resources are required at the national and regional level for an effective NTB reporting, monitoring and reduction/ elimination process.
- II. The National NTB Monitoring Committee (NMC) structures should be formalised in all COMESA countries for purposes of legitimacy and sustainability of operations.
- III. Adequate resources need to be sourced by Member States and Secretariats for the NMCs and National Enquiry Point (NEP) to work effectively and consistently
- IV. The involvement of the private sector in the NMCs is essential and should be vigorously encouraged. The NMCs should be co-chaired by the Public and Private sectors.

- V. The specific findings of the final report of the Impact Study should be integrated into an update of the COMESA Matrix for the Elimination of NTBs
- VI. National NTB impact studies should be undertaken in COMESA countries at least every two years in order to track progress in the elimination process.
- VII. Comments on the draft impact study should be submitted by COMESA member states by 31<sup>st</sup> March, 2009 after which the study will be finalized by the consultant for circulation.
- VIII. SADC Secretariat should consider undertaking a similar study to cover the countries not included in the COMESA study.
- IX. The three secretariats should coordinate the implementation of future studies.
- X. Increased attention should be paid to:
  - a) Capacity building and providing good working conditions to officials at border points
  - b) Encouraging and implementing a secure whistle-blowing system for corrupt practices
  - c) Attracting more resources to implement electronic document transaction systems at all major border crossings and goods clearance facilities.

### **13 RECOMMENDATIONS OF THE 1<sup>ST</sup> JOINT COMESA-EAC-SADC NTBs**

The meeting considered reports from the three RECs and observed that there was need for the RECs to harmonise the NTB reporting forms, reporting and elimination modalities and processes. In particular, the meeting made the following recommendations, in each of the subject areas:

#### **13.1 An Overview of the elimination of Non Tariff Barriers in COMESA, EAC and SADC**

- I. Member states to comply with the provisions of respective treaties and protocols on the elimination of existing and new NTBs.
- II. Establishment of a sustainable inter-regional arrangements through regular meetings and workshops for effective co-operation and harmonization of efforts for addressing NTBs
- III. Operationalisation of the NTB mechanism for **expeditious resolution** of issues arising from NTBs
- IV. Collaboration on information exchange among the three RECS
- V. Timely submission and circulation of resolved NTBS

#### **13.2 NTBs Online Reporting and Monitoring System**

- I. The list of NTBs Focal points to be posted on the website
- II. The procedures e.g. clearing procedures to be attached to the system
- III. Home Page – To include a window for “Notification” (where approved decisions, Transit fees for each country, notification of currencies, Technical Regulations, etc.)
- IV. Raise Complaints: NTBs explanations to refer to the WTO categorization.

- V. Other” to be an interactive window to allow complainant to indicate the department/ministry imposing NTB
- VI. A drop down menu for routing complaint to specific RECs.
- VII. Provide a mechanism to attach accompanying documents relating to the complaint report where necessary.
- VIII. The system to provide an automatic link of the HS code to the product description.
- IX. NTBs National Focal Points to submit updated lists of Border Posts in their countries. Border Posts be reclassified according to countries within one week
- X. Login to be moved and inserted just before a complainant starts reporting a NTB and provide space for full contact details of the NTBs Complainant (name, physical address, telephone, fax, email)
- XI. Sensitization and training on the NTBs System to be conducted in Member States and at the regional level with support of the RECs

### **13.3 Operational Modalities for the elimination of NTBS**

- I. Member States that have not established the NTBs National Focal Points and National Monitoring Committees should do so and notify the secretariat within one month from the date of this meeting.
- II. Member states are urged to rationalize the NTBs monitoring system so that there is only one NTB reporting and elimination system.
- III. Harmonization of systems among EAC, COMESA and SADC for purposes of adopting unified operational modalities for the reporting and elimination of NTBS.

- IV. Implementation of Regional and national action plans (matrices) for the elimination of NTBs to be expedited.
- V. Secretariats to mobilize financial and technical assistance within the NTB reporting, monitoring and elimination process.
- VI. Allocation of sufficient budgetary and other resources for the operations of National NTBs Focal Points, National Enquiry Points and National Monitoring Committees by Member States.

#### **13.4 National and Regional Action Plans (NTBs Matrices) for the Elimination of NTBs.**

- I. The Secretariats of the three RECs should harmonize the NTB Matrices by end of March 2009.
- II. National stakeholder's awareness activities including workshops and consultations are undertaken by member states with the technical support of the Secretariats.
- III. Member States should update the matrices on NTBs by end of April 2009.

#### **13.5 Non Tariff Barrier Impact Study for COMESA region**

- I. Technical assistance and other resources are required at the national and regional level for an effective NTB reporting, monitoring and reduction/elimination process.
- II. The National NTB Monitoring Committee (NMC) structures should be formalised in all COMESA countries for purposes of legitimacy and sustainability of operations.

- III. Adequate resources need to be sourced for the NMCs and National Enquiry Point (NEP) to work effectively and consistently
- IV. The involvement of the private sector in the NMCs is essential and should be vigorously encouraged. The NMCs should be co-chaired by the Public and Private sectors.
- V. The specific findings of the Impact Study should be integrated into an update of the COMESA Matrix for the Elimination of NTBs
- VI. National NTB impact studies should be undertaken in COMESA countries at least every two years in order to track progress in the elimination process.
- VII. Comments on the draft study on the NTB impact assessment should be submitted by COMESA member states by 31<sup>st</sup> March, 2009 after which the study will be finalized by the consultant for circulation.
- VIII. SADC Secretariat should consider undertaking a similar study to cover the countries not included in the COMESA study.
- IX. The three secretariats should coordinate the implementation of future studies.
- X. Increased attention should be paid to:
  - a) Capacity building and providing good working conditions to officials at border points
  - b) Encouraging and implementing a secure whistle-blowing system for corrupt practices

- c) Attracting more resources to implement electronic document transaction systems at all major border crossings and goods clearance facilities.

## **14.0 Closing Remarks**

14.1 In his closing remarks made on behalf of the EAC Director of Trade; Dr. Flora Musonda, Mr. Jean Guy Afrika highlighted the various stages of regional integration for three RECs, COMESA, EAC, and SADC. He emphasized the fact that Non Tariff Barriers remained an urgent priority for SADC, COMESA and EAC and that the evolving nature of NTBs required a dynamic and innovative approach if we were to tackle the problem. He noted that once fully operational, the system was expected to support the operations of the National focal points by improving information flow, enhancing transparency and facilitating the follow up of reported NTBs.

14.2 In his conclusion remarks, Mr. Afrika thanked Member States for the productive discussions, comments and recommendations and reiterated the fact that the fight against NTBs would require further support and cooperation.

In the same vein, he also thanked the Government of the Republic of South Africa for accepting to host the event and for the cordial reception accorded to us since our arrival.

Finally, he closed the meeting and wished the delegates to have a safe journey back to their respective countries.