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COMMON MARKET FOR EASTERN
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Twenty Eighth Meeting of the Trade and Customs Committee
18-20 July 2012

Lusaka, Zambia

REPORT OF THE TWENTY EIGHTH MEETING OF THE TRADE AND CUSTOMS COMMITTEE

(ZK-TM-MP/rmm) 2012

Introduction

1. The Twenty Eighth Trade and Customs Committee meeting was held on 18-20 July 2012 in Lusaka, Zambia. The purpose of the meeting was to consider issues relating to the Customs Union and to undertake a review of its implementation in the transition period with a view to making appropriate recommendations to the next meetings of the Policy Organs; and to consider updates on a number of trade-related issues.

2. The meeting was attended by the following Member States: Congo DR, Djibouti, Egypt, Eritrea, Kenya, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Zambia and Zimbabwe. The AUC and UNIDO were represented. The list of participants is attached at Annex V.

Opening of the Meeting *(Agenda Item 1)*

3. The meeting was officially opened by Mr Stephen Mwansa, the Permanent Secretary in the Ministry of Commerce, Trade and Industry, Zambia. He welcomed the delegates on behalf of the Government and the people of the Republic of Zambia, to the Twenty Eighth Meeting of the Trade and Customs Committee.

4. He pointed out that the three-year transition period was granted at the launch of the Customs Union to allow Member States implement the key Customs Union instruments, namely, the Common Market Customs Management Regulations, the Common Tariff Nomenclature and the Common External Tariff and to identify sensitive products and prepare schedules of national tariff alignment to the COMESA CET within the transition period.

5. He added that the implementation of the Customs Union had not been encouraging as a result of which the COMESA Authority at its Fifteenth Meeting held in Lilongwe, Malawi, in 2011 established a Ministerial Task Force to work with the Member States to finalise the outstanding issues on the same.

6. The Permanent Secretary pointed out that it was important that the difficulties faced by Member States in the process of implementing the Customs Union instruments be understood so that ways of resolving them can be found.

7. The Permanent Secretary chronicled the success that COMESA had achieved in increasing intra-COMESA trade and establishing institutions to support integration. He mentioned the developments in the global economy and their potential impact on regional integration.

8. He pointed out that recent adverse shocks and other developments in the world economy do make a compelling case for COMESA countries to deepen integration and to conduct more business among themselves.

9. In conclusion, he expressed confidence that the meeting would greatly contribute to the region's vision of becoming fully integrated and internationally competitive with free movement of goods and services for the prosperity of all the people of the region.

10. The Secretary-General, COMESA Secretariat, Mr Sindiso Ngwenya, made a statement during the opening session. He expressed his profound gratitude to the Government of Zambia

for accepting to host this important meeting and for the excellent hospitality accorded to all of the participants since their arrival in Lusaka Zambia. He recalled that the customs union was launched in June, 2009 in Victoria Falls during the Thirtieth Summit of Heads of State and Government. A three-year transition period was provided to allow Member States to implement three key instruments, namely: migrating national tariff nomenclatures to the Common Tariff Nomenclature (CTN), domesticating the Customs Management Regulations (CMR) and adjusting national tariff rates to the Common External Tariff (CET) before it fully comes into force in June, 2012.

11. He pointed out that judging by the scoreboard on the implementation of the instruments of the Customs Union, it was clear that the realisation of a functional Customs Union would not be possible this year. It was, however, important to identify the factors that were constraining Member States from executing the regional commitments. He pointed out that among others, countries were not yet ready for a Customs Union due to supply side constraints, infrastructural constraints and the need to have policy space in their trade regimes.

12. The Secretary-General suggested a way forward for the COMESA integration programme. He emphasised that there is need to be pragmatic in the approach. He pointed out that the Tripartite Arrangement with its three pillars of market integration, industrial development and infrastructure development had great potential to integrate economies of our region. The focus should be on increasing the level of intra-COMESA Trade by addressing Non Tariff Barriers (NTBs). He called for a COMESA dedicated session on NTBs. Furthermore, the region should focus on services liberalisation as services constitute 60% of the GDP of the economies in the region; and emphasised the fact that the Trade and Customs Committee should involve the private sector in the meetings so that they can provide guidance in terms of what needs to be done to improve intra-regional trade.

13. He provided figures on intra-COMESA trade which had risen from US $3 billion in 2000 to US $17.3 billion in 2010 and to an estimated US $18.8 billion in 2011. He indicated that Kenya had the largest share of exports while Zambia had the largest share of imports. It was gratifying to note that the bulk of the COMESA trade was in manufactured goods.

14. He ended by hailing the growth in inter-regional trade for instance between COMESA and ECOWAS, which was good for African integration.

Vote of thanks

15. The Head of the Kenyan delegation moved a vote of thanks on behalf of the delegates. He thanked the Government and the people of the Republic of Zambia for the hospitality extended to the delegates since their arrival and during their stay in Lusaka to attend the Twenty Eighth meeting of the Trade and Customs Committee. He thanked the Guest of Honour, Mr Stephen Mwansa, the Permanent Secretary for Commerce, Trade and Industry, Zambia, for his wise words which set the pace for the deliberations of the meeting.

Election of Officers *(Agenda Item 2)*

16. The meeting elected the following Bureau to preside over the meeting:

Chair: **Malawi**
Vice Chair:
Rapporteur: **Swaziland**

Adoption of the Agenda and Organisation of Work *(Agenda Item 3)*

17. The meeting adopted the following agenda:

1. Opening of the Meeting
2. Election of Officers
3. Adoption of the Agenda and Organisation of Work
4. Trade Developments
5. Presentation on UNIDO Investment Monitoring Platform
6. Presentation on the Programme on Clusters

7. Internal Market
    a. Membership in the FTA
    b. Report on Non-Tariff Barriers
    c. The Simplified Trade Procedures
    d. Progress on the implementation of ASYCUDA World in the COMESA region

8. Customs Union
    a. Report of the First Meeting of the Ministerial Task Force
    b. Country Reports on the Implementation of the Customs Union during the Transition Period
    c. Report of the First meeting on Exemptions
    d. Report of the First Meeting of the COMESA/EAC Member/Partner States
    e. Presentation on the COMESA CTN/CET Transposition

9. Trade in Services
10. The Tripartite
11. Brief by the African Union Commission
12. Trade Relations with Third Countries
    a. WTO Negotiations
    b. Progress Report on EPA negotiations
    c. The Africa Growth and Opportunity Act (AGOA)
    d. Report of the meeting on the Common External Trade Policy

13. Intellectual Property
14. Report of the ministerial meeting on science, technology and innovation (for noting)
15. Date and venue of next meeting
16. Any Other Business
17. Adoption of the Report
18. Closing of the Meeting

18. The meeting adopted the following working hours: 0900-1730 hours.

TRADE DEVELOPMENTS *(Agenda Item 4)*

Global-COMESA Trade

19. The meeting took note of the developments in global-COMESA trade in 2011, which grew by 11% from US $244 billion in 2010 to US $270 billion in 2011, according to provisional figures compiled by the Secretariat. Specifically, total exports rose by 9% from US $107 billion in 2010 to US $116 billion in 2011, while imports registered a 12% growth, from US $137 billion in 2010 to US $153 billion in 2011. The growth in both total exports and imports of 9% and 12% respectively was however lower than the corresponding growth for both flows in the previous year of 26% and 16% respectively.

20. As regards to the major export markets for COMESA products, the EU is still ranked number one with exports worth US $46 billion destined to the EU market in 2011, up from US $43 billion exported in 2010, representing a 6% increase. Exports to the EU were primarily petroleum oils and oils obtained from bituminous minerals from Libya. Ranked in position two after the EU was China as a major export market for COMESA products with exports of over US $17 billion in 2011, a slight 2% gain over the previous year's levels. These exports were mainly petroleum oils and oils obtained from bituminous minerals from Sudan and Libya, and Copper and Cobalt from Congo DR and Zambia.

Table 1: COMESA's Major Export Trade Markets , 2001 - 2011, Values in US$M

2011 Rank	Market	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
1	EU	4,727	13,915	17,864	22,840	29,685	38,027	38,053	55,014	34,889	43,308	45,894
2	China	1,010	832	2,116	1,932	3,462	7,000	3,079	12,180	11,659	17,141	17,407
3	COMESA	1,719	2,149	2,145	2,335	3,208	2,970	4,520	6,772	6,621	9,040	9,935
4	Switzerland	277	796	948	1,266	1,823	3,214	3,714	5,791	3,930	4,909	5,823
5	South Africa	1,086	1,418	2,926	2,506	1,785	2,483	3,105	2,529	2,695	4,262	5,717
6	U.S.A	917	1,161	1,516	2,071	3,548	4,865	5,201	6,350	4,285	4,950	4,985
7	U.A.E	123	177	272	305	873	1,272	859	1,586	2,104	3,105	3,359
8	India	323	497	635	548	693	1,948	1,854	2,752	2,401	1,678	2,668
9	Saudi Arabia	189	400	408	524	764	754	903	1,695	1,827	1,973	2,256
10	Turkey	88	773	1,142	1,649	2,161	681	669	1,168	1,236	1,451	1,974

Source: COMSTAT Database and UN COMTRADE Database

21. On the import side still, the EU was ranked number one as major source of imports into the COMESA region. Imports from the EU however remained at levels of US$ 37 billion in 2011, registering a slight growth of 1% over levels in 2010. Ranked after the EU was China, South Africa, the U.S.A and the COMESA region in that order. (See Table 2)

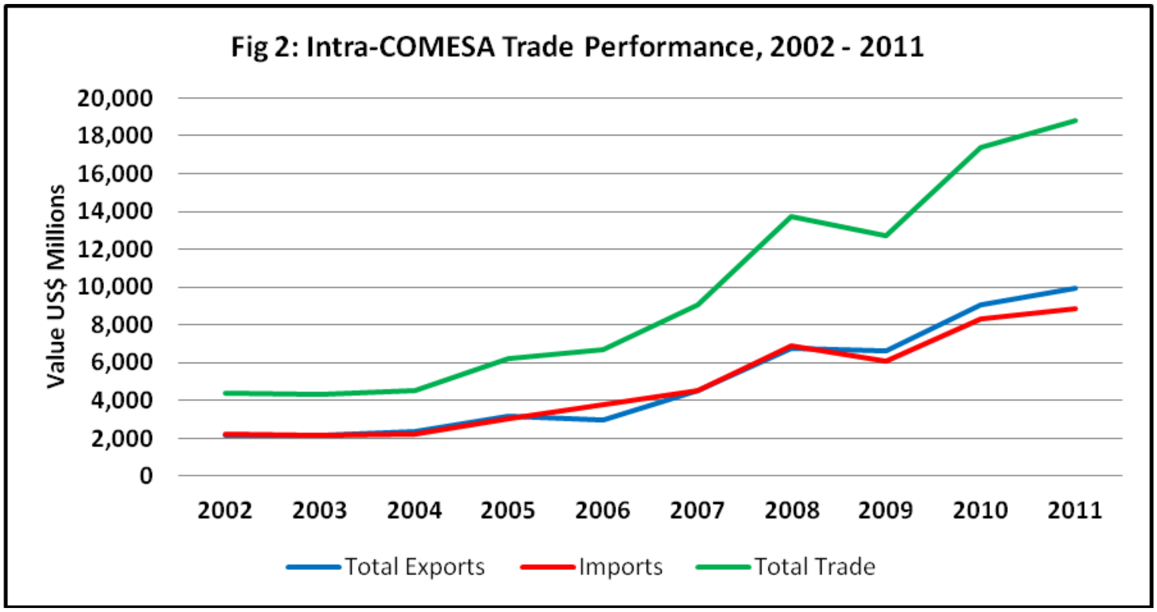
Table 2: COMESA's Major Import Trade Markets 2001 - 2011, Values in US$M

2011 Rank	Origin	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
1	EU	7,748	13,027	11,627	13,667	17,358	18,845	22,470	36,498	34,053	37,432	37,688
2	China	1,284	1,816	2,063	2,686	4,344	5,850	7,873	12,359	12,607	15,856	16,712
3	South Africa	3,306	3,712	3,888	4,979	5,024	4,970	6,727	8,729	7,777	9,483	12,347
4	U.S.A.	3,001	3,870	2,375	2,173	3,150	3,409	4,514	8,358	7,600	7,691	9,651
5	COMESA	1,718	2,218	2,173	2,223	3,046	3,757	4,554	6,932	6,110	8,337	8,886
6	India	975	1,345	1,192	1,612	2,131	2,877	3,565	6,518	5,368	6,197	7,504
7	U.A.E	909	885	932	1,156	2,170	3,089	3,225	5,152	3,621	5,525	6,371
8	Turkey	321	627	629	818	1,381	1,038	1,127	2,853	5,137	4,711	5,680
9	Saudi Arabia	1,347	1,397	1,534	1,534	3,573	4,352	5,320	9,289	4,240	4,895	5,245
10	Japan	1,092	1,590	1,371	1,614	1,949	2,620	3,223	4,721	3,808	4,484	4,568

Source: COMSTAT Database and UN COMTRADE Database

Intra-COMESA Trade

22. With regard to intra-COMESA Trade, the meeting noted that provisional indications were that intra-COMESA trade grew by 8% in 2011 over 2010 levels, from US $17.3 billion in 2010 to US $18.8 billion in 2011 and that major contributors to this growth were Kenya, Zambia, Burundi, Mauritius and Uganda. Fig 1 below depicts the performance of intra-COMESA trade over the period 2002–2011.



Source: COMSTAT Database

23. As far as market share is concerned, Kenya had the biggest market share of 21% for intra COMESA exports. Kenya was followed by Egypt, Zambia and Congo DR with shares of 16%, 12% and 11% respectively. On the import side, Zambia still registered the biggest market share of 18% in 2011, two percent points more than the recorded share the previous year. Zambia was followed by Libya in second position with an intra-import market share of 15.5%. Egypt and Congo DR ranked in third and fourth positions with shares of 9.4% and 9.1% respectively. (See Table 3 below).

Table 3: Intra-COMESA Trade, 2011, Values in US$ millions and % Shares

No	Exporter	Value	% Share	Importer	Value	% Share
1	Kenya	2,061.5	*20.7*	Zambia	1,636.6	*18.4*
2	Egypt	1,622.5	*16.3*	Libya	1,378.3	*15.5*
3	Zambia	1,146.7	*11.5*	Egypt	834.8	*9.4*
4	Congo DR	1,134.3	*11.4*	Congo DR	806.1	*9.1*
5	Djibouti	1,036.7	*10.4*	Sudan	767.9	*8.6*
6	Uganda	955.7	*9.6*	Uganda	659.5	*7.4*
7	Sudan	336.5	*3.4*	Kenya	617.5	*6.9*
8	Libya	334.8	*3.4*	Zimbabwe	462.0	*5.2*
9	Ethiopia	316.8	*3.2*	Rwanda	368.0	*4.1*
10	Malawi	312.4	*3.1*	Ethiopia	289.4	*3.3*
11	Mauritius	188.7	*1.9*	Malawi	225.6	*2.5*
12	Rwanda	151.4	*1.5*	Madagascar	197.3	*2.2*
13	Zimbabwe	150.5	*1.5*	Burundi	157.7	*1.8*
14	Swaziland	94.6	*1.0*	Eritrea	155.5	*1.8*
15	Madagascar	47.1	*0.5*	Mauritius	152.9	*1.7*
16	Burundi	37.8	*0.4*	Djibouti	115.0	*1.3*
17	Comoros	2.8	*0.0*	Seychelles	47.0	*0.5*
18	Seychelles	2.5	*0.0*	Comoros	7.5	*0.1*
19	Eritrea	2.1	*0.0*	Swaziland	7.0	*0.1*
	Total	**9,935.4**	*100.0*		**8,885.7**	*100.0*

Source: COMSTAT Database

24. On the overall, copper ores and concentrates were still the top most exported products in value terms within the COMESA region in 2011 as was the case the previous year. (Table 4 below). Ranked second after the copper ores and concentrates was black tea, previously ranked number one in 2009, 2008 and 2007. Portland cement and refined copper were ranked in the third and fourth positions respectively in 2011. The percentage of intra-COMESA trade to total COMESA trade is still at its 2010 levels of 7%.

Table 4: Intra-COMESA Top Domestic Export Products and Rankings 2011 – 2007								
	SITC	**SITC Descriptions**	**2011 Values USDM**	**R11**	**R10**	**R09**	**R08**	**R07**
1	2831	Copper ores & concentrates	504.5	1	1	3	2	5
2	7414	Other black tea (fermented) & other partly fermented tea,	343.2	2	2	1	1	1
3	66122	Portland cement	264.0	3	3	2	4	2
4	68212	Refined copper	229.3	4	5	6	3	6
5	3330	Crude petroleum	228.2	5	6	438	1,242	1,181
6	77261	Boards, panels (including numerical control panels),	215.0	6	98	93	263	285
7	6111	Cane sugar, raw, in solid form, not containing added flavoring	203.0	7	4	7	7	9
8	28793	Cobalt ores & concentrates	197.6	8	7	12	508	591
9	52255	Cobalt oxides & hydroxides; commercial cobalt oxides	158.7	9	9	90		1,842
10	449	Other maize, unmilled	156.6	10	66	291	23	4
11	6129	Other beet/cane sugar in solid form, other than flavoured	138.5	11	12	14	20	10
12	1211	Tobacco, not stemmed/stripped	127.5	12	13	5	6	12
13	72333	Tamping machines & road rollers, self-propelled	120.6	13	304	464	848	506
14	3425	Butanes, liquefied	120.4	14	11	11	31	7
15	42229	Palm oil, refined, & its fractions	102.6	15	16	26	25	22
16	7111	Coffee, not roasted, not decaffeinated	98.2	16	20	16	10	15
17	1222	Cigarettes containing tobacco	95.5	17	15	10	8	11
18	119	Bovine animals, live, other than pure-bred breeding stock	86.9	18	40	148	157	76
19	2225	Sesame (Sesame) seeds	83.9	19	19	20	12	68
20	67133	Ferrous products obtained by direct reduction of iron ore	79.3	20	17	63	22	2,110

25. In discussing this agenda item, the Member States raised the following points:

a. The need to separate trade figures by the preference used;
b. The need to have the macro-economic figures; and
c. The Secretariat advised that the figures were provisional and could change when updated.

26. In response, it was pointed out that the Secretariat was working with revenue authorities in Member States to separate trade by preference utilised.

27. The meeting welcomed and noted the presentation on trade developments.

Presentation on UNIDO Investment Monitoring Platform *(Agenda Item 5)*

28. A representative from the United Nations Industrial Development Organization (UNIDO), made a presentation on the UNIDO Investment Monitoring Platform. He highlighted that UNIDO supports African countries with investor surveys and technology to monitor their investment environment. Among the countries surveyed in the last round were eight COMESA countries, namely: Burundi, Ethiopia, Kenya, Rwanda, Madagascar, Malawi, Uganda, and Zambia. To this end, UNIDO has developed an online investment-related information and management platform, the Investment Monitoring Platform (IMP), which can be made available to individual countries and groups of countries such as the COMESA region.

29. The IMP is an instrument that helps to quickly research different types of investors, their performance and development impact. It establishes a common data source for the different stakeholders in the arena of investment and unites them to promote investment and business development. The IMP offers participating government authorities, private sector associations, business enterprises, financial institutions, development organizations, and civil society organizations access to an array of primary data and analysis not available elsewhere. The platform allows users to easily learn about business activity in Africa and independently carry out primary research using firm-level data available on the platform through an easy-to-use toolkit of intuitive data visualization instruments.

30. The IMP enables national authorities to analyze activities, performance, and investor perceptions of firms operating in their respective countries. It facilitates comparing the benefits of different types of investment for host economies through a variety of impact indicators such as employment growth, expenditure on training and technological upgrading, or on development of domestic suppliers. Moreover, the platform permits analysis of company responses to changes in the business and economic environment. Through particular investor perception variables, it allows users to monitor changes in firms’ assessments of the investment climate and future investment plans.

31. The IMP features a simple and effective online workflow tool, which permits investors to directly connect to national Investment Promotion Agencies (IPAs), and gives the latter the opportunity to swiftly reply to those requests with reports generated from the Survey data. This addresses the critical issue of response time, which is of essence in handling investor inquiries. The platform thus facilitates improved support of investors in their decision-making and changes the modus operandi from formal and typically more general correspondence to evidence based provision of key information on relevant aspects of the investors’ decision making.

32. The IMP can be easily used to serve as a technical solution for a future COMESA Investment Observatory. In order to periodically update the data on the IMP, a survey programme covering all COMESA countries with a standardized questionnaire should be introduced. UNIDO is ready to serve as a survey system provider and hosting institution for data and provide support to the survey team leaders in each country. National statistical offices or other agencies operating local enumerator networks should be asked to make the investor survey part of their regular annual statistical programme. This would facilitate low-cost systematic, homogenous data generation on investment activities in all COMESA countries. As a result, regional policy advocacy and also the design of high quality joint investment promotion, supplier development, and industrial cluster strategies by all COMESA countries will become possible.

33. Finally, the presenter pointed out that the IMP system permits the COMESA Member States and its Secretariat to analyze investment trends and integration effects, and identify investor types of the highest quality in terms of employment creation, skills development, and domestic supplier linkages.

34. In its intervention, the representative of the African Union Commission (AUC) informed the Meeting that the presentation on the IMP is in line with the African Union programme on Accelerated Industrial Development in Africa which was adopted by the African Union Heads of States and Government in 2008. The representative further informed the meeting that following a meeting of RECs, (which was attended by COMESA, SADC, ECOWAS EAC and ECCAS) the AUC and UNIDO on the tool, it was agreed that given the various advantages of the tool, is was ideal that its implementation be scaled up beyond the pilot phase and ensure regional ownership at the implementation level. On this background, the AUC expressed its appreciation to the COMESA Secretariat for the leadership and its involvement in this strategic project.

35. The meeting noted the presentation.

Presentation on the Programme on Clusters *(Agenda Item 6)*

36. The meeting noted that the COMESA Secretariat was working to promote value addition by supporting the formation of national and regional clusters in agro processing, clothing and footwear subsectors, as a mechanism of boosting job creation, intra-regional trade and poverty alleviation. The meeting however noted with concern that Micro, Small to medium Enterprises (MSMEs) in the COMESA region were constrained by inadequate skills, use of inappropriate technology, poor networking, high geographical dispersion and limited access to finance. The meeting therefore appreciated the fact that the proposed cluster initiative sought to address both the production, marketing and intra-regional trade constraints in a pragmatic way.

The Rationale for the Cluster Development Programme

37. The meeting noted that the COMESA Secretariat was motivated to initiate the Cluster Development Programme because there is a large body of empirical evidence in both developing and advanced countries that showed that firms located in clusters are more innovative, pay higher wages, and achieve greater productivity than firms that are geographically isolated. When firms and related organizations are situated in physical proximity to each other, they have more interaction than geographically dispersed firms leading to increased efficiency and quality through:

a. Competition - Local rivalry can spur companies to better performance. When similar companies are located near each other, differences become more noticeable.
b. Relationships - Personal relationships facilitate the flow of information. In clusters, there tend to be strong informal networks where specialized knowledge is dispersed quickly through business transactions, social activities and other casual interactions;
c. Reinforcing growth - Once a critical mass of cluster activity develops, the attractiveness of locating in the cluster increases rapidly, which accelerates the cluster’s growth. This is a typical case of Merkato Cluster in Ethiopia and other Clusters that are currently mushrooming in Ethiopia. Globally countries like Italy

and India have towns such as Santa Crochie and Kanmpur dominated by the leather industry respectively; and

d. Clustered enterprises can achieve levels of competitiveness that reach beyond the potential of individual enterprises because firms within clusters benefit from collective efficiency gains, i.e. the competitive advantage derived from local external economies and joint action.

38. Regarding individual MSMEs the meeting noted that such enterprises were not in a position to address the issues affecting their competitiveness on their own by being in relative isolation and smaller in size. It would not also be feasible for any support service institution to address the issues at firm level in view of the large numbers of SMEs. In this connection clusters would offer critical mass for the customization of SMEs services.

39. The meeting further noted that the cluster initiative would have a great impact on the livelihoods of many people in the region over a very short period of time if appropriate actions that are aimed at addressing production and marketing constraints were implemented at a micro level. The meeting however noted that the Secretariat had observed that most industrial development policies were pitched at a macro level in Member States and were completely de-linked from the MSMEs clusters. This was equally true of most Government Departments and other support services' institutions. This had undermined significantly on the growth potential of these clusters, which were operational in many cities and peri-urban areas across the COMESA region.

40. Therefore the Cluster intervention seeks to address the identified gaps through the following practical and results-oriented interventions:

a. Support the building of the missing links between the MSMEs clusters and relevant support institutions;
b. Cooperate with national and regional financial organisations to design and deliver customised finance products;
c. Build the skills capacity of enterprises, to ensure the production of quality products, that meet the technical specifications of major clients such as government, mining houses and other institutional buyers;
d. Offer a tailor made business training course, through a participatory process, given the low levels of formal education of most of the enterprises;
e. Promote collaboration among SMEs, as a mechanism of developing joint production and marketing in order to meet the critical mass; and
f. Provide centralised working premises with all the necessary infrastructure links.

41. The meeting noted that the clustering approach provided a platform that could enhance the competitiveness of MSMEs making it possible for them to produce goods and services for national, regional and International markets. The work would be piloted in the following sub-sectors with the aim of up-scaling to other sectors:

a. Leather- footwear and leather goods;
b. Textile and clothing; and
c. Agro foods – roots and tubers, fruits and vegetables

42. The meeting appreciated the fact that MSMEs hold a promising potential for industrial development if supported and directly linked to public procurement/tender for the police, military,

hospitals, work wear for hotels, mines and security firms. This, the meeting agreed could create thousands of jobs and at the same time save the country foreign exchange used to import such items. The meeting further agreed that the clothing cluster if well supported could create the critical mass needed for backward linkage into fabric making, spinning, ginning and cotton production.

43. The meeting noted these initiatives on cluster development and considered supporting them through national policies and laws designed to assist the development of MSMEs through public procurement and establishing industrial parks where the clusters could be located.

44. The meeting noted the presentation.

INTERNAL MARKET *(Agenda Item 7)*

45. The meeting received a report on the COMESA Internal Market. The presentation first dealt with the overall development approach to integration in COMESA.

Developmental Approach to Integration

46. With regard to the developmental approach to integration, the meeting noted that the FTA regime had been supported by robust programmes on infrastructure development; development of industrial clusters especially for textile and garment, footwear, and agricultural products; market information; value addition; and ensuring the effective functioning of the FTA especially through speedy redress of non tariff barriers.

COMESA Business Council

47. The meeting welcomed the activities of the COMESA Business Council and supported the CBC's good working relationship with the Secretariat to backstop Member States in the following key programmes:

a. Establishment of a Business Visa System to facilitate movement of business persons, under the COMESA instruments on visa relation and free movement of persons;
b. Addressing the issue of visa fees levied on COMESA business persons;
c. Establishment of a system of a "COMESA Label" for products that originate in the Member States in accordance with the Rules of Origin; this is designed to improve the branding and image of products produced in the COMESA region and to further promote a seamless COMESA market for originating products.

48. Member States noted these programmes and encouraged the Secretariat to continue working closely with the COMESA Business Council and private sector associations to assist facilitate business in the region. The meeting noted that the programmes of CBC should be considered by the relevant technical committees.

Agriculture

49. The meeting noted that agricultural programmes assist rural economies through provision of equipment and skills training and that 10 COMESA Member States (Burundi, Congo DR, Ethiopia, Kenya, Malawi, Rwanda, Seychelles, Swaziland, Uganda, and Zambia) have now

concluded CAADP Compacts and six of these (Burundi, Ethiopia, Kenya, Malawi, Rwanda, and Uganda) had prepared agriculture investment plans and held the follow-up business conferences. The CAADP compacts provide frameworks for organising all relevant stakeholders and for resource mobilisation to assist the development of the agriculture sector, including the utilisation of the regional market access opportunities for agricultural products.

Infrastructure

50. The meeting noted that COMESA infrastructure programmes covered transport, energy, and ICT and that overall road network in COMESA increased by 8.8% between 2000 and 2009. The meeting further noted that under the Tripartite Arrangement, COMESA was working closely with EAC and SADC to improve infrastructure. At the Tripartite-IGAD Conference held in September 2011 in Nairobi, a total of about US $8 billion was realised as committed for various infrastructure projects. This followed on the Infrastructure Conference of April 2009 in Lusaka which raised US $1.2 billion in pledges. Energy and ICT regional policies and model laws have been prepared and adopted by the last meetings of the Policy Organs. Master plans have been prepared for these three sectors under the framework of the Tripartite Arrangement.

51. Trade facilitation programmes have been developed to reduce the cost of doing business. Apart from transit trade and road standards programmes, COMESA has advanced its work on services liberalisation, beginning with the four priority sectors of transport, communication, financial and tourism services.

Integration milestones

52. The meeting appreciated the performance of the internal market which has provided a solid basis for taking forward the COMESA regional integration programmes in accordance with the milestones set out in the Treaty, namely, FTA, Customs Union, Common Market, Monetary Union and Economic Union. To promote industrial development as a critical development priority of COMESA Member States, it is poignant to have a regional industrial policy that assists the development of national and regional industries, so that capacity to benefit from the FTA is steadily enhanced. To this end, the COMESA Customs Union has been designed to provide a tariff structure that allows competitive access to capital and raw material products entering at 0% duty rate, while affording a duty rate protection of 25% for finished products.

Tripartite

53. The meeting agreed to continue working tirelessly to implement the Tripartite FTA, initiated by the Heads of State and Government of the three RECs who agreed to establish a Tripartite FTA and eventually a Tripartite Customs Union. The meeting understood that the Tripartite FTA will cover trade among all the 26 countries in the Tripartite Arrangement, while the customs unions in the region would apply only to trade with third countries that are not members of the Tripartite Arrangement. The good performance of the RECs in their trade liberalisation programmes, including COMESA, would continue to provide a solid basis for the Tripartite FTA and Customs Union.

***Membership in the FTA** (Agenda Item 7a)*

54. The meeting noted the Council Decision of October 2011 that Member States that are yet to join the FTA should provide a time table for joining the FTA, unless they will be completing the elimination of customs duties in one step. In this regard, only D R Congo and Uganda have given indication that they would join the FTA at one go whereas Ethiopia and Eritrea were yet to indicate when they would be ready to join the FTA.

DR Congo

55. The delegation of the DR Congo appreciated the technical support given thus far to that country by the Secretariat in its bid to join the FTA. The meeting appreciated the steps so far taken by the Government of the DR Congo to join the COMESA FTA including the initiative to undertake nationwide sensitization workshops on the imminent participation by that country in the FTA.

Eritrea

56. The meeting acknowledged the Secretariat's efforts in supporting the State of Eritrea to build the capacity of Customs to implement the FTA and other trade related programmes; and urged Eritrea to consider taking a high level decision on its membership in the FTA. Eritrea too acknowledged the Secretariat's efforts and requested for more technical assistance with issues of the Rules of Origin, Euro-trace, Wide Network Area (WAN) and other capacity building activities that can assist it to expedite joining FTA.

Ethiopia

57. The meeting noted that a study to address key areas including the macro-economic framework for competitiveness, trade and investment, industry, agriculture, and agro-industries competitiveness and Institutions, and infrastructure had been undertaken in 2011 and urged Ethiopia to expedite the validation of the study with a view to implementing the study findings.

Uganda

58. The meeting called on Uganda which had made significant progress by reducing its MFN rates on the COMESA originating products by 80%, to complete the process of eliminating the remaining 20% and participate in the FTA preferably by the next summit.

South Sudan

59. As regards South Sudan the meeting noted that the country would become a Member of COMESA through accession to enable it to join the COMESA FTA. The meeting further noted that the Secretariat has planned to undertake capacity building programmes to enable the Government of South Sudan to implement COMESA programmes.

Swaziland

60. The meeting noted the Decision of the Twenty-Eighth Council that the derogation to Swaziland be extended beyond December 2010 and that it be linked to the establishment of the Tripartite FTA when Swaziland would participate in the Tripartite FTA was still in force.

Discussion on the FTA Status

61. In the discussion, the committee recalled that the status of non-FTA countries had not changed for the past many years and raised concern that the non participation of these Member States in the FTA was depriving the region of a large market given the large population size of those countries. The meeting further noted the various technical support initiatives undertaken for these countries including the carrying out of impact assessment studies for some of these Member States.

62. The meeting noted that there were mechanisms at Member States' disposal to deal with fears of revenue losses including the COMESA Fund, as well as safeguard measures that protect infant industries; and called for utilization of the same.

63. The meeting noted that the FTA has given impetus to the rise in values of intra-COMESA trade from US $3 billion in 2000 to US $17.3 billion in 2010 but stated that the growth of 7% was low compared to 25% in other RTAs and attributed this to the low level of trade promotion activities such as tailor made COMESA sealed trade exhibitions.

Recommendations

64. **The meeting recommended that:**

a. **Uganda be urged to expedite the internal processes for joining the FTA preferably by the next Summit;**

b. **Ethiopia be urged to complete the national consultations and commence the tariff phase down process during the next financial year, and adopt measures on improving competitiveness with the possibility of resorting to safeguard measures as may be appropriate;**

c. **DR Congo be commended for taking the decision to join the COMESA FTA and be urged to finally adopt the necessary legislation, now before Parliament, for joining the FTA if possible by the next Summit;**

d. **Eritrea be urged to upscale its efforts and complete the process of joining the FTA, and the Secretariat should provide Eritrea with the necessary technical support relating to rules of origin, Euro-trace and other programmes;**

e. **The Secretariat holds consultative meetings with the said countries to assist in the process to joining the COMESA FTA; and**

f. **The Secretariat should establish a unit on Trade Promotion which should work closely with Trade Promotion organisations of Member States to**

upscale trade promotion activities including the holding of COMESA sealed trade exhibitions;

g. **The Secretariat should hold national and regional stakeholder workshops on rules of origin; and**

h. **The Secretariat should expeditiously write a letter to all Member States advising that Egypt is now implementing the 35% threshold on the value addition criterion as was reported by Egypt at the Thirtieth Council meeting.**

REPORT ON NON-TARIFF BARRIERS *(Agenda Item 7b)*

65. The meeting received an update on the situation on NTBs in the region as indicated in the Table 5 below which shows NTBs that were reported in the period 2011-2012 and the status on their elimination. The meeting was concerned that although the table shows that a number of NTBs were removed, there was a substantial number of outstanding NTBs, some of which had been outstanding for more than two years and called on the affected Member States to expedite their removal.

66. The concerned Member States made interventions on the NTBs indicating the steps being taken, as shown in the remarks and action columns also in Table 5 below:

Table 5: NTBs Reported in the 2011-2012 Period

Reported NTBs and Type	***Reporting Country***	***Imposing Country***	***Status of Elimination***	***Remarks***	***Required Action /Resolution Method***
Fridges and Freezers-Rules of Origin	Swaziland	Zimbabwe	Pending	Zimbabwe informed the meeting that information requested from Swaziland to enable finalization of this matter had not been provided yet	Provision of technical opinion after analytical work by Secretariat (this work is on-going) Swaziland to provide the required information
White sugar and LG electronics-Rules of Origin	Egypt	Kenya	Pending	Kenya requested for a verification mission	Egypt informed the meeting that it had proposed dates for the verification mission. Secretariat to provide technical support

Pure palm - based cooking oil- Rules of Origin	Kenya	Zambia	Pending	Zambia requested Kenya to provide additional information to facilitate resolution of this matter.	Kenya to provide additional Information to Zambia.
Milk and Milk products-SPS and Standards	Kenya	Zambia	Partially resolved	On yoghurt and other milk products, issues related to standards compliance by Kenya are yet to be resolved. Kenya requested Zambia to provide them with the Zambian milk standards as per their March 2012 Joint Consultative Commission meeting conclusions.	Secretariat is following up on Zambia with a view to facilitating the study mission by Kenya. Ministry of Commerce (Zambia) has advised that the matter is with the Ministry of Cooperatives and Agriculture. Zambia undertook to respond by end of the meeting as regards dates of the mission and Standards. The Secretariat will approach Zambia for a copy of the standards and transmit it to Kenya expeditiously
Soap- Rules of Origin	Mauritius	Madagascar	Partially resolved	Mauritius stated that it had no objection to the Secretariat's proposal to engage an independent international costing expert	Secretariat is following up on Madagascar with a view to obtaining consent to engage an independent international costing expert.
Tea on transit – Border taxes	Uganda	Kenya	Resolved	Kenya clarified that it does not charge any fees on transit cargo and so it was necessary for such cargo to be appropriately declared as such.	This was resolved during the 2nd Tripartite Focal Points meeting in Nairobi.

Plastic footwear-Rules of Origin	Zambia	Zimbabwe	Resolved	Zimbabwe and Zambia have agreed to include the product in the list of STR traded items.	Was resolved during the national capacity building workshop in Harare after consultations among the Focal Points.
Ban on buses to cross Kariba dam-Inadequate trade related infrastructure	Zimbabwe	Zimbabwe	Resolved	The ban has since been lifted to allow buses and small commercial trucks of up to 11 tonnes to cross the bridge	Was resolved through Consultations among the Focal Points
Border delays at Vic Falls weigh bridge due to incorrect weights at the weigh bridge	Zambia	Zimbabwe	Resolved	The weigh bridge has since been calibrated by Zimbabwean authorities (standardized) and no more reports have been received after the calibration.	Was resolved through consultations among the Focal Points

67. The meeting noted the NTBs reported using the Tripartite On-line Reporting and Monitoring Mechanism, as set out in Table 6 below:

Table 6: New NTBs reported on the On-Line Reporting System

NTB Type & No.	Complaint	Reporting Country	Imposing Country	Status
000-426 Bans	Ban on importation of day old chicks	Zimbabwe-Ministry of Agriculture	Zimbabwe	New
000-427 Bans	Ban on importation of Potatoes by	Zimbabwe-Ministry of Agriculture	Zimbabwe	New
000-457 Transit charges	Charges for carbon tax and insurance affecting our travelling costs that needs to be removed for easer movement	Zimbabwe	Botswana	New

68. The meeting noted the status summary on NTBs reported on the on-line system as at end of March 2012 as follows:

a. Total NTBs reported by and in 19 COMESA Member States were 216;
b. Total resolved to date was 155 representing 71.8% of the reported NTBs;
c. Total outstanding NTBs but under processing were 53 representing 24.5%. and
d. Total outstanding new complaints, where processing had not yet commenced were 7 which represented about 3.7% of total NTBs reported.

Discussion

69. In the discussion that followed, Zimbabwe reported that it bans importation of potatoes from time to time in particular during the tobacco season to protect that crop (tobacco) from nematode, justified as an SPS measure. On the ban of day-old chicks, Zimbabwe informed the meeting that the import quota was effected to protect the local industries which are recovering and consolidating their production.

70. Zimbabwe further informed the meeting that a formal notification to that effect will be sent to the Secretary-General by 28 July 2012.

71. Seychelles reported that it has been experiencing some difficulties exporting to the COMESA region due to certain testing requirements. Seychelles added that she is a small island state with limited capacity and suggested that there should be alternative ways of complying with these requirements.

72. The Secretariat informed the meeting that the issue of Seychelles concerned a recent export to Kenya of oak door frames. Seychelles did not meet the PVOC requirements Kenya has in place; therefore, the goods were held at the Port of Mombasa pending destination verification, which resulted in the exporter incurring port charges and high costs.

73. Kenya informed the meeting that their standards expert was not present and that it will communicate a response to the Secretariat by 27 July 2012.

Recommendation

74. **The meeting recalled and reiterated the Treaty provisions as well as Council Decision that NTBs should be removed within a period of 90 days and urged those Member States with outstanding NTBs to remove them.**

Draft NTB Regulations

75. The meeting took note that the Draft NTB Regulations have been considered by the Trade and Customs Committee and the Policy Organs a number of times already, and that it is high time that they are definitively finalized so that they can be used by Member States in dealing with NTBs. Furthermore, the meeting noted that Council, at its Thirtieth Meeting held in October 2011 in Lilongwe, noted the Draft Regulations and called for resolution of the few outstanding controversies on some draft provisions, especially the clause providing a formula for calculating the amount of compensation due to the party suffering consequences of the NTBs. The meeting further recalled that at its Twenty Seventh Meeting in Mbabane, the Trade and Customs Committee reached consensus on most of the provisions, except the penalty clause.

76. The meeting considered the Draft NTB Regulations attached hereto as Annex 1 that had been revised taking into account the comments provided so far by Member States, in order to address the remaining controversial issue especially that of the penalty clause.

Discussion

77. Notwithstanding the foregoing, the meeting noted that some Member States had submitted fresh comments after the meetings of the Policy Organs in October 2011 in Lilongwe, despite the fact that the controversial clauses, especially the one providing a formula for calculating the amount of compensation due to the party suffering consequences of the NTBs had been removed from the version that was circulated to Member States by the Secretariat.

78. The meeting recalled that Council at its Thirtieth Meeting directed that a working group on NTBs meeting be convened to address and finalize the outstanding contentious issues before submitting the draft Regulations to the Policy Organs for adoption. In this regard, the meeting agreed that there was need to subject the draft regulations to scrutiny by the legal and trade experts before the same is passed over to the Policy Organs as per the Council Decision. As regards holding of the proposed meeting, the Secretariat expressed regret that due to budgetary constraints, it would not be possible to fund the participation of delegates to this meeting but was however ready to convene it at Member States' expense.

79. The meeting agreed that the proposed experts meeting be held at Member States' own expense.

Recommendations

80. **The Committee recommended that:**

a. **A special meeting of legal and trade experts/focal points on NTBs be held in September 2012; and Member States fund the participation of their experts.**
b. **The comments submitted by the Member States after the October 2011 meetings of the Policy Organs be removed and the version considered by the Policy Organs be presented to the experts' meeting of September;**
c. **Experts should consult widely before coming to the meeting to facilitate finalization of the Regulations; and**
d. **The Secretariat should circulate received comments to all the Member States by the first week of August 2012.**

THE SIMPLIFIED TRADE PROCEDURES *(Agenda Item 7c)*

81. The meeting considered reports from Member States on the progress made in the reduction of processing fee for STR entries to under US $1; the raising of the STR threshold from US $500 to US $1000; and the review of the common list of products in consultation with small traders and border officials.

82. The meeting thanked the EU, USAID, and the German Government for the support being given to the Trade Information Desks in the Member States and the Secretariat for the single STR document, which had been distributed to selected border posts for use.

83. The meeting noted that the Secretariat had convened the first meeting of experts on Sanitary and Phyto-Sanitary (SPS) in Zimbabwe on 06-07 October 2011 which deliberated on activities seeking to simplify SPS procedures in order to allow smooth clearance of agricultural goods by small scale traders in the region. The Secretariat is currently in the process of addressing the priority activities as identified by the meeting which include the implementation of the Green Pass system.

84. The meeting noted that COMESA and the World Bank are working jointly to elaborate some minimum standards of treatment for small scale cross border traders, as a way of dealing with NTBs and in some cases the inappropriate treatment that these traders face. Member States agreed to provide appropriate inputs in the exercise of preparing the regulations.

85. The meeting commended the Secretariat for initiating the Passenger/Cargo manifest system (the concept note is attached as Annex 2) which would support small scale trade data capture by governments and small scale trader associations in collaboration with bus operators. This initiative will complement and be tried alongside the implementation of the STR, which is currently under improvement.

86. Malawi informed the meeting that the TIDO in Mwanza had not been established and wanted to know when it will be done. In addition, Malawi inquired about the status of the launch of the STR between Malawi and Zimbabwe. The Secretariat responded that these activities have not been done due to lack of funding.

87. The meeting was reminded that in accordance with the Council Decision, Kenya had requested the Secretariat to facilitate a meeting to finalise the common list of products to be traded between Kenya and Ethiopia and specifically industrial products from Ethiopia.

Recommendations

88. **The Committee recommended that:**

a. **Member States should replenish STR documentation in all border areas as appropriate to allow smooth implementation of the programme;**
b. **Member States advise the Secretary-General by letter on the status of their implementation of the Ministerial Decisions on the STR; and**
c. **Member States support the implementation of the Passenger and Cargo Manifest System for small scale traders' data capture.**

Progress on the implementation of ASYCUDA World in the COMESA region *(Agenda Item 7e)*

89. In 1993, the Council of Ministers recommended to its Member States the adoption of the Automated System for Customs Data (ASYCUDA) developed by the United Nations Conference on Trade and Development (UNCTAD). Today 16/19 of COMESA's member countries use ASYCUDA. Since that time, COMESA has been assisting its Member States to support and maintain their Automated Customs systems.

90. The meeting noted that in 2010 the Council of Ministers recommended to the Member States to migrate to the latest version of ASYCUDA (ASYCUDA World) and so far 8/16 of the

countries using ASYCUDA in the COMESA region were migrating or had already migrated to ASYCUDA World.

91. The meeting was informed that the following countries are using ASYCUDA++ and have not started implementing ASYCUDA World: Burundi, Comoros, Eritrea, Ethiopia, Madagascar, Malawi, Swaziland and Zambia.

92. The meeting was also informed that the following countries are using ASYCUDA++ and have started to implement ASYCUDA World: DRC, Rwanda, Seychelles, Sudan and Uganda.

93. Finally the meeting was informed that Djibouti, Libya and Zimbabwe are using ASYCUDA World and that Egypt, Kenya and Mauritius use other non ASYCUDA Customs systems.

94. The meeting commended the COMESA Secretariat for setting up a support center to assist the Member States in all ICT Trade Facilitation areas (including ASYCUDA World) and encouraged all the Member States to update the Secretariat on their ASYCUDA migration projects.

Recommendation

95. **The meeting requested the Secretariat to continue to support Member States requiring support in migrating to ASYCUDA World and encouraged Member States to work closely with the Secretariat to update their ASYCUDA migration project.**

THE CUSTOMS UNION *(Agenda Item 8)*

96. The meeting received an update on the progress for the implementation of various activities during the transition period in preparation for the operationalisation of the COMESA Customs Union by 01 June 2012.

97. The meeting recalled that a roadmap setting out what constitutes a Customs Union was agreed and that five key elements to form the major milestones for the road map were identified as follows:

a. The internal market
b. The regime on external trade
c. Free circulation of goods
d. International obligations; and
e. Resources.

98. The meeting noted that the five key elements have been the major areas of focus for implementation during the three-year transition period. The meeting further noted that at the review of the implementation of the transition period by the Committee on the Customs Union, progress on each of the elements was examined and reported on to the Policy Organs.

Free Circulation

99. The meeting noted that for the Customs Union to be fully operationalised one key element that needs to be considered is the free circulation of goods. In this regard, the meeting

expressed the need reach agreement in the medium and long term period on various issues namely**:**

a. Clearance of goods (at first point of entry or in the country of final destination);
b. Revenue sharing mechanism (how to share the revenue from the customs duties);
c. Other taxes (value added tax and sales tax on goods traded between Member States);
d. Enforcement of prohibitions and restrictions (at regional level or each country enforce its own);
e. Provisions for mutual recognition of standards and controls; and
f. Provisions for trade in goods across borders, or also for trade in services and movement of people.

100. The meeting appreciated the fact that although free circulation would be attained in the medium to long term period, faster progress would be made when the CET is in place, and if the COMESA Regional Payment and Settlement System will be used for revenue collection and transmission. The meeting noted that free circulation would render the use of Rules of Origin inapplicable for trade within the Customs Union but that as far as there continued to be lists of sensitive products in the Customs Union, rules of origin will be necessary.

REPORT OF THE FIRST MEETING OF THE MINISTERIAL TASK FORCE *(Agenda Item 8a)*

101. The meeting received the report (attached as Annex 3) of the first Ministerial Task Force held in February 2012 and noted that the Task Force reviewed progress and took decisions on the transition period and the commencement of the Customs Union. The meeting took note of the score card on the status of implementation of the transition period in terms of domestication of the key instruments, by each Member State.

102. **The committee took note of the decisions of the Ministerial Task Force**.

COUNTRY REPORTS ON THE IMPLEMENTATION OF THE CUSTOMS UNION DURING THE TRANSITION PERIOD *(Agenda Item 8b)*

Progress on Outstanding Issues

103. The meeting recalled that when the Customs Union was launched, there were several outstanding activities as set out in the roadmap that was adopted. Among the outstanding activities were the following:

a. Domestication by Member States of the COMESA Tariff Nomenclature (CTN);
b. Submission by Member States of their Final Lists of Sensitive Products;
c. Submission by Member States of their Final Lists of Excluded Products;
d. Submission by Member States of their Tariff Alignment Schedules for aligning their national tariff rates to the CET rates;
e. Domestication of COMESA CET by Member States;
f. Domestication of the Customs Management Regulations by Member States; and
g. Any other outstanding issues related to the Customs Union.

104. The meeting further recalled that Member States were expected to implement the above-mentioned activities during the transition period and also to provide progress reports on their implementation. The meeting also recalled that Member States gave their implementation reports during the Meeting of the Committee on the Customs Union held to review the implementation of the transition period and that each Member State had indicated final dates within which they would give final positions on the implementation of the activities.

105. The meeting noted that the four EAC Member States namely Burundi, Kenya, Rwanda and Uganda had informed the meeting that they would submit a common final list of sensitive products and that they would use the version produced by Kenya.

106. The meeting considered the score for each Member State for each activity as indicated in Annex 1 to the Report of the First Meeting of the Ministerial Taskforce and that the Ministerial Task Force had set new deadlines for Member States to submit updates to the Secretariat and take action as follows:

a. 30 June 2012 for the migration and Gazetting of the CTN;
b. 01 July 2012 for Gazetting and implementing the complete CET, or by 1 January 2013 to take into consideration different budgetary cycles of the Member States;
c. 01 July 2012 for Gazetting and implementing the CMRs without tax exemption regimes, or by 1 January 2013 to allow finalization of the tax exemption regimes; and
d. Member States to notify the Secretary-General of their participation in the Customs Union in accordance with Regulation 33 of the Council Regulations Governing the COMESA Customs Union.

Discussion

107. In the discussion, the Committee noted that the new dates set for the implementation of the Council decisions had been overtaken by events. In this connection the meeting agreed that the transition period be extended for a further two years as earlier decided by the Council at the launch of the Customs Union. The meeting felt that this would give ample time to the Member States to review progress on the various Council Decisions and to adjust their policies where possible to effect the implementation of the Customs Union.

108. As regards the proposal to postpone the Customs Union in favor of the Tripartite Agenda, the meeting recalled that this matter was presented to the 30th Council meeting in Malawi and the Council decided that the two agendas namely the COMESA Customs Union and the Tripartite had to be implemented in tandem. The decision of the Council is as cited at paragraph 229(b) of the report.

109. The meeting noted that Malawi was the only country that had submitted its final lists of sensitive and excluded products.

110. Mauritius reiterated its position that the study on the substantial tariff lines below the CET be completed before the country submits its final lists of sensitive products. That way, the Member State will join the Customs Union without requiring policy reversal.

111. Rwanda proposed that a special team to beef up the Ministerial Task Force Agenda be established. The team will follow up the activities in each Member State; identify and understand the difficulties encountered and propose pragmatic solutions to these difficulties.

112. Egypt reiterated its position reported during the Ministerial Task Force that as a result of the revolution in that country, there was an ongoing transition process that involved the establishment of institutions and that this process would take time. They, however, affirmed committed to implementing the COMESA integration agenda particularly the COMESA Customs Union. Egypt further stated that the country had undertaken national consultations through a Special Task Force, which included experts from trade, customs, the private sector and the civil society. They said that the consultations had indicated that increasing the tariff rates on food items (covering 247 items) currently at 5% duty, there would be an increase in the consumer prices of food. Furthermore, increases of 5% duty on intermediate products would have a negative impact on industry competitiveness. Egypt further reported that the consultations had reached an advanced stage in the area of comparing the Egyptian tariff with the CET.

113. This underlined the importance of further consultations on the 5% and tariff below CET. For the 5% study; the policy options proposed are very strategic as there are 1,925 tariff lines at 5% and 1,514 of them need to be raised either to 10% or 25%.

114. Egypt is therefore still waiting for the outcomes of the study on tariffs below the CET. The policy options that the study will come up with will be connected to those that came from the 5% study and these will determine the lists of sensitive and excluded products, thus helping Egypt to deal with the difficulties on the CET. On the CMRs a special working group has been established to identify the differences between the national regulations and the CMRs, and good progress has been made.

Recommendations

115. **The meeting agreed to recommend to the Policy Organs that:**

- **a. The transition period for the Customs Union be extended for a further two years;**

- **b. Member States complete migration and Gazette the CTN during the two-year transition period;**

- **c. The studies on the additional 5% tariff band and the substantial tariff lines below the CET be completed;**

- **d. Member States Gazette and implement the complete CET within the two year period;**

- **e. Member States Gazette and implement the CMRs within the two year period;**

- **f. Technical officers should always accompany the Ministerial Task Force on verification missions on the Customs Union; and**

- **g. Member States to notify the Secretary-General of their participation in the COMESA Customs Union in accordance with Regulation 33 of the Council Regulations Governing the COMESA Customs Union, Vol. 15, No. 1.**

MISSIONS ON THE CUSTOMS UNION

116. The meeting was informed that the Secretariat in conjunction with DRC and the Republic of Zambia had held consultative meetings on the implementation of activities for the operationalisation of the Customs Union. The meetings in the DRC were held from 27 March to 01 April 2012 in Kinshasa, DRC and the one in Zambia was held on 04 April 2012 in Lusaka. The meetings considered the challenges being faced by Member States in implementing the decisions of Council for the implementation of the COMESA Customs Union. They established the realities on the ground, worked out priorities and agreed on a way forward. They also discussed the practical ways for aligning the national tariffs to the COMESA CET and the process for deriving lists of sensitive products. In both Member States, the participants appreciated the meetings and felt that it was necessary for all stakeholders in the Member States to be educated on the customs union as there was fear and confusion as to what lay ahead.

117. Representatives from the DRC and Zambia both confirmed the report made by the Secretariat and said that they had made some progress with regard to the implementation of the Council Decisions on the Customs Union.

118. The meeting appreciated the outcomes of the two consultative meetings and called upon the Secretariat to carry out more such consultative meetings to bring every Member State on board.

Recommendations:

119. **The meeting recommended that the Policy Organs:**

- **a. Note the above developments; and**
- **b. Instruct the Secretariat to carry out more consultative meetings with other Member States on the implementation of the COMESA Customs Union during the additional two-year transition period.**

REPORT OF THE FIRST MEETING ON EXEMPTIONS *(Agenda Item 8c)*

120. The meeting received a report (attached hereto as Annex 4) on the first meeting on exemptions and noted that the Secretariat had convened a meeting for Member States on 01-03 November 2011 in Nairobi, Kenya to discuss and forge a way forward on the harmonization of duty exemption regimes and industrial rebate schemes in the region. The meeting noted the importance of harmonization of exemption regimes and industrial rebate schemes for the smooth operation of the Customs Union. The meeting further noted that all the existing exemption regimes had been identified and asked the Secretariat to compile and analyze them to enable Member States' negotiations at a future meeting.

Recommendation:

121. **The Meeting recommended that the Policy Organs :**

  a. Note the status on the exemption regimes; and

  b. Instruct the Secretariat to expeditiously convene a meeting to negotiate the harmonization of Exemptions regimes in the COMESA region.

REPORT OF THE FIRST MEETING OF THE COMESA/EAC MEMBER/PARTNER STATES *(Agenda Item 8d)*

122. The meeting received a report on the first meeting of the COMESA/EAC Member/Partner States in accordance with the Council Decision at its Twenty Ninth meeting which instructed the Secretariat to work closely with the EAC Secretariat in assisting the Four Partner States of the EAC that are in COMESA, in generating tariff alignment schedules in implementing the COMESA Customs Union.

123. It was noted that a meeting between COMESA and EAC Secretariats was convened in August 2011 to discuss the harmonization of the two CETs and Customs laws and that the two Secretariats held their second meeting on 19 March 2012, and presented their report to the first meeting of the four COMESA/EAC Member States, which was held on 20 March 2012 in Nairobi, Kenya, to examine the similarities and differences between the COMESA and EAC CETs and Customs laws.

124. The meeting appreciated the work so far done and encouraged the two Secretariats of COMESA and the EAC to continue working together with the four Member/Partner States on the harmonization of the two CETs and customs laws.

125. As regards the request by Kenya that the completed reports of the two consultants on the COMESA/EAC CETs and Customs laws be circulated, the meeting directed the Secretariat to circulate it to the four Member States as soon as possible.

Recommendations:

126. **The meeting recommended that the Policy Organs :**

  a. Note the Report of the Meeting of the Four Member States of COMESA/EAC;

  b. Instruct the two Secretariats and the four Member/Partner States to hold meetings to finalise the work on the comparison on the two CETs and the two Customs laws; and

  c. The Secretariat should circulate the consultants' reports to the four Member States

PRESENTATION ON THE COMESA CTN/CET TRANSPOSITION *(Agenda Item 8e)*

127. The meeting received a presentation on the transposition of the COMESA CTN/CET from the HS 2007 version to the HS 2012 and asked the Secretariat to convene a meeting of

customs experts to review the transposed version before it is presented to the Council for approval and adoption.

Recommendation

128. **The meeting recommended that the Secretariat urgently convenes a meeting of customs, finance and trade officials by September 2012 to review the HS 2012 COMESA CET before submission for Council approval.**

TRADE IN SERVICES *(Agenda Item 9)*

129. The Secretariat presented the Report of the Fourth Meeting of the Committee on Trade in Services held on 10-12 July 2012 in Nairobi, Kenya. The main objective of the meeting was to commence negotiations on schedules of specific commitments in the four priority services sectors of transport, communication, financial services and tourism as well as to exchange information on the three additional priority service sectors of business, energy and construction and related engineering. The meeting discussed a paper on MFN Exemptions as well.

130. The meeting was informed that DR Congo, Djibouti, Egypt, Kenya, Madagascar, Mauritius, Swaziland, Rwanda, Uganda and Zambia which had submitted their schedules of specific commitments in the four priority sector had the opportunity to make requests to each other for further improvements to their schedules in the meeting. Each country will undertake national consultations on how to address these requests and the outcome of these consultations will be discussed at the next meeting. Those Member States that had not submitted their schedules of specific commitments were urged to do so by 16 November 2012.

131. A note prepared by the Secretariat on whether or not in the context of the COMESA Regulations the Member States needed to list MFN Exemptions apart from those listed under the WTO was presented and discussed. The Trade in Services meeting concluded that it was still necessary to list MFN exemptions where they exist and those Member States that had not submitted their MFN Exemptions were urged to do so. Only Egypt and Swaziland had submitted their lists of MFN Exemptions.

132. The meeting noted the following roadmap adopted by the Committee:

Table 7: Roadmap for Service Negotiations

ITEM	RESPONSIBILITY	TIMEFRAME
Incorporate the comments and requests made on each Member States schedule of specific commitment and send it to the concerned Member States for their national consultations and finalization for submission	Secretariat	10 August 2012
Submission by Member States that have not yet provided their revised schedules of specific commitments	Burundi, Comoros, Eretria, Libya, Ethiopia, Sudan, Malawi and Zimbabwe	16 November 2012

Submission by Member States that have not yet provided their revised schedules of specific commitments	Burundi, Comoros, Eretria, Libya, Ethiopia, Sudan, Malawi and Zimbabwe	16 November 2012
Addressing requests made from the 4th meeting of the Committee on Trade in Services	DR Congo, Djibouti, Egypt, Kenya, Madagascar, Mauritius, Rwanda, Swaziland, Uganda and Zambia	16 November 2012
Make requests to Member States in the three additional priority sectors, namely Business, energy, construction and related engineering services	All Member States	30 November 2012
5th Meeting of the Committee on Trade in Services	Member States and Secretariat	1st Quarter of 2013

THE TRIPARTITE *(Agenda Item 10)*

133. The meeting received a report on the progress so far made on the implementation of the Tripartite framework which was born out of a realisation that the regional integration processes of the three Regional Economic Communities (RECs) of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC) were similar and in some cases identical. With overlaps in the membership of these three RECs, it was seen prudent for the three RECs to co-operate and harmonise their programmes.

134. The meeting noted that during 2006 and 2007, the three RECs identified infrastructure development and trade arrangements as starting points and priority areas for harmonisation.

135. The meeting noted that the economic justification is that the tripartite region will support higher and growing volumes of trade and investment, and in this way contribute to wealth creation including for the ordinary people, in order to assist them have increasingly meaningful lives. It is expected that the tripartite initiative will in this way contribute to peace, prosperity, and happiness in the region.

The First Tripartite Summit

Merger of three RECs into a single REC

136. The meeting noted that first overarching decision of the Tripartite Summit was that the three RECs should immediately start working towards a merger into a single REC with the objective of fast tracking the attainment of the African Economic Community. The Tripartite Summit directed the Tripartite Task Force of the three Secretariats to develop a roadmap for the implementation of this merger for consideration at its next meeting.

137. The meeting noted that at the Second Tripartite Summit held on 12 June 2011 in Sandton in Johannesburg in South Africa, the Heads of State and the plenipotentiaries signed

the Declaration Launching the Tripartite Free Trade and adopted the Instrument on Principles, Processes and Institutional Framework, and the Roadmap for the negotiations.

138. The meeting was informed that according to the declaration, the Tripartite region had adopted a developmental approach to regional integration, with three pillars, namely, the industrial development, infrastructure, and market integration pillars. A work programme for the industrial pillar was to be developed and adopted. Infrastructure programmes are ongoing, in terms mainly of implementing the tripartite master plans for surface transport, energy, and information and communications technology, as well as opening the skies for air transport. Trade facilitation programmes have been put in place to assist reinforce a seamless internal market. On the market integration pillar, the summit had launched negotiations for the Tripartite FTA, implementation of which will constitute the major programme under this pillar. The declaration was signed by 23 of the 26 countries.

139. The principles agreed were the following:

a. The negotiations shall be REC and/or Member/Partner State driven
b. Variable geometry
c. Flexibility and special and differential treatment
d. Transparency including the disclosure of information with respect to the application of the tariff arrangements in each REC
e. Building on the *acquis* of the existing REC FTAs in terms of consolidating tariff liberalisation in each REC FTA
f. A single undertaking covering Phase I on trade in goods
g. Substantial liberalisation
h. MFN Treatment
i. National Treatment
j. Reciprocity; and
k. Decisions shall be taken by consensus.

140. The three instruments the Summit adopted set the negotiations on a solid basis, for they show the solemn resolve to undertake the negotiations, and indicate the direction in terms of the principles and the duration.

Infrastructure

141. In the area of Infrastructure, master plans have been prepared for transport, energy and ICT; and two fundraising conferences successfully organised in April 2009 and September 2011. The April 2009 conference realised US $1.2 billion in pledges, and the September 2011 conference realised US $8 billion in commitments. Institutional arrangements are in place for donor coordination and management of the resources. A Tripartite Project Preparatory Unit has been established to assist with finalisation of bankable projects.

142. The infrastructure development pillar will assist to promote interconnectivity of the Tripartite region, so that there is a tangible and seamless market where goods and people move more freely. Of course, this will need to be supported by a policy framework to reduce obstacles to free movement as may be appropriate.

Industrial Development

143. As directed by the Second Tripartite Summit, The Tripartite Task Force has already drafted a work programme. The draft will be considered by experts at a meeting to be convened. It will be important to ensure synergy between the Tripartite work on industrial development and the African Union programmes that are already in place. This means that there will be no need to re-invent the wheel in many respects.

144. The industrial development pillar is important. It will assist to ensure that the countries have the industrial capacity to produce goods to be traded on the Tripartite market.

Trade and Customs

145. The meeting was informed that in the area of Trade and Customs, the Draft Agreement for establishing the Tripartite FTA had been prepared and the Tripartite countries had agreed to use it as a starting point for the negotiations. A lot of progress has been made already in various areas, especially Non Tariff Barriers, customs procedures, and standards, in terms of the various experts' meetings that have produced fairly mature draft texts to be incorporated in the Tripartite FTA Agreement.

146. The meeting noted that negotiations had started in earnest and that the Tripartite Trade Negotiation Forum (TTNF) had already held three meetings and the senior officials had met once to review the state of the negotiations. In terms of concrete results from the meetings so far:

a. The TTNF and the senior officials have adopted their rules of procedure;
b. The senior officials have adopted an agreed understanding of the meaning of the principles governing the negotiations;
c. Technical working groups have been established to support negotiations in the customs, standards and rules of origin areas, together with the terms of reference for the groups; these groups are expected to commence work in the next few months;
d. The information on tariffs and on trade flows necessary for the negotiations has been compiled and will be used for the negotiation of the Tripartite FTA;
e. Templates for making of offers and requests and for the tariff phase down for the Tripartite FTA have been prepared for most Tripartite countries; and
f. A comprehensive timetable has been adopted for the negotiations, to be completed by 2014.

Status on Signing of the Declaration Launching the Tripartite FTA Negotiations

147. The meeting noted that Ethiopia and Madagascar had indicated that they were now ready to sign the Declaration. This leaves Eritrea, with which consultations are ongoing.

Recommendation

148. The meeting recommends to the Policy Organs to:

a. Note the progress made; and

b. Subject to the principles guiding the negotiations including flexibility and S&D Treatment, and variable geometry, request COMESA Member States to consider offering to the rest of the Tripartite countries the treatment under the COMESA FTA.

BRIEF BY THE AFRICAN UNION COMMISSION *(Agenda Item 11)*

149. Under this agenda item, the Director of Trade and Industry at the African Union Commission briefed the meeting on trade developments at the continental level. In the briefing, emphasis was laid on the decisions the African Union Assembly took on Boosting Intra-Africa Trade and the formation of the Continental Free Trade Area (CFTA), adopted at the 18th and 19th Ordinary Sessions in January and July 2012. The Director highlighted and outlined the milestones, critical tasks and progress made in implementation of the decisions, including the formation of the High Level African Trade Committee (HATC) which is composed of Heads of State and Government who are chairing the Regional Economic Communities (RECs) and Chief Executives of the RECs.

150. The briefing concluded with a call on COMESA Member States to continue their support for the continental integration programme and to reflect on realigning their programmes to the Tripartite Initiatives upon which the CFTA will be built.

151. In the discussion, the meeting pledged its continued support to the Continental Integration program. The meeting welcomed the new Director of Trade and Industry at the African Union Commission, promised to support her, and welcomed the dynamic start she has already made.

TRADE RELATIONS WITH THIRD COUNTRIES *(Agenda Item 12)*

WTO NEGOTIATIONS *(Agenda Item 12a)*

152. The meeting was informed that the WTO Ministerial Council, the supreme decision-making body of the WTO, met in December 2011, in its Eighth Session, to discuss three thematic areas: the evolving Doha Development Agenda; Trade and Development; and the Multilateral Trading System. Also discussed was the conduct of proceedings of the Ministerial Conference. The decisions are reported in two clusters: one, covering elements of political guidance on the importance of the multilateral trading system and the WTO; and the second covering pertinent and outstanding trade policy issues.

Political Guidance and the Importance of the Multilateral Trading System

153. On political guidance on the importance of the multilateral trading system, Ministers emphasized the value of the rules-based multilateral trading system and agreed to strengthen it further by making it more responsive to needs of Members, especially in the context of the current challenges facing the global economic environment, in order to stimulate economic growth, employment and development. The Ministers further underlined the importance of the work of regular WTO bodies and agreed to strengthen and improve the functioning of WTO multilateral bodies and institutions. Ministers also welcomed the accessions of Vanuatu, Samoa, the Russian Federation and Montenegro to the WTO. The Ministers further called for the streamlining of accessions procedures to facilitate further accessions, particularly of potential least-developed countries (LDCs).

154. On Trade and Development, the Ministers reaffirmed that development remains a core element of the WTO's work in light of the positive link between trade and development, and therefore directed the Committee on Trade and Development (CTD) to pursue work in accordance with its mandate and report the results achieved to the next 9^{th} Ministerial Session of the WTO.

155. On the Doha Agenda, Ministers deeply regretted that, despite full engagement and intensified efforts pursued already since the Seventh Ministerial Conference, negotiations of the Doha Round have stalled partly because of significantly different perspectives on the possible outcomes of the DDA that can be achieved in certain areas under the single undertaking principle. They therefore committed themselves to advance negotiations in areas where progress can be achieved, including in respect of elements of the Doha Declaration that can enable the achievement of provisional or definitive agreements based on consensus, well before the full conclusion of a single undertaking agreement on the DDA.

Substantive Trade Policy Considerations

156. The importance of keeping markets open and the need to resist protectionism, particularly in the current challenging global economic environment, was greatly emphasized at the conference. Member States were urged to commit to a standstill on all forms of protectionism; to roll back any protectionist measures that had been introduced during the crisis; to avoid the reintroduction of new protectionist measures while the Doha negotiations are on-going; and to exercise maximum restraint in implementing measures that are incompatible with WTO provisions and objectives.

157. In light of current global challenges, it was agreed that for the WTO to remain credible and relevant, these challenges should be addressed expeditiously. Specific reservations were however expressed by many countries about the attempt by others to encourage the initiation of the negotiations of the so called new issues. It was therefore stressed that any new issue for discussion and/or negotiation should only be brought forward to relevant committees in accordance with normal rules and procedures under respective mandates.

158. Ministers directed urgent improvements in dispute settlement procedures in order to enable the system to become more accessible to least-developed countries and small, vulnerable economies.

159. There was wide convergence on the importance of accessions to the WTO to help build the multilateral trading system into a truly universal trading arrangement. Ministers, therefore, welcomed the adoption of the decision to further streamline LDCs accession procedures and urged its rapid operationalisation.

160. Substantial time was devoted to reflect on the incidence of the growing number of Regional Trading Arrangements (RTAs). It was agreed that there is now a need, at the multilateral level, to ensure that the processes of regional integration be made to complement, not to substitute, the processes of the multilateral trading system. In this regard, it was proposed that the systemic implications of RTAs for the multilateral trading system be addressed and a study of trends in RTAs conducted for reporting to the 9^{th} Ministerial Conference.

161. The development dimension of the WTO's work programme was highly emphasized and it was recommended strongly that the scope of the mandate of the Committee on Trade and Development (CTD) be immediately strengthened to take the role of a focal point for advancing development issues and strategies in Member States. The CTD's mandate should henceforth incorporate the review and monitoring of special and differential treatment (S&D) provisions in the WTO.

162. A commitment by some Member States to remove food export restrictions or extraordinary taxes on food purchased for non-commercial humanitarian purposes by the World Food Programme was widely resisted by developing countries. At another level, Ministers signaled support for a proposal to establish a work programme on trade-related responses to mitigate the impact of food market prices and volatility, especially on LDCs and Net Food Importing Developing Countries (NFIDCs), for action by the forthcoming 9th Ministerial Conference.

163. Aid for Trade (AfT) was broadly recognised for assisting to build trade capacity and to facilitate the integration of beneficiary countries into the multilateral trading system. The specific role of the Enhanced Integrated Framework for LDCs was underscored. It was therefore broadly agreed that Aid for Trade funding should be sustained and guaranteed to help address the needs of developing countries.

Specific Decisions Made

164. A number of decisions on intellectual property, the LDCs services waiver and electronic commerce were made, subject to review at the 9th Ministerial Conference. On TRIPs related issues, Ministers directed the relevant Council to continue to examine the issue of the “Non Situation Violations Complaint” and make recommendations to Ministers at the 9th Ministerial Conference. In the meantime, the related moratorium was also extended whereof no Member country would be allowed to invoke the provision under the TRIPs Agreement.

165. Ministers agreed to extend the services’ waiver for LDCs in order for them to continue obtaining access for their services exports.

166. Ministers also agreed to maintain the current practice of not imposing customs duties on electronic transmissions until the next 9th Ministerial Session due to be held in 2013.

167. Seychelles expressed its gratitude to the COMESA Secretariat, Mauritius and other Member States for their support in its WTO accession negotiations.

168. **The Committee noted the update on the WTO as an institution and on the Doha**

Development Agenda Negotiations

PROGRESS REPORT ON EPA NEGOTIATIONS *(Agenda Item 12b)*

169. The 27 EU countries remain important trade and development partners for the COMESA region. They account for between 30-40% of exports/imports market for COMESA countries. This is set to expand with the full market access provided to both COMESA LDCs via the EBA with improved rules of origin and via the interim EPA which provides COMESA non LDCs with full market access into the EU market. It is also important to note that while the EU is

facing difficult financial challenges it still remains the main source of development finance to COMESA region both through EDF and bilateral sources. The 27 EU countries are also a major source of investments and technology for most COMESA countries. It is in this context that securing a predictable and secure economic, trade and development between the COMESA countries and the EU is important.

170. Accordingly, ESA Group has been negotiating and EPA with EU for the past six years to support the economic performance and competitiveness, enhance value chain and lead to economic transformation and the meaningful integration individually and collectively of the ESA countries into the global economy. To achieve these objectives ESA Group has been ambitious and thus agreed to negotiate various subjects including liberalisation of trade in goods and services, development cooperation, agriculture, marine and inland fisheries, trade related issues and dispute settlement. ESA sought to use various and specific instruments namely securing flexibilities and policy space regarding scope and timeframes for phasing in trade liberalisation, the use of export taxes and MFN treatment, mobilizing resources for development and capacity building to address the numerous supply side constraints.

171. The major objectives of these negotiations include that:

a. EPA will be an instrument for sustainable development;
b. Support regional integration among the ESA states;
c. Be compatible with WTO rules;
d. Take account of the different needs and levels of development of ESA countries and EU and build on the Cotonou acquis.

Challenges

172. ESA–EU EPA are progressing rather slowly and cautiously due to the following reasons:

a. EU’s demand that LDCs like non-LDCs open up 80% of their trade over 15 years fails to take account of their development needs. LDCs due to supply side constrains need more than 15 years to liberalise and to ring fence more sectors;
b. Inadequacy of development resources for EPA implementation as EPAs entail substantial restructuring and engender adjustment costs;
c. EC demand to veto export tax policy by ESA states yet export taxes are essential for enhancing value addition and industrialisation. ESA countries are primarily exporters of raw materials; and
d. Issues of MFN and special safeguards for agriculture to address effects of EU export subsidies remain unresolved.

173. The 16^{th} ESA Council held in Lilongwe, Malawi in October 2011, noting that positions regarding the contentious issues have not changed for four years decided on a change of strategy and that ESA countries need to be realistic. It is important to maintain the unity of the ESA group while taking into account the interests and concerns of the individual countries. It is a fact that among ESA countries some are LDCs while others are non LDCs hence their treatment is not the same even in WTO and other international fora.

174. Accordingly the 16^{th} ESA council highlighted some fundamental principles and strategies that should guide the negotiations henceforth:

a. Both the EU and ESA Group need to be practical and avoid grandstanding. There is need for flexibility for the purpose of progress.
b. For each of the contentious areas, the ESA technical teams should develop alternatives and options, clearly outlining and quantifying the costs to each ESA country individually and then collectively as a region to inform positions taken.
c. Flexibility, based on quantified options will allow ESA to move collectively. Accordingly there is need for variable geometry that take into account specific interests of LDCs while ensuring achievement of promoting growth and development of ESA countries and building South-South trade.
d. There is need to continue engagement with EU as this is the best alternative to resolve the outstanding issues.
e. Before pushing the contentious issues to the political level, technical experts need to exercise their minds and suggest viable options to Ministers in order to resolve the impasse.
f. The EPA should be concluded on the basis of what is mutually agreeable.
g. Development and strengthening of regional integration should remain the core objective in the ongoing negotiations towards a full and inclusive EPA to take into account the special needs of LDCs. Accordingly negotiations should prioritize development issues.
h. Need to bring the negotiations to finality, based on a reality check of what is achievable.

New Momentum and Progress

175. Following the 16th ESA Council meeting in Malawi, a Joint EU-ESA technical negotiating session was held in Mauritius in November 2011 where significant progress was achieved. On trade in goods, all provisions on SPS, TBT trade facilitation, capital movements, and general and specific security provisions were agreed. Previous contentious provisions regarding most favoured treatment (MFN) were agreed.

176. Considerable progress was made on the text on services. Articles on principles (including on variable geometry), market access, other agreements, sections on tourism and travel, postal, maritime and computer services and chapter on capital movement were fully agreed, as well as most definitions (except EU clarifying footnote and definition of enhanced mode 4).

177. Agreement in sectoral sections was reached with the exception of development support related provisions to be discussed together with the development cooperation chapter. On trade related issues, all provisions on competition policy were agreed except those relating to the technical cooperation and capacity building while on sustainable development the Parties agreed to work on the basis of a joint text. Texts on agriculture and development are almost all agreed on, except a few.

Outstanding Issues by Cluster

178. On development cooperation, two key issues that remain outstanding and contentious are additionality of resources and linking trade liberalisation to development benchmarks. While ESA will be insisting on additional resources to address EPA implementation, especially adjustment costs, ESA is working on priority regional projects and mobilizing resources including from other partners than EU.

179. On trade in goods outstanding and contentious issues include provisions on substantial all trade liberalisation (SAT), timeframes for liberalisation, treatment of export taxes and agricultural safeguards.

180. On export taxes, ESA maintains its position for policy space to introduce export taxes for industrial development objectives without prior EU consent. As an alternative, meanwhile each ESA country is identifying a list of raw materials and products on which they would want export taxes excluded. Technical teams are considering the language that will allow a consultative process without limiting the policy space of ESA countries to impose export taxes.

181. On Rules of origin cumulation provisions, the EU has made new proposals that include: cumulation on materials which are MFN 0%, diagonal and full cumulation with other EPA signatories and OCTs, cumulation with GSP zero and quota free materials and extended cumulation with industrial materials which are duty and quota free under EU FTAs. ESA welcomed the proposal. However it was highlighted that ESA would like to preserve cumulation with ACP states, reduce the list of products excluded from cumulation with South Africa and cumulate with neighboring countries including Egypt which is in the COMESA FTA.

182. On SAT and timeframes, ESA LDCs maintain their position for flexibility and longer transitional periods beyond 15 years taking into account the needs of LDCs.

183. On agriculture there is generally an agreed text except for export subsidies. ESA requested EU to eliminate the export subsidies and in response EU has proposed double zero approach, where EU would abolish export refunds for products liberalized by ESA. This offer was rejected by ESA. The Parties have agreed to refer the issue of export subsidies to political level.

184. On agricultural safeguards, ESA maintains its position for special agricultural safeguards based on automatic triggers to take into account the sensitivities in the sector and trade distortion effects due to EU subsidies when trade is fully liberalized under EPAs. Since agricultural export subsidies are being discussed under WTO, the issue should be left for political tradeoffs at an appropriate time.

185. Meanwhile EU has issued a notice to withdraw market access regulation 1528/07, which is the instrument adopted by EU on 30 Sept 2007 to extend duty and quota free market access to ACP countries that either signed or initialed the interim EPA. The implication of the repeal of this regulation is that ACP countries, including ESA that have not ratified or notified provisional application of their interim EPA by 01 January 2014 will no longer benefit from this regime. Impact of the withdrawal will depend upon whether a country is LDC or non LDCs. LDCs can still access the EU market under similar regime - EBA hence the impact of the

withdrawal on them is next to zero. ESA non LDCs (Mauritius, Seychelles and Zimbabwe) have already either ratified or notified provisional application of the interim EPA.

186. On trade in services, no agreement was reached as regards articles on MFN, MFN exceptions and review, new financial services, anti-competitive practices and safeguard measures, where EU will revert with new positions or proposals, while ESA will revert on the new proposals EU made on telecommunications and e-commerce. On establishment/investment the meeting agreed to use the agreed provisions from trade in services as and when concluded.

187. Trade related issues include competition policy, sustainable intellectual property rights, public procurement and good governance on tax matters. ESA Group has agreed to prioritize and focus on the first two issues while the rest are part of the rendezvous clause. In terms of content, ESA focus is on capacity building and development cooperation while EU is seeking market liberalisation. Recently the EU proposed introduction of new issues namely personal data protection, geographical indications (GI) and capital movements. Council directed as follows:

188. Due to ESA geographical position and multiple memberships affecting its membership, the ESA Group should pay special attention to close coordination and harmonization of its negotiations positions with EAC and SADC in the Tripartite FTA framework.

Strategy and Way Forward

189. ESA Council underscored that EPA negotiations should be brought to finality based on what is agreeable to both Parties. ESA-EC engagement should be guided by the following principles:

a. Development and strengthening of regional integration should remain the core objective of the negotiations towards a full and inclusive EPA taking into account both the concerns and interests of non LDCs and LDCs. Accordingly there is need for variable geometry that takes into account specific interests of LDCs while ensuring achievement of the same goal namely promoting growth and development of ESA countries and building South-South trade while ensuring that what has been achieved is preserved.
b. Grandstanding is counterproductive. Flexibility on the positions of both sides based on understanding the core concerns and interests of each other is important.
c. Need to bring the negotiations to finality based on a reality check of what is achievable.
d. ESA Group should pay special attention to close coordination and harmonization of its negotiations positions with EAC and SADC in the Tripartite FTA framework.
e. Continued engagement with EU is the best way to resolve outstanding issues. It is the intention of ESA to conclude these negotiations in 2012 if EU would reciprocate to the flexibility shown by the ESA Group.

Implementation of Interim EPA

190. All four countries (Madagascar, Mauritius, Seychelles and Zimbabwe) that signed the interim EPA have now ratified it. It will soon come into effect after the depositing of ratification instruments by Zimbabwe, which ratified it last. The interim EPA covers 5 main areas, namely: trade in goods, fisheries, development cooperation and dispute settlement and final provisions. Accordingly, for these countries the focus is on supporting them to implement the commitments they have undertaken.

191. In this respect the key issues include :

a. Undertaking, in each ESA interim EPA signatory State, a needs assessment for example on legal framework and administrative/human resource requirements;
b. Domesticating the IEPA in the national laws, including the customs book;
c. Assistance towards establishment of a national EPA Implementation Unit;
d. Provisional application of those provisions on trade in goods that have been agreed under the full EPA but are not in the interim EPA namely on SPS, TBT, Rules of Origin Cumulation, trade facilitation and so called ‘lock in provisions’ (standstill, infant bilateral safeguards, amendments to quantitative restrictions);
e. Examination of accompanying measures to finance EPA-related adjustment costs and those arising from wider trade liberalization and economic reforms. This will also cover the needs for modernization and re-structuring of industries affected by trade liberalization and for capacity building;
f. Make recommendation on the organization of fora to attract investment in the productive sectors of the economy and infra-structure; and
g. A programme to inform all the stakeholders, including civil society and the business community, in each ESA signatory state, of the rights and obligations contained in the EPA and the opportunities it provides.

192. The meeting noted that various stakeholders, including the ACP Parliamentarians, are urging the EU organs not to implement the amendments to Regulation 1528/2007, under which countries that will not have signed and ratified the EPAs by 01 January 2014 will lose the preferential access they currently enjoy.

Recommendation

193. **The meeting recommended that the Secretariat convenes a meeting of the ESA implementation committee to discuss and put together measures to implement the EPAs.**

THE AFRICA GROWTH AND OPPORTUNITY ACT ((AGOA) *(Agenda Item 12c)*

194. The US statistics for trade under the African Growth and Opportunity Act (AGOA) indicates that imports from all AGOA eligible countries rose by 22% from US $44.3 billion in 2010 to US $53.8 billion in 2011. In 2009 this trade was at US $33.7 billion. The low level in 2009 was reflective of the global financial crisis triggered by the collapse of the US sub-prime mortgage market. The 2011 US imports from Sub-Saharan Africa AGOA eligible countries is still lower than the US $66.3 billion attained in 2008.

195. US imports from AGOA eligible countries of the COMESA region fell by 33.4% from US $932 million in 2010 to US $620 million in 2011. The fall was largely due to the fact that D R Congo lost its AGOA eligibility and its trade with the US under AGOA subsided to zero in 2011. In addition, Swaziland's exports under AGOA fell from US $111 million in 2010 to US $77 million in 2011. Madagascar and DR Congo that have lost their AGOA eligibility are still to regain it.

196. The statistics show that US textile and apparel imports from Africa rose by 2.59% from 231.670 million square metre equivalent (sme) in 2010 to 237.659 sme in 2011. Despite the AGOA preferences, textile and apparel exports from Africa face competition from similar products from super efficient producers in Cambodia, Bangladesh, China and Vietnam.

197. The US has introduced a Bill HR 4221, "The Increasing American Jobs through Greater Exports to Africa of 2012", to help create more American jobs and spur African economic growth. The Bill intends to co-ordinate the operations of US agencies more effectively in order to promote US business in Africa.

198. The issues surrounding AGOA have been elaborated by the Ministers of Trade of AGOA eligible countries. These issues have to do with the looming expiry of both the third country fabric provision due to expire in September 2012 and the AGOA authorization itself due to expire in September 2015 as well as issues that need to be addressed in order to assist AGOA eligible countries to utilize the AGOA preferences. The following are some of the key issues:

a. The need to extend the third country fabric provision to run concurrently with the overall AGOA authorization and to extend AGOA on a long-term and sustainable basis;
b. The need to increase US investments in Africa;
c. The need for AGOA and other US programmes to support regional integration in Africa;
d. The need to expand the list of AGOA eligible products to include groundnuts, tobacco and sugar, among others;
e. The need for the US to prioritise capacity building especially in infrastructure development, sanitary and phyto-sanitary laboratories, and private sector support to enable African countries take advantage of the market access offered by AGOA;
f. The need to relax the stringent rules of origin in order to promote diversification of exports into the US and also support regional integration through regional value chains;
g. The need for the US to take into consideration the risk of eroding the AGOA preference margins in its future preference schemes with other LDCs and developing countries;
h. The need for the US not to consider graduating "advanced" AGOA beneficiaries from AGOA benefits as doing so s would lead to fragmentation that would be detrimental to Africa's regional integration.

199. The 11th AGOA Forum was held in the Washington, DC in USA in June 2012. The Ministerial meeting was held on 14-15 June 2012 in Washington, D.C. under the theme "Enhancing Africa's Infrastructure for Trade." The Ministerial meeting was followed by a session dedicated to business issues and networking in Cincinnati, Ohio on 20-21 June 2012. The AGOA eligible African countries were expecting that the US would announce the extension of the third country fabric provision beyond the expiry date of 30 September 2012. Instead, the US

Government will work with Congress to accelerate the approval for the extension of the third country fabric.

Recommendations

200. **The meeting recommended that:**

- **a. The US be urged to extend AGOA and in doing so, the US should consider strengthening the AGOA regime by addressing the issues of enhancing US investments in Africa, supporting regional integration in Africa, and increasing AGOA eligible products to include more products of export interest to Africa;**
- **b. The US be urged to enhance the capacity of AGOA eligible countries to comply with the SPS, TBT and other standards so as to better utilize the AGOA market access opportunities; and**
- **c. The US be urged to duly take into account the preference erosion to AGOA eligible countries before extending similar preferences to LDCs in other regions.**

REPORT OF THE WORKSHOP ON THE COMMON EXTERNAL TRADE POLICY *(Agenda Item 12d)*

201. As COMESA deepens its regional integration and in order to beneficially participate in the global economy, it is appropriate that emerging global issues are duly and timely addressed. To this end, a workshop on COMESA's trade relations with third countries was held in March 2012 in Nairobi. The workshop was designed as an important step in preparing to engage third countries in a systematic and coordinated manner as may be appropriate.

202. The objective is to provide strategic input and approaches to back up the COMESA Secretariat and Member States in the identification of options for implementing a Common External Trade Policy with respect to relations with third parties. It focuses on identifying the main elements of *"offensive*" strategies which, in turn, become important in negotiations with foreign partners.

Opportunities in Relations with third Parties

203. The opportunities from relations with third Parties are enormous. A more active involvement in global trade is important for COMESA. The market and investment opportunities are particularly important in relations with emerging economies, and the good news is that there is a great deal of global interest in Africa. Other attractions of relations with these countries are (a) diversification of export markets, (b) establishment of countervailing powers against monopolies, (c) access to new development finance, (d) access to FDI and through FDI to new trade, and (d) more active participation in international businesses and competition.

Barriers against COMESA exports in third countries' markets and other concerns

204. It is evident that COMESA is facing serious barriers to its exports. Even though raw materials and fuels exported by COMESA to the rest of the world are typically subject to zero or very low tariffs, there are still plenty of market access restrictions faced by COMESA's exporters. (a) Marketing arrangements differ greatly among importing countries. (b) COMESA

Member States will typically be lacking adequate information about foreign markets but that lack of information may be due to lack of transparency on the part of the importing country. (c) Negotiations with foreign countries may be constrained by the refusal of the other Party to offer reciprocity to COMESA Member States. (d) Products other than raw materials and fuels continue to be subject to import tariffs, duties and even quotas. Markets of the EU and the US are an exception for LDCs. (e) In negotiating a better market access for their products, COMESA Member States should target tariff escalation of importing countries. (f) There are product-specific restrictions on some exports of COMESA Member States. (g) Trade disciplines of importing countries may also be a major impediment to COMESA exports. Those disciplines involve, in particular, rules of origin, SPS and TBT standards. (h) Specific barriers affect exports of services, and should be addressed from a different perspective to that of barriers to exports of merchandise. (i) Importing country/customs area-specific issues will typically have to be taken into account.

Risks

205. There are financial and other economic risks involved from greater engagements with third Parties.

Towards a Strategy of Trade with third Countries

206. The economic analysis of COMESA's trade and an assessment of its trade policies leads to the following conclusions:

207. Search of new relations with third countries. COMESA Member States should expand their relations with 3rd countries if they wish to accelerate their domestic growth and increase the contribution of trade to growth;

208. Choice of third countries: Seek more involvement with "emerging markets" – in particular BRICs and Turkey. These countries are most dynamic at present, and are also becoming exporters of capital. Moreover, their demand for imports strongly matches COMESA/African supply capabilities. The EU, Japan, Gulf States and the US are already important, and remain highly desirable trade partners. Prospects of rapid trade expansion with other African partners in ECOWAS, Arab League and CEMAC are presently small but are judged by the African Union to be promising.

209. Level of engagement: Choice of the appropriate legal instrument (agreement) will have to be made with respect to each third Party according to their circumstances. There are various instruments available ranging from PTA and FTA to customs union or economic cooperation agreements. Given the strong interest of COMESA in attracting FDI, the level of engagement would most frequently require not only an agreement on trade but also on investment and possibly other elements of economic cooperation (e.g. SPS, TBT, competition policies, IPR, trade facilitation).

210. The choice should be determined by the nature of trade and investment interests of COMESA Member States. This could cover trade in goods, services, export of labor and investment. Agreements will be needed in order to promote diversification of exports, prevent anti-competitive practices, allow access to aid, and protect investors' rights as well as the rights of the host country.

211. The choice of legal instruments will be particularly important for some COMESA Member States in relations with the EU, which is the biggest trading partner of COMESA, in the eventuality that a full EPA is not established.

212. Unilateral or pluri-lateral agreements: Member States should be encouraged to seek their agreements with third Parties on COMESA level rather than individually to strengthen their negotiation powers and to enhance the effectiveness of negotiations.

213. **Notifications:** The implementation of the COMESA Treaty and the requirement of compatibility between COMESA Treaty and BTAs will have to be supported by, and based on, a more effective system of notifications.

Components of COMESA's "Offensive" Strategy towards third Parties

214. Barriers to Market Access for Exports of Merchandise: While access to COMESA's exports of raw materials may not be an issue, other exporters of COMESA's exports still face formidable barriers in third markets. COMESA should seek a full elimination of tariffs and quotas in the BRIC countries, Japan and Turkey to at least match the offer of the European Union. With the United States, COMESA should seek the extension AGOA beyond 2015 and of the third country fabric provision beyond 2012. The system of rules of origin and SPS should be made amenable to AGOA eligible countries.

215. Barriers to Market Access for COMESA's Exports of Services: COMESA Member States are encouraged to continue to identify service sectors with potential for exports beyond tourism. There are several service sectors such as professional services (e.g. accounting, auditing and book keeping) with potential to provide back office support to TNCs or to meet foreign demand (e.g. engineering and architectural and legal services, midwives and nurses). These service providers are typically facing restrictions on entry into the foreign labor market based on highly restrictive qualification and/or visa requirements. COMESA should seek the delivery of some of those services through Modes 1, 3 and 4.

216. Barriers to Export of Labor Services: Export of labor services has been an extremely controversial issue in international negotiations. Nevertheless, COMESA Member States should continue pressing for a better access of its labor service providers into the rich countries' markets. Many developed countries have severe shortages of particular skills, and should be open to regulated inflow of labor from COMESA. COMESA should seek quotas of labor intake based on well identified needs of developed countries, agreed principles of residence and social protection of labor.

217. Barriers to Access to third Party FDI: Access to FDI is primarily determined by free competition in global markets and conditions in host countries. However, FDI may sometimes be constrained by various restrictions in FDI home countries. Examples include foreign currency restrictions, discrimination in the provision of financial guarantees, administrative restrictions and various policy restrictions such as insistence on the use of foreign labor in FDI funded projects. COMESA Member States are encouraged to identify those restrictions and seek their elimination. It is of course critical that COMESA Member States create the necessary political and economic conditions to attract FDI.

218. Access to Project Financing: The poor state of physical infrastructure in the whole of Africa, not only COMESA, calls for massive investment, with a great part of that investment

most likely coming from abroad. Since project financing is extremely complex, often requiring a significant participation of governments either in the form public-private partnerships or government guarantees, COMESA Member States should seek an active involvement of third Parties' governments in such projects. It is imperative, however, that those projects be properly identified and preferably be multi-country projects.

219. Access to Foreign Aid: In dealing with third Parties, COMESA should also seek foreign assistance as part of an arrangement with those countries. China and India already include aid in their trade and FDI agreement offers. While the priorities for aid allocation are determined by each COMESA Member State, it would be highly advisable to seek support in particular for the establishment of an effective SPS and TBT system of rules, inspections and testing, which are critical for improvement in agricultural performance and exports.

220. Rules: COMESA should also negotiate the rules of engagement of third parties. There are three important issues to be addressed: (a) Which activities are to be regulated in relations with 3rd Parties? (b) What rules should be applied? And (c) How to ensure compatibility with COMESA's rules.

221. With regard to activities to be regulated, regulation of standards such as TBT and SPS as well as regulation of subsidies, safeguards (against dumping, subsidized exports and import surges), dispute resolution and competition are the very minimum to be covered. Special attention should be paid to the treatment of foreign investment which should be covered either by a separate investment treaty or by the actual trade agreement. Another special case is that of services, which will also require different rules.

222. International standards and/or WTO rules should be embodied within agreements. In the absence of such rules, mutually agreed rules will be necessary. Special attention should also be paid to the interests of COMESA as a whole by promoting rules favoring further integration among Member States (e.g. cumulation in rules of origin). At the same time, compatibility with COMESA rules should be ensured.

223. **The Committee noted the need for coordinated relations with emerging powers and other third countries and in this regard further noted the key issues and possible approaches that Member States may wish to bear in mind in negotiating or concluding arrangements with third countries.**

INTELLECTUAL PROPERTY *(Agenda Item 13)*

224. The COMESA IP programme has attracted interest world-wide. The WTO has used the COMESA Strategy on the access to life-saving medicine as a concrete example of technical cooperation that can benefit developing countries but especially least developed countries. The COMESA IP programme is designed to assist the transformation of the region into an information and knowledge-based economy able to beneficially be part of the global economy; and to fully harness the rich heritage of IP assets in the region.

225. The meeting noted that the First Meeting of IP Experts was held on 1-5 March 2011 in Kampala. It considered and recommended the adoption of a sector strategy for life-saving medicine, which was endorsed by the Fifteenth Summit of the COMESA Authority on 15 October 2011 in Lilongwe. The Second Meeting was held in November 2011 in Lusaka, and it recommended the establishment of a Technical Committee on Intellectual Property. The

meeting considered and recommended model provisions for formulation and implementation of national policies and laws in various IP sectors, consistently with the COMESA IP Policy.

226. In the discussion the meeting noted that IP is a very technical area and the Secretariat should assist Member States in drafting the national IP Policies. It is evident that most Member States do not have IP policies in place up to now. The Secretariat indicated that cooperating partners such as ARIPO, WIPO, WTO and UNCTAD have partnered with COMESA and are ready to provide technical assistance to Member States on request. The Secretariat further mentioned that Rwanda has an IP Policy while the EAC have an IP Protocol which other Member States could utilise to develop theirs. Furthermore, the COMESA IP Policy and the COMESA Guidelines so far adopted could assist Member States in the exercise of preparing national IP Policies and Laws.

227. **The meeting noted the following recommendations of the IP experts:**

a. **A Technical Committee on Intellectual Property be established;**
b. **The model provisions for the strategic IP areas of counterfeit medicines and applying TRIPS flexibilities, as well as other various IP sectors for guiding the domestication of the COMESA IP Policy in Member States be considered; and**
c. **The Secretariat should assist Member States to prepare national IP Policies in line with the COMESA IP Policy and with the relevant COMESA guidelines.**

REPORT OF THE MINISTERIAL MEETING ON SCIENCE, TGECHNOLOGY AND INNOVATION (FOR NOTING) *(Agenda Item 14)*

228. The meeting received the report of the first Meeting of Ministers responsible for Science, Technology and Innovation (STI) held on 28 June 2012, at the InterContinental Hotel, Lusaka, Zambia. The main objective of the meeting was to update Member States on the implementation of the Council Decisions on Science and Technology, identify and designate science and technology parks as regional ones and discuss the outcome of the Harvard Kennedy School executive training programme on Innovation for Economic Development (IFED). The report of the meeting is circulated separately.

229. The meeting noted the report and its decisions.

DATE AND VENUE OF NEXT MEETING *(Agenda Item 15)*

230. The venue of the next meeting and the date will be communicated by the Secretariat to the Member States after consultation.

ANY OTHER BUSINESS *(Agenda Item 16)*

231. The representative of UNIDO informed the meeting that the Member States that wish to have the investment surveys undertaken need to make a request to the COMESA Secretariat so that the Secretariat can mobilize the required funding.

232. The Secretariat informed the meeting that the Time Release Study project has now started and funds have already been received from the World Bank for the Study. In this connection the Secretariat wrote to the four Member States in the first phase of the study, namely: Malawi, Mauritius, Sudan and Zambia to indicate their readiness for the study and got conformation from Mauritius and Sudan. The other two Member States were urged to confirm their readiness to participate in the TRS.

ADOPTION OF THE REPORT *(Agenda Item 17)*

233. The meeting adopted the report with amendments.

CLOSING OF THE MEETING *(Agenda Item 18)*

234. The chairperson expressed gratitude to delegations, Secretariat, interpreters, and all support staff. She wished the delegates a safe journey home.

235. The Secretariat moved a vote of thanks to the Chairperson, Ms Christina Chatima, and Ms Portia Dlamini for ably guiding a sometimes very difficult meeting to a good outcome. It was pointed out that the Chairperson had provided outstanding leadership during her one-year tenure and contributed to advancing regional integration in the COMESA region. The Secretariat conveyed appreciation to the Government and people of Zambia for hosting a delightful reception the previous evening and for bringing along an exquisite standup comedian who kept the delegates pleasantly entertained.

236. The chair then declared the meeting closed.

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