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1ST MEETING OF THE COMESA REGIONAL FORUM ON
NON-TARIFF BARRIERS (NTBS)

Through Video Conference
16-17 MARCH 2021

REPORT OF THE FIRST MEETING OF THE COMESA REGIONAL FORUM ON ON
NON-TARIFF BARRIERS (NTBS)

Theme: "COMESA Towards Digital Economic Integration"

(VH/TN/AS/BS-eck/rlk)

INTRODUCTION

1. The First Meeting of COMESA NTBs Regional Forum was held from 16-17 March 2021 via video conferencing. The main objectives of the meeting were to introduce the reviewed COMESA Regulations on Elimination of Non Tariff Barriers and the adopted Working Procedures for the implementation of the Regulations, consider outstanding Intra-COMESA NTBs and develop a regional work programme on implementation of the Regulations.

Attendance

2. The meeting was attended by the following Member States: Burundi, D.R. Congo, Comoros, Egypt, Eswatini, Kenya, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe. The full list of participants is attached as Annex I.

WELCOME REMARKS (*Agenda Item 1*)

3. The meeting was officially opened by Dr. Christopher H. Onyango, Director of the Customs and Trade Division in the COMESA Secretariat who welcomed all the delegates and the staff of the Secretariat to the meeting on behalf of the COMESA Secretary General.

4. Dr. Onyango recalled that the Council of Ministers, at its 41st Meeting held on 26 November 2020 had adopted the Revised COMESA Regulations on the Elimination of NTBs and Working Procedures. The Council further directed the Secretariat to establish the COMESA NTBs Regional Forum comprising National Monitoring Committees and NTBs Focal Points. He noted that this new structure is aimed at further strengthening the Trade and Customs Committee and Trade and Trade Facilitation Sub-Committee as part of the institutional structures for the elimination of NTBs at the regional level.

5. He stressed the importance of eliminating NTBs noting that worldwide, NTBs have become the major trade policy tool to protect domestic economies. He informed the meeting that NTBs accounted for on average 55% of the implemented protectionist interventions and the use of NTBs had increased steadily after the 2007 - 08 financial crisis and has escalated following the outbreak of the COVID-19 pandemic. In contrast, since 2009, only 20% of all implemented protectionist interventions could be attributed to an increase in tariffs

6. He further observed that some NTB's have remained unresolved for periods ranging from 1 year to more than a decade. Another concern is that although all member States have appointed effective NTBs Focal Points, only 5 member States have so far formalized and notified the composition of their NMCs to the Secretariat. Yet a well-functioning NMC is critical to implementation of the Regulations and elimination of NTBs.

7. The Director recalled that the Revised NTB's Regulations had critical provisions concerning the formal establishment of functional NTBs institutional arrangements specifically the National Monitoring Committees and utilisation of the

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two stage procedures for resolving longstanding NTBs. He noted that the meeting is a critical step towards ensuring Member States do not fall back to uncoordinated restrictive trade policies whenever there is a crisis. For such strategies do not only fuel help anti-trade free trade rhetoric but result into even stronger slow-down in economic growth of our economies.

8. He observed that during the meeting, Member States will consider the main provisions of of the Revised COMESA NTB's Regulations and Working Procedures focusing on the institutional arrangements and provisions for identification and elimination of NTB's. Delegates were also to consider a draft work programme for the implementation of Regulations and review outstanding NTB's as reflected in the COMESA Time Bound Matrix on elimination of Intra COMESA NTBs.

9. He further observed that the meeting was significant because it is the beginning of a process where elimination of NTB's will now be disciplined through strict adherence to the provisions of the COMESA NTB's Regulations. Member States are therefore called upon to strive to follow the two stage processes for addressing NTB's as well adherence to the timelines established for the various stages. He expressed an expectation that effective implementation of a rules-based approach to addressing NTB's will result in considerable increase in intra-COMESA trade.

10. He then wished the meeting successful deliberations on the agenda items.

Vote of Thanks

11. In his vote of thanks, the delegate from Eswatini thanked the Secretariat for hosting the virtual meeting and urged Member States to step up efforts to resolve outstanding NTBs. He underscored the importance of the Forum as a mechanism to identify and resolve NTBs. In conclusion, he expressed gratitude to the Director of Trade and Customs of the COMESA Secretariat for his guidance to the meeting.

CONSTITUTION OF THE BUREAU (*Agenda Item 2*)

12. The meeting constituted the Bureau as follows:

Chair: Egypt
Rapporteur: Ethiopia

ADOPTION OF THE AGENDA AND ORGANISATION OF WORK (*Agenda Item 3*)

13. The meeting adopted the following agenda:

1. Welcome and Opening Remarks (*Agenda item 1*)
2. Constitution of the Bureau (*Agenda item 2*)
3. Adoption of the Agenda (*Agenda item 3*)
4. Presentation on COMESA Regulations on Elimination of NTBs

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(Agenda item 4)

5. Presentation on Working Procedures on implementation of COMESA NTBs regulations *(Agenda item 5)*
6. Consideration of draft work programme for the implementation of Regulations *(Agenda item 6)*
7. Formalisation and work programmes for the National Monitoring Committees *(Agenda item 7)*
8. Consideration of COMESA Time Bound Matrix on elimination of Intra COMESA NTBs *(Agenda item 8)*
9. Any other business *(Agenda item 9)*
10. Adoption of Report *(Agenda item 10)*
11. Closure of the Meeting *(Agenda item 11)*

PRESENTATION ON COMESA REGULATIONS ON ELIMINATION OF NTBS AND WORKING PROCEDURES ON IMPLEMENTATION OF COMESA NTBS REGULATIONS *(Agenda items 4 and 5)*

14. The Secretariat made a presentation on the Revised COMESA Regulations on Elimination of NTBs and the Working Procedures for the implementation of the regulations adopted by the 41st Meeting of Council of Ministers held on 26th November 2020 in Lusaka, Zambia. The presentation focussed on key implementation issues in the Regulations as well as previous Council Decisions on elimination of NTBs. The presentation gave detailed explanations on the various provisions where working procedures and guidelines had been adopted to operationalise specific provisions of the regulations. It was highlighted that the purpose of the presentation was to give orientation to the National Monitoring Committee Members and NTBs Focal Points to prepare them for implementation of the regulations and as input into the work programme for the implementation of the NTBs regulations.

15. The presentation clarified on the institutional arrangements; categorisation of NTBs; Reporting, monitoring & eliminating mechanisms including reporting tools; cooperation among Member States on resolution of NTBs and Key functions of the National Monitoring Committees, National Focal Points and NTBs monitoring Unit established in the Secretariat. The procedure for review and amendment of the regulations and working procedures was also explained to the meeting.

16. The meeting was informed that all Council decisions relating to elimination of NTBs adopted during period 2004 and 2016 had been implemented except two on the development of a NTBs Monitoring and Evaluation (M&E) mechanism for the elimination of NTBs and on Advance notification of NTBs before they are imposed by Member States. It was reported that the Secretariat was in the final stages of commissioning a study on advance notification of NonTariff Measures by Member States. With regards to status of implementation of the reporting tools it was reported

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that all Member States were utilising the online reporting, monitoring mechanism and that COMESA is piloting the Short Messaging Service (SMS) reporting tool in three Member States namely Malawi, Zambia, and Zimbabwe. Member States were urged to consider participating in the SMS tool pilot programme which commenced in 2019.

Discussions

a) Formal Notification of NFPs NMC

17. The meeting noted that only 5 Member States namely Burundi, Egypt, Mauritius, Zambia, and Zimbabwe had formally notified their NMC to the Secretariat in accordance with the regulations. The meeting also noted that, in developing the regulations Member States took into account the Regulations of sister RECS in the Tripartite.

b) Institutional arrangements

18. With regards institutional arrangements, the meeting observed that the newly established Monitoring Unit in the Secretariat had responsibility to monitor and follow up all reported NTBs expeditiously to support resolution of reported NTBs. The unit should actively engage the National Focal Points in order to minimize delays in processing and resolving outstanding NTBs.

c) Observation to the regulations

19. Member States submitted comments on the Article 11 on stage II on resolution procedures for consideration by the Customs & Trade Committee specifically relating to the appointment of Facilitator and maximum time allowed for notifications and responses towards resolution of a NTB under the two stage process. The concern was that the Regulations provides limited powers to the facilitator who has no authority to make binding decisions. Further, the 60 days in Stage 1 and 65 days in Stage two was considered to be too long and may jeopardise the private sector through increased costs and possible collapse of the industry. The reduction of this period to half allowed for perishable is also too long and needs to be reviewed in line international best practice and also taking into consideration storage conditions at the border posts for such products.

20. The meeting noted that any amendments to the regulations would be considered in accordance with the provisions in the regulations.

d) Improvements to the Online system

21. The meeting made observations that certain aspects of the online system for example alerts to Focal Points needed to be upgraded and also urged NFPs to actively participate in the realtime processing and monitoring of NTBs to expedite resolution of NTBs. The meeting also proposed adoption of a traffic light dashboard to monitor status of resolving NTB's.

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Recommendations

22. The meeting recommended that the:

- a) Secretariat circulates to Member States a standard format for submitting NMC reports to the Forum and a template for formal notification of NMC and National Focal Points by 31st March 2021;
- b) Secretariat writes to Member States reminding them to submit formal notification of their NMCs by 30th April 2021;
- c) NTB Monitoring Unit to actively engages in the NTBs resolution process and provide technical assistance where necessary to Member States to reduce the time taken to resolve NTBs;
- d) Member States consider review of article 11 of the Regulations with a view to strengthen the powers of the Facilitator and to shorten the overall period of resolving disputes from the current 60 days; and
- e) Secretariat, in consultation with NMC's, identify and implement enhancements to the Online Monitoring System and consider adoption of a traffic light monitoring dashboard.

CONSIDERATION OF DRAFT WORK PROGRAMME FOR THE IMPLEMENTATION OF REGULATIONS (*Agenda item 6*)

23. The Secretariat presented the draft Work Programme for implementation of the NTBs Regulations and Working Procedures for the elimination of NTBs. The presentation covered the list of activities required in line with the Regulations and Working Procedures including the following: institutional framework; capacity building and awareness; key policy interventions and bilateral engagements. The presentation emphasised on the importance of Member States putting in place and or strengthen Institutional arrangements to expedite the implementation of the Regulations. In addition the development of National Strategy to eliminate NTBs should be prioritised by Member States. The agreed Work Programme is attached as Annex II.

Discussion

24. Member States underscored the importance of implementation and adherence to the provisions of the Regulations and Working Procedures and therefore the need to operationalise the agreed Work Programme. To accelerate implementation of the Work Programme, the Secretariat was requested to prepare an implementation matrix for Member States to provide status implementation reports. The meeting noted the delays by Member States to submit formal notifications of NMC and NFPs and committed to submit this information by end of April, 2021. The meeting noted that some Member States still had to put in place institutional arrangements for the elimination of NTBs.

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Recommendations

25. **The meeting recommended that the:**
- a) **Secretariat writes a letter reminding Member States about all the pending notifications, and Member States that have not designated focal points to do so by 30th April, 2021;**
 - b) **Timeframes for implementation of the agreed work programme be reviewed with a view to extend implementation date by one month to 30th April, 2021;**
 - c) **Member States submit status of implementation of NTBs Regulations according to the Work Programme Matrix by 30th April, 2021; and**
 - d) **Secretariat develops a matrix of the status on implementation of the activities in the Regulations for consideration by the Trade & Trade Facilitation Sub- Committee.**

FORMALISATION AND WORK PROGRAMMES FOR THE NATIONAL MONITORING COMMITTEES (*Agenda item 7*)

26. The Secretariat advised the meeting that the activities on formalisation and work programmes for NMC are part of the work programme for the implementation of the regulations by Member States.

Discussion

27. Member States sought clarification on the timeframes for formalisation of NMCs to which the Secretariat advised that Member States were expected to formalise their NMCs and notify the Secretariat the list of the Institutions that constitute the NMC and contact details of the Members by the agreed deadline of 30th April, 2021. Eswatini informed the meeting that they had formalised their NMC in November, 2020 and that regular NMC meetings had commenced.

28. Mauritius sought clarification regarding one of the proposed activities in the NMC work plan regarding undertaking of national surveys on identification and resolution of NTBs. The Secretariat informed the meeting that such activities would apply to Member States in the transit routes for purposes of mapping NTBs.

CONSIDERATION OF COMESA TIME BOUND MATRIX ON ELIMINATION OF INTRA COMESA NTBs (*Agenda item 8*)

29. The Secretariat presented the Time bound Matrix and explained the various fields. It was pointed out that the Online system sends out reminders on outstanding NTBs to all Focal points registered in the system at 09:00hrs every Thursday. The National Focal Points were therefore urged to make timeous follow up and engage one another through the realtime facility in the system to expedite processing and resolution of the outstanding NTBs.

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30. The meeting considered the outstanding intra COMESA NTBs as at 9th March, and noted that updates on some of the NTBs **discussed at 8th meeting of NTB Focal Points in 2020 were not reflected in the Matrix. Secretariat undertook to verify and update the matrix** accordingly. Three NTBs were resolved Member States gave progress on the 9 outstanding NTBs.

Discussions

31. **Member States considered the Time Bound Matrix of NTBs (Annex III) and affected Member States provided the following update reports:**

Table 1

NTB	Update	Time frame
420: Issues related to the rules of origin	Zambia reported that the planned verification mission had not been undertaken. Zambia will send a request to Kenya within 30 days to submit the costs structure of the inputs used to produce the final product in order to determine the origin status after which a verification mission to Kenya will be organised.	15 th April 2021
820: SPS-A12: Geographical restrictions on eligibility	Zambia reported that the issue requires that the Kenya exporter complies with the Zambia standard for milk. Kenya requested Zambia to clarify standard being applied on milk. Zambia Bureau of Standards explained that they are using a local standard that is based on international best practice and requested Kenya to provide them with their test methods, to enable to assess whether the product complies with the Zambia standard. Kenya advised that they would consult with the Kenya Bureau of Standards and provide the information within 30 days.	15 th April 2021
936: Additional taxes and other charges	Zambia reported that the NTB is a tax policy issue and internal consultations with relevant authorities were in progress and they will provide feed back by July 2021.	31 st July 2021
966: Import licensing requirements	Zimbabwe reported that they are consulting the Ministry of Industry and Commerce, which is the issuing Authority and will report back in the online system.	15 th April 2021
970: Import licensing	Zambia informed the meeting that the regulation requires that foreign exporters of wheat to Zambia apply for import permits from the Zambian Ministry of Agriculture for consideration. Zambia undertook to share with Secretariat the relevant regulation for circulation to Member States.	31 st March 2021
971: Vehicle standards	Zambia reported that the Focal Point contacted the exporter requesting them to provide further information on whether it was a one off or repeated	RESOLVED

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		considered as resolved on grounds that the exporter did not submit additional information .		
1000:	Other Customs clearance procedures	Zimbabwe reported that they will undertake internal consultations and submit a report in the online system within 30 days.	30	April 2021
1004:	Re-designation of Port of entry for Zimbabwean products by Zambia	Zimbabwe requested Zambia to consider opening the Victoria Falls Border post to allow exports of coal and other products in order to reduce landed costs to consumers. Zambia explained that SI 115 was introduced to preserve Livingstone as a tourist town by diverting bulk cargo transport to rail transport. With regard to formal communication by Zimbabwe to Zambia on this issue, Zambia reported that the Ministry of Commerce, Trade and Industry had not received the communication from Zimbabwe and undertook to make follow up and respond.	15 th	April 2021
1005:	Arbitrary customs classification	Zimbabwe reported that they will undertake internal consultations and submit reports in the online system within 30 days.	15	April 2021
1006:	Arbitrary customs classification	Zimbabwe reported that they will undertake internal consultations and submit reports in the online system within 30 days.	15	April 2021

ANY OTHER BUSINESS (*Agenda item 9*)

32. There was no any other business.

ADOPTION OF REPORT (*Agenda item 10*)

33. The meeting adopted its report.

CLOSURE OF THE MEETING (*Agenda item 11*)

34. In his closing remarks the Chairperson thanked the delegates for their fruitful deliberations and the Secretariat for facilitating the forum.



**CHAIRPERSON
(Egypt)**



**RAPPORTEUR
(Ethiopia)**