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# COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA

Second Extra-Ordinary Meeting of Kenya Sugar Safeguard Sub-Committee

Virtual meeting 17-19 August 2021

REPORT OF THE SECOND EXTRA-ORDINARY MEETING OF THE SUB-COMMITTEE ON THE KENYA SUGAR SAFEGUARD

Theme: "COMESA Towards Digital Economic Integration"

2021/AT/BS/AS/VH/NG-eck

#### INTRODUCTION

- 1. The Second Extra-Ordinary Meeting of Kenya Sugar Safeguard Sub-Committee was held virtually on 17-19 August 2021 pursuantto recommendation by the fourth Kenya Sugar Safeguard Sub-Committee which was held from 14-15 April. The main objectives of the meeting were to discuss the following as recommended by the same meeting above mentioned:
  - a) Presentation of the modalities for reallocation of the unutilised Kenya sugar quotas by Member States;
  - b) Review of the implementation of the Kenya Sugar safeguard that includes cost of production along with sugar production figures; and
  - c) Status report on the utilization of the quotas.

#### Attendance

2. The meeting was attended by delegates from the following sugar exporting Member States: Burundi, DR Congo, Egypt, Eswatini, Malawi, Mauritius, Rwanda, Uganda, Zambia, Zimbabwe and Kenya which is implementing the safeguard and Secretariat. The List of Participants is attached as **Annex 1**.

## **OPENING OF THE MEETING** (Agenda Item 1)

- 3. Ambassador Dr. Kipyego Cheluget, COMESA Assistant Secretary General (programmes) made the opening remarks. He welcomed the delegates to the Second Extra-Ordinary Meeting of Kenya Sugar Safeguard Sub-Committee, which was being held virtually, as has become the norm amidst the COVID-19 pandemic.
- 4. He noted the good progress in managing the Kenya Sugar safeguard measure following the two-year extension granted to Kenya by the Council of Ministers in their 41<sup>st</sup> meeting that took place in November last year.
- 5. He thanked the Sub-Committee and Member States for the work that is being done to ensure the safeguard measures are well administered and more importantly assist Kenya to ensure the safeguard measure serves the purpose it was intended for, which is to increase the competitiveness of Kenya sugar industry and raise the standards of living note only across the region but more specifically the people of Kenya mainly farmers in the industry.
- 6. He also noted the efforts by the government of Kenya to effectively take advantage of the granted extension over a period of two years to ensure Kenya reached her targets in production and the desired competitiveness of the sugar industry to be able to satisfy its own market and contribute to regional trade and full integration aiming to free movement of goods, services, people and capital while increasing the standards of living of COMESA Region as a whole.
- 7. He further, observed that, indeed, Sugar exporting countries in COMESA region have great potential to serve the market and provide employment opportunities to its people if all factors of production are well considered while focusing on the economies of scales and regional value chains to ensure high competitiveness across Member States that can confidently serve the region enjoying the Free Trade Area and internationally competing with the rest of the world.
- 8. He concluded by urging Kenya to continue observing her commitment to expected targets over the extended period to ensure the strategies and the roadmap towards the conclusion of the safeguard measures are effectively met. In addition, he also noted the consumption and distribution of the allocated quotas that may not necessarily reflect the realities in actual business and encouraged delegates to come up with a well-balanced modality for reallocation of unutilized quotas to ensure flexibilities not only from the demand side but also from the supply side perspectives. He expressed his confidence to the Sub-Committee to deliver on its mandate and



make clear and achievable recommendations with defined timelines that should be considered in the forthcoming organ meetings and the Summit in November this year.

## **ELECTION OF BUREAU** (Agenda Item 2)

The meeting elected the following Bureau:

Chair:

Egypt

Vice Chair: Zambia

Rapporteur: Malawi

### ADOPTION OF THE AGENDA (Agenda Item 3)

- The meeting adopted the following Agenda items: 10.
  - Opening of the Meeting 1)
  - 2) Election of the Bureau

Adoption of the Agenda 3)

- Review implementation of the Kenya Sugar safeguard that includes cost of 4) production along with sugar production figures and status report on the utilization of the quotas
- Presentation of the Modalities for Reallocation of the Unutilised Kenya Sugar 5) Quotas by Member States

Any other Business 6)

- Adoption of the Report 7)
- Closing of the Meeting 8)

PRESENTATION ON IMPLEMENTATION OF THE KENYA SUGAR SAFEGUARD THAT INCLUDES COST OF PRODUCTION ALONG WITH SUGAR PRODUCTION FIGURES AND STATUS REPORT ON THE UTILIZATION OF THE QUOTAS (Agenda Item 4)

- a. Implementation of the Kenya Sugar Safeguard
- Kenya made a presentation on the implementation of the sugar safeguard. The presentation highlighted that Kenya was granted another two years' sugar safeguard starting 1st March 2021 to end of February 2023 during the 41st Council meeting in November 2020. In that Council decision, Kenya was requested to provide a detailed roadmap on how to enhance the sugar sector competitiveness during the extended safeguard period.
- The presentation noted that the area under cane growing has progressively increased 12. from 126,826 hectares in 2002 to 220,804 hectares at the end of June 2021, a 74% increase. During the 2021/2022 season, it is estimated that 9,276,657 tonnes of cane will be available for milling against 7,565,695 tonnes crushed in the ended year of 2020/2021, representing a 23% increase. Kenya's sugar industry projected sugar production for the year 2021 is 660,000MT compared to 603,788 tonnes achieved in 2020, thus an increase of 9%. Total production from January - June 2021 was 361,214 tonnes compared to 298,435 tonnes achieved in the same period 2020, a 21% increase. Together with increase in area under cane and improved cane availability, it is evident enough that the industry shall meet and exceed the projected sugar production.
- The projected sugar consumption in 2021 is 1,067,099 tonnes for both white refined and 13. brown/mill white sugar. To fill the shortfall, a COMESA quota of 210,163 metric tonnes of brown sugar for the period January - December 2021 was allocated based on Kenya's projected brown sugar deficit for 2021. Table 1 below shows the sugar allocated Quotas, proposed utilization and actual utilization.

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Table1: Sugar allocated Quotas, proposed utilization and actual utilization in 2021 (tonnes)

| able I. Sugai    | allocated Quotas, p                                      | Prop   | Actual Hall                     |                                  |                             |  |
|------------------|--|--|---------------------------------|----------------------------------|-----------------------------|--|
| Member<br>States | 2021 Sugar<br>Quota for Brown<br>sugar allocated<br>(MT) | Monthly<br>utilization of<br>the allocated<br>quota (MT) | Quarterly<br>utilization<br>(MT | Half Year<br>utilization<br>(MT) | year<br>utilization<br>(MT) |  |
| Burundi          | 0.27   | 0.02   | 0.07                            | 0.14                             | -                           |  |
| Comoros          | 0.17   | 0.01   | 0.04                            | 0.09                             | -                           |  |
| Ethiopia         | 2,833,77   | 236.15   | 708.44                          | 1,416.89                         | -                           |  |
| Tunisia          | 1,261.49   | 105.12   | 315.37                          | 630.75                           | -                           |  |
| Congo DR         | 5.91   | 0.49   | 1.48                            | 2.96                             |                             |  |
| Egypt            | 7,875.55   | 656.30   | 1,968.89                        | 3,937.78                         | 9,000.00                    |  |
| Kenya            | 0.00   | 0.00   | 0.00                            | 0.00                             | -                           |  |
| Madagascar       | 1,549.22   | 129.10   | 387.31                          | 774.61                           | 8,000.00                    |  |
| Malawi           | 17,824.58  | 1,485.38   | 4,456.15                        | 8,912.29                         | 1,998.00                    |  |
| Mauritius        | 36,036.78  | 3,003.07   | 9,009.20                        | 18,018.39                        | 23,403.81                   |  |
| Rwanda           | 4,072.50   | 339.38   | 1,018.13                        | 2,036.25                         |                             |  |
| Sudan            | 944.83   | 78.74  | 236.21                          | 472.42                           |                             |  |
| Eswatini         | 68,959.01  | 5,746.58   | 17,239.75                       | 34,479.51                        | 34,726.00                   |  |
| Uganda           | 18,923.63  | 1,576.97   | 4,730.91                        | 9,461.82                         | 31,256.95                   |  |
| Zambia           | 41,152.33  | 3,429.36   | 10,288.08                       | 20,576.17                        | 15,807.97                   |  |
| Zimbabwe         | 8,723.05   | 726.92   | 2,180.76                        | 4,361.53                         | 16,951.00                   |  |
| TOTAL            | 210,163.09   | 17,513.59  | 52,540.77                       | 105,081.55                       | 141,143.73                  |  |

Key- Red shows the quota is overdrawn; black is within the quota

- 14. Kenya's brown sugar deficit for 2021 is 210,163 tonnes. Sugar production in the country is stable at a more-less similar quantity in all the months. In order to bridge the deficit while safeguarding the local market, it is proposed that total brown sugar imports be pegged at 17,514 tonnes per month. However, this import limit has not been adhered to due to some importers shipping in their sugars before authorization. This puts a lot of pressure on the Government to clear these imports and this eventually impacts negatively on the Kenya market for sugar. For instance, a total of 141,144 tonnes of brown sugar was imported in the period the first six months (January-June 2021) against the proposed 105,082 tonnes in the same period. This has adversely contributed to ex-factory sugar prices dropping from 4,724 in January 2021 to Kshs 4,312 per 50kg bag in June 2021, a 9% decrease.
- 15. Table 2 below shows the sugar production, consumption and imports trend for the last four years. Figures on sugar production costs over the years are currently not available. However, the Government plans to undertake a comprehensive study to establish the grower's and miller's cost of production in the next three months.

Table 1: Sugar production, consumption and imports (2018 - June 2021)

| Table 1 |                 | Corroding acrea in | IMPORTS (MT) |                  |         |  |  |
|---------|-----------------|--------------------|--------------|------------------|---------|--|--|
| YEAR    | PRODUCTION (MT) | CONSUMPTION* (MT)  | MILL/BROWN   | WHITE<br>REFINED | TOTAL   |  |  |
| 0040    | 491,097         | 1,012,399          | 122,121      | 162,048          | 284,169 |  |  |
| 2018    | 440,935         | 1,038,717          | 285,093      | 173,538          | 458,631 |  |  |
| 2019    | 603,788         | 1,040,591          | 309,408      | 132,985          | 442,393 |  |  |
| 2020    |                 |                    |              | 85,901           | 227,055 |  |  |
| 2021**  | 361,214         | 1,007,099          | (-ri, ro r   | 1 20,00          |         |  |  |

NB: \* All the Consumption figures are estimates (total for both table and industrial sugar)

\*\*Sugar production and imports are for January – June 2021

# b. Status Report on the Utilization of the Quotas

- 16. Kenya made a presentation on the status of utilization of the quotas. The presentation highlighted as per Table 3 below, details on the sugar allocated quotas and utilization for the period; 2018 to June 2021.
- noting that brown sugar imports from January June 2021 totalled to 141,144 tonnes, representing a 67% utilization of the quota allocation.
- 17. Kenya observed that the implementation of the quota allocation is on track and that some COMESA Member States have over the year exceeded their annual allocation; Egypt, Madagascar, Uganda and Zimbabwe had exceeded their annual allocated quota within the first six months. However, the rest of the countries are within the quota allocation as indicated on the variance column (Table 3 below).
- 18. Kenya urged Member states to assist in the management of the quota by ensuring that only importers with valid sugar import pre-shipment documents are allowed to make shipments of sugar imports to Kenya from the originating countries, noting incidences of some traders buying sugar from some Member states without any form of authorization.

Table 3: Sugar Export Quotas and Utilization for 2018 - June 2021 (tonnes)

|                  | 2018               |   |         | 2019               |                   | or 2018 - June 2021 (to<br>2020 |                    |                   | 2021       |                    |                                       |              |
|------------------|--------------------|---|---------|--------------------|-------------------|---------------------------------|--------------------|-------------------|------------|--------------------|---------------------------------------|--------------|
| Member<br>States | Allocated<br>Quota | Actual<br>Imports                       | Surplus | Allocated<br>Quota | Actual<br>Imports | Surplus                         | Allocated<br>Quota | Actual<br>Imports |            | Allocated<br>Quota | Actual<br>Imports,<br>Jan-Jun<br>2021 | Surplus      |
| Burundi          | 0                  | 0                                       | 0       | 0                  | 0                 | 0                               | 26.38              |                   | (26)       | 0.27               | 0                                     | (0.27)       |
| Comoros          | 0                  | 0                                       | 0       | 0                  | 0                 | 0                               | 0                  | 0                 | 0          | 0.17               | -                                     | (0.17)       |
| Ethiopia         | 0                  | 0                                       | 0       | 0                  | 0                 | 0                               | 0                  | 0                 | 0          | 2,833.77           | -                                     | (2,833.77)   |
| Tunisia          | 0                  | 0                                       | 0       | 0                  | 0                 | 0                               | 0                  | 0                 | 0          | 1,261.49           | -                                     | (1,261.49)   |
| Congo DR         | 0                  | 0                                       | 0       | 0                  | 0                 | 0                               | 10.84              | -                 | (11)       | 5.91               | -                                     | (5.91)       |
| Egypt            | 32,753             | 31,098                                  | -1,655  | 22,526             | 39,188            | 16,662                          | 18,310             | 41,614            | 23,304     | 7,875.55           | 9,000.00                              | 1,124.45     |
| Kenya            | 0                  |   | 0       | 0                  | 0                 | 0                               |                    |                   |            | 0.00               | -                                     | -            |
| Madagasca        | 873                | 2,000                                   | 1,127   | 1,925              | 19,800            | 17,875                          | 1,408              | 21,000            | 19,592     | 1,549.22           | 8,000.00                              | 6,450.78     |
| Malawi           | 8,900              | 5,224                                   | -3,676  | 0                  | 35,143            | 35,143                          | 12,791.93          | 31,373            | 18,581     | 17,824.58          | 1,998.00                              | (15,826.58   |
| Mauritius        | 42,176             | 60,457                                  | 18,281  | 55,509             | 89,169            | 33,660                          | 48,075             | 64,832            | 16,757     | 36,036.78          | 23,403.81                             | (12,632.97   |
| Rwanda           | C                  | 0                                       | 0       | 0                  | C                 | C                               | 1,103.72           | 2                 | (1,104)    | 4,072.50           |                                       | (4,072.50    |
| Sudan            | (                  | 0                                       | 0       | 2,648              | C                 | -2,648                          | 3                  |                   | -          | 944.83             |                                       | (944.83)     |
| Eswatini         | 75,242             | 11,738                                  | -63,504 | 99,126             | 38,115            | -61,011                         | 87,92              | 47,32             | 4 (40,597) | 68,959.01          | 34,726.00                             | (34,233.01   |
| Uganda           | 10,934             | 62,622                                  | 51,688  | 4,786              | 61,652            | 56,866                          | 11,97              | 3 28,10           | 9 16,136   | 18,923.63          | 31,256.9                              | 12,333.32    |
| Zambia           | 31,87              | 19,666                                  | -12,205 | 51,772             | 34,445            | -17,327                         | 53,69              | 6 20,27           | 7 (33,419  | 41,152.33          | 15,807.9                              | 7 (25,344.36 |
| Zimbabwe         | 7,250              | 14,775                                  | 7,525   | 11,199             | 52,957            | 41,758                          | 14,68              |                   |            | 8 723 05           | 16,951.0                              | 0 8,227.95   |
| TOTAL            | 209,999            | 207,580                                 | 2,419   | 249,491            | 370,469           | 9120,46                         | 9 250,00           | 0 343,08          | 7 93,087   | 210,163.09         | 141,143.7                             | (69,019.36   |
| TOTAL<br>DEFICIT | 210,000            | 100000000000000000000000000000000000000 |         | 250,000            | o                 |                                 | 250,00             | 0                 |            | 210,163.00         | )                                     |              |

#### Discussion

19. In the discussion, Member States appreciated the report from Kenya and made the following observations:

a) Sought for additional clarifications on re-allocation of unutilized sugar quota and on standard recovery rate of crushed sugar production;

b) Thanked Kenya for undertaking to conduct a study on sugar production and proposals for re-allocation and requested further clarifications on scope and

rate of cost of production;

c) Given the fact that some Member States have exceeded their allocated quotaswithin the first six months, some Member States sought assurance from Kenya that their unutilized quota will not be affected by the supplies from those Member States who will have exceeded their quota and if Kenya would still allow them to export based on their unutilized allocated quota;

d) Sought clarifications on the issuance processes of sugar import pre-shipment permit noting that there are challenges with regards to the 45 days validity of the pre-shipment approval letter which most of the time expires before loading

or arrival into Kenya;

e) Eswatini sought clarification from Kenya regarding the export figures that were different from what they believe they exported to Kenya which are higher than their national export records;

f) Uganda requested Kenya to increase the minimum pre-shipment quantity from 100 to 500 metric ton to improve efficiency of the utilization of sugar quota and

enhance intra-regional trade; and

g) requested Kenya to provide monthly and quarterly performance data on utilization of sugar quota for sharing the information with the Member States with aim to improving efficiency of the utilization of sugar quota.

- 20. Kenya responded to the questions and comments raised by the Member States as follows:
  - a) On re-allocation of unutilized sugar quota and standard recovery rate of crushed sugar production, Kenya indicated that the recovery rate has been improving compared to previous years while Kenya undertook to assess both farm and miller's costs of production, an exercise that has already started;
  - b) Kenya responded that those Member States with outstanding quotas are assured for the time being. Kenya requested the Member States assistance in the management of the quota by ensuring that only importers with valid sugar import pre-shipment documents are permitted to dispatch brown sugar from the originating countries, noting incidences of some traders buying sugar from some Member States without any form of authorization. However, the assurance cannot be guaranteed if the Member States continued to sell sugar to importers who don't possess required documentation.

c) Kenya clarified the ongoing procedures of the permit that the expirydate of sugar import pre-shipment approval letter is 45 days from date of its issuance and if it expired before clearance of the sugar the importer should submit a

fresh application to get a new pre-shipment approval letter;

d) Kenya reported that they have put in place and continue to improve an online system that allows issuance of imports permit, pre-shipemnet approval letters

and monitoring of the implementation of the sugar quota. Member States observed the importance of the system and requested Kenya to consider an integrated system that would enable them to access the status of utilization of allocated quota and issuance the pre-shipment approval letter;

e) Kenya confirmed having received the correspondence from Eswatini on the

sugar quota utilization performance.

Kenya indicated that the presented figures are actual import data as captured by Kenya Revenue Authority (KRA). Nonetheless, Eswatini informed Kenya that they have not received the formal response from Kenya and requested Kenya to re-send the response and copy the COMESA Secretariat;

f) Kenya informed that all member states except Uganda have a minimum preshipment quantity of 1000 metric tons. However, the the proposal to increase the minimum pre-shipment quantity from 100 to 500 metric tons will be

considered after internal consultation; and

g) Kenya provide monthly and quarterly performance data on utilization of sugar quota for sharing the information with the Member States.

#### Recommendations

## 21. The meeting recommended that:

a) Member States to assist Kenya in the management of the quota by ensuring that only importers with valid sugar import pre-shipment document are sold sugars from the originating countries;

b) Kenya to consider increasing the minimum pre-shipment quantity (from

100 to 500 metric tons for Uganda;

c) Kenya to consider an integrated online sugar quota monitoring system that enable the Member States accessing the status of utilization of allocated quota and issuance the pre-shipment approval letter; and

d) Kenya to provide monthly and quarterly performance data on utilization of sugar quota for sharing the information with the Member States; and

e) Kenya to ensure that oversupplies from certain Member States do not cause prejudice to those Member States not having filled their TRQs.

# PRESENTATION OF THE MODALITIES FOR REALLOCATION OF THE UNUTILISED KENYA BROWN SUGAR QUOTA BY MEMBER STATES (Agenda Item 5)

- 22. The meeting recalled that Kenya sought and was granted a safeguard on sugar in 2002 as the Kenya sugar sector could not compete with the other sugar producing COMESA Member States following the commencement of the Free Trade Area. The Council Directive No. 1 of 2007 set out the terms and conditions of the safeguard.
- 23. In 2015 Council underscored the importance of having a system that benefits all sugar exporting Member States and promotes intra-COMESA trade and supported the idea of Member States being given priority in bridging sugar deficit in Kenya. The thirty fifth Council agreed to include the following parameters in the formula for sugar quota allocation:

SP = Sugar Production.

SC = Sugar Consumption.

SS = Sugar Surplus (SP Minus SC); and

L.E

### ST = Intra-COMESA sugar trade.

- Noting that to promote intra-COMESA trade and local production of sugar it was important to give more weight to surplus sugar production in the formula for allocating quotas, the Council agreed on the formula and requested that the adopted formula be reviewed again after a period of two years. The Council decision read "The formula for allocating sugar quotas should be: 70% for Sugar Surplus and 30% for Intra COMESA Trade, subject to review after two years and Kenya be requested to redistribute un-used quotas." While the formula is SQ=-0.3 ST+0.7SS.
- 25. Following a set of Council decisions that have continuously extended the safeguards to Kenya including the latest 41<sup>st</sup> Meeting of the Council of Ministers that granted a two (2) years extension of the Kenya sugar safeguard beginning March 2021-February 2023 based on the provisions of Article 61(2) of the Treaty, the 4<sup>th</sup> Kenya Sugar Sub-Committee Meeting held in April 2021, made recommendations among others that:
  - a) Member States to submit to the Secretariat proposals on modalities to reallocate the unutilized quotas by 16th of May 2021;
  - b) The Secretariat be urged, based on the submitted proposals by the Member States, to prepare the draft modalities for reallocation of unutilized quota and circulate to Member States for comments / consideration in preparation for the extra-ordinary meeting by 1<sup>st</sup> of June 2021; and
  - c) In collaboration with Member States, the Secretariat to convene an extraordinary meeting to discuss the proposed modalities.
- 26. It is against the above-mentioned background that the Secretariat drafted the following *Modalities for Reallocation of the Unutilised Kenya Brown Sugar Quota by Member States* which have been developed based on the submissions received from Member States for consideration by the 2<sup>nd</sup> Extra-ordinary meeting of the Kenya Sugar Safeguard Sub-Committee.
- 27. The Secretariat made a presentation on the modalities for reallocation of the unutilised Sugar quotas by Member States. The presentation highlighted the following:
  - The quota year for COMESA tariff-rate sugar quotas runs from 1 January to 31 December of each year;
  - b) COMESA FTA Member States be given the priority in Kenya sugar import
  - c) Country quotas are based on the latest available ISO statistics, while the Kenyan forecast deficit will be as determined by Kenya. Moreover, Kenya sugar quota allocations / reallocation be based on the disaggregated figures of deficit of the brown sugar only as per the council decisions issued in that regard, and accordingly the market for white refined sugar will be open to COMESA and non-COMESA exporters without quota restrictions;
  - d) These quotas are calculated by the COMESA Secretariat as per the adopted formular and advised to Member States before 31 December of each year for the following year;
  - e) The COMESA Secretariat will be responsible for determining the re-allocation of quota quantities of sugar that will not be utilized for any given year, based on the report submitted by Kenya on the utilization of allocated quotas, and to

- re-allocate the unutilized quota to COMESA Member States that has the capacity to supply the determined shortfall. The re-allocated unutilized quota will be circulated to relevant Member States by 30 September each year;
- f) Kenya will issue import permits strictly in accordance with the Member States quotas and will be strictly controlled and managed by Kenya to avoid any country oversupplies that will impact on the allotted quotas of other Member States. In the same spirit, for the purpose of transparency, effectiveness and efficiency, Kenya will develop and maintain an online system for issuing import licenses, in accordance with the decisions of the 41st Meeting of the Council;
- g) In order to effect the re-calculation, countries must submit to Kenya and copy to the Secretariat, the following information on quota allocation no later than 5<sup>th</sup> September of each year:
  - i) Initial quota allocated,
  - ii) Quota utilization up to 30th August,
  - iii) Planned quota utilization for the remainder of the year from September to 31 December.
  - iv) Unutilized quota returned for re-allocation to countries with supply capacity,
  - v) Country capacity to supply sugar to Kenya over the remaining quota period (September to 31 December) more than the country's remaining quota balance for the same period.
- h) Kenya will submit to the COMESA Secretariat, by 15 September of each year, the status report of quota utilization as at end of August including notification of any adjustments to its deficit forecast. The unutilized quotas together with the adjustments to the deficit forecast if any will determine the quota reallocations and be notified to Member States by 30 September of each year;
- i) For countries not supplying the requested information by the required deadline date (5<sup>th</sup> September) it will be assumed that they will supply their quota in full, and are aware that they will be subjected to the penalty clause referred to in the paragraph h below should they not supply their annual quota in full;
- j) Unutilized quota allocations and quota shortfalls the total of (d) above for all countries plus the shortfall notified under (f) will be reallocated on the following basis:
  - i) Unutilized and additional quotas will be re-allocated to countries that has indicated full utilization of its annual quota [ (b) + (c) = (a)] and has surplus supply capacity as reported under (e) above,
  - ii) Country re-allocations will be calculated pro rata for countries using the same formula and data used to establish the annual country quotas for any given year.
- k) Countries not meeting their supply estimations as established by the COMESA Secretariat in accordance with the modalities set out above, will be subjected to a penalty of 30% reduction of their annual allocation next year should their supply during the excise year is less than 50% of their allocated figure;
- Recalling that much of the unutilized quota is derived from non-COMESA FTA Member States, and accordingly will attract duties, which is contradicting with the terms set in directive No.1 in 2007 of the council of ministers regarding duty free quota. Therefore, the reallocation of unutilized quota should be allocated to FTA member States based on "first come-first served" basis, to fulfill the total amount of duty-free quota allocated by Kenya; and
- m) The need to revise the adopted formula for quota allocation, in accordance with the council decision stating that the formula be reviewed regularly to ascertain

the feasibility of the formula and its achievement of equality among the member States.

#### Discussion

28. In the discussion, the Member States thanked the Secretariat for the presentation and considered the *draft proposed modalities for reallocation of the unutilised Kenya brown sugar quota* (as attached in Annex II) and made the following observations:

- a) Member states congratulated Kenya for implementing the Council decision regarding the disaggregation. The meeting further observed that the calculation of sugar surplus within the quota allocation formula be based on brown sugar surplus figures only, rather than total surplus in the ISO statistics. Therefore, Member States were requested to provide national statistics of brown sugar production, consumption, and surplus.
- b) The meeting noted that the data provided by ISO is based on the aggregated figures of sugar surplus, and hence the secretariat will circulate a template for Member states to report statistics on disaggregated data on brown sugar as per the decision of the 39th meeting of Council of Ministers held in November 2018.
- c) Member states had divergent views regarding the date assigned for reallocation of sugar quota. Some member states were of the view that late reallocation for sugar quota resulted in higher cost of production and impact severely prices per metric ton and proposed the reallocation to start by June each year. Other member states, particularly those in the Southern Hemisphere cited that the crushing season starts in April and therefore preferred later periods, after August. This is because an earlier date would pose a challenge for countries to have sufficient data on quota utilisation. In that regard, Member states reported variation on their season of sugar production. Member states agreed to refer the dates for reallocation to the next trade and trade facilitation meeting.
- d) Egypt was of the view that quota should be only allocated to COMESA FTA Member states to align with the directive no.1 in 2007 regarding duty free quota, and any privilege granted to COMESA non-FTA Member states in terms of quota allocation should be approved by the Council.
- e) Member states agreed on the proposed modalities with amendments and to undertake further national consultations on the draft modalities and submit their comments to the next Trade and Trade Facilitation sub-committee meeting.

#### Recommendations

- 29. The meeting made the following recommendations that:
  - a) The draft proposal on Modalities for Reallocation of the Unutilised Kenya Brown Sugar Quota (as amended) be circulated to Member States for further national consultation and consideration by the Trade and Trade Facilitation subcommittee meeting:



b) The Secretariat in collaboration with Kenya to develop and circulate a Draft Template for provision of national statistics of brown sugar production, consumption, and surplus by Member States; and

c) Calculation of sugar surplus within the quota allocation formula be based on brown sugar surplus figures only rather than the total sugar surplus;

- d) Urged Member states to adhere to the decisions of the 39th meeting of Council of Ministers held in November 2018 that:
  - Member states submit disaggregated data on sugar production, consumption, exports, imports, intra and extra COMESA by 30<sup>th</sup> December 2018; and
  - ii. The Secretariat to provide a template to Member states to use in providing the statistics by 15th December 2018

# ANY OTHER BUSINESS (Agenda Item 6)

30. There was no other issue raised under this agenda.

# ADOPTION OF THE REPORT (Agenda Item 7)

31. The meeting adopted its report.

# CLOSING OF THE MEETING (Agenda Item 8)

32. The Chair thanked the delegates for their active participation and closed the meeting.

Laborat Stan Hassan

Ms. Lobna Essam Chairperson (Egypt)

Ms. Bessie M. Chelemu Vice Chairperson (Zambia)

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