

COMESA



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ACRONYMS

ACBF	-	African Capacity Building Foundation
ACE	-	African Commerce Exchange
ACTESA	-	Alliance for Commodity Trade in Eastern and Southern Africa
AfDB	-	African Development Bank
AGOA	-	Africa Growth and Opportunity Act
AGRA	-	Alliance for Green Revolution in Africa
AFCAC	-	African Civil Aviation Commission
AFRAA	-	African Airlines Association
AMCEN	-	African Ministerial Conference on Environment
ARIPO	-	African Regional Intellectual Property Organisation
AU	-	African Union
ARICEA	-	Association of Regulators of Information and Communications for Eastern and Southern Africa
ASYCUDA	-	Automated System on Customs Data
ATI	-	African Trade Insurance Agency
BADEA	-	Arab Bank for Economic Development in Africa
CA	-	Conservation Agriculture
CAADP	-	Comprehensive African Agriculture Development Program
CET	-	Common External Tariff
COMESA	-	Common Market for Eastern and Southern Africa
COMTEL	-	COMESA Telecommunications Company
CNS/ATM	-	Communication Navigation Surveillance Air Traffic Management System
CSR	-	Common Statistical Rules
DfID	-	Department for International Development (U.K.)
EAC	-	East African Community
ECCAS	-	Economic Community of Central African States
ECOWAS	-	Economic Community of West African States
EDF	-	European Development Fund

EU	-	European Union
EPA	-	Economic Partnership Agreement
ESA	-	Eastern and Southern Africa (and Indian Ocean Region)
FDI	-	Foreign Direct Investment
FEMCOM	-	Federation of National Associations of Women in Business in Eastern and Southern Africa
FTA	-	Free Trade Area
GIS	-	Geographic Information System
IATA	-	International Airlines Travel Association
IC	-	Intergovernmental Committee
ICAO	-	International Civil Aviation Organization
ICT	-	Information and Communications Technology
IGAD	-	Intergovernmental Authority on Development
IMO	-	International Maritime Organization
IP	-	Intellectual Property
IPR	-	Intellectual Property Right
IPA	-	Investment Promotion Agency
ALLPI	-	Africa Leather and Leather Products Institute
LDC	-	Least Developed Countries
MEFMI	-	Macroeconomic and Financial Management Institute
MFN	-	Most Favoured Nation
MFA	-	Multi Fibre Agreement
NAOs	-	National Authorizing Officers
NGO	-	Non-Governmental Organization
NEPAD	-	New Partnership for Africa's Development
NTOs	-	National Telecommunications Operators
OIF	-	Organisation Internationale de la Francophonie
OACPS	-	Organization of African, Caribbean and Pacific States
PMAESA	-	Port Management Association of Eastern and Southern Africa

PR	-	Public Relations
RAC	-	RISM Advisory Committee
RAERESA	-	Regional Association of Energy Regulators for Eastern and Southern Africa
RECs	-	Regional Economic Communities
RIA	-	Regional Investment Agency
RISM	-	Regional Integration Support Mechanism
RTAs	-	Regional Trade Agreements
SADC	-	Southern Africa Development Community
SPS	-	Sanitary and Phytosanitary (Measures)
SSATP	-	Sub Saharan Africa Transport Programme
TRAESA	-	Telecommunications Regulators Association for Eastern and Southern Africa
TRIPS	-	Trade Related Aspects of Intellectual Property Rights
UNCTAD	-	United Nations Conference on Trade and Development
UNDP	-	United Nations Development Programme
UNECA	-	United Nations Economic Commission for Africa
USAID	-	United States Agency for International Development
USTDA	-	US Trade and Development Agency
USTR	-	US Trade Representative
VSAT	-	Very Small Aperture Terminal
WIPO	-	World Intellectual Property Organisation
WCO	-	World Customs Organization
WMO	-	World Meteorological Organisation
WTO	-	World Trade Organization
YD	-	Yamoussoukro Decision
ZEP-Re	-	PTA Re-Insurance Company

THE COMESA AUTHORITY - HEADS OF STATE AND GOVERNMENT

As of 21 November 2023

BURUNDI

His Excellency Evariste Ndayishimiye
President of the Republic of Burundi

COMOROS

His Excellency Azali Assoumani
President of the Union of the Comoros

DJIBOUTI

His Excellency Ismail Omar Guelleh
President of the Republic of Djibouti

DEMOCRATIC REPUBLIC OF CONGO

His Excellency Felix Antoine Tshilombo Tshisekedi
President of the Democratic Republic of Congo

EGYPT

His Excellency President Abdel Fattah el-Sisi
President of the Arab Republic of Egypt

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His Excellency Isaias Afewerki
President of the State of Eritrea

ESWATINI

His Majesty King Mswati III
Ingwenyama of the Kingdom of Eswatini



ETHIOPIA

Right Honourable Abiy Ahmed
Prime Minister of the Federal Democratic Republic of Ethiopia

V

KENYA

His Excellency Dr William Ruto
President of the Republic of Kenya

LIBYA

His Excellency Mr. Mohamed Younes al-Menfi
Chairman of the Presidential Council of the State of Libya

MADAGASCAR

His Excellency Andry Nirina Rajoelina
President of the Republic of Madagascar

MALAWI

His Excellency Dr Lazarus Chakwera
President of the Republic of Malawi

MAURITIUS

His Excellency Pravind Kumar Jugnauth
Prime Minister of the Republic of Mauritius

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His Excellency Paul Kagame
President of the Republic of Rwanda

SEYCHELLES

His Excellency Wavel Ramkalawan
President of the Republic of Seychelles

SOMALIA

His Excellency Dr. Hassan Sheikh Mohamud
President of the Federal Republic of Somalia

SUDAN

His Excellency Abdelftah AlBurhan
Chairman of the Transitional Sovereignty Council of the Republic of the Sudan

TUNISIA

His Excellency Mohamed Kais Saied
President of the Republic of Tunisia

UGANDA

His Excellency Yoweri Kaguta Museveni
President of the Republic of Uganda

ZAMBIA

His Excellency Hakainde Hichilema,
President of the Republic of Zambia
(Chairperson of the COMESA Authority)

ZIMBABWE

His Excellency Emmerson Mnangagwa
President of the Republic of Zimbabwe

COMESA SECRETARIAT MANAGEMENT COMMITTEE

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HEAD, GOVERNANCE, PEACE AND SECURITY

Ms. Elizabeth Mutunga

HEAD, CORPORATE COMMUNICATIONS

Mr Mwangi Gakunga

COMESA INSTITUTIONS

Africa Leather and Leather Products Institute
African Trade and Investment Development Insurance
COMESA Clearing House
COMESA Competition Commission
COMESA Federation of Women in Business
COMESA Monetary Institute
COMESA Regional Investment Agency
Council of Bureaux of the Yellow Card
PTA Reinsurance Company
Trade and Development Bank

Specialized Agencies

Alliance for Commodity Trade in Eastern and Southern Africa
COMESA Business Council
East African Power Pool
Regional Association of Energy Regulators in Eastern and Southern Africa

Judicial Arm

COMESA Court of Justice

IT IS HEREBY NOTIFIED that the Council of COMESA Ministers at its Forty-fourth (44th) Meeting held at the Mulungushi International Conference Centre in Lusaka, Zambia, on 23rd November 2023 issued the following Legal and General Notices:

GOVERNORS OF CENTRAL BANKS

1

Decisions

1. The Council:
 - (a) adopted the audited financial statements for COMESA Clearing House (CCH) and COMESA Monetary Institute (CMI) for the year ended 31 December 2022;
 - (b) approved Grant Thornton Chartered Accountants as the new external auditors of CCH effective January 2024 (for financials for the year ending 31st December 2023). the contract is for an initial period of 2 years with a possible extension of a maximum of 2 more years subject to the auditors' performance in the first 2 years;
 - (c) commended all the Central Banks for paying their annual contributions to CMI;
 - (d) commended the Central Banks of Malawi and Rwanda for clearing their arrears with CCH;
 - (e) commended the Central Bank of Sudan for their payment towards their arrears and the bank of Zambia for paying part of their arrears with a plan to clear the balance with CCH; and
 - (f) approved the budgets and workplans of CCH and CMI for 2024.

Regional Payment and Settlement System (REPSS) and the workplan for CCH for 2024

Decisions

2. The Council approved:
 - (a) CCH's request to seek external funding for revamping of REPSS and report progress in the next meeting;
 - (b) the holding of meetings of the REPSS User Group every year in the country chairing the Bureau; and
 - (c) the work plan for CCH for 2024.
3. **Basel III and Macro-prudential Surveillance**
 - (a) directed CMI to publish the 2022 FSR by February 2024;
 - (b) adopted the revised COMESA financial stability assessment framework; and
 - (c) encouraged Central Banks to:

- (i.) consider housing financial stability departments outside the micro-prudential policy, for greater independence of the mandate;
- (ii.) where necessary, for financial stability implementation, amend existing legislation;
- (iii.) empower the financial stability unit to collect data;
- (iv.) where possible, provide more data on non-banking financial institutions and payment systems to deepen the analysis in the financial stability report; and
- (v.) join REPSS and encourage their commercial banks to make use of it.

SECTORAL MINISTERIAL MEETINGS

Ministers Responsible for Gender and Women's Affairs

GENDER MANAGEMENT SYSTEM

Decisions

4. The Council:
 - (a) directed the Secretariat to share the draft COMESA Gender Management System with Member States for their inputs;
 - (b) urged Member States to study the draft COMESA Gender Management System and provide their inputs by end of October 2023;
 - (c) directed the Secretariat to develop a roadmap, particularly for gender capacity building and gender budgeting;
 - (d) urged Member States to share their national gender policies, men and boys' engagement strategic frameworks, and gender transformative frameworks with the Secretariat, and directed the Secretariat to share these with Member States; and
 - (e) directed the Secretariat to develop an experience sharing exchange programme on gender equality, women empowerment and men and boys' engagement for Member States and facilitate its implementation.

COMESA GENDER-BASED VIOLENCE AND VIOLENCE AGAINST WOMEN IN WORKPLACE POLICY

Decision

5. The Council requested Member States to study and submit feedback on the draft Regional Gender-Based Violence and Violence against Women in Workplace Policy to the Secretariat by end of October 2023.

COMESA ONLINE COURSE ON GENDER AND TRADE

Decision

6. The Council endorsed the videos on the online course on Gender and Trade.

3

COMESA GENDER POLICY, PLANNING GUIDELINES, CHECKLISTS AND INDICATORS

Decisions

7. The Council:
 - (a) directed the Secretariat and COMESA institutions to continue sensitizing Member States and other stakeholders on the need of mainstreaming gender in their specific sectors;
 - (b) urged Member States to use the planning guidelines, checklists and indicators during designing, implementation and reporting on sector-specific COMESA programmes and projects at all levels; and
 - (c) directed that the RECAMP project and the Secretariat to consider adding more funds to the gender sensitization budget so that all countries can be covered.

GENDER AND STATISTICS

Decisions

8. The Council:
 - (a) directed the Secretariat to ensure the availability of sex disaggregated data using gender-sensitive data collection and analysis mechanisms by proactively engaging member states to revise their data collection tools and analysis mechanisms accordingly;
 - (b) endorsed the second edition of the Gender Statistics Bulletin with amendments to include digital financial inclusion and other economic indicators related to regional integration;
 - (c) directed the Secretariat to disseminate the Gender Statistics Bulletin to stakeholders by end of December 2023;
 - (d) directed the Secretariat to take the initiative in harmonizing gender-sensitive data collection and analysis tools in various programs and projects in the region to enable the collection of sex disaggregated data;
 - (e) directed the Secretariat to continue capacity building in sex disaggregated data using gender sensitive data collection tools;
 - (f) urged Member States to provide updated data on indicators in the COMESA gender reporting guidelines on a regular basis; and

- (g) directed the Secretariat to organize regular experience sharing workshops on specific sectors in terms of sex disaggregated data using gender sensitive data collection and gender statistics.

COMESA GENDER TECHNICAL WORKING GROUP

Decisions

- 9. The Council:
 - (a) directed the Secretariat to conduct an annual capacity-building session of the gender technical working group;
 - (b) urged Member States to establish or strengthen mechanisms similar to the gender technical working group at national level;
 - (c) urged Member States to share information regarding any such initiatives in their respective countries; and
 - (d) directed the Secretariat to engage regularly with members of the gender technical working group.

GENDER-SENSITIVE ECONOMIC KNOWLEDGE IN THE COMESA REGION

Decisions

- 10. The Council:
 - (a) urged Member States to consider the decisions of the study report in their policy and programmes; and
 - (b) directed the Secretariat to continue conducting studies on gender-related issues and women empowerment in order to enhance knowledge on gender in the region.

COLLABORATION WITH African Women's Development and Communication Network (FEMNET)

Decisions

- 11. The Council:
 - (a) directed the Secretariat and other regional bodies to spearhead and support accountability mechanisms of Member States, stakeholders and partners on advancing women's economic empowerment in recognition of commitments under the COMESA Treaty and COMESA Gender Policy (2016);
 - (b) urged stakeholders to advance economic justice and financial inclusion through promotion and leveraging of frameworks such as the African Continental Free Trade Area (AfCFTA), the COMESA Free Trade Area, the Tripartite Free Trade Area of COMESA, East Africa Community (EAC) and the Southern Africa Development Community (SADC) and the COMESA, EAC and ECOWAS digital platform for

women in business;

- (c) urged cooperating partners to support initiatives such as the COMESA, EAC and ECOWAS digital platform for women entrepreneurs -the www.womenconnect.org – or 50 Million African Women Speak Platform (50MAWSP) to enable women entrepreneurs to access business information and related services and participate effectively in regional FTAs and the African Continental Free Trade Area;
- (d) Urged stakeholders to advocate for comprehensive and meaningful support for African women’s active participation in the digital economy; and
- (e) urged stakeholders to popularize the 50 Million African Women Speak Platform (www.womenconnect.org) among women, youth and various stakeholders to make it a household item and enable women to use the platform to access information, capacity building services, finance, mentor ship and markets.

The Digital Platform for Women in Business

Decisions

12. The Council:

- (a) directed the Secretariat to identify and lobby partners to support the platform and address the funding gaps which the 50MAWSP initiative currently faces;
- (b) urged the platform host ministries to encourage the Country Team members to participate actively in the continuous update and uploading of content, marketing of the platform (www.womenconnect.org) and mobile app among women, youth, service providers and other stakeholders at national level to increase participation and usage of the platform; and
- (c) directed the Secretariat to conduct capacity building for focal points in the Member States.

WOMEN AND YOUTH-OWNED SMES IN SELECTED VALUE CHAINS

Decisions

13. The Council urged Member States to:

- (a) support the COMESA Federation of Women in Business (COMFWB) National Chapters to collect data for the profiling survey on women and youth-owned SMEs to enable the establishment of a database on women and youth-owned SMEs in horticulture, leather and leather products and agro-processing, and enable targeted support;
- (b) document and share good practices on mainstreaming women and youth SMEs in public procurement systems; and
- (c) identify women and youth SMEs that are role models in the horticulture, leather and

leather products and agro-processing and share information with the Secretariat for educational video production.

6

SMALL SCALE CROSS BORDER TRADE

Decisions

14. The Council directed:

- (a) the Secretariat and the targeted Member States to work on strategies for the sustainability of activities under the project; and
- (b) the Secretariat to ensure the equitable benefit to women and men of the EDF 11 supported project.

GREAT LAKES TRADE FACILITATION AND INTEGRATION PROJECT

Decisions

15. The Council urged:

- (a) Member States to implement initiatives to support small scale cross border trade and strengthen women's economic empowerment;
- (b) the World Bank to consider supporting a gender expert for the second phase of the Great Lakes Trade Facilitation and Integration Project (GLTFIP) to support the implementation of the project; and
- (c) Member States to continue sensitizing and creating awareness on opportunities of cross border trade to overcome GBV and other challenges of women cross border traders and enhance their participation and accrual of benefits from cross-border trade.

CULTURAL AFFAIRS

Decisions

16. The Council directed the Secretariat to:

- (a) establish a COMESA Committee of Ministers of Culture or to ensure the participation of culture experts in meetings where matters of culture and creative arts are discussed; and
- (b) work with other stakeholders to promote cultural and creative industries.

SOCIAL CHARTER

Decision

17. The Council:

- (a) urged Member States to speed up the signing and ratification of the COMESA Social Charter; and
- (b) directed the Secretariat to continue its sensitization missions and workshops on the need to sign the Charter.

MINISTERS IN CHARGE OF TRANSPORT AND COMMUNICATIONS, INFORMATION TECHNOLOGY AND ENERGY

Air Transport Sector

Decisions

18. The Council:

- (a) urged Member States to domesticate regional policy guidelines to accelerate harmonization and regional integration;
- (b) encouraged Member States to sign the Solemn Commitment for the implementation of the Single African Air Transport Market;
- (c) urged Member States to align national aviation programmes and activities with those of the RECs and Continental institutions like Support to Air Transport Sector Development (SATSD) Programme, COMESA Competition Commission (CCC), ICAO and African Civil Aviation Commission (AFCAC);
- (d) encouraged Member States to review their Bilateral Air Service Agreements to comply with the YD and SAATM requirements based on the model developed under the SATSD programme;
- (e) urged Member States to grant Fifth Freedom Traffic Rights amongst themselves as a major step towards full liberalization of the air transport market in line with the spirit of the COMESA Legal Notice No.2 and the need to eliminate requirements for separate BASAs between Member States as envisaged under the YD;
- (f) encouraged Member States to appoint SAATM Focal points who will facilitate COMESA SAATM activities in operationalizing SAATM within the region; and
- (g) directed the Secretariat to jointly conduct the Single African Air Transport Market Pilot Implementation Project (SAATM-PIP) Initiative by AFCAC and SAATM awareness workshops in the COMESA Member States to create more synergy in the implementation of the SAATM.

Support to Air Transport Sector Development (SATSD) programme in the Eastern Africa, Southern Africa and Indian Ocean (EA, SA, IO) region

Decisions

19. The Council:

- (a) urged Member States to participate in the SATSD programme activities, providing data and information to be requested under the programme; and
- (b) directed the Secretariat to implement the findings and recommendations from the SAATM awareness workshops carried out in Member States of Burundi, Malawi, Seychelles and Somalia.

COMESA CNS/ATM Project

Decision

The Council urged Member States to participate in the SATSD programme activities, providing data and information to be requested under the programme.

Tripartite Transport and Transit Facilitation Programme (TTTFP)

Decisions

20. The Council:

- (a) urged Member States to domesticate and implement regionally agreed facilitation instruments;
- (b) directed the Secretariat to mobilize resources for the review of harmonized road user charges; and
- (c) directed the Secretariat to coordinate with EAC and SADC Secretariats in order to expedite development of the successor programme to the Tripartite Transport and Transit Facilitation Programme (TTTFP).

Tripartite Railways Association

Decisions

21. The Council:

- (a) urged Member States to promote road safety in line the provisions of the COMESA Treaty, AU Road Safety Charter and international best practices;
- (b) encouraged Member States to develop and maintain new road infrastructure to

- eliminate missing links;
- (c) urged Member States to rehabilitate and maintain road infrastructure up to acceptable standards;
 - (d) encouraged Member States to develop and maintain an institutional framework that promotes road safety through sustainable funding; and
 - (e) directed the Secretariat to mobilize resources for the development of road safety management guidelines by end of September 2024.

Rail Infrastructure and Management

Decisions

22. The Council:

- (a) urged Member States to develop and maintain rail infrastructure in line with the provisions of the COMESA Treaty;
- (b) encouraged Member States to promote the use of railway mode of transport;
- (c) urged Member States to develop and apply equitable surface transport policies which promote integrated multimodal transport systems;
- (d) encouraged Member States to promote harmonization relating to railway transport to promote interoperability with the facilitation of the COMESA Secretariat; and
- (e) directed the Secretariat to facilitate Development of a regional railway Master Plan as a first step towards developing a comprehensive regional Transport Masterplan.

Corridor Development and Management

Decisions

23. The Council:

- (a) urged Member States to support corridor initiatives and provide guidance on the establishment of Djibouti and Port Sudan corridors;
- (b) encouraged Member States to support corridor initiatives and provide guidance on the establishment of Djibouti and Port Sudan corridors;
- (c) urged Member States continue with programmes to upgrade and maintain corridor infrastructure and facilities;
- (d) directed the Secretariat to mobilize resources to support the establishment of these corridor management institutions; and
- (e) directed the Secretariat in liaison with the other Tripartite RECs explore the possibility of expediting the establishment of NSC Management Institution (CMI).

One Stop Border Posts (OSBP)

Decisions

24. The Council:

- (a) directed that coordination of all agencies working at border posts be rationalized to facilitate easy movement of goods and persons at their borders;
- (b) urged Member States to adopt Integrated Border Management (IBM) systems and not just OSBP;
- (c) directed that capacity building on OSBP development and management should be undertaken on a continuous basis;
- (d) decided that the Procedure Manual for Chirundu OSBP be shared with other countries once finalized; and
- (e) decided that the performance of established OSBPs be reviewed periodically to ensure their operational efficiency.

Maritime Transport and Inland Water Transport

Decisions

25. The Council urged Member States to:

- (a) develop additional port infrastructure facilities and ensure efficient operations of the ports;
- (b) ensure accessibility of the ports by providing the requisite road and rail infrastructure;
- (c) share their long-term plans to ensure coordinated development; and
- (d) develop a regional Maritime Infrastructure Master Plan.

Establishment of a Shipping Line for COMESA Island States

26. The Council:

- (a) decided that COMESA ports benchmark against the best performing ports in the world to improve their productivity and output;
- (b) urged COMESA Member States to invest in port infrastructure capacity to improve their efficiency and performance;
- (c) directed that the shipping line feasibility study should include all COMESA Member States; and
- (d) urged Island States to participate in the planned validation workshop on the feasibility study for the establishment of a shipping line for COMESA Indian Ocean Island States.

Inland Ports

Decisions

27. The Council:

- (a) urged Member States to promote the development of inland waterways as an alternative cheaper transport option;
- (b) directed the Secretariat to mobilize for resources for the feasibility study of the VICMED project;
- (c) invited Member States to applaud Egypt's efforts on VICMED and call upon African, international organizations and development partners to mobilize resources for the full feasibility study;
- (d) directed the Secretariat to facilitate the study on the establishment of Ro-Ro facilities on Lake Tanganyika;
- (e) directed the Secretariat and urged Member States to support capacity building in Inland Water Transport; and
- (f) directed the Secretariat to coordinate the development of a multilateral water transport agreement for Lake Tanganyika among the riparian States.

Data Traffic and Bandwidth

Decision

28. The Council noted the recent trends and Developments in the ICT sector and encouraged Member States to come up with interventions to improve the provision of ICT Services.

Status of implementation of Domestication of Model Frameworks and Reforms

Decision

29. The Council directed the Secretariat to explore funding options to carry out cybersecurity awareness and capacity building.

ARICEA

Decision

30. The Council directed the Executive Committee to meet to resolve outstanding issues.

Virtual and Hybrid Meetings

Decisions

31. The Council:

- (a) took note of the work done by the Secretariat in enabling the Member States to conduct crucial meetings virtually as well as the cost-savings made in the process; and
- (b) directed the Secretariat to provide a cost-savings breakdown and impact on utilization of technology in conducting meetings virtually in the next meeting.

COMESA Corporate ICT Strategy

Decisions

The Council:

- (a) took note of the work done by the Secretariat in developing the Corporate ICT Strategy, Legal Framework and Budget Estimates for its implementation;
- (b) directed the Secretariat to adopt the Strategy and mobilize resources for its implementation; and
- (c) directed the Secretariat to develop the Regional IT Strategy for Information Systems.

COMESA Secretariat's Data Centre

Decision

32. The Council directed the Secretariat to present the Technical Evaluation Report to the COMESA Contracts Committee for consideration and award of Contract to the best evaluated bid to secure COMESA Information Resources before the end of 2023.

COMESA Online Market

Decision

33. The Council directed the Secretariat to present the Technical Evaluation Report to the COMESA Contracts Committee for consideration and award of Contract to the best evaluated bid for the Development of the COMESA Online Market before the end of 2023.

COMESA Electronic Certificate of Origin

Decision

34. The Council urged Member States to expedite Integration of their Systems and the COMESA Electronic Certificate of Origin System.

COMESA Trade in Services Negotiations Portal

Decision

35. The Council urged Member States to utilize the portal once it is officially launched.

13

COMESA CUSTOMS Automation Regional Support Centre

Decision

36. The Council urged Member States to take advantage of the CARSC Programme to build capacity for their Staff in Customs Automation.

Smart Border Concept

Decisions

37. The Council:

- (a) took note of the initiative being carried out by the Secretariat in implementing Smart Borders;
- (b) urged Member States to embrace the concept of Smart Borders and work together with the Secretariat in its implementation to facilitate seamless border crossings without delays; and
- (c) directed the Secretariat to develop a clear roadmap, with timelines and a responsibility matrix for implementation of the Smart Borders before the end of 2023.

Tripartite Online NTB/NTMs Elimination Mechanism

Decisions

38. The Council:

- (a) took note of the initiatives being carried out by the Secretariat in eliminating NTBs/NTMs in the region; and
- (b) urged Member States to embrace the online tool and sensitize their citizens to utilize the platform in reporting NTBs/NTMs.

50 Million African Women Speak platform

Decisions

39. The Council:

- (a) took note of the steps taken by the Secretariat to support the platform continuity;

and

- (b) urged Member States to embrace the platform and promote its usage in their respective countries.

Regional Infrastructure Finance Facility (RIFF) Project

Decisions

- 40. The Council urged Member States to:
 - (a) take note of the development of Model Common Customs Tariff Framework which will be presented for approval through COMESA Trade and Customs Committee; and
 - (b) make use of the Technical Assistance provided under RIFF Project.

COMESA Energy Policy Framework

Decisions

- 41. The Council:
 - (a) adopted the reviewed COMESA Model Energy Policy Framework Edition 2 for domestication at National level; and
 - (b) urged Member States to take advantage of the Technical Assistance Facility available under the RIFF Project to adapt/domesticate the Model Energy Policy.

COMESA Model Solar Standards

Decisions

- 42. The Council:
 - (a) adopted the COMESA Model Solar Standards for national domestication;
 - (b) adopted the recommendations of the Solar Study Report; and
 - (c) urged Member States to take advantage of the Technical Assistance Facility available under the RIFF Project to domesticate the COMESA Model Solar Standards.

MINISTERS OF IMMIGRATION AND LABOUR

The Small-Scale Cross Border Trade Initiative

Decisions

- 43. The Council endorsed the following decisions and:

- (a) directed the Secretariat to increase awareness on the nexus between human mobility and trade;
- (b) urged Member States to strengthen an integrated approach to border management that recognizes the health, trade and human mobility dynamics;
- (c) urged Member States to adopt deliberate measures, strategies and action plans to promote cross border trade in times of pandemics and migration crises; and
- (d) urged Member States to adopt gender and health sensitive infrastructure to promote safe trade across the borders.

COMESA Trade Facilitation Project

Decision

44. The Council endorsed the decision urging Member States to support the implementation of the activities planned under this project.

The Southern Africa Migration Management (SAMM) Project

Decision

45. The Council endorsed the decision urging Member States to support the implementation of the project.

Implementation of Developing Capacity in Migration Statistics Project in COMESA

Decisions

46. The Council endorsed the decisions made and:
- (a) urged Member States to assign national focal points to provide the project with the detailed needs of the Member States; and
 - (b) directed the Secretariat to have a regional report peculiar to COMESA which will ensure that COMESA coordinates with the other RECs in the generation of the regional Report.

COMESA Migration Dialogue (MIDCOM)

Decisions

47. The Council endorsed the following decisions and made the following pronouncements under the below listed programmes:
- (a) **The Migration and Trade Nexus – Free Movement and Trade Facilitation**

- (i.) directed the COMESA Secretariat to come up with a roadmap to eradicate irregular migration and to strengthen capacity building for countries to manage and combat irregular migration and promoting pathways for regular migration through vocational training centers and address human trafficking, human smuggling, and money laundering;
- (ii.) urged COMESA Member States to conduct regular skills survey to promote evidence based critical skills list which ensure effective participation of skilled labour migrants in national labour markets;
- (iii.) noted the need to expand pathways and avenues for regular migration through relaxation of visa, permit regimes and mutual recognition of qualifications to promote the said regular labour migration;
- (iv.) noted the need to come up with laws, policies, and strategies on labour migration to effectively manage issues related migration management;
- (v.) directed the Secretariat to undertake an assessment on existing policy and legislative frameworks in the region so as to come up with decisions to promote safe, regular, and orderly migration in the COMESA region;
- (vi.) urged Member States to formulate and adopt migration policy frameworks and strengthen migration regulatory and legislative frameworks; and
- (vii.) urged Member States, with the support of the Secretariat, to undertake a study/survey on departures and arrivals of migrants within the region including the ratification of relevant conventions

(b) Bilateral and Multilateral Measures Promoting Free Movement of Persons

- (i.) urged Member States to strengthen governance of the operations of private recruitment agencies in order to promote effective compliance;
- (ii.) urged Member States to strengthen their capacities to deal with border management during conflict and natural disasters that may cause large scale population movements. Further, encouraged Member States to adopt and operationalize IOM's Humanitarian Border Management Framework which has provisions for border management during crisis; and
- (iii.) urged Member States to conduct diaspora mapping and profiling exercise to generate empirical information on the size, geographic spread, profile, and interests of their diaspora nationals to come up with evidence-based policy and programmatic interventions to leverage the development potential of diaspora nationals.

(c) Member State Progress in the Implementation of the Protocols

urged Member States to submit an updated table on measures they will take towards full implementation of the COMESA Visa Protocol and ratification of the COMESA Free Movement Protocol using the provided template by 16 October 2023.

(d) Global Legal Identity Strategy

- (i.) encouraged Member States to ensure that their immigration management authorities balance border controls and facilitation measures to deliberately expand regular pathways for regular migration for border communities;
- (ii.) directed the Secretariat and encouraged cooperating partners to implement programmes to enhance the capacities of COMESA Member States on improved preparedness and response for comprehensive humanitarian border management, ensure effective protection of the crisis-affected migrants while respecting national sovereignty and security; and
- (iii.) encouraged Member States to engage with IOM and other cooperating partners for support with regards to electronic visa systems, solutions, and infrastructure.

(e) GCM Progress update by Member States

- (i.) urged Member States to submit written submissions by 16 October 2023 to the COMESA Secretariat including updates on the status of implementation of the GCM by each Member States; and
- (ii.) directed the Secretariat to consolidate submissions received from each Member State and submit them at the forthcoming Africa Continental Review.

MINISTERS OF JUSTICE AND ATTORNEYS GENERAL**Decisions**

48. The Council endorsed the decisions made and:

- (a) adopted the revised draft Rules on Appointment of Commissioners in the Board of the COMESA Competition Commission;
- (b) directed the COMESA Competition Commission to review the COMESA Competition Regulations to address ambiguities, inconsistencies and lacunae in the text; and
- (c) directed the COMESA Competition Commission to consider harmonizing the draft Rules on Appointment of Commissioners with the COMESA Competition Regulations.

COMESA Competition Commission Procurement Rules**Decision**

49. The Council endorsed the decision made and revoked the COMESA Competition Commission Procurement Rules (2020) and replaced them with the revised COMESA Competition Commission Procurement Rules (2023).

COMESA Competition Commission Financial Rules

Decision

50. The Council endorsed the decision made and revoked the COMESA Competition Commission Financial Rules (2019) and replaced them with the revised COMESA Competition Commission Financial Rules (2023).

Board of Commissioners of the COMESA Competition Commission

Decisions

51. The Council endorsed the decision made reappointing nominees from:
- (a) Egypt, Malawi and Rwanda listed in Table 2 below as Commissioners for a period of three (3) years with effect from 15 July 2024; and
 - (b) Burundi, Madagascar, Tunisia, Ethiopia, Seychelles, Zambia and Zimbabwe listed in Table 2 below as Commissioners for a period of three (3) years with effect from 15 July 2024.

Charter on the Establishment of the COMESA Regional Investment Agency (COMESA RIA)

Decisions

52. The Council:
- (a) adopted the Amendment Instrument to the Charter; and
 - (b) directed COMESA RIA to carry out a comprehensive review of the Charter to:
 - (i.) take into account gender parity in the appointment of Board members;
 - (ii.) empower the Board to establish committees to facilitate implementation; and
 - (iii.) address other irregularities, inconsistencies and gaps, among others.

COMESA Court of Justice

Seat of the Court

Decision

53. The Council endorsed the decision approving the Report of the COMESA Court of Justice to temporarily move the Court's registry operations to Lusaka, Zambia.

Terms and Conditions of Service for Judges

54. The Council

endorsed the decision adopting the Report on the “Review of the Terms and Conditions of Service for Judges” of the Court

Organizational Structure

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Decisions

55. The Council:

endorsed the decision adopting the Report on “Human Resources Needs and Organisational Structure Review” of the Court.

Staggering Appointment of Judges of the COMESA Court of Justice

Decisions

56. The Council endorsed the decision that at the next election of Judges of the COMESA Court of Justice, the terms of office of the twelve Judges be staggered, subject to a comprehensive legal opinion, as follows:

- (a) four Judges of the Appellate Division with the highest votes to begin their five-year tenure on 06 June 2025;
- (b) the remaining Judge of the Appellate Division with the lowest votes to begin their five-year tenure on 06 June 2027;
- (c) five Judges of the First Instance Division with the highest votes to begin their five-year tenure on 06 June 2025; and
- (d) the remaining two Judges of the First Instance Division with the lowest votes to begin their five-year tenure on 06 June 2027.

RE-INSURANCE COMPANY (ZEP-RE)

Decisions

57. The Council:

- (a) directed ZEP-RE to develop a common regional approach on policy formulation, skills transfer and product development in the micro-insurance sector as a means of promoting inclusive and sustainable economic growth for low-income earners in the region; and
- (b) urged non-participating Member States to consider joining Zep-Re in line with past decisions of COMESA Policy Organs.

AFRICAN TRADE AND INVESTMENT DEVELOPMENT INSURANCE (ATIDI)

Decisions

58. The Council:

- (a) urged all COMESA Member States and Non ATIDI Member States to join ATIDI by acceding to its Treaty, in order to reap the benefits and opportunities of ATIDI Membership, Guarantees and Insurance products tailor-made to de-risk trade and investment in Africa; and
- (b) urged ATIDI COMESA Member States with delayed payments to facilitate the refund of sovereign claims paid on their behalf by ATIDI and to make necessary arrangements to reimburse ATIDI without any further delays in fulfilment of their Membership Obligations and the respect of ATIDI's Preferred Creditor Status conferred on the institution by parliamentary ratification of its Treaty in Member States.

COMESA COMPETITION COMMISSION (CCC)

Decisions

59. The Council urged Member States to:

- (a) comply with the Rules of the Council by channelling all the merger fees resources disbursed by CCC to NCAs to ensure that they are utilised for their intended purpose of developing, strengthening and capacitating NCAs and Competent Authorities; and
- (b) advise their NCAs and Competent Authorities to adopt one position when negotiating issues related to the AfCFTA Competition Protocol.

COMESA BUSINESS COUNCIL (CBC)

Decisions

60. The Council made the following decisions:

- (a) **Private Sector Development in the Region:** directed CBC to draft a regional private sector development strategy for the COMESA region;
- (b) **Digital Financial Inclusion in the COMESA region:** urged Member States to support the ongoing efforts for the implementation of the regional digital retail payments platform for Micro, Small and Medium-sized Enterprises (MSMEs) in the COMESA region; and
- (c) **Facilitation of Implementation of Product Standards in the COMESA Region:** urged Member States to support mutual recognition agreements for different products to reduce the barriers to trade that result from multiplicity of compliance requirements with respect to standards.

AFRICA LEATHER AND LEATHER PRODUCTS INSTITUTE (ALLPI)

Decision

61. The Council directed ALLPI to enhance its partnerships with various entities such as academic institutions, international leather societies and developmental partners, as this collaboration is considered instrumental in fostering the growth of the leather industry throughout the African continent.

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COMESA RCTG AND COUNCIL OF BUREAU

Decisions:

62. The Council:
- (a) expressed concern on the delays of implementation of the RCTG Carnet in North-South Corridor and urged:
 - (i.) Zambia to join the RCTG Carnet and resolve the issue of implementation of the RCTG Carnet in the North-South Corridor; and
 - (ii.) DR Congo, Malawi and Zimbabwe to commence the operations of the RCTG Carnet without further delay by early 2024.
 - (b) expressed concern on the delays in the commencement of RCTG in Ethiopia and Djibouti and urged Ethiopia and Djibouti to commence the operations of the RCTG Carnet before end of 2023; and
 - (c) urged the EAC and SADC to harmonize the systems that are being developed with COMESA RCTG as a Tripartite RCTG system.

Yellow Card Scheme

Decisions

63. The Council urged:
- (a) the Government of Uganda to resolve the issue of detention of drivers and visiting/transiting motor vehicles involved in a road traffic accident in Uganda despite holding a valid Yellow Card cover; and
 - (b) the Kingdom of Eswatini to expedite the commencement of operations of the Yellow Card scheme in Eswatini.

GENERAL DISCUSSIONS

Decisions

64. The Council:

- (a) directed the Secretariat to prepare a draft paper on how to link the work of COMESA Institutions with the COMESA Secretariat programmes and activities;
- (b) directed COMESA Institutions to organize sensitization and awareness workshops in Member States on the activities of these Institutions; and
- (c) directed COMESA Institutions to ensure that information is shared through the concerned national focal points.

TRADE AND CUSTOMS

Decision

65. The Council:

- (a) directed the Secretariat to continuously share with Member States the Monitoring and Evaluation Matrix of Council Decisions; and
- (b) urged Member States to submit bi-annual progress reports on the implementation status of decisions directed to them.

TRADE IN SERVICES

Review or Withdrawal of a Scheduled Commitment or a Schedule of Specific Commitments under Article 25 of the COMESA Regulations on Services

Decisions

66. The Council:

- (a) urged Member States to submit further comments by 31st December 2023 for consideration by the Secretariat in revising the Draft Procedures before reconsideration by the Committee of Trade in Services;
- (b) directed the Secretariat to consult on the issue of existing COMESA structures relating to arbitration with a view to better inform a revision of the draft and to align it with existing processes; and
- (c) directed the Secretariat to submit for reconsideration a revised version of the Draft Procedures for consideration by the Committee of Trade in Services at its next meeting.

Schedules of Specific Commitments

67. The Council:

- (a) urged Egypt and Eswatini to submit their revised draft offers incorporating comments raised by the Member States by 31 December 2023;

- (b) directed the Secretariat to review the Regulations on Trade in Services and Negotiating Guidelines and provide a tool to facilitate the technical verification of the draft offers to ensure that they comply with the agreed negotiating guidelines before they are recommended for adoption;
- (c) directed the Secretariat to ensure that Draft Offers submitted by Member States are technically verified to ensure they comply with the guidelines on scheduling of commitments before they are circulated for consideration by the Committee of Trade in Services; and
- (d) directed the Secretariat to prepare a technical note on the need for the development of Regulatory Cooperation Frameworks to complement the implementation of schedules of commitments and present it to the Committee of Trade in services for consideration.

Negotiations on Revised Draft Schedules of Specific Commitments Priority sectors

Decisions

68. The Council directed the Secretariat to:
- (a) develop and submit for the Committee's consideration a roadmap for negotiations by 31st December 2023;
 - (b) develop modalities for the verification of technical offers and undertake technical verification of all these offers based on agreed criteria, principles and standards to ensure that they comply with the COMESA and GATS requirements before they are submitted for approval;
 - (c) reflect the schedules of commitments for all Member States under phase 1 to address possible issues of GATS minus commitments; and
 - (d) provide technical assistance and guidance regarding the issue of the technical feasibility of scheduling energy related services given the fact that the sector is not classified under GATS, posing a challenge for the Member States to uniformly schedule commitments in the sector.

Inclusion of selected Services in the Simplified Trade Regime

Decisions

69. The Council:
- (a) noted the extension of the Simplified Trade Regime (STR) to services sectors, considering their contribution to intra-COMESA trade and creation of employment opportunities in the region;
 - (b) noted that the STR under services be developed as a complement to the conventional GATS framework; and

- (c) directed the Secretariat to develop the modalities of implementation of the STR regime under services for consideration by the Committee of Trade in Services in its next meeting.

Online Platform on Negotiating Trade in Services

Decisions

70. The Council:

- (a) called upon Afreximbank and the Secretariat to upload in the system a user/operational manual to ease its operationalization by Member States;
- (b) directed the Secretariat to ensure the confidentiality and security of information;
- (c) encouraged the continuous upgrading of the platform into a services information portal in order to facilitate the implementation of agreed commitments beyond negotiations; and
- (d) called for finalization and operationalization of the system, taking into account other on-going trade in services negotiations.

Establishment of a Sub Committee on Mutual Recognition Agreements

Decision

71. The Council directed the Secretariat to develop a Concept Note, terms of reference and work programme for the Sub-committee on MRAs, for consideration by the Committee of Trade in Services during its next meeting.

THE KENYA SUGAR SAFEGUARD SUB-COMMITTEE

Decisions

72. The Council:

- (a) decided to grant Kenya a final two-year extension of safeguard measures starting from 1 December 2023 till 30 November 2025 stressing that this extension would not be renewed and any future requests of extensions shall not be considered;
- (b) directed that the Trade Remedies Committee be operationalized and start its meetings by the first quarter of 2024;
- (c) decided that the sub-committee of the Kenyan Sugar Safeguard Measures be immediately disbanded and all aspects related to the Kenyan sugar safeguard measures be discussed within the Trade Remedies Committee;
- (d) decided that in case there is a shortage in the supply of sugar in the Kenyan market, Kenya informs COMESA Member States – through the Secretariat – to fill this shortage, even if it is beyond COMESA Member States quotas and that Kenya

shall inform COMESA Member States before resorting to non-COMESA exporters; and

- (e) directed the Secretariat to review the formula for allocating sugar quotas among COMESA Member States and present recommendations to the upcoming meeting of the Trade Remedies Committee.

TRADE AND TRADE FACILITATION

Decision

- 73. The Council directed the Secretariat to produce the report on trade developments in the COMESA region with proposals for measures to improve intra-COMESA trade.

INTERNAL MARKET

Decisions

- 74. The Council:
 - (a) directed the Secretariat to organise high level missions to non-COMESA FTA Members States to encourage them to expedite arrangements for their participation in the FTA in 2024, prepare a schedule of these missions and circulate the outcomes to Member States in quarterly reports;
 - (b) urged the DRC to submit its tariff phase-down schedules for implementation of the COMESA FTA by 31st December 2023; and
 - (c) directed the Secretariat to provide written updates to Member States on Non-FTA Member States status of joining the COMESA FTA on a quarterly basis as per the 42nd Council directive, starting 1st quarter 2024.

Formal Notification of composition of NMCs and National Focal Points to the Secretariat

Decisions

- 75. The Council:
 - (a) urged Member States, namely Burundi, Djibouti, DRC, Eritrea, Ethiopia, Libya and Tunisia, that have not submitted their formal notifications to the Secretariat to do so by 31st December 2023;
 - (b) urged Egypt to re-submit its notification in line with the agreed template by 31st December 2023;
 - (c) directed the Secretariat to send a reminder to Member States to provide updates on establishment and formal notification of their NMCs; and
 - (d) directed the Secretariat to regularly circulate the notified NMCs to all Member States.

Longstanding and Outstanding NTBs

Decision

76. The Council urged Member States to commit to the application of either the general or detailed rules of origin, to grant Customs exemptions stipulated in the COMESA Protocol on Rules of Origin.

Implementation of the Regional Work Programme for COMESA Regulations on Elimination of NTBs

Decisions

77. The Council:
- (a) urged Member States to incorporate the NMC work programmes in their national budget processes;
 - (b) urged National Focal Points to submit to the Secretariat NMC work programmes for the year 2024 by 31st March 2024 and thereafter submit quarterly progress reports to the Secretariat; and
 - (c) urged Member States that have not established the dedicated NTBs desks in accordance with the provisions of the NTBs Regulations to do so by 31st December 2023.

Development of non-tariff measures databases for COMESA Member States

Decisions

78. The Council:
- (a) urged Member States to include activities on NTMs database development in their NMC work programmes and establish NTMs databases by 31st December 2024; and
 - (b) directed the Secretariat to provide technical support and mobilize resources for completion of the development of NTMs Database by Member States.

TRADE FACILITATION

Decision

79. The Council urged Member States to support the efforts of the Secretariat in engaging the EU to extend the Trade Facilitation Programme beyond May 2024.

WTO TFA Measures and Status of Technical Assistance and Capacity Building (TACB) support

Decisions

80. The Council:

- (a) urged Member States to share with the Secretariat their progress in the implementation of category C WTO TFA commitments at least once a year;
- (b) directed the TTFSC to convene dedicated sessions on annual basis to consider the implementation of regional trade facilitation priorities and TACB needs and to review the implementation of WTO TFA measures;
- (c) urged Member States to establish NTFCs with clear legal mandates, organizational structures and terms of reference to develop national strategies and action plans for engagement with donors; and
- (d) directed the Secretariat working with Member States to develop a Regional Trade Facilitation Programme for consideration by donors, which includes the identified priority intervention areas and builds on ongoing projects supported under the EDF 11 Trade Facilitation Programme.

HEADS OF CUSTOMS SUB-COMMITTEE

COMESA Rules of Origin

Decisions

81. The Council:

- (a) adopted the revised standard template of the COMESA Certificate of Origin without the national flag of the issuing Member State; and
- (b) urged Member States to start using the revised template of the Certificate of Origin within a transition period of six (6) months, starting January 2024.

Trade and Transport Corridor Monitoring System

Decisions

82. The Council:

- (a) directed the Secretariat to engage the SADC Secretariat to map a way forward on the development of the Trade and Transport Corridor Monitoring System (TTCMS) as a module of the Corridor Trip Monitoring System (CTMS); and
- (b) directed that in the event that this engagement is unsuccessful, the Secretariat should explore other options of developing the TTCMS.

ASYCUDA

Decisions

83. The Council directed the Secretariat to:

- (a) finalize the development of the COMESA Regional Trade Information Portal (RTIP), in preparation for an official launch once all tests and other elements are finalized; and
- (b) mobilise resources for the Fellowship Programme, and the Member States who have capacity were urged to support the secondment of their staff to the CARSC Project.

Electronic Single Window

Decisions

84. The Council:

- (a) adopted the Regulations for the Implementation of the COMESA Electronic Single Window (COMSW);
- (b) adopted the Terms of Reference (Tors) for Developing and Implementing the COMSW;
- (c) directed that the COMESA Interconnectivity Platform (COM-IPS) be considered in the implementation of COMSW; and
- (d) directed the Secretariat to mobilize resources to provide Member States with the required financial and technical assistance to develop or upgrade their national single windows and integrate them with the regional single window.

COMESA Risk Management Manual

Decisions

85. The Council:

- (a) decided that the COMESA Regional AEO Programme be implemented in a phased and progressive approach, based on the principle of variable geometry;
- (b) urged Member States to indicate their readiness to participate in the piloting of the COMESA Regional AEO Scheme and indicate their specific needs for participation in the pilot phase by 30 November 2023;
- (c) directed the Secretariat, in collaboration with the Member States, to continue cooperation with concerned members of the private sector in the region and other RECs (EAC and SADC) to align the set criteria and benefits of the AEO Programmes;
- (d) adopted the revised COMESA PCA training manual; and
- (e) adopted the draft Revised COMESA Risk Management Training Manual.

Regional Customs - Private Sector Consultative Group on AEO

Decisions

86. The Council:

- (a) directed the Secretariat to periodically review the AEO Guidelines in order to consider emerging issues, taking into account that guidelines are a living document;
- (b) directed the Secretariat, in collaboration with the Federation of Clearing and Forwarding Associations of Sovereign Africa (FCFASA), concerned authorities and other stakeholders, to review and enhance the Regional Road Map to implement the COMESA AEO Programme; and
- (c) adopted the Terms of Reference (ToRs) for the Regional Customs-Private Sector Consultative Group on the AEO Programme.

Implementation of the 2021-2025 COMESA customs and trade facilitation work programme

Decisions

87. The Council:

- (a) re-emphasised the need to implement the Council decision to recruit a Customs Officer responsible for overseeing the customs capacity building portfolio and facilitate the implementation of the customs and trade facilitation work programme;
- (b) directed the Secretariat to conduct an assessment of the levels of domestication of regional instruments related to customs and trade facilitation instruments and the challenges therein and submit a report to the next meeting of the Heads of Customs Sub-Committee; and
- (c) directed the Secretariat and urged Member States to continue ongoing engagements with private sector representatives to share information and enhance cooperation in the development and implementation of activities under the customs and trade facilitation work programme.

COMESA Electronic Certificate of Origin

Decision

88. The Council urged Member States to expedite the integration of their national systems with the COMESA Electronic Certificate of Origin System.

ANNUAL RESEARCH FORUM

Decisions

89. The Council:

- (a) directed the Secretariat, and urged Member States, to explore the possibility of

establishing a dedicated Research Fund for research activities, including primary data collection and fieldwork on regional economic integration;

- (b) directed the Secretariat and urged Member States to consider extending the Master's degree Programme of Regional Integration to other public and private universities who are willing to offer the programme;
- (c) decided that the next Research Forum should reflect the COMESA Authority thematic areas and emerging issues, taking into account gender mainstreaming and social integration; and
- (d) directed the Secretariat to convene research dissemination workshops to enhance uptake of research findings.

EXTERNAL TRADE MATTERS

Tripartite (COMESA-EAC-SADC) FTA Negotiations

Decision

90. The Council decided that Member States that are yet to ratify the TFTA be urged to do so, as the TFTA is considered an essential pillar of sub-regional and continental trading arrangements.

AfCFTA

Decision

91. The Council decided that the AfCFTA proposal to extend the COMESA FTA cumulation provision to AfCFTA State Parties be tabled for consideration in the next meeting of the TWG on Rules of Origin.

AGOA

Decisions

92. The Council:
- (a) directed the Secretariat to revive discussions with the U.S. on the COMESA Trade and Investment Framework Agreement, including support for implementation of the COMESA AGOA Strategy;
 - (b) directed the Secretariat to engage the U.S. through its Embassy in Zambia on the funding initiatives that were announced during the U.S. – Africa Leaders' Summit and coordinate development of proposals for engaging the U.S; and
 - (c) urged Member States to support the need for a long-lasting solution regarding USA-Africa trade arrangements based on a continental preferential approach as opposed to bilateral agreements.

WTO

Decision

93. The Council urged Member States to participate in the 13th WTO Ministerial Conference (MC-13).

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MTSP MID-TERM REVIEW

Decision

94. The Council decided that a dedicated follow up meeting be convened to receive a detailed analysis of the mid-term review along the pillars of the MTSP in Q1 2024.

COMESA MEDIA AWARDS

Decision

95. The Council decided that the winners identified in the table below be appropriately recognized and awarded.

Media/Category	Winner	Country	Topic
Television	Abdel Baulacky	Mauritius	Air and maritime transport in the COMESA space: The boost The program focused on the COMESA initiatives to develop the regional transport infrastructure in the aviation and the maritime subsectors
Radio	Ninteretse Leonidas	Burundi	COMESA-EAC-SADC Tripartite Infrastructure Development: What's the impact? The programme demonstrates the importance of transport infrastructure, energy infrastructure and information and communication technology (ICT) infrastructure in competitiveness

Print	Tryness Tembo	Zambia	EU project removing bottlenecks at borders The article focuses on the barriers to regional trade and how the one stop border post as a trade facilitation initiative is helping to address this challenge.
Online	Jacob Walter Ochieng	Kenya	COMESA keen to ease trade between Kenya and Ethiopia The article focuses on a COMESA initiative to remove barriers to cross border trade to help Kenya and Ethiopia expand business opportunities

ANNEXES



**REGULATIONS FOR IMPLEMENTATION OF THE
COMMON MARKET ELECTRONIC SINGLE WINDOW**

Lusaka, November 2023

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PREAMBLE

WHEREAS under Article 70 of the Treaty Establishing the Common Market for Eastern and Southern Africa (hereinafter referred to as “the Treaty”), Member States undertook to initiate trade facilitation programmes aimed at reducing the cost of documents and the volume of paper work required in respect of trade among the Member States; in Article 71 agreed to standardize trade documents and procedures, taking into account their possible use in computer and other automatic data programming systems; and in Article 141 to cooperate in the provision and exchange of computerised trade information in the region;

AND WHEREAS in the Common Market Customs Management Regulations (CMRs), Member States agreed under Regulations 55 to 59 to use information technology for data-processing techniques in Customs Declaration; recognize electronic signatures, related certificates and their admissibility in evidence, it is necessary to establish Regulations for implementation of the Common Market Single Window system for trade facilitation in the region.

AWARE that electronic Single Window Systems for international trade are increasingly used around the world as a tool to simplify and make more efficient the submission process of data and information for import and export operations, and that the introduction of the Single Window facility has brought benefits to Governments and the trading community include better risk management, reduce paperwork, minimized data inaccuracy and forgery through online data sharing and tracking among Member States;

COGNIZANT of the fact that the COMESA electronic Regional Single Window System, hereinafter referred to as the Common Market Single Window System (COMSW) is one of the key digital tools for operationalizing the COMESA Digital Free Trade and supports efforts of implementing the WTO TFA which in Article 10.4 urges WTO Members to endeavour to establish or maintain a single window;

RECALLING the Decisions of the Twenty-sixth meeting of the COMESA Council of Ministers (2009) which directed the Secretariat to work out the details of implementing the Single Window System for interested Member States and the Thirty-seventh meeting (2017) which urged Member States and the Secretariat to work with development partners to develop a regional single window strategy, and to Draw up activities that implement the strategy,

NOTING that the Member States have made progress in implementing their National Single Window systems and that some Member States have already initiated cross-border exchange of trade and customs data through bilateral agreements;

AFFIRMING that Member States are willing and ready to exchange electronic trade and customs data and information through the COMSW environment, and that these Regulations for implementation of the COMSW are in line with the Treaty, the CMR, Regulations on Electronic Certificate of Origin, other COMESA legal and Policy instruments, international standards and best practices recommended by the relevant intergovernmental organization:

NOW THEREFORE THE COUNCIL ADOPTS THE FOLLOWING REGULATIONS:

PART I

PRELIMINARY

Article 1 Citation

These Regulations may be cited as the **Common Market Electronic Single Window Regulations**.

Article 2 Interpretation

For the purpose of these Regulations, unless the context otherwise requires, the following terms shall be defined as follows:

“commercial transactions” means transactions relating to the trade in goods between parties whose places of business are in different territories;

“Common Market Single Window”, in these Regulations referred to as “COMSW”, means the web-based secured Single Window System established under Regulation 8 that enables National Single Window Systems of participating Member States to interact and exchange trade and customs-related information and data. Trade and related customs data and information will stay within, and belong to respective Member States;

“The Council” refers to the COMESA Council of Ministers as established by the COMESA Treaty.

“confidential information” means data and information that is protected from disclosure under the law of the Member State or that is considered confidential if the data and information convey any of the following:

- i) trade secret information that may give one entity a competitive advantage over another;
- ii) financial information including banking and insurance information
- iii) proprietary information of any type;
- iv) personally identifiable information; or
- v) law enforcement information;

“customs” means the competent authority in a Member State which is responsible for the administration of customs law and the collection of duties and taxes and which also has the responsibility for the application of other laws and regulations relating to the importation, exportation, movement or storage of goods;

“customs clearance” means the accomplishment of the customs formalities necessary to allow goods to enter for home use, to be exported or to be placed under another customs procedure;

“Customs Management Regulations” means the specific Common Market Customs Management Regulation as agreed by the COMESA Member States;

“**electronic signature**” means data in electronic form which is attached to and logically associated with other data in electronic form and intended to serve as a signature;

“**electronic communication**” means any communication that the parties involved in trade make by means of data messages;

“**data**” means any information recorded in a form in which it can be processed by equipment operating automatically in response to instructions given for that purpose;

“**data message**” means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange;

“**digital signature**” refers to a digital code (generated and authenticated by public key encryption) which is attached to the electronically transmitted documents to verify its contents and the sender’s identity;

“**interoperability**”, in relation to Single Window systems, means the ability of two or more systems or components to exchange information and to use the information that has been exchanged for the intended purpose;

“**lead agency**” means the competent authority in a Member State appointed to take the leading role in the establishment and implementation of the Common Market Single; Window;

“**Member State**” means a Member State of the Common Market for Eastern and Southern Africa;

“**mutual recognition**” means reciprocal recognition of the validity of trade-related data and documents in electronic form exchanged across borders between two or more countries;

“**National Single Window**” means an electronic system of a Member State which enables:

- i) a single submission of data and information;
- ii) a single synchronous processing of data and information; and
- iii) a single decision-making point for customs release and clearance; Single

decision-making shall be uniformly interpreted as a single point of decision for the release of cargo by Customs on the basis of decision, if required, taken by the line responsible cross-border regulatory agency and communicated in a timely manner to the Customs;

“**regional services**” means facilities, information, data and other support services to be agreed by Member States, that will be accessible via the COMSW secure network;

“**Secretariat**” means the Secretariat of the Common Market established by Article 7 of the Treaty;

“**Service Level Agreement**”, means a commitment in writing, whether electronic or paper based, between the service provider and the users that identifies the nature of services to be provided and expected standards for the performance of such services;

“**single window**” means a facility that enables cross-border traders/freight handlers to submit standardized information and documents online at a single point without visiting multiple organizations;

“**system operator**”, in relation to the COMSW, means the competent structure within the

Secretariat agreed and designated by Member States to be responsible for the management and maintenance of the COMSW environment;

“**trade-related data**” means data contained in or transmitted in connection with a trade-related document;

“**trade-related documents**” means documents, both commercial and regulatory, required in completing commercial transactions and for the purpose of customs clearance;

“**Treaty**” means the Treaty Establishing the Common Market for Eastern and Southern Africa;

“**Regional Steering Committee**” means the Common Market Single Window Steering Committee established under Article 23 of these Regulations;

“**Technical Implementation Guidelines**” means a compilation of technical procedures and explanations of the Common Market Single Window which explains relevant technical architectural and business functionalities details and formalities for the effective implementation of the COMSW system, to be adopted and updated in line with internationally accepted standards and new technology as deemed appropriate by the Member States;

Article 3 Objectives

The objectives of these are to:

- a) provide a legal framework for the establishment, operations, interaction and electronic processing of transactions between National Single Window systems within the COMSW environment, for the purpose of making intra-regional trade transactions more efficient and transparent while improving regulatory compliance;
- b) support the implementation of regional commitments by Member States under the COMESA Digital Free Trade Area Action Plan which includes the establishment and implementation of the COMSW; and
- c) strengthen coordination and partnership among COMESA Customs Administrations, other relevant Government Authorities, economic operators in the international supply chain and all stakeholders to effectively and efficiently facilitate regional trade through the COMSW.

Article 4 Scope of Application

- 1. These Regulations shall apply to the exchange of trade and customs-related electronic data and information between National Single Window systems of willing Member States within the COMSW environment.
- 2. The transactions contemplated in these Regulations shall comply with the technical and operational criteria to be agreed by Member States.

Article 5 Exclusions

- 1. Nothing in these Regulations shall affect or limit any agreements or arrangements in

relation to mutual assistance in criminal matters and for matters connected therewith to which a Member State is a party.

2. These Regulations shall not cover the enforcement of purely private or proprietary claims among private National Single Window users within the COMSW environment.

Article 6 General principles

1. The implementation of these Regulations shall be guided by the following general principles:
 - (a) functional equivalence;
 - (b) non-discrimination of the use of electronic communications;
 - (c) technological neutrality;
 - (d) promotion of interoperability;
 - (e) improved trade facilitation and regulatory compliance;
 - (f) cooperation between the public and private sectors; and
 - (g) improving transboundary trust environment.
2. Member States agree to adopt and apply these principles in their national laws and regulations on the exchange of trade and customs related data and documents in electronic form for the purpose of establishing common levels of trust and increasing interoperability.

PART II

COMMON MARKET AND NATIONAL SINGLE WINDOW OPERATIVE PROVISIONS

Article 7 Laws and Regulations for Electronic Single Window Operations

1. Member States shall establish and maintain national laws and regulations that enable the operation of their National Single Window systems and permit cross-border transmission and exchange of electronic trade and customs-related data and information with National Single Window systems of other Member States and through the COMSW system.
2. The laws and regulations referred to in paragraph 1 of this Article may include laws and regulations for electronic transactions covering single window operations, mutual recognition of electronic documents, authority to access and exchange trade/customs data with counterparts across borders, electronic signatures, data protection, retention including data archiving and sharing, cybercrime, intellectual property rights and dispute resolution among other areas necessary to facilitate electronic data exchange.
3. Member States shall establish policies and regulations for the transmission and

exchange, use, and dissemination of National Single Window data and information for domestic government usage that are consistent with the general principles provided in these Regulations.

4. For the purpose of ensuring the availability of all relevant laws and regulations for National Single Window operations and cross-border interoperability, Member States may establish a national committee, comprising relevant representatives of government and private sector parties, in accordance with their domestic environment. Member States may alternatively rely on an existing similar body in lieu of establishing a separate committee and may designate that body as the National Committee for the purpose.
5. The National Committee referred to in paragraph 4 of this Article will have the responsibility to promote a legally enabling national environment for exchange of trade-related data and documents in electronic form as well as facilitate interoperability of cross-border electronic data and information exchange.

Article 8 Establishment of Electronic Single Window Systems

1. Member States shall facilitate cross-border trade by enabling the exchange of trade and customs related data and documents in electronic form, utilizing the existing electronic Single Window systems in operation or creating new systems.
2. In establishing National Single Window Systems, Member States undertake to adopt relevant international standards, procedures, documents, technical details and formalities for implementation of their national single window system taking into account the scalability and interoperability with National Single Windows Systems of other Member States.
3. In establishing the COMSW, Member States shall agree and adopt relevant international and regional standards, technical requirements, operational guidelines and procedures for interfacing with National Single Window Systems of Member States.
4. Member States that are ready to interface their National Single Window Systems through the COMSW system shall interface based on the technical implementation guidelines to be agreed by the Member States in accordance with paragraph 3 of this Article.

Article 9 Transmission and Exchange of Information

1. Member States shall establish policies and regulations for the transmission and exchange, use, and dissemination of National Single Window data and information for national usage that are not inconsistent with the provisions of these Regulations.
2. Data and information transmitted, exchanged and disseminated by a Member State's National Single Window to another Member State's National Single Window through the COMSW environment shall be used and maintained only in furtherance of these Regulations and the objectives of the COMSW.
3. Member States shall recognize trade and customs-related data and information

transmitted and exchanged within the COMSW environment for the purpose of customs clearance and release.

Article 10 Mutual Recognition of Electronic Customs and Trade Documents

1. Member States shall provide for mutual recognition of customs and trade-related data documents such as customs declarations, certificates of origin, import or export permits and licenses in electronic form originating from other Member States on the basis of the principle of functional equivalency of electronic and physical documents.
2. The level of functional equivalence and reliability shall be mutually agreed upon among Member States through the governance structures established under these Regulations.
3. Member States may enter into bilateral or multilateral arrangements to operationalize cross-border mutual recognition of trade-related data and documents in electronic form, provided that the provisions of such arrangements do not contradict these Regulations.

Article 11 Standardization of Data and Information

1. In line with Article 71(1) of the Treaty and for purposes of transactions between National Single Window Systems within the COMSW environment, Member States shall:
 - a) align data and information parameters of their customs data processing systems and the national single window to the World Customs Organisation data model or other relevant international data models or parameters; and
 - b) take into account the interoperability with other automated customs management systems and Electronic Single Windows used by other Member States.
2. In line with Article 71(2) of the Treaty, and where required, the simplification, harmonisation and standardisation of customs documents and procedures and their computerization will be facilitated by the Regional Automated System for Customs Data Centre at the Headquarters of the Common Market.

Article 12 Information and Data Security

1. Each Member State shall take responsibility for:
 - a) the security of data in the National Single Window System;
 - b) ensuring that its National Single Window system adopts information security controls and procedures (technical, operational and managerial) for access to data and information;
 - c) taking precautions to ensure that the electronic systems are secure from unauthorized access; and
 - d) requiring system users to comply with all applicable policies and laws governing data protection.

1. In these Regulations, information security includes technical, managerial and operational security controls that are appropriate for the type of data and information for which it is responsible.
2. For the purpose of information security, integrity and confidentiality management in the COMSW closed secure network, the COMSW system operator to be designated by Member States pursuant to these Regulations shall:
 - a) take responsibility for the security of data in the COMSW System
 - b) implement the use of privacy impact assessments periodically using risk analysis techniques to identify privacy risks to confidential information;
 - c) determine how changes can be made to the COMSW closed secure network or to the handling of the data to mitigate the risks identified in such assessments; and implement the required changes.
3. Member States and the Secretariat shall jointly develop security incident management agreement and procedures for the purposes of information security in the COMSW environment.

Article 13 Confidentiality of data

1. Each Member State shall establish in its national laws and regulations, protection from the unlawful disclosure of confidential information that may be transmitted, exchanged or disseminated by the National Single Window systems of Member States through the COMSW pursuant to these Regulations.
2. Each Member State shall further ensure that:
 - a) data and information received shall be for lawful and authorized purposes consistent with the terms of these Regulations; and
 - b) such data and information is used only for the purposes specified and shall not be otherwise disclosed by the receiving Member State without the specific permission of the Member State providing the information.
3. Where confidential information is transmitted, exchanged or disseminated between National Single Window Systems, Member States of both the transmitting and receiving NSWs shall ensure that there is no unlawful disclosure of such information.
4. Nothing in these Regulations shall be construed to require any Member State to furnish or allow access to confidential information pursuant to these Regulations the disclosure of which it considers would:
 - a) be contrary to the public interest;
 - b) be contrary to any of its legislation including but not limited to those protecting

personal privacy or the financial affairs and accounts of individual customers of financial institutions;

- c) impede law enforcement; or
- d) prejudice the competitive position of the person providing the information.

Article 14 User Registration and Authentication

1. Member States shall register all users that will be permitted access to their respective National Single Window Systems for purposes of providing or receiving information and documents in electronic data format to or from their respective National Single Window system and shall establish authentication procedures in relation to registered users.
2. Member States shall maintain a secure and updated electronic registry, listing all authorized users that are permitted to submit to or receive information from their respective national single window and shall not permit access to their respective national single window by any unauthorized person or entity.
3. Authorised registered users of a Member State's National Single Window System shall not be permitted access to data or information other than such data or information for which access has been authorized by law, rules, regulations and policies.

Article 15 Integrity of Data

1. Member States shall adopt data integrity requirements and measures that will ensure the integrity of electronic data and information that is processed in their respective national single window and transmitted in the COM-SW environment.
2. Such data integrity requirements and measures, where appropriate, shall also be applied to the transmission of data and information through the COMSW environment.
3. Each Member State shall ensure that the data integrity requirements and measures adopted to assure the integrity of electronic data and information provide for mechanisms, among others, that enable the recipients of electronic data and information to determine whether such data and information is complete and has not been altered in the process of transmission.
4. Each Member State shall ensure that its National Single Window adopts such data integrity requirements and measures to electronic archiving and data retention as well as with those for authentication purposes as provided for in this Regulations.

Article 16 Data Retention Requirements

1. Member States undertake to develop common schedules and criteria for data retention and electronic archiving for a minimum of 5 years and to apply such criteria for the purpose of retention, archiving, and disposal of each type of data that is processed in their respective national single window or through the COMSW for subsequent use in accordance with the provisions in the COMESA Treaty and Customs Management Regulations.

2. Member States agree to establish technical standards and procedures for maintaining authenticated electronic data and information and for retaining such data and information, in line with the requirements of paragraph 1 of this Article, in a secured environment in their respective national single window.
3. Where data has been archived in line with paragraphs 1 and 2 of this Article, subject to its national laws and regulations, upon request of the sending Member State, the receiving Member State may provide a copy of such archived data in a timely and secured manner to the Member State for the purpose stated in the request; provided that no Member State shall be required to provide data and information beyond that which had been provided to it by the requesting Member State.

Article 17 Service Level Requirements

1. Each Member State shall establish service level requirements for its National Single Window to carry out transactions in a timely manner.
2. Service level requirements related to the COMSW system regional services shall be agreed by Member States and set out in Service Level Agreements to be entered into between participating Member States and the Operator designated by Member States to be responsible for the management and maintenance of the COMSW environment.
3. The Service Level Agreements referred to in paragraph 2 of this Article shall be comparable in safeguards and obligations of the Parties to those applied within the national single window environment of Member States.

Article 18 Fees and Charges

1. The service fees for online registration of approved users of the COMSW system shall be free of charge.
2. Notwithstanding paragraph 1 of this Article, fees and charges may be applied to users for the services provided under the National Single Window system in accordance with national legislation of the Member States.

PART III

ADDITIONAL PROVISIONS FOR THE COMSW ENVIRONMENT

Article 19 Protection of Intellectual Property Rights and Data Ownership

1. The protection of any intellectual property rights contained in any information that is exchanged under these Regulations or of any technological products and services that are developed by Member States in relation to the COMSW system shall be enforced under the respective national laws, rules and regulations of each Member State and in conformity with the COMESA Regional Policy on intellectual property rights and other international agreements that the respective Member State is a party to.
2. Notwithstanding paragraph 1 of this Article, the intellectual property rights in respect of any data arising from the implementation of the COMSW system, technological

development, products and services development, carried out:

- a) collectively by all the Member States pursuant to the COMSW implementation shall be collectively owned by the Member States in accordance with terms to be mutually agreed upon;
- b) jointly by several Member States pursuant to the COMSW implementation shall be jointly owned by those Member States in accordance with terms to be mutually agreed upon; or
- c) solely and separately by one Member State through the sole and separate effort of that Member State, shall be solely owned by the Member State concerned.

Article 20 Admissibility as Evidence of Electronic Documents

1. Each Member State shall adopt procedures for the authentication of electronic documents, data, and information that shall be used or processed within the National Single Window and transmitted in an electronic form through the COMSW environment.
2. Subject to national laws, rules and regulations of each Member State, authenticated electronic documents produced in connection with transactions under these Regulations may be admissible as evidence of any fact stated therein.
3. Any reproduction of electronic documents referred to in these Regulations shall have the same evidentiary weight as the document itself when it is certified accurate by bodies approved by a competent authority.

Article 21 Liability Related to the Common Market Single Window

Service Level Agreements established under Article 17 of these Regulations in respect of regional services to be provided in the COMSW environment shall address the extent of liability of the designated service provider by providing recourse, whether limited or otherwise, against such service provider in the event of a breach of the Service Level Agreement for such parties in the COMSW environment suffering loss as a result of such breach.

Article 22 Competition

1. In line with Article 55 of the Treaty and the COMESA Competition Regulations (2004), Member States agree that any practice which negates the objectives of these Regulations and overall of free and liberalized trade shall be prohibited in national legislation.
2. In furtherance of paragraph 1 of this Article and in compliance with the World Trade Organisation Trade Facilitation Agreement and other relevant international Conventions and Agreements, Member States agree:
 - a) to prohibit any agreement between undertakings or concerted practice which has as its objective or effect the prevention, restriction or distortion of competition within the Common Market; and
 - b) to ensure transparency of the Single Window operational environment through

regular publication and transparent administration of trade and customs related regulations.

PART IV

COOPERATION AND INSTITUTIONAL ARRANGEMENTS

Part IV (a) INSTITUTIONAL ARRANGEMENTS

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Article 23 Common Market Single Window Regulations Steering Committee

1. For the purpose of management of these Regulations, the Committee responsible for trade and customs shall establish a Regional Steering Committee which shall consist of relevant senior officials of Member States from customs, trade, legal, Information and Communication Technology and other relevant stakeholders.
2. The Regional Steering Committee shall adopt such rules of procedure as may be required for the performance of its functions, including for the working groups.

Article 24 Functions of the Regional Steering Committee

The Regional Steering Committee shall:

- a) monitor the implementation and application of these Regulations;
- b) consider any measure to secure uniformity in the interpretation of these Regulations;
- c) consider and recommend any amendments to these Regulations proposed by Member States;
- d) consider any question concerning customs provisions raised by a Member State; and
- e) perform any other functions conferred by the Trade and Customs Committee necessary for the purpose of giving effect to these Regulations.

Article 25 Meetings of the Regional Steering Committee

In accordance with Article 15 of the Treaty, the Regional Steering Committee shall meet at least once a year for the proper discharge of its functions and shall determine its own rules of procedure.

Article 26 Establishment of Technical Working Groups

1. For the purposes of implementing these Regulations, the Regional Steering Committee may establish working groups composed of experts from customs, trade, legal, information technology and other relevant representatives of the private sector from Member States which shall report to the Regional Steering Committee on the implementation of any action plans made pursuant to these Regulations
2. The Secretariat shall provide support to the Regional Steering Committee in coordinating, reviewing and supervising the implementation of these Regulations and in all related matters.

PART IV (B) ADMINISTRATIVE COOPERATION

Article 27 Lead Agency

1. Member States shall designate in national law a lead agency such as the customs authority or other relevant government body which shall:
 - a) be responsible for the monitoring and the implementation of these Regulations; and
 - b) serve as the focal point in coordinating with the Secretariat and other focal points of other Member States on operational matters of the COMSW system.
2. For efficient coordination, Member States shall communicate to the Secretariat and other participating Member States, the contact details of the responsible officials within the national lead agency.

Article 28 Technical Support and Capacity Building

1. The Secretariat shall provide necessary technical support or advice regarding the interpretation of these Regulations and implementation of the COMSW System where it is needed by the Member States.
2. Upon request by any Member State, the Secretariat shall facilitate the interconnection of the National Single Window system of the requesting Member State to the secure infrastructure and access to the COMSW system.
3. Pursuant to Article 71(2) of the Treaty and subject to the availability of resources, the Secretariat through the Regional Automated System for Customs Data Centre shall provide necessary support to requesting Member States in building their capacity to enable participation in the COMSW system, including the coordination of cooperation with development partners in financial and technical assistance.

Article 29 Operational Guidelines

The Council, on recommendation by Member States, may adopt guidelines or other Operational Instructional Materials pursuant to the provisions of these Regulations. Such Operational Instructional Materials shall form part of these Regulations.

Article 30 Dispute Settlement

1. Any difference or dispute between Member States concerning the interpretation and/or implementation and/or application of any of the provisions of these Regulations shall be settled amicably through mutual consultations or negotiations between Member States without reference to any third party or international tribunal.
2. If Member States fail to resolve the difference or dispute pursuant to paragraph 1 of this Article, Member States may refer and settle any differences or disputes between them concerning the interpretation or implementation or application of these Regulations by the COMESA Court of Justice established under Article 7 of the Treaty.

PART V

MISCELLANEOUS PROVISIONS

Article 31 Implementation Framework

1. The Secretariat, in consultation with Member States shall prepare necessary action plans for implementation of the COMSW and circulate them to the Member States for their approval and effective implementation.
2. Member states undertake to implement the COMSW system in accordance with the Action Plan of implementation to be agreed by Member States and may be reviewed or revised as may be deemed appropriate.
3. The implementation plan referred to in paragraphs 1 and 2 of this Article shall allow for the implementation of the COMSW system in a phased approach and on adoption of these Regulations by the Council, a pilot phase shall be facilitated for Member States that are ready and willing to start the implementation process.
4. Member States who are ready to interconnect through the COMSW system in furtherance of these Regulations shall inform the Secretariat and other Member States through the National Coordinating Ministries so that it can be recognized and reciprocated by other Member States using the COMSW.

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Article 32 Monitoring, Evaluation and Sustainability

Member States agree to adopt and implement measures for monitoring, evaluating effectiveness and sustainability of the operations of the COMSW.

Article 33 Revision and Amendment

1. The Council may adopt revisions, modifications or amendments agreed and recommended by Member States and such revisions, modifications or amendments to these Regulations shall be effected accordingly.
2. Any revision, modification or amendment shall not prejudice the rights and obligations arising from or based on these Regulations before or up to the date of such revision, modification or amendment.

Article 34 Entry into Force

These Regulations shall enter into force upon adoption by the Council.

**CHARTER FOR THE ESTABLISHMENT OF THE
COMESA REGIONAL INVESTMENT AGENCY
(AMENDMENT), 2023**

PREAMBLE

The Member States of the Common Market for Eastern and Southern Africa;

RECALLING the adoption of the Charter for the Establishment of the COMESA Regional Investment Agency (herein after referred to as the “Principle Charter) by the Authority of Heads of State and Government of COMESA, at their Fourth Summit held in Nairobi, Kenya in May, 1999;

NOTING the first amendment of the Principal Charter by the Council of Ministers at its Thirtieth Meeting held on 15th October 2011 held in Lilongwe, Malawi;

DESIRING to further amend the Principal Charter pursuant to the decision of Council at its Forty-third Meeting held in Lusaka, Zambia on 1st December 2022;

AGREE as follows:

1. Citation and Commencement

This amendment shall be cited as the “Charter For The Establishment Of The COMESA Regional Investment Agency (Amendment), 2023” and shall come into force on the day it shall be adopted by the Council.

2. Repeal of Article 6

The Principal Charter is hereby amended by deleting Article 6 and substituting therefor the following Article 6:

“The Board

1. There is hereby established a Board which shall be the governing body of the Agency and shall be responsible for carrying out the objectives of, and exercising the powers and functions conferred on, the Agency.
2. The Board to be appointed after the entry into force of this Article shall:
 - (a) initially consist of five (5) Board members; and
 - (b) after the expiry of the term of office of the five (5) Board members referred to in subparagraph (a), subsequently consist of seven (7) Board members.
3. The Board members referred to in paragraph 2 shall be appointed by the Council on the recommendation of the Secretary General on such terms and conditions as the Council may determine. and hold office for three (3) years.
4. Upon the expiry of the term of office of the five (5) Board members referred to in paragraph 2(a):
 - (a) they may be reappointed; and
 - (b) two (2) new Board members shall be appointed.
5. The recommendation of the Secretary General under paragraph 3 shall reflect the regional character of the Common Market.

6. A person shall be eligible for appointment as a Board Member if he or she is a citizen of a Member State.”

3. Insertion of new Articles

The Principal Charter is hereby amended by insertion of new Article 6A and 6B as follows:

“Article 6 A

Procedure for Appointment and Qualification of Board Members

In making the recommendation for appointment of Board members, the Secretary-General shall:

- (a) request nominations from Member States which at the time are not represented on the Board;
- (b) consider persons who have relevant qualifications in investment promotion and protection, finance, banking, corporate law or private equity financing; and
- (c) consider persons who have at least five years experience and relevant expertise in investment promotion and protection, in domestic or foreign investment promotion authorities in Member States or international organisations dealing with any of the said fields.

Article 6 B

Tenure of Board Members

1. A Board member shall hold office for a period of three (3) years and shall be eligible for reappointment for one further term only.
2. The office of a Board member shall become vacant if he or she:
 - (a) resigns;
 - (b) dies;
 - (c) is absent without reasonable excuse from three consecutive meetings of the Board of which there has been due notice;
 - (d) is lawfully detained or his or her freedom of movement is restricted for a period exceeding six months;
 - (e) becomes an undischarged bankrupt;
 - (f) becomes of unsound mind or permanently incapacitated;
 - (g) engages in any activity that may undermine the integrity of the Agency or the Board or amounts to serious misconduct; or
 - (h) ceases to be a citizen of any Member State.”

4. Amendment of Article 8

The Principle Charter is hereby amended by deleting Article 8 and substituting therefor the following Article 8:

“Article 8

Meetings of the Board

1. Subject to this Charter or any directives given by the Council, the Board shall regulate its own procedure.
2. The Board shall meet at least once in every financial year or as often as necessary, at a venue to be determined by the Chairperson in consultation with the Executive Director.
3. The Chairperson may direct that a Board meeting shall be held physically, through any other mode of electronic communication or as a hybrid meeting where some Board members may attend in person while other Board members attend through any other mode of electronic communication, if the situation so demands.
4. The Board may confirm minutes of any meeting through electronic communication or any other means.
5. The Board members shall, at the first Board meeting, elect the Chairperson and Vice-Chairperson of the Board.
6. The Chairperson and Vice Chairperson shall be elected annually by the Board from among the Board members.
7. The Chairperson shall preside at all meetings of the Board and in the absence of the Chairperson at a meeting, the Vice-Chairperson shall preside the meeting.
8. In the absence of the Chairperson and the Vice-Chairperson at a Board meeting, the Board members present shall elect a Board member to preside the meeting.
9. The quorum for any Board meeting shall be a simple majority of the total number of the appointed Board members.
10. All decisions at a Board Meeting shall be by consensus, failing which by a simple majority of the Board members present and voting.
11. Every Board member shall carry one vote at any meeting and in the event of an equality of votes, the Chairperson presiding the Board meeting shall have a casting vote.
12. The Executive Director shall keep minutes of every Board meeting.
13. The validity of any proceedings, act or decision of the Board shall not be affected by a vacancy in the membership of the Board or by a defect in the appointment of a Board member.
14. The Board may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberation of a meeting of the Board, but such person shall not have the right to vote.”

**DRAFT COMESA COMPETITION COMMISSION
PROCUREMENT RULES 2020**

(Revoked and replaced on 23rd November 2023)



COMESA COMPETITION COMMISSION PROCUREMENT RULES

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COMESA COMPETITION COMMISSION PROCUREMENT RULES

PREAMBLE

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HAVING REGARD to Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa;

RECOGNIZING that the COMESA Competition Regulations (“the Regulations”) establishes the COMESA Competition Commission (“the Commission”);

NOTING that the Regulations provide for the Commission to establish its own Rules of procedures to effectively implement the Regulations;

FURTHER NOTING the Regulations provide for the Board of Commissioners to make Rules which shall become effective upon approval by the Council,

NOW, THEREFORE, the Council of Ministers hereby approves these Procurement Rules, in the English, French and Arabic languages, all the languages being equally authentic.

CHAPTER I

GENERAL PROVISIONS

Rule 1

Citation

These Rules shall be cited as the COMESA Competition Commission Procurement Rules.

Rule 2

Interpretation

In these Rules, unless the context otherwise requires:

“**bid**” means a response to a tender issued by the Commission;

“**bidder**” means a natural or legal person who submits a bid;

“**bidding documents**” means the tender solicitation documents or other documents for solicitation of bids, on the basis of which bidders are to prepare their bids;

“**Board**” means the Board of Commissioners established under the Regulations;

“**COMESA Dollar**” means unit of account determined by Council under Article 74 of the Treaty as read together with the Financial Rules and Regulations of the Common Market for Eastern and Southern Africa;

“**candidate**” means a person invited to take part in procurement by the Commission;

“**conflict of interest**” means an interest which, without limitation, may arise where an appointed member of the bodies involved in procurement as referred in Rule 6 of these Rules, has direct

or indirect interest that may jeopardise or compromise his or her impartiality, judgement , decision making or integrity in the performance of his or her duties and contrary to the best interests of COMESA or the COMESA Competition Commission.

“**consulting services**” refer to services of a professional nature provided by consultants using their skills to study, design, organize, and manage projects, advise clients, and when required build their capacity;

“**contract**” means all types of agreements, regardless of what they may be called for the procurement of supplies, services, consultants and works;

“**Contracts Committee**” means the Contracts Committee established under these Rules;

“**Council**” means the Council of Ministers of the Common Market established by Article 7 of the Treaty;

“**day**” means calendar day unless otherwise provided;

“**direct procurement**” means the procurement process that takes place in accordance with Rule 22 or 44;

“**disposal**” means the sale of stock, namely articles and commodities in stores, or long term assets whether surplus, obsolete or salvage property by the Commission or under the authority of the Commission and includes the transfer by way of donation, abandonment or destruction of such stock or long term assets;

“**dispute**” means a disagreement concerning the legal rights and obligations of contracting parties which, if not settled by mutual agreement, must be referred to a neutral third party for resolution;

“**Division**” includes a Division or Unit of the Commission;

“**eligible bidder**” means a bidder who is eligible to bid following an established criteria stated in the tender documents;

“**Evaluation Committee**” means a committee established from time to time to open, examine and evaluate bids received within the deadline for submission of bids;

“**fraudulent practice**” includes a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Commission, and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and deprive the Commission of the benefits of free and open competition;

“**goods**” means raw materials, products and equipment and commodities in solid, liquid or gaseous form and electricity, as well as installation, transport, maintenance or similar obligations related to the supply of the goods if their value does not exceed that of the goods themselves;

“**invitation to bid**” means all documents, whether attached or incorporated by reference, utilized for soliciting bids;

“**non-consulting services**” means any services other than consultancy services or services

incidental to the supply of goods or the execution of works;

“**open tendering**” means the tendering process whereby any interested bidder may bid;

“**procurement**” means the acquisition by any means, of goods, or services funded in whole or in part by COMESA funds, or in exchange for according the supplier, contractor or consultant a pecuniary interest of any sort;

“**Procurement Committee**” means the Committee established under Rule 67 of the Financial Rules of the Commission;

“**Procurement Plan**” means an annual procurement plan prepared and approved under Rule 10;

“**purchase description**” means the words used in a solicitation to describe the goods, services, consultants or works to be purchased and includes specifications attached to, or made part of, the solicitation;

“**pre-qualification procedure**” means a procedure by which candidates are invited to demonstrate their qualifications prior to, and as a condition for, being invited to bid or submit proposals;

“**Regulations**” means the COMESA Competition Regulations;

“**responsive**” in respect to a bidder means a person who has submitted a bid which conforms in all respects to the invitation for bids;

“**restricted tendering**” means the tendering process whereby only those invited by the Commission may submit a bid;

“**scrap**” means goods or material that is damaged, defective or deteriorated howsoever caused to the extent that it has no value except for its basic material content;

“**services**” means any object of procurement or disposal other than goods and includes professional, non-professional and commercial types of services as well as goods which are incidental to but not exceeding the value of those services;

“**supplier**” means a person under contract with the Commission to supply goods works or services;

“**standard**” means a characteristic or set of characteristics for an item which for reasons of quality level or compatibility with other products is generally accepted by the manufacturers and users of that item as a required characteristic for all items of that type;

“**staff member**” means an employee as defined in the COMESA Competition Commission Staff Rules of the Commission and may include any other persons engaged by the Commission on a temporary basis;

“**tender**” means an invitation issued by the Commission to suppliers to supply goods, services or participate in works;

“**works**” means the construction, repair, renovation or demolition of buildings, roads or other structures, installation of equipment and materials, decoration, as well as services incidental to works; and

“**writing**” means any expression consisting of words or figures which can be read, reproduced and subsequently communicated, and includes information which is transmitted and stored by electronic means.

Rule 3

Authority and Application

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These Rules shall apply to:

- (a) a procurement by the Commission using resources appropriated to the Commission through budgetary processes except where the Council has decided otherwise;
- (b) a procurement by the Commission using resources from a funding agency whose regulations allow use of these Rules; and
- (c) a disposal by the Commission of stock or long-term assets whether surplus, obsolete or salvage property.

Rule 4

Donor and Funding Agencies

These Rules shall not apply to procurement funded in whole or in part by a cooperating partner or funding agency, to the extent that these Rules conflict with the procurement rules of a cooperating partner or funding agency, the application of which is mandatory pursuant to an obligation entered into by the Commission or COMESA Secretariat on behalf of COMESA.

Rule 5

Purpose of Rules

The purpose of these Rules is to promote transparency and efficiency in procurement. In order to attain these objectives, the Commission in conducting procurement shall:

- (a) apply the principles of:
 - (i) competition and openness in procurement proceedings;
 - (ii) non-discrimination, including on the grounds of nationality of eligible bidders;
 - (iii) fairness;
 - (iv) transparency;
 - (v) accountability;
 - (vi) value for money; and
 - (vii) integrity;
- (b) ensure that there is no conflict of interest in the procurement process, and where it exists full disclosure shall be made; and
- (c) promote the use of information and communications technology into the procurement process.

CHAPTER II
ORGANISATION OF PROCUREMENT

Rule 6

Bodies Involved in Procurement

1. The bodies involved in procurement by the Commission shall be the:
 - (a) Procurement Committee, hereby established in these Rules;
 - (b) Contracts Committee, to be established by the Board on an ad hoc basis and as necessary; and
 - (c) Evaluation Committee to be established by the Director on an ad hoc basis and as necessary.
2. The composition and role of the Procurement Committee, Contracts Committee and Evaluation Committee respectively, shall be as set out in the First Schedule, as amended from time to time.

Rule 7

Approval of Contracts or Purchases

The approval of contracts or purchases shall be done in accordance with the Second Schedule.

CHAPTER III

BASIC PROCUREMENT RULES

Rule 8

Accessibility to Legal Texts

These Rules shall be promptly made accessible free of charge by the Commission, upon request.

Rule 9

Records Relating to Procurement Proceedings

1. The Commission shall maintain records and documents regarding procurement for a period of ten years from the date of concluding any procurement proceeding, which for each proceeding shall contain:
 - (a) a brief description of the goods or services to be procured;
 - (b) the names and addresses of suppliers that submitted bids, proposals or quotations, and the name and the address of the winning candidate;

- (c) the evaluation criteria stipulated and applied, and a summary of the evaluation and comparison of bids, proposals or quotations received;
 - (d) information on any decision to suspend or cancel proceedings after having been initiated; and
 - (e) the grounds for using a procurement procedure other than open tendering.
2. The record concerning any proceeding shall on request and once the proceedings have resulted in a contract or have otherwise been terminated, be made available to candidates who participated in the proceedings, but except when ordered to do so by the COMESA Court of Justice and subject to the conditions of such an order, the Commission shall not disclose:
- (a) information if its disclosure would be contrary to law, would impede law enforcement, would not be in the public interest, would prejudice legitimate commercial interests of the parties, or would inhibit fair competition; and
 - (b) information relating to the examination and evaluation of bids, proposals or quotations and the actual content of bids, proposals or quotations, other than in the summary form referred to in paragraph 1(c) .

Rule 10

Procurement Plan

- 1. The procurement of goods, works and services shall be guided by the procurement plan prepared by the Procurement Division and approved by the Director.
- 2. Each Division shall prepare a list of procurement needs, based on approved work plans and budgets, which shall be submitted to the Procurement Division to facilitate orderly execution of procurement activities.
- 3. The Procurement Division shall consolidate all the lists of procurement from the different Divisions into one procurement plan for the Commission to organize, forecast and schedule the total procurement activities for the Commission for the financial year.
- 4. The procurement plan shall:
 - (a) indicate the budget lines from which the procurement is to be funded and the requesting Division;
 - (b) be updated on a regular basis as and when changes occur, or additional procurement has been approved; and
 - (c) provide the following information relating to each major category of procurement i.e. goods, works and services:
 - (i) name of item;
 - (ii) category of procurement;
 - (iii) requisition Division;

- (iv) contract description;
- (v) estimated amount for each contract;
- (vi) procurement method to be used; and
- (vii) time schedule for each procurement action.

Rule 11

Qualification of Suppliers, Contractors and Consultants

1. In order to participate in procurement by the Commission, suppliers, contractors and consultants shall qualify by meeting the following criteria and such other criteria as the Commission considers appropriate:
 - (a) possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience in the procurement object, reputation, and the personnel, to perform the contract;
 - (b) have the legal capacity to enter into the contract;
 - (c) are not insolvent, in receivership, bankrupt or being wound up, their business activities have not been suspended, and they are not the subject of legal proceedings for any of the foregoing;
 - (d) have fulfilled their obligations to pay taxes and social security contributions, and for that purpose, documentary evidence to be provided by a foreign candidate to demonstrate that it meets the criterion in this paragraph may consist of a written declaration to that effect by the candidate; and
 - (e) their employee, or agents have not offered any inducement to any employees of the Commission.
2. The Commission may require suppliers, contractors and consultants to provide such appropriate documentary evidence or other information as it may deem useful to satisfy itself that the candidates are qualified in accordance with the criteria referred to in paragraph 1.
3. Any requirement established pursuant to this Rule shall be set forth in the pre-qualification documents, if a pre-qualification procedure is chosen, and otherwise in the tender documents or other documents for solicitation of proposals, and shall apply equally to all suppliers, contractors and consultants.
4. The Commission shall evaluate the qualifications of suppliers, contractors and consultants in accordance with the criteria and procedures set forth in the documents referred to in paragraph 3.
5. The Commission shall disqualify suppliers, contractors and consultants if it finds at any time that the information submitted concerning the qualifications of the candidate was materially inaccurate or materially incomplete.

Rule 12

Right to Inspect Place of Business

The Commission may, as part of due diligence, at reasonable times, inspect the place of business of a supplier, contractor or any subcontractor in relation to the performance of any contract awarded or to be awarded by the Commission.

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Rule 13

Technical Specifications

1. Technical specifications and descriptions laying down the characteristics of the goods, works or services to be procured shall be prepared for the purpose of giving a correct and complete description of the object of procurement and for the purpose of creating conditions of fair and open competition between all candidates.
2. The technical specifications shall clearly describe the Commission's requirements with respect to quality, performance, safety and dimensions, symbols, terminology, packaging, marking and labeling or the processes and methods for production and requirements relating to conformity assessment procedures.
3. Technical specifications prescribed by the Commission shall, where appropriate:
 - (a) be in terms of performance rather than design or descriptive characteristics; and
 - (b) be based on international standards, where such exist, or otherwise recognized national standards.
4. There shall be no requirement of reference in the technical specifications to a particular trademark or name, patent, design or type, specific origin, subject to Rule 9, producer or service provider, unless there is no sufficiently precise or intelligible way of describing the procurement requirements and provided that words such as "or equivalent" are included in the specifications.
5. The Commission shall, when necessary, seek technical support in the preparation of specifications.

Rule 14

Availability of Funds

The Commission shall ensure that funds are available before starting any procurement or bidding process.

Rule 15

Rejection of Bids, Proposals and Quotations

1. If so specified in the tender documents or in the request for proposals or quotations, and provided rejection can be justified on sound financial grounds, the Commission may reject bids, proposals or quotations at any time prior to their acceptance and the Commission shall upon request communicate to any bidder the grounds for its rejection but shall not be required to justify those grounds.

2. The Commission shall incur no liability towards candidates solely by virtue of its invoking paragraph 1.
3. Notice of the rejection shall be given to all participating candidates.
4. An invitation for bids or request for proposals may be cancelled, and any bid or proposal may be rejected, when such action is determined by the Commission including, but not limited to, the following:
 - (a) bids received are not responsive to the content of the solicitation;
 - (b) there is lack of effective competition;
 - (c) inadequate or ambiguous specifications contained in the solicitation;
 - (d) the specification is materially revised;
 - (e) goods or services being procured which are no longer required;
 - (f) the solicitation has been cancelled for the Commission's business reasons; or
 - (g) bids were collusive.
5. If the decision to cancel an invitation for bids or requests for proposals is taken before the closing date, bids received shall be returned unopened to the bidders submitting them.
6. The Commission shall have the right to cancel an award without liability to the bidder, except the return of any deposit, guarantee or other security, at any time before a contract has been fully executed by all parties.

Rule 16

Ownership of Bids

The Commission shall retain all bids and proposals received and shall have no obligation to return them to bidders, except in any of the following circumstances:

- (a) cancellation of tender procedure;
- (b) rejection of bids before the closing date; or
- (c) late submission of a bid.

Rule 17

Single Bid Response

1. Where a single bid is received in response to a tender, the bidding process may proceed provided:
 - (a) the tender was satisfactorily advertised;
 - (b) the award criteria are met i.e. company profile, experience, adherence to specifications or terms of reference, proposed methodology among other

- specified technical aspects; and
- (c) prices are reasonable in comparison to market values and within budgeted estimate.
2. In such circumstances and prior to accepting or rejecting a single bid, the Commission shall review the causes justifying limited participation which may include, but not be limited to, the following:
- (a) conditions of contract;
 - (b) design of specifications;
 - (c) publication of tender document ;
 - (c) scope of work; or
 - (d) a combination of these.
3. If there is poor response resulting in a lack of effective competition, the tender may be re-advertised to attract more bidders.

Rule 18

Inducements from Suppliers, Contractors and Consultants

It shall be a breach of these Rules and the Commission shall reject a tender, a proposal or quotation if the candidate that submitted it gives or promises to give, directly or indirectly to any current or former officer or employee of the Commission a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or procedure followed by, the Commission in connection with the procurement proceedings and such rejection of an offer and the reasons therefore shall be recorded in the procurement proceedings and promptly communicated to the candidate concerned.

Rule 19

Time Limits for Preparation of and Response to Tenders

The time allowed for preparation of tenders in open and restricted tendering for goods, works and services and the time limits for low value procurements, request for quotations, direct procurement, and competitive negotiated procedure shall be as set out in the Second Schedule.

CHAPTER IV

CHOICE OF PROCUREMENT PROCEDURE

Rule 20

Procurement Procedure

1. Except as otherwise provided in this Chapter, the Commission shall use open tendering as the preferred procedure of procurement.
2. Where any other procurement method is used, the Commission shall give and record its

reasons for the choice of that procedure.

3. The Commission may use a procedure other than open tendering only pursuant to Rules 21 to 44.
4. The Commission shall plan its procurement in a rational manner, and no procurement requirements for a given quantity of goods or services shall be split up with the intention of avoiding a procurement procedure stated in these Rules.
5. Before commencing a procurement procedure, the Commission shall ensure that sufficient funds have been set aside in its budget to pay for any amounts due under the resulting contract.

Rule 21

Conditions for Use of Restricted Tendering

1. The Commission may engage in procurement by means of restricted tendering in accordance with Rule 42 when:
 - (a) competition for the contract, because of the complex or specialized nature of the goods, works or services, is limited to pre-qualified candidates; or
 - (b) the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods or services to be produced.
2. The conditions referred to in paragraph 1 shall in any case be considered to be fulfilled when the estimated value of the contract does not exceed the authorized threshold as set out in the Second Schedule.

Rule 22

Conditions for Use of Direct Procurement

1. The Commission may use direct procurement in accordance with Rule 44 if this method is not selected with a view of avoiding possible competition or in a manner which would constitute a means of discrimination among candidates:
 - (a) when in the absence of competition for technical reasons the goods, work or services can be supplied or provided only by one candidate; or
 - (b) for the purchase of goods, works or services in case of emergency or disaster.
2. Direct procurement may be used for purchases where the contract price does not exceed the limits stated in paragraphs (a) and (b) of the Second Schedule.
3. All single source selection of consultants shall be approved by the Director or the Board subject to the thresholds set out in the Second Schedule and this may be appropriate only if it represents a clear advantage over competition:
 - (a) for tasks that represent a natural continuation of previous work carried out by the consultant. This must be subject to satisfactory performance in the initial assignment which must have been awarded on a competitive basis;
 - (b) in emergency cases, such as in response to disasters and for consulting services

- required during the period of time immediately following the emergency; or
- (c) when only one firm is qualified or has experience of exceptional worth for the assignment.
4. Direct procurement for goods, services, and works may be used in the following circumstances:
- (a) where an existing contract for goods or works, has been awarded in a competitive basis may be extended for additional goods or works of a similar nature and especially where the Commission is satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable;
 - (b) where standardization of equipment or spare parts, to be compatible with existing equipment, justifies additional purchases from the original supplier. For such purchases to be justified, the original equipment shall be suitable, the number of new items shall generally be less than the existing number, the price shall be reasonable, and the advantages of another make or source of equipment shall have been considered and rejected on grounds acceptable to the Commission;
 - (c) where the required equipment is proprietary and obtainable only from one source;
 - (d) where the contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee;
 - (e) where an upgrade of existing software is only available from the producer of the software who sells on a direct basis only;
 - (f) where time is of the essence and only one known source can meet the Commission's needs within the required timeframe; or
 - (g) in exceptional cases, such as in response to natural disasters.
5. The Commission shall develop and maintain a database of consultants from Member States and other regions. The Commission may also access the COMESA Secretariat database.

Rule 23

Conditions for Use of Request for Proposals

The Commission may engage in procurement by means of request for proposals in accordance with Rule 45 when it seeks to obtain:

- (a) consulting services;
- (b) non-consulting services; or
- (c) a combination of goods and services for which open or restricted tendering is not suitable because of the difficulty in precisely defining the services.

Rule 24

Conditions for Use of Competitive Negotiated Procedure

The Commission may engage in procurement of goods and works by means of competitive negotiated procedure without publication in accordance with Rule 43 so long as the estimated value of the contract does not exceed the amount set out in the Second Schedule.

Rule 25

Conditions for Use of Request for Quotations

The Commission may engage in procurement by means of request for quotations in accordance with Rule 46 for the purchase of readily available goods or services for which there is an established market, so long as the estimated value of the contract does not exceed the amount set out in the Second Schedule.

CHAPTER V

OPEN REGIONAL TENDERING

Rule 27

Advertisements

1. A tender for goods, works or services shall be advertised by the Commission, in accordance with the Second Schedule, in the following manner:
 - (a) Commission's website; and
 - (b) Commission's social media sites.
2. The tender shall be submitted to the COMESA Coordinating Ministries for advertising at the national level in at least one media with wide coverage.
3. The tender shall include:
 - (a) the name and address of the Commission;
 - (b) a brief description of the goods, works or services to be obtained, including the desired limit for delivery or completion;
 - (d) the means and conditions for obtaining the tender documents and the place from which they may be obtained;
 - (e) the place and deadline for the submission of bids; and
 - (f) the place and time for opening of bids, along with an announcement that bidders' or their authorized representatives are allowed to attend the opening of bids.

Rule 28

Tender Documents

1. The Commission shall use the standard tender documents referred to in the Third Schedule.
2. Without prejudice to the provisions of paragraph 1, the tender documents shall contain sufficient information to enable competition among the tenderers to take place on the basis of complete, neutral and objective terms and in particular, tender documents shall include:
 - (a) instructions for the preparation and submission of bids, including the number of copies to be submitted together with the original documents;
 - (b) information on the final date for receipt of tenders, the address to which tenders must be sent, the date, hour and place of opening, and an announcement that tenderers' or their authorized representatives are allowed to attend the opening;
 - (c) forms of tender and, where applicable, forms of tender security to be provided;
 - (e) conditions of contract, general and special;
 - (f) specification of requirements, including the time limit for delivery or completion, as appropriate;
 - (g) evidence to be provided by the tenderer to demonstrate its qualifications as well as its standing with regard to fiscal and social security obligations;
 - (h) the period during which the tender must remain valid;
 - (i) the criteria for evaluation of tenders and award of the contract;
 - (j) points of contact between the Commission and bidders during the submission;
 - (k) the mode, and deadline for requesting clarifications; and
 - (l) a reservation to the effect that the Commission may reject all tenders at any time prior to the acceptance of a tender.
3. General conditions included in the tender documents shall include a provision to the effect that payment shall be made in accordance with the terms of the contract and that interest shall accrue on overdue payments from the procuring entity.

Rule 29

Provision of Tender Documents

Tender documents shall be made available to candidates in an expeditious manner, at a price not exceeding the cost of production and delivery to candidates, and otherwise in the manner specified in the invitation to tender.

Rule 30

Amendment to Tender Documents

1. At any time prior to the deadline for submission of tenders, the Commission may, on its own initiative or in response to an inquiry by a candidate having purchased

the tender documents, amend the tender documents by issuing an addendum, which shall become an integral part of the tender documents and any addendum shall be communicated within fourteen (14) working days to all candidates having purchased the tender documents.

2. Where the Commission considers it necessary to amend the tender documents, and if that amendment is made when less than one-third of the time allowed for preparation of tenders remains until the closing date, the Commission shall postpone the closing date by the same number of days, depending on the procurement object, which are sufficient to enable the bidders to take the addendum into account in preparing their bids

Rule 31

Bid Security

The Commission may include in the tender documents a condition that bids shall be accompanied by security in the form of a deposit or bid guarantee and the amount of such security shall be sufficient to discourage irresponsible bidders and shall remain within the limits specified in the tender documents.

Rule 32

Submission and Receipt of Bids

1. Bids shall be submitted physically or electronically before the deadline stated in the invitation to tender.
2. For physical submission of bids, the bids shall be submitted in writing, signed and in a sealed envelope, as guided in the Commission's tender document.
3. The Commission shall provide in an open and accessible place a clearly labelled "Tender Box" in which a bidder may deliver a bid.
4. The tender box shall be constructed in such a manner that it shall be capable of having two separate and distinct locks whose original keys shall be kept by two different officers designated by the Director and the duplicate of each key shall be kept in two separate safe deposits by two different officers designated by the Director.
5. Every bid document delivered by hand shall be placed in the tender box by the bidder or his representative and any bid received by post shall be deposited in a tender box immediately upon receipt but in the event of any such bid received by post being opened by mistake, by a staff member generally authorized to open mail, the fact of such opening shall be recorded on the envelope by such staff before placing it in the tender box.
6. Bulky or large bid documents which cannot be accommodated in the tender box shall be received in the manner instructed by the tender advertising notice and in the tender documents.
7. Bidders may submit bids electronically to the designated email address of the Commission indicated in the tender document and the bid shall be deemed to have been received at the time of receipt by the Commission.

8. The bids shall be maintained under high standards of security until the time of the bid opening.
9. Bids submitted electronically shall be in a password protected format whose password shall be provided during the bid opening session by the bidder.
10. A bidder who submits an encrypted bid and fails to provide his or her password or other means of access to the document at the tender opening shall be deemed not to have submitted any bid.
11. The Evaluation Committee shall have access to the bids only at the end of the bid submission period.
12. Any bid received after the deadline for submission shall be rejected.

Rule 33

Opening of Bids

1. At the time stipulated in the tender documents for opening of bids, which should follow not more than two hours after the deadline for submission of bids unless in exceptional circumstances, the Commission shall open all bids received before the deadline.
2. Bidders, or their authorized representatives, shall be allowed to attend the opening of bids.
3. The name of the bidder, the total amount of each bid and status of the bid guarantee (where applicable) shall be read out loud and recorded in a bid opening register and a copy of the record may on request be made available to a bidder.
4. The opening of the bids shall be done by the members of the Evaluation Committee.
5. The Evaluation Committee shall decide which pages of each bid shall be numbered with a serial number allocated to each bidder, and which pages shall be signed by Members of the Evaluation Committee and the Members of the Committee shall initial against the price quoted, and any correction of prices which are noted shall similarly be initialed.
6. The Evaluation Committee shall prepare and sign bid opening minutes containing a record of the procedure followed by the Committee and shall include the particulars of all bidders or their representatives present at the bid opening.

Rule 34

Examination and Evaluation of Bids

1. The Commission may ask bidders for clarification of their bids in order to assist in the examination and evaluation of bids, but no change in the substance of the bid, including changes in price, shall be sought, offered or permitted.
2. Notwithstanding paragraph 1, the Evaluation Committee shall correct purely arithmetical errors that are discovered during the examination of bids and the Commission shall give prompt notice of any such correction to the bidder who submitted the bid.
3. Any bidder who rejects the corrections made by the Evaluation Committee pursuant to

paragraph 2 shall withdraw the bid and forfeit the bid security.

4. Subject to paragraph 5 the Commission may regard a bid as responsive only if it conforms to all requirements set forth in the tender documents.
5. The Commission may regard a bid as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set forth in tender documents or if it contains errors or oversights that are capable of being corrected without touching on the substance of the bid and any such deviations shall be quantified, to the extent possible, and approximately taken account of in the evaluation and comparison of bids.
6. The Commission shall not accept a bid when:
 - (a) the bidder does not accept a correction of an arithmetical error made pursuant to paragraph 2; or
 - (b) it is not responsive.
7. The Evaluation Committee shall evaluate and compare the bids that have been held responsive in order to ascertain the successful bids, as defined in paragraph 8, in accordance with the procedures and criteria set forth in the tender documents but no criterion shall be used that has not been set forth in the tender documents.
8. The successful bid shall be:
 - (a) the bid that offers the best value for money in terms of technical quality and price of the bid; or
 - (b) if the Commission has so stipulated in the tender documents, the bid that offers best value ascertained on the basis of factors affecting the economic value of the bid which have been specified in the tender documents, which factors shall, to the extent practicable, be objective and quantifiable, and shall be given a relative weight in the evaluation procedure or be expressed in monetary terms wherever practicable.
9. A proposal shall be considered unsuitable and shall be rejected at the technical stage if it does not respond to important aspects of the terms of reference and it fails to achieve a minimum technical score of 70%. However, the Commission may set a higher minimum technical score in the tender for unique procurements based on industry requirements or as the case may require. This condition must be stated in all tender documents issued including, but not limited to requests for proposals and invitations for bids.
10. The report of the Evaluation Committee shall be presented to the Procurement Committee, as the case may be, for consideration and recommendation for award by the Director, Board or Board Committee depending on the threshold as set out under the Second Schedule.
11. A member participating in the Evaluation Committee shall not serve as a member of the Procurement Committee and the Contracts Committee. A member of the Evaluation Committee may attend a meeting of the Procurement Committee as an observer.

Rule 35

Confidentiality of Process

1. After the opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations for award shall not be disclosed to bidders or other persons not officially concerned with this process until the award of the contract is announced.
2. Following the opening of bids, and until the contract is signed, no bidder shall make any unsolicited communication to the Commission or in any way to influence the examination and evaluation of the bids.
3. Members of the Evaluation Committee and Procurement Committee shall take an oath of secrecy in the presence of the Director.
4. Members of the Contracts Committee shall take an oath of secrecy in the presence of the Chairperson of the Board.

Rule 36

Declaration of Conflict of Interest

1. A member of the Evaluation Committee, Contracts Committee, Procurement Committee, staff member or person involved in the procurement process shall declare any conflict of interest that may arise in the procurement process.
2. A member of the Evaluation Committee, Contracts Committee or Procurement Committee who is a staff member and who fails to declare a conflict of interest in the procurement process shall be subject to disciplinary proceedings.
3. A member of the Evaluation Committee, Contracts Committee, Procurement Committee, any other staff member or person involved in the procurement process shall not unduly influence the procurement process in any manner.
4. A person who declares interest under paragraph 1 shall not take part in any discussion relating to that matter. Any disclosure of interest made under this Rule shall be recorded in the minutes of the Committee.

Rule 37

Notification of Award and Signing of Contract

1. The Commission shall notify the successful bidder upon the evaluation of the tender process in writing that its bid has been accepted and shall simultaneously notify the other bidders of the fact, and the notification of award to the successful bidder shall specify the time within which the contract shall be signed, which shall not be less than thirty (30) days from the date of receipt of the notification.
2. In the event that the successful bidder is for whatever reason unable to accept the award, the Commission shall prior to the expiry of the period of validity or extension thereof notify the next best ranking evaluated bidder that its bid has been accepted.

Where the award of the contract is subject of an administrative review under these Rules and the Director fails to make his decision within the period stipulated in these Rules, the Commission shall advise the successful bidder to proceed with the services, or delivery of the goods.



Rule 38

Contract Effectiveness

1. Subject to paragraph 2, a contract shall be effective once signed by both Parties.
2. A contract shall become effective on the date of the last signature, but where the contract stipulates conditions to be satisfied before the contract becomes effective, the contract shall become effective on the date on which the last condition is satisfied or mutually waived by the Parties.

Rule 39

Publication of the Award of Contract

1. After the award of contract, the award shall be published on the Commission's website indicating the name of the supplier, contractor or consultant to which the contract was awarded, price, duration and scope of the contract.
2. This publication may be done quarterly in the format of a summarized table.

Rule 40

Terms and Methods of Payments

1. Payment shall be in accordance with the international commercial practices applicable to the specific goods, services and works.
2. Contracts for services shall provide for full payment on the satisfactory performance of the deliverables specified in the contract.
3. Contracts for the supply of goods shall provide for full payment on the delivery and inspection, if so required, of the contracted goods except for contracts involving installation and commissioning, in which case a portion of the payment may be made after the supplier has complied with all its obligations under the contract.
4. Contracts for works shall provide in appropriate cases for mobilization advances, advances on contractor's equipment and materials, regular progress payments, and reasonable retention amounts to be released upon compliance with the contractor's obligations under contract.
5. Any advance payment for mobilization and similar expenses, made upon signature of a contract for goods, services or works, shall be related to the estimated amount of these expenses and specified in the tender documents. Amounts and timing of other advances to be made, such as for materials delivered to the site for incorporation in the works, shall also be specified.
6. The tender documents shall specify the arrangements for any security required for advance payments.
7. Tender documents shall specify the payment method and terms offered, whether alternative payment methods and terms will be allowed and, if so, how the terms will affect bid evaluation.

Rule 41

Progress Payments

1. Where progress payments are agreed, such progress payments shall be identified with specific milestones and deliverables.
2. Progress payments for consultancy services and works may be made in instalments as follows:
 - (a) consultancy services:
 - (i) first payment on receiving the inception report;
 - (ii) second payment after receiving the draft report; and
 - (iii) final payment after submission of a satisfactory final report and participation in the validation workshop where required;
 - (b) works: mobilization fee at a rate to be agreed upon shall be paid after contract signing and subsequent payments shall be made against certified invoices.
3. For goods, the total amount shall be paid upon delivery and acceptance. Any departure from this can only be authorized by the Director; and

CHAPTER VI

OTHER PROCUREMENT METHODS

Rule 42

Restricted Tendering Procedure

Restricted tendering procedures shall be those used in open tendering, except that the:

- (a) invitation to bid shall be addressed to a limited number of qualified candidates who have declared an interest in submitting bids, the selection shall be made in a non-discriminatory manner, and the number of candidates invited shall be, if possible, sufficient to ensure effective competition and shall not in any event be less than three (3);
- (b) Commission shall advertise for expressions of interest in a manner provided in Rule 27, giving candidates adequate time in which to submit expressions of interest. Subsequently, a shortlist shall be established of those candidates that possess the relevant qualifications;
- (c) time allowed for preparation of bids shall not be less than a minimum number of days stated in the Second Schedule; and
- (d) Commission may decide, depending on the circumstances, if tender security shall have to be submitted or not.

Rule 43

Competitive Negotiated Procedure

1. The Commission may award contracts for certain goods and works by competitive negotiated procedure, without publication in accordance with Rule 24.
2. The Commission shall identify at least three (3) suppliers or contractors and send to them a letter of invitation to bid.
3. The selected candidates shall be allowed twenty one (21) days from the dispatch of the letter of invitation to bid in which to submit their bids at the address indicated in the tender document.
4. The bids shall be opened and evaluated by an Evaluation Committee appointed by the Director.
5. In the event of two successive failures of the competitive tender procedure, the contract may then be concluded by competitive negotiated procedure subject to the prior approval by the Director on the recommendation of the Procurement Committee. In such circumstances, the Commission shall review the cause justifying nonparticipation from possible bidders which may include, but not be limited to, the following:
 - (a) conditions of contract;
 - (b) design of specifications;
 - (c) scope of work; or
 - (d) a combination of these.
6. Following the successive failures referred to in paragraph 5, the Commission may negotiate with one or more bidders of its choice, chosen from its database of pre-qualified suppliers and among those that took part in the invitation to bid, provided that the original terms of the contract are not substantially altered.

Rule 44

Direct Procurement Procedure

When the Commission engages in direct procurement according to Rule 22 (1), it shall prepare a description of its needs and any special requirements as to quality, quantity, terms and time of delivery, and shall be free to negotiate with the sole candidate and any agreement reached for procurement shall be confirmed by a contract signed by both parties.

Rule 45

Request for Proposals Procedure

1. Request for proposals shall be addressed to not less than three, and not more than seven candidates selected by the Commission.
2. A request for proposals shall contain at least three of the following information:
 - (a) the name and address of the Commission;

- (b) a description of the services required, normally through terms of reference;
 - (c) in case of consultancy assignments which may involve potential conflicts of interest, a reminder that candidates for such assignments must exclude themselves from procurement of goods which may follow as a result of, or in relation to the consultancy agreement;
 - (d) the criteria for evaluation for proposals, the relative weight to be given to price and other criteria, and the manner in which they will be applied in the evaluation proposals; and
 - (e) the place and deadline for the submission of proposals.
3. Candidates shall be given adequate time to prepare their proposals.
 4. The Commission may negotiate with candidates with respect to the content of their proposals and may seek or permit revisions thereof.
 5. Any award by the Commission shall be made to the candidate whose proposal is most advantageous, determined in accordance with the criteria and procedure for evaluating proposals set forth in the request for proposals.
 6. The budget ceiling or man-months necessary for performance of the proposed assignment shall be stipulated.

Rule 46

Request for Quotations Procedure

1. The Commission shall request quotations from as many candidates as practicable, but from at least three (3) candidates whenever the circumstances permit, except in the case of purchase of goods or services whose value does not exceed the sum of COMESA Dollars Seven Thousand Five Hundred (COM\$ 7,500).
2. The request shall contain a clear statement of the requirements of the Commission as to quality, quantity, terms, time of delivery and special requirements, if any.
3. The candidates shall be given adequate time to prepare their quotations.
4. A purchase order shall be placed with the candidate who meets the requirements of the Commission stipulated in paragraph 2 and who quotes the most competitive price.

Rule 47

Low Value Procurement

Low value procurement may be used in the following circumstances:

- (a) the estimated cost of the goods, works or services per item is less than or equal to the prescribed maximum value as set out in the Second Schedule;
- (b) the goods are readily available off-the shelf or for standard specification goods or simple works or services;
- (c) the Commission shall procure items from a reputable supplier through direct shopping

- using a local purchase order; or
- (e) an original invoice or receipt showing the item and the price paid shall be obtained and signed by the person undertaking the procurement.

Rule 48

Framework Contracts

1. A "Framework Contract" means a contract between one or more suppliers and the Commission under which the Commission, after following the procedure laid down by these Rules for the award phase, selects the parties to the contract on the basis of the bids they have submitted according to objective criteria, such as quality, quantity, technical merit, delivery period or period of completion and price.
2. Under the framework contract, the suppliers, under certain terms laid down by the Commission, shall perform a contract to fulfil obligations.
3. Framework contracts may take various forms, including:
 - (a) the form of a requirements contract, in which a single supplier is selected and the Commission promises to place all of its orders with the successful supplier and the supplier promises to fulfil the orders; and
 - (b) the form of an indefinite contract, in which one or more suppliers are selected for a guaranteed minimum quantity of future orders of one or more goods, works or services at an agreed price.
4. A framework contract may allow the Commission to place orders under the contract.
5. After the Commission has concluded a framework contract with more than one supplier, it shall reopen competition between the parties to the framework contract in accordance with the following procedure:
 - (a) for every contract to be awarded, the Commission shall consult all suppliers who are party to the framework contract, in writing;
 - (b) the Commission shall fix time-limits which are in line with the timeframes provided for in the Second Schedule of these Rules to allow bids for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract and the time needed to send in bids;
 - (c) Bids shall be submitted in writing, and their content shall remain confidential until the time limit for reply has expired; and
 - (d) the Commission shall award each contract to the supplier who has submitted the best bid on the basis of the award criteria established in accordance with the framework contract.
5. The procedure set out in Rule 45(4) of these Rules may be applied only between the Commission and the suppliers originally party to the framework contract.
6. The Commission may enter into framework contracts with a minimum of three parties, where there is a sufficient number of suppliers satisfying the selection criteria.

7. The duration of these contracts may not exceed two years. The Commission may not use framework contracts improperly or in such a way as to restrict or to distort competition.

CHAPTER VII

OPEN INTERNATIONAL PROCEDURES

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Rule 49

Open International Tendering

1. Open international tendering shall be used whenever in open regional tendering effective competition cannot be obtained unless foreign firms are invited to bid.
2. Open international tendering shall comply with the provisions of Chapter V and the following provisions:
 - (a) the tender documents shall be advertised in the manner provided in Rule 27 to ensure sufficient circulation to attract competition;
 - (b) the tender documents shall be in English, French and Arabic language;
 - (c) the time allowed for submission of bids shall be sufficient for the invitation to reach candidates and for enabling them to prepare and submit bids;
 - (d) technical specifications shall to the extent compatible with regional requirements, be based on international standard or standards widely used in international trade;
 - (e) the currency to be specified in the bid and security documents shall comply with the currency stated in the tender documents;
 - (f) general and special conditions of contract shall be of a kind generally used in international trade; and
 - (g) bidders from COMESA Member States shall be accorded a ten percent preference.

Rule 50

Other International Procedures

Whenever effective competition cannot be obtained unless foreign firms are invited to participate in procedures other than open international tendering, such as restricted tendering or request for proposals, Rule 49(2) shall apply to the extent practicable in addition to the stipulations of Chapter V.

CHAPTER VIII

ADMINISTRATIVE REVIEW

Rule 51

Administrative Review

1. Subject to the provisions of this Chapter, any candidate who claims to have suffered, or risks suffering, loss or damage due to a breach of duty imposed on the Commission by these Rules may seek administrative review in accordance with the provisions of Rule 52.
2. The following shall not be subject to administrative review:
 - (a) the choice of a procurement procedure pursuant to Chapter IV; and
 - (b) a decision by the Commission under Rule 15 to reject all bids, proposals or quotations.
3. Once the Commission has concluded and signed a contract with the successful bidder, a complaint against an act or omission in the process leading up to that stage shall not be entertained through administrative review.

Rule 52

Procedure of Administrative Review

1. A request for administrative review shall be lodged in writing to the Board, through the Registrar of the Commission, within seven (7) days after receipt of the decision by the complainant.
2. The request for administrative review shall include the following information and documentation:
 - (a) name and physical address of the complainant for service, however, if the complainant is willing to accept service electronically, the complainant's e-mail, facsimile or other suitable communication technologies;
 - (b) if legally represented, the name and physical address of the legal representative for service;
 - (c) copy of the disputed decision and any other evidence in relation to the complaint; and
 - (d) the reasons for the complaint, including the alleged breach of these Rules, the ensuing loss or damage to the complainant, and the remedies sought by the Complainant.
3. The application for administrative review shall be accompanied by a non-refundable application fee of COMESA Dollar Ten Thousand (COM\$ 10,000).
4. The application for administrative review shall not be considered as filed unless the application fee has been paid.
5. Upon receipt of a duly lodged complaint, the Registrar shall promptly submit the complaint to the Board Chairperson and in any event not later than fourteen (14) days of receipt of the complaint.
6. The Board Chairperson shall appoint an ad hoc Committee composed of not less than three (3) Commissioners who shall consider and decide on a complaint. The ad hoc Committee shall comprise an odd number of members.
7. Upon receipt of a complaint, the ad hoc Committee may, within seven (7) days of receipt thereof, dismiss it on procedural grounds.

8. Where the ad hoc Committee determines not to dismiss the complaint on procedural grounds, it shall, within seven (7) days of such determination, give notice of the complaint to:
 - (a) the Director;
 - (b) the interested parties if any,for them to make any written submissions.
9. The Director and any interested party shall submit their written submissions within seven (7) days from receipt of the Notice referred to in paragraph 8.
10. Any written submissions received pursuant to paragraph 9 shall be forwarded to the complainant within seven (7) days from receipt thereof.
11. The Ad hoc Committee shall, within twenty-one (21) days from the date of completion of the exchange of written submissions, hear the complaint.
12. The Ad hoc Committee shall issue a written decision, stating the reasons for the decision and the remedies, if any, within seven (7) days from the date of completion of the hearing.
13. Where the ad hoc Committee does not dismiss a complaint, it may grant one or more of the following remedies:
 - (a) declare the legal rules or principles that govern the subject matter of the complaint;
 - (b) prohibit the Director from acting or from following an unlawful procedure;
 - (c) annul in whole or in part an unlawful act or decision of the Director, other than an act or decision bringing the procurement contract into force;
 - (d) require the Director to act or proceed in a lawful manner or to reach a lawful decision;
or
 - (e) revise an unlawful decision by the Director or substitute its own decision for such decision, other than any decision bringing the procurement contract into force.
14. The decision of the ad hoc Committee shall be rendered in the physical or virtual presence of the parties to the administrative review.

CHAPTER IX: DISPOSAL OF STOCK AND EQUIPMENT

Rule 53

Authority to Dispose

Where stock become obsolete or are in surplus, the Head of Finance shall prepare a list (Board of Survey Form) and the Director shall convene a Board of Survey in accordance with the COMESA Competition Commission Financial Rules and recommend the best method of disposal.



Rule 54**Disposal Procedures**

Disposal of stock which has become obsolete, is in surplus or other items that have outlived their useful purpose shall be in accordance with of the COMESA Competition Commission Financial Rules.

CHAPTER X:FINAL PROVISIONS**Rule 55****Repeal and Replacement**

1. The Financial Rules (November 2020) are hereby repealed and replaced by these Financial Rules.
2. Any action undertaken under the Financial Rules (November 2020) shall remain valid.
3. If there is any inconsistency between these Rules and other rules, directives and practices, with regard to matters covered under these Rules, these Rules shall supersede the other rules, directives or practices.

Rule 56**Amendment of the Rules**

These Rules may be reviewed, amended or modified by the Council.

Rule 57**Entry Into Force**

These Rules or any amendments thereto shall take effect on approval of the Council.

FIRST SCHEDULE**COMPOSITION AND ROLE OF PROCUREMENT COMMITTEE**

Membership: The Committee shall be composed of six members as follows:

NO	MEMBERSHIP	VOTING STATUS
	Head of a Division appointed by the Director	Voting member
	Four other staff members to be appointed by the Director	Voting members
	Head of Legal Services and Compliance or a representative – Ex officio	Non-voting member

Secretary: The Procurement Officer or a representative.

Quorum: The quorum of the Committee meeting shall be three members (including the Chairperson of the Committee).

Voting: Decisions shall be taken by simple majority. In case of a tie, the Chairperson shall have a casting vote.

Tenure: Members shall serve for a period of one year which may be renewed for one further term, provided that this shall not disqualify a member from future appointment to the Committee.

Roles and

Responsibilities: The roles and responsibilities of the Procurement

Committee shall include:

- (a) making recommendations on award of contracts through request for quotations, open tender, restricted tenders, requests for proposals, competitive negotiated procedure, direct procurement and framework contracts among other procurement methods; and
- (b) recommending to the Director variations not exceeding 20% of contract value previously awarded.

COMPOSITION AND ROLE OF THE EVALUATION COMMITTEE

The Evaluation Committee shall be an ad hoc committee.

Membership: The Committee shall be composed of five voting members, a Chairperson and four other staff members appointed by the Director.

Coopted Experts: The Director may co-opt experts with relevant specialization to advise the Committee.

Secretary: Procurement Officer or a representative.

Quorum: The quorum of the Committee Meeting shall be three (3) members, including the Chairperson.

Voting: Decisions shall be taken by simple majority. In case of a tie, the Chairperson shall have a casting vote.

Roles and

Responsibilities

of the Committee: The roles and responsibilities of the Committee shall include:

- (a) opening the bids at the place and time fixed in the tender document;
- (b) carrying out evaluation of the bids in accordance with the disclosed criteria of evaluation; and
- (c) preparing an evaluation report of bids received and present the report containing its recommendations for award to the Procurement Committee, as the case may be.

COMPOSITION AND ROLE OF THE CONTRACTS COMMITTEE

The Contracts Committee shall be constituted on an ad hoc basis. The members of the Contracts Committee shall be appointed by the Chairperson of the Board. The Contracts Committee shall be composed of seven (7) voting members.

Chairperson: The Chairperson shall be the Assistant Secretary General (Finance & Administration) of the COMESA Secretariat or his or her representative.

Members: Three (3) Commissioners; and
Head of Procurement of the COMESA Secretariat or his or her representative.

Ex-officio members: The Director and the Head of Legal and Compliance Services.

Secretary: Procurement Officer or his or her representative.

Quorum: The quorum of the Committee meeting shall be three (3) members (including the Chairperson).

Voting: Decisions shall be taken by simple majority. In case of a tie, the Chairperson shall have a casting vote.

Tenure: Members shall serve for a period of one (1) year which may be renewed for one further term, provided that this shall not disqualify a member from future appointment to the Committee.

Roles and Responsibilities: The roles and responsibilities of the Contracts Committee shall be to approve:

- (a) the award of contracts that exceed a value of COMESA Dollar Two Hundred Thousand (COM\$ 200,000) during the term of the contract including any extension periods; and
- (b) variations to the contract which increase the contract value by no more than twenty percent (20%) or the delegation of authority by the Director, whichever amount is lower

SECOND SCHEDULE

APPROVAL OF CONTRACTS OR PURCHASES

1. Contracts or purchases up to COMESA Dollars Seven Thousand Five Hundred (COM\$ 7500) shall be approved by the Director on the recommendation of the Head of Finance.
2. Contracts or purchases of a value of over COMESA Dollars Seven Thousand Five Hundred (COM\$ 7500) and up to COMESA Dollars Thirty Thousand (COM\$ 30,000) shall be approved by the Director on the recommendation of the Procurement Committee.

- 3. Contracts or purchases of a value exceeding COMESA Dollars Thirty Thousand (COM\$ 30,000) up to COMESA Dollars Two Hundred Thousand (COM\$ 200,000) shall be approved by the relevant Board Committee on the recommendation of the Procurement Committee, through the Director.
- 4. Contracts or purchases of over COMESA Dollars Two Hundred Thousand (COM \$ 200,000) shall be approved by the Board on the recommendation of the Contracts Committee.

MODE OF PROCUREMENT

- 1. The following modes of procurement shall apply to procurement of goods:
 - (a) Procurement up to COMESA Dollar Three Thousand (COM\$ 3,000)**
 - (i) Direct Procurement Procedure (Rule 22);
 - (ii) Request for Quotations (Rule 25); and
 - (iii) Low Value Procurement (Rule 26)
 - (b) Procurement above COMESA Dollar Three Thousand (COM\$ 3,000) up to COMESA Dollar Thirty Thousand (COM\$ 30,000)**
 - (i) Restricted Tendering (Rule 21);
 - (ii) Direct Procurement Procedure (Rule 22 44);
 - (iii) Request for Quotations (Rule 25);
 - (iv) Framework Contract (Rule 48)
 - (c) Procurement above COMESA Dollar Thirty Thousand (COM\$ 30,000) up to COMESA Dollar Two Hundred Thousand (COM\$ 200,000)**
 - (i) Open Tendering in the local market;
 - (ii) Direct Procurement Procedure (Rule 22);
 - (iii) Competitive Negotiated procedure with a minimum of three bidders from the suppliers list (Rule 24);
 - (iv) Framework contract (Rule 48)
 - (d) Procurement above COMESA Dollar Two Hundred Thousand (COM\$ 200,000) up to COMESA Dollar One Million (COM\$ 1,000,000)**
 - Open Regional Competitive bidding within the Member States (Rule 27).
 - (e) Procurement above COMESA Dollars One Million (COM \$1,000,000)**

International competitive bidding, provided that bids emanating from the COMESA region shall be accorded a 10% percent preference (Rule 49).

2. The following modes of procurement shall apply to procurement of services:

(a) **Procurement up to COMESA Dollar Three Thousand (COM\$ 3,000)**

(i) Direct Procurement Procedure (Rule 22);

(ii) Request for Quotations (Rule 25)

(b) **Procurement above COMESA Dollar Three Thousand (COM\$ 3,000) up to COMESA Dollar Thirty Thousand (COM\$ 30,000)**

(i) Direct Procurement Procedure (Rule 22);

(ii) Request for Proposals from consultancy data base (Rule 23); and

(iii) Framework Contract (Rule 48)

(c) **Procurement above COMESA Dollar Thirty Thousand (COM\$30,000) to COMESA Dollar Two Hundred Thousand (COM\$ 200,000)**

Request for Proposals through restricted tender with a minimum of three bidders from Member States (Rule 21)

(d) **Procurement above COMESA Dollar Two Hundred Thousand (COM\$ 200,000) but less than COMESA Dollar One Million (COM\$ 1,000,000)**

Request for proposals through regional competition within Member States (Rule 27)

(e) **Procurement above COMESA Dollar One Million (COM\$ 1,000,000)**

Request for Proposals through open international competition, provided that bids emanating from the Common Market shall be accorded a ten percent (10%) preference (Rule 49).

ADVERTISEMENTS

	Days
Regional competitive tenders	28
International competitive tenders	42
Expression of interest	21

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TIME LIMITS

Request for quotations	7
Direct Procurement	7
Competitive Negotiated Procedure	21
Restricted tender/Request for Proposal	21

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1. Standard Bidding Document for Procurement of Goods: Appendix 1
2. Standard Bidding Documents for Procurement of Non- Consultant Services: Appendix 2
3. Standard Bidding Documents for Procurement of Works Appendix 3
4. Request for Quotation Forms: Appendix 4.1.and 4.2.
5. Purchase Requisition Form: Appendix 5.
6. Tender Register Appendix 6.
7. Contracts Register: Appendix 7.
8. Board of Survey Form: Appendix 8.
9. Disposal Certificate Appendix 9.
10. Contract Agreement Document for Consulting Services (Lump sum) Appendix 10
11. Contract Agreement Document for Consulting Services (time based) Appendix 11
12. Record of Bid Opening: Appendix 12.
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COMESA COMPETITION COMMISSION

FINANCIAL RULES, 2019

(Revoked and replaced on 23rd November 2023)

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PREAMBLE

HAVING REGARD to Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa;

CONSIDERING that Article 170 of the Treaty provides that it shall be the responsibility of the Council to make Financial Regulations of the Commission:

HAVING REGARD TO the COMESA Competition Regulations (“the Regulations) establishing the COMESA Competition Commission (“the Commission”);

NOTING that the Regulations provide for the Commission to establish its own Rules of procedures to effectively implement the Regulations;

FURTHER NOTING that the Regulations provide for the Board of the Commission to make Rules which shall become effective upon approval by the Council,

NOW, THEREFORE, the Council hereby approves these Financial Rules, in the English, French and Arabic languages, all the languages being equally authentic.

CHAPTER I
GENERAL PROVISIONS

Rule 1

Citation

These Rules shall be cited as the COMESA Competition Commission Financial Rules.

Rule 2

Interpretation

In these Rules, unless the context otherwise requires:

“advance” means cash payment given to a staff member to enable him to discharge an approved obligation to a supplier;

“Board” means the Board of Commissioners established under the Regulations;

“Bureau of the Council” means Chairman, Vice-Chairman and Rapporteur elected in accordance with the Rules of Procedure of the meetings of the Council;

“Commission” means the COMESA Competition Commission as established under Article 6 of the Regulations;

“Common Market” means Common Market of Eastern and Southern Africa (COMESA) as established under Article 1 of the COMESA Treaty;

“COMESA dollar” means the Unit of Account of determined by the Council under Article 74 of the Treaty;

“Committee” means the Committee on Finance and Administration as constituted by the Board under Rule 25(9) of the COMESA Competition Rules of 2004;

“Council” means the COMESA Council of Ministers of the Common Market established by Article 7 of the COMESA Treaty;

“dependant” shall have the same meaning ascribed to it in the COMESA Competition Commission Staff Rules;

“Director” shall have the same meaning ascribed to it in the COMESA Competition Commission Staff Rules;

“disposal” means the sale of stock, namely articles and commodities in stores, or long-term assets whether surplus, obsolete or salvage property by the Commission or under the authority of the Commission and includes the transfer by way of donation, abandonment or destruction of such stock or long term assets;

“Division” includes a Division, Unit or Department of the Commission;

“electronic” means any technology having electrical, digital, magnetic, wireless, optical, electromagnetic or unalterable similar capabilities;

“excess expenditure” means expenditure incurred without the authority provided for in these Rules;

“Financial Manual” means manual containing set of detailed administrative and financial policies approved by the Board;

“imprest” means a sum of money given to a staff member to make authorised disbursements;

“Intergovernmental Committee” means the Intergovernmental Committee established by Article 17 of the Treaty;

“Member State” means a Member State of COMESA;

“operating budget” means the budget of the Commission that is not funded by contributions from Member States;

“Regulations” means the COMESA Competition Regulations;

“Reserve Account” means the account referred to in Rule 47;

“Reserve Fund” means the fund, referred to in Rule 33;

“regular budget” means the budget of the Commission funded by the contributions from the Member States;

“Secretary-General” means the Secretary-General of the Common Market provided for by Article 17 of the Treaty;

“staff member” means an employee as defined in the COMESA Competition Commission Staff Rules of the Commission and may include any other persons engaged by the Commission on a temporary basis;

“Subcommittee” means the COMESA Subcommittee on Audit and Budgetary Matters which reports to the COMESA Administrative and Budgetary Matters established under Article 15(1) (a) of the Treaty;

“supplementary budget” means an additional budget approved by the Council or the Board, as the case may be, under Rule 14; and

“Treaty” means the Treaty establishing the Common Market for Eastern and Southern Africa.

Rule 3

Objective

1. These Rules are the directives established by the Council to govern the financial administration of the Commission.
2. All officers who are directly or indirectly engaged in the financial operations of the Commission shall be governed by these Rules.

Rule 4

Application

These Rules and the financial and administrative policies contained in the Financial Manual approved by the Board shall govern all financial administration and management of the Commission.

Rule 5

Standard of Conduct

All officers, directly or indirectly involved in the financial administration of the Commission shall conduct themselves in a manner consistent with the highest professional, ethical and moral standards.

Rule 6

Financial Reporting Framework

1. The Director shall ensure that:
 - (a) the financial transactions of the Commission are undertaken in accordance with Internationally Accepted Accounting Standards and other financial and management controls; and
 - (b) projects comply with the accounting requirements of the relevant development partner.
2. The Director, as chief accounting officer of the Commission, shall be accountable to the Council through the Board for the proper administration of the funds of the Commission.
3. The Director may delegate any of the powers required to be performed under these Rules.

Rule 7

Financial Year

The financial year of the Commission shall start on the 1st of January and end on the 31st of December of each year.

CHAPTER II

BUDGET

Rule 8

Preparation and Submission of Draft Regular and Operating Budgets

1. The draft regular budget of the Commission shall be prepared by the Director.
2. The Director shall submit the regular budget for the following financial year to the Council through the Subcommittee, the Committee on Administrative and Budgetary matters and the Intergovernmental Committee for approval.
3. The Director shall submit the draft report on the utilisation of the regular budget to the Council.
4. The draft operating budget of the Commission shall be prepared by the Director.
5. The Director shall submit the draft operating budget for the following financial year to the Board for approval.
6. The Director shall, three months after the end of each financial year, prepare and submit to the Board a report on the utilisation of the operating budget.

Rule 9

Contents of the Draft Budgets

1. The draft regular budget shall:
 - (a) indicate the amount of money to be spent on each recurrent, capital and programme items;
 - (b) indicate the income for the financial period to which it relates; and
 - (c) be expressed in COMESA Dollars.
2. The operating budget shall:
 - (a) contain the projected income;
 - (b) indicate the amount of money to be spent on each recurrent, capital and programme items;
 - (c) indicate the income for the financial period to which it relates; and
 - (d) be expressed in COMESA Dollars.

Rule 10

Basis of the Draft Budgets

1. The draft budgets, including recurrent, capital and programme, shall be prepared on the basis of the annual work programmes prepared on best estimated costs.
2. The Director shall annually call for the estimates of expenditure from heads of Divisions and set out the dates by which the estimates shall be submitted and the conditions governing their preparation.

Rule 11

Preparation of Draft Cost Estimates by Heads of Divisions

1. Heads of Divisions shall prepare draft work programmes and cost estimates of their respective Divisions for the following financial year.
2. The estimates of staff and administrative costs of the Commission shall be prepared by the Head of Finance.

Rule 12

Final Draft Budgets

On the basis of the work programmes and cost estimates prepared by the Heads of Divisions, the Head of Finance shall prepare the draft budgets for consideration by the Director which shall thereafter be considered and approved by: _

- (a) the Board, for the operating budget; and
- (b) the Council, for the regular budget.

Rule 13

Communication of Draft Budgets

1. The draft regular budget shall be communicated to members of the Subcommittee at least one month before the meeting of the Subcommittee.
2. The draft operating budget shall be communicated to the Board at least one month before the meeting of the Board.

Rule 14

Supplementary Budget

1. In the case of the regular budget, the Director shall, in the circumstances specified below, submit supplementary budget proposals for approval by the Council, which shall not exceed 3% of the actual budget:
 - (a) when the voting for additional money is so urgent that the provision cannot be delayed until the next annual budget is approved; or
 - (b) when the monies required cannot be found by the budget reallocation process.
2. In the case of the operating budget, the Director shall, in the circumstances specified below, submit supplementary budget proposals for approval by the Board, which shall not exceed 15% of the actual budget:
 - (a) when the voting for additional money is so urgent that the provision cannot be delayed until the next annual budget is approved; or
 - (b) when the monies required cannot be found by the budget reallocation process.

Rule 15

Form and Procedure for Approval of Supplementary Budget

1. The supplementary budget shall be in the same form as the regular budget or the operating budget, as the case may be.
2. The supplementary budget for the regular budget shall be presented to the Bureau of the Council for approval and shall be subsequently submitted to the Council for ratification.
3. The supplementary budget for the operating budget shall be presented to the Board for approval.

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Rule 16

Expenditure Prior to Approval of the Budget in Exceptional Circumstances

1. In any year where the Council is not able to call a meeting to approve the regular budget of the Commission, the Secretary-General shall allow the Director to incur operational expenditure for a period of three months.
2. In any year where the Board is not able to convene to approve the operating budget of the Commission, due to matters beyond its control or in exceptional circumstances, the Director may, for a period of three months, incur operational expenditure which does not exceed 25% of the previous approved budget.

Rule 17

Reallocation of Funds

Reallocation of funds from the operating budget and regular budget may be moved from one budget line to another upon approval of the Board or the Bureau of the Council, as the case may be, where circumstances could not have been foreseen when the budget was prepared and approved.

Rule 18

Limits of Reallocations

1. For the regular budget, in any financial year, the Director:
 - (a) upon the recommendation of the Head of Finance, may reallocate funds from one budget item to another up to COMESA Dollar Twenty-Five Thousand (COM\$ 25,000) or 15% of the budget item, whichever is higher; and
 - (b) upon the approval of the Board, may reallocate funds exceeding COMESA Dollar Twenty-Five Thousand (COM\$ 25,000) or fifteen 15% of the budget item.
2. Any reallocation of funds for the regular budget shall be reported to the Council.
3. For the operating budget, in any financial year, the Director;
 - (a) upon the recommendation of the Head of Finance, may reallocate funds from one budget item to another up to COMESA Dollar Fifty Thousand (COM\$ 50,000) or fifteen (15) percent of the budget item, whichever is higher; and

- (b) upon the approval of the Board, may reallocate funds exceeding COMESA Dollars Fifty Thousand (COM \$ 50,000) or fifteen (15) percent of the budget item.

Rule 19

Prohibition of Reallocation

1. Reallocation shall not be done to:
 - (a) create a new budget line;
 - (b) create a new post; or
 - (c) alter any salary scale.
2. All reallocations shall be effected prior to incurring the expenditure in order to avoid excess expenditure.

Rule 20

Excess Expenditure

The Director shall not incur excess expenditure.

CHAPTER III

DISBURSEMENT OF APPROPRIATIONS

Rule 21

Obligations and Payments Limits

Within the limits of the approved appropriations and subject to Rule 17, the Director may incur obligations and make payments for the purpose for which the funds were voted and up to the amounts so voted.

Rule 22

Obligations

Appropriations shall be available for obligations during the financial year for which they have been approved.

Rule 23

Availability of Appropriations

Appropriations shall remain available following the end of the financial year to which they relate in so far as they are required to discharge obligations in respect of goods supplied and services rendered during the financial year, and for settlement of any other obligations of the financial year which have not yet been settled as per the provisions of the Internationally Accepted Accounting Standards.

Rule 24

Roll Over of Appropriations in the Operating Budget

The Board may approve the rollover of appropriations which have been committed during that financial year to be utilised in the following financial year within three (3) months from the end of the preceding financial year.

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Rule 25

Surrender of Appropriations

1. The balance of any appropriations shall be surrendered after the liability has been settled.
2. Any unliquidated obligations of the financial year in question shall be transferred as an obligation against the Reserve Account.

Rule 26

Outstanding Obligations

An outstanding legal obligation shall be based on a contract, purchase order, agreement or any other form of undertaking by the Commission or by an authority recognised by COMESA. The obligation thus created shall be supported by the appropriate document. This obligation shall be carried as unliquidated during the period referred to in Rule 17 unless it has been previously liquidated.

Rule 27

Responsibilities of the Director

The Director shall be responsible for the management of the resources of the Commission in accordance with these Rules.

Rule 28

Approval of Proposals for Expenditure

A proposal to incur expenditure shall, upon confirmation of availability of funds by the Head of Finance or anyone delegated with the responsibility, require the approval of the Director or any officer authorised by the Director to give approval.

Rule 29

Approval of Imprest

1. A Head of Division may make a request for imprest to pay for eligible expenditure to be incurred outside the duty station.
2. The request in paragraph 1 shall be accompanied by a cost estimate of activities to be financed and shall require the approval of the Director, upon the Head of Finance confirming the availability of funds.

Rule 30**Unused Imprest**

1. An imprest holder shall submit unused imprest to the Finance Division within five (5) working days after return from a mission.
2. The Head of Finance shall deposit the unused imprest at the bank on the same day that the unused imprest is submitted to it or on the following working day.

Rule 31**Responsibility of Imprest holder**

1. An imprest holder shall, within five (5) working days after return from a mission, retire the imprest with accompanying documents to the Finance Division.
2. If any officer fails to retire the imprest within the five (5) working days:
 - (a) the Head of Finance shall deduct the said amount from the officer's next salary; and
 - (b) he or she shall face disciplinary action.

CHAPTER IV**INCOME****Rule 32****Sources of Income**

The income of the Commission shall be derived from:

- (a) the contributions from the member States through the Secretariat;
- (b) grants and donations from cooperating partners in accordance with the agreement signed with Cooperating partners;
- (c) fees collected in respect of notifications made to the Commission;
- (d) fines and penalties in accordance with the Regulations and COMESA Competition Rules; and
- (e) miscellaneous income.

Rule 33**Member States Annual Contributions**

1. The funds of the Commission shall be derived from annual contributions of Member States on the basis of the approved budget and annual contributions.
2. Any unused contributions shall be transferred to the Reserve Fund of the Secretariat.

Rule 34

Grants

Grants refer to funds received from development partners with the approval of the Board to assist the Commission carry out its mandate. These funds are accounted for according to the agreements signed.

Rule 35

Fees

Fees refer to funds payable to the Commission in respect of filing of mergers and distribution agreement notifications. The sharing of the fees shall be determined by the Board with the approval of Council from time to time. Any unutilised funds shall be transferred to the Reserve Account.

Rule 36

Fines and Penalties

Fines and penalties refer to funds which the Commission imposes on undertakings or association of undertakings for any violations of the Regulations and the COMESA Competition Rules.

Rule 37

Miscellaneous Income

1. Miscellaneous income includes:
 - (a) proceeds from the renting of the Commission's property;
 - (b) interest on bank accounts;
 - (c) interest on loans accorded to personnel;
 - (d) monetary donations;
 - (e) proceeds derived from the disposal of property and equipment; and
 - (f) proceeds in respect of programs, publications, seminars, consultancy and any other service rendered by the Commission.
2. All Miscellaneous income shall be treated in accordance with Rule 48.

Rule 38

Refunds of Expenditure from Previous Financial Year

Funds representing refund of expenditures for the current financial year may be carried over to the credit of these accounts, but funds representing refund of expenditures relating to a previous financial year shall be carried over into the account of miscellaneous income.



Rule 39**Acceptance of Donations**

The Director may accept any donation to the Commission, but when conditions are attached to such donation, the Director shall seek the approval of the Board before accepting the donation.

Rule 40**Monetary Donations**

Monetary donations accepted in respect of which no purpose is specified shall be treated as miscellaneous income in the accounts.

Rule 41**Official Receipts**

1. All income of the Commission shall be acknowledged by the Head of Finance who shall issue an official receipt supported by a bank advice slip. The official receipt shall be stamped and signed by the Head of Finance or any other authorized officer and shall be issued to the payee.
2. The official receipts may be in manual or electronic format.

Rule 42**Refunds**

The Director shall report to the Board in respect of any refund of any payment made to the Commission.

Rule 43**Control over Unused Receipt Books**

1. A register of receipt books shall be maintained by the Head of Finance to record receipting and issuing of receipt books.
2. The receipt books shall be kept securely under lock and key and shall be physically verified on a regular basis.
3. No alterations shall be made on receipts. All cancelled receipts shall not be detached from the receipt book and shall be marked "CANCELLED".
4. All completed receipt books shall be kept by the Finance Division for safe custody.

Rule 44**Additional Rules to Receipt Books**

1. Only one receipt book shall be in use at any one time, and a new book started only when the old is completed.

2. All documents recording revenue shall be serially numbered and the issues subsequently controlled.

Rule 45

Checks on Documents

1. The Head of Finance shall carry out random inspections on documents to establish whether there has been any manipulation of carbons, alteration of official receipts or damage to receipt books, which may indicate irregularities.
2. The Head of Finance shall be responsible for ensuring that all revenues and income due to the Commission are collected and properly accounted for in accordance with the laid down rules, regulations and procedures.

Rule 46

Disposal of Used and Unused Receipt Books

1. Used receipt books shall be securely stored for a period of ten (10) years.
2. The Head of Finance shall seek the approval of the Director for the destruction of the used receipt books at the expiry of a ten (10) year period.
3. Any unused receipt book which becomes obsolete or is damaged shall be destroyed in the presence of the Head of Finance, after approval is obtained from the Director.

CHAPTER V:

RESERVE ACCOUNT AND GRANTS

Rule 47

Reserve Account

The Commission shall maintain a Reserve Account.

Rule 48

Receipts into the Reserve Account

The Reserve Account shall be credited with:

- (a) excess of unutilised fees; and
- (b) miscellaneous income in accordance with rule 37.

Rule 49

Use of the Reserve Account

The Reserve Account shall be used for the following specific purposes:

- (a) payment of recurrent expenditure at the beginning of the year, pending receipt of contributions from Member States;

- (b) upon approval by the Board, unbudgeted for but urgent and unforeseen expenditure, which cannot be deferred to the following financial year without adversely affecting the operations of the Commission;
- (c) incurrence of capital expenditure in respect of which covering policy has been previously approved by the Council;
- (d) payment of expenditure on approved supplementary budget; and
- (e) long and short term investment upon approval by the Board.

Rule 50

Grants and their Recovery

1. The Director shall accept grants from the cooperating partners to finance the activities of the Commission provided these grants are indicated in the Financial Statements of the Commission or in their respective projects accounts.
2. In any case where an agreement with another institution provides for the provision of resources to another institution as a grant within the framework of a parent agreement providing a grant to the Commission, a memorandum of understanding shall be concluded by the Director with the recipient institution providing that the funds received by it shall be utilized using accounting, procurement and administrative standards of the Commission or internationally accepted standards agreed between the parties.
3. Where an institution has received a grant from the Commission and such institution fails to account for or utilise the funds as provided in paragraph 2, the Director shall be entitled to withhold further release of any outstanding funds and to recover the funds that have not been properly applied.

CHAPTER VI

BANKING

Rule 51

Bank Accounts

Subject to the approval of the Board, the Commission shall open bank accounts to manage the affairs of the Commission.

Rule 52

Operation of the Bank Accounts

1. The Director shall obtain monthly statements of the accounts of the Commission accompanied by copies of withdrawal orders and showing debits and credits.
2. Two signatures shall be required on all cheques and on all withdrawal orders.
3. The Director shall recommend, from among the senior staff of the Commission, bank

signatories for the operation of the bank accounts.

4. Private funds shall not be paid into the bank accounts of the Commission and no Commission money shall be paid into a private bank account.
5. All accounts of the Commission shall be maintained in the host country. Any need to maintain an account outside the host country shall require justification and express approval by the Board.

Rule 53

Handling of Funds on Receipt

1. An official receipt shall be issued on the date of receipt for all funds received.
2. The Director shall designate staff members to issue receipts.
3. The amounts received shall be entered into the accounts on the date of receipt.
4. The Finance Division shall be responsible for checking the received amounts against his accounting books and the daily receipts.
5. All amounts received shall be deposited in full in an approved bank account on the first working day following the date of payment.
6. All funds not yet deposited in approved bank accounts shall be kept in the official safe and banked immediately on the next working day.
7. The Finance Division shall prepare bank reconciliations monthly within two (2) weeks after the end of the month.

CHAPTER VII

INVESTMENT OF FUNDS

Rule 54

Short Term and Long-Term Investment

1. The Director, upon approval of the Board, may effect short term investment of funds which is not required for the immediate needs of the Commission.
2. The long term investment of funds which is not required for the immediate needs of the Commission shall require Board approval.

Rule 55

Interest from Investment

The interest from investment shall be reflected in the miscellaneous income account.

Rule 56**Securities**

All securities shall be deposited either in the custody of duly appointed bankers, which have been approved by the Board, or in safe deposit vaults maintained by a recognised financial institution.

CHAPTER VIII:**CASH AND ASSETS****Rule 57****Loss of Cash or Assets and Writing Off**

1. Any loss of cash or asset shall be immediately brought to the attention of the Director who shall take the necessary measures towards holding an investigation and, if necessary, have recourse to the local police for help in the investigation and subsequent measures that may be taken.
2. Funds owed to the Commission shall not be written off without the authorisation of the Council.

CHAPTER IX**INTERNAL CONTROLS****Rule 58****Financial Administration and Budgetary Controls**

The Director shall:

- (a) establish detailed implementation procedures in order to ensure effective financial administration and budgetary control;
- (b) take care that all payments are made on the basis of supporting vouchers and other documents, which ensure that the services of goods have been received and that payments have not previously been made;
- (c) designate employees authorised to receive funds to incur obligations and make payments in the name of the Commission;
- (d) follow these Rules in the day to day financial operations of the organisation; and
- (e) maintain an effective internal system of financial control to ensure:
 - (i) the regularity of the receipts, custody and disposal of all funds and other financial resources of the Commission;
 - (ii) the conformity of obligations and expenditure with the approved budget;

- (iii) the economic use and safeguard of the resources of the Commission;
- (iv) adherence to policies;
- (v) completeness and accuracy of records; and
- (vi) adequate precautions are taken to safeguard important records.

CHAPTER X

APPROVAL OF OBLIGATIONS AND PAYMENTS

Rule 59

Approval by Designated Officers

1. The Director may designate approving officers of the Commission to approve obligations and payments.
2. An approving officer shall verify that no previous payment has been made on an item and that the documents relating to payment of the item do not have irregularities.
3. An approving officer shall not approve any payment if he or she has any prior information which justifies the rejection of the payment.
4. The Finance Division may only register commitments of payments in the accounts when obligations of payment have been approved by the relevant designated officers.

Rule 60

Payments

1. All payments shall be made by cheque or bank transfer, except where otherwise approved by the Director.
2. Payments shall be made on the basis of duly certified vouchers and such supporting documents indicating that goods have been received or services in question have actually been rendered in accordance to specifications.
3. In the event that advance payment is required, payment shall only be made upon production of a written request of such advance payment by the supplier.
4. Payments shall be recorded into accounts as of the date the payment is made.

Rule 61

Receipts

Receipts shall be obtained for all transactions.

CHAPTER XI
RECEIPT OF SUPPLIES AND EQUIPMENT

Rule 62

Inspection of Supplies and Equipment

1. All supplies, equipment and other property received by the Commission shall be immediately inspected by the user Division to ensure that their condition is satisfactory and in accordance with the terms of the related purchase contract.
2. A designated officer shall prepare a Goods Received Note for all items received and the items shall be immediately entered in the appropriate stores ledger and property records.

Rule 63

Issue of Supplies and Equipment

1. Supplies, equipment and other property shall be issued to authorised employees.
2. The procedure for distribution of supplies, equipment and other property shall be as follows:
 - (a) supplies and equipment shall be issued on the basis of a Requisition and Store Form; and
 - (b) employees of the Commission to whom such supplies and equipment are issued shall acknowledge receipt thereof by signing the Stores Form.
3. A copy of the signed Form shall be retained by stores and the original kept by the recipient.

Rule 64

Return of Supplies and Equipment

The procedure for the return of supplies and equipment to stores shall be as follows:

- (a) all supplies and equipment to be returned to stores and recorded in the books; and
- (b) the employee in charge of stores shall examine all supplies and equipment returned, prepare a report indicating in particular all flaws or damages that are not due to normal wear and tear, furnish a copy of the report to the employee returning the property, and retain the original in stores.

Rule 65

Requisition of Goods or Services

1. Stores shall deliver supplies, equipment or other goods and general services on the Requisition and Issue Voucher Form.
2. The Requisition and Issue Voucher Forms shall be signed by heads of Divisions.

CHAPTER XII
PROPERTY RECORDS

Rule 66

Maintenance of Records

A complete and accurate record of supplies, equipment and other property purchased, received, delivered, sold or otherwise disposed of and remaining on hand shall be maintained by the Administration Division on behalf of the Director.

Rule 67

Board of Survey

1. The Director shall appoint a Board of Survey to carry out stock taking and a physical inventory of assets.
2. The Board of Survey shall be composed of one officer from the Legal Division, one officer from the Finance Division, one officer from the Administration Division and two more officers to be co-opted from other Divisions.
3. The Board of Survey shall prepare a report on the physical inventory of assets and submit its report to the Director who shall consider and submit it to the relevant Board committee for consideration and approval.
4. The following action shall be taken upon receipt of the report:
 - (a) where there is any shortage, an in-depth investigation shall be undertaken to determine those responsible and disciplinary action may be taken by the Director against any wrongdoers;
 - (b) if those responsible for the shortage are not identified or are found not to be responsible, the Board may authorise that the losses be written off; and
 - (c) where there is any property which is damaged or cannot be used, approval may be given by the Board for it to be written off and disposed of.

Rule 68

Report of Board of Survey

The Board of Survey Report shall provide information on each item of stock and property surveyed, such as:

- (a) stock or asset number;
- (b) description of stock or asset;
- (c) serial number where applicable;
- (d) quantity;
- (e) total value and the value of each item in COMESA Dollars

- (f) state of stock or assets; and
- (g) recommendations thereon.

Rule 69

Disposal of Fixed Assets and Stock

1. The disposal of the fixed assets of the Commission that have outlived their useful lives or have become obsolete shall be done in accordance with the Commission's Asset Management Policy.
2. Where stock becomes obsolete or is in surplus, the Head of Finance shall prepare a list and the Director shall convene a Board of Survey which shall recommend the best method of disposal.

Rule 70

Cash Sales

1. Goods belonging to the Commission shall be sold for cash and shall be paid for upon or before delivery.
2. The proceeds from the sale of such property shall be recognised as revenue.

CHAPTER XIII

ACCOUNTS AND FINANCIAL STATEMENTS

Rule 71

Maintenance of Accurate and Proper Records

1. The Director shall maintain correct, accurate and complete documents and records for the recording of all the financial transactions of the Commission.
2. These records shall include, inter alia:
 - (a) cash books;
 - (b) journal and ledgers;
 - (c) cheque book and cheque registers;
 - (d) assets register;
 - (e) chart of accounts;
 - (f) inventory reports; and
 - (g) stores ledgers.

Rule 72

Internationally Accepted Accounting Standards

The accounts of the Commission shall be maintained and presented in COMESA Dollars according to Internationally Accepted Accounting Standards or other Generally Accepted Accounting Practices approved by the Council.

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Rule 73

Financial Statements

1. Audited financial statements shall be submitted by the Director to the Council by June every year or at such other interval as the Council may direct.
2. The Director shall submit the financial statements of the Commission to the Board and Council.
3. The financial statements shall include:
 - (a) the income and expenditure statement;
 - (b) the balance sheet indicating assets and liabilities of the Commission, provided that the assets shall include both the fixed and current assets and the liabilities shall include both the long term and current liabilities;
 - (c) the movement in the cash flow;
 - (d) the original budget appropriation clearly explaining the details of each item in the budget;
 - (e) any other necessary statement;
 - (f) a summary of investments; and
 - (g) such other schedules as may be required.

Rule 74

Exchange of Currencies

1. The Secretary-General shall adopt the exchange rates between the COMESA Dollars and other currencies.
2. When the COMESA Dollars are exchanged into any other currency, the amount taken into account shall be the amount actually obtained. When any currency is disbursed from a local currency account in the name of the Commission, the cost in COMESA Dollars shall be debited at the rate of exchange adopted in paragraph 1.
3. When payment is made from an account maintained by the Commission in COMESA Dollars, the actual cost in COMESA Dollars shall be debited to the account in the books of the Commission.
4. At the closing of the accounts for the financial period, any gain or loss on exchange shall be carried into the income and expenditure account.

Rule 75

External Auditors

The Director shall submit the financial statements for the financial year to the External Auditors appointed by Council.

Rule 76

Conduct of External Audit

1. The External Auditors shall conduct the audit in conformity with Generally Accepted International Auditing Standards and subject to any special directions of the Council.
2. The qualified auditors shall:
 - (a) determine their own procedure; and
 - (b) submit the report of the audit to the Director.
3. The report of the External Auditors together with the audited financial statements shall be submitted by the Director through the Subcommittee, the Committee and Inter-governmental Committee to the Council, in accordance with any directions given by the Council.

Rule 77

Retention and Destruction of Records

1. Subject to the policy adopted by the Council regarding the retention and destruction of records, the accounts and financial records shall be retained for a period of not less than ten (10) years.
2. The accounting and other financial records shall be retained for such period as may be determined by the Council in consultation with the Internal or External Auditors.

CHAPTER XIV

INTERNAL AUDIT

Rule 78

Internal Audit Services

1. The Internal Audit Services shall, inter alia, review and make comments and recommendations on activities, transactions, projects and programmes having financial implications as to the:
 - (a) regularity of the receipts, custody, disposal, accounting and reporting of all funds and other financial resources of the organisation and the effectiveness of internal controls;
 - (b) conformity of obligations and expenditures;

- (c) economic use of the resources of the organisation; and
 - (d) conformity of all activities and transactions with the Rules.
2. The Internal Audit Services shall perform its functions in accordance with its Audit Charter, Policy and Practice contained in the Internal Audit Manual.

CHAPTER XV
MISCELLANEOUS PROVISIONS

Rule 79

Official Travel

1. Subject to:
 - (a) the relevant provisions of the Staff Rules;
 - (b) the approved Work Plan;
 - (c) availability of the budget;
 - (d) relevance of travel to the Commission mission; and
 - (e) general requirement that the travel shall not adversely affect the overall work of the Commission.
2. An officer shall prepare an Aide Memoire which will be recommended by the Head of the Division and approved by the Director.
3. In case of the Director, the Mission Request Form shall be approved by the Chairperson of the Board.
4. The officer shall then fill the "Travel Authorisation Form" in two (2) copies, which shall be approved by the Director before the travel can be undertaken.
5. The purpose of the mission together with the mode of funding shall be clearly specified.
6. The ticket for the travel shall be arranged by the Administration Division through the normal procurement procedure.
7. Mission reports shall be prepared after each travel on official mission.
8. A staff member returning from mission has to retire the daily subsistence allowance within five (5) working days from return of the mission. Failure to do so may result in deduction of the whole amount from salary.
9. Imprest for the purpose of making authorised disbursement during official travel may be made to staff members who shall make use of such imprests only for the purpose for which the imprests were authorised and shall be held personally responsible and financially liable for the proper management and safekeeping of the cash so advanced. This imprest shall

be retired under Rule 30 and 31.

Rule 80

Employment of Temporary Personnel

The employment of temporary personnel shall be in accordance with the Staff Rules and Procurement Rules.

Rule 81

Ex-gratia Payments

The Director may, on the recommendation of the Human Resource Committee, pay an *ex-gratia* payment to dependants of a deceased staff member provided that such *ex-gratia* payment shall not exceed twenty (20) per cent of the annual basic salary that was being received by the deceased staff member and the statement on such payments shall be submitted to the Committee.

CHAPTER XVI

FIXED ASSET MANAGEMENT

Rule 82

Security of Assets

1. The Commission shall be responsible for ensuring that its buildings and assets are adequately insured with a reliable insurance company.
2. The Administration Division shall be responsible for keeping a fixed asset register of all fixed assets belonging to the Commission.
3. The register referred to in paragraph 2 shall be up to date.
4. There shall be an inventory list of assets in all the offices of the Commission which shall be reconciled at least half yearly.
5. The title deeds of the fixed assets shall be kept with the Administration Division.
6. The Administration Division shall ensure that the insurance policies reflect adequately the value of the assets and the risks covered.
7. The Administration Division is responsible for ensuring that there is sufficient security of the premises and fixed assets of the Commission.
8. Any loss of an asset shall be communicated in writing to the Director with a copy to the Administration Division.
9. Upon consultation with the Director, the Administration Division shall report the matter to the police and the insurance company.

Rule 83

Pool Vehicles

1. All vehicles owned by the Commission, except those provided for the Director, shall form a pool of vehicles administered by the Administration Division.
2. Pool vehicles shall be used for official purposes only. Any other usage shall be authorized in writing by the Director.
3. Vehicle registration documents shall be kept in a secure place by the Administration Division.
4. The Administration Division shall ensure that all vehicles owned by the Commission are insured and kept in good running condition.
5. Misuse of vehicles of the Commission, including any damage or loss attributable to a staff member's negligence or carelessness, shall constitute a serious disciplinary offence.
6. The Commission shall not be liable for any fines, charges or other offences committed by a staff member due to negligence or carelessness.
7. At the end of every working day, every responsible officer shall hand over the keys for all pool vehicles to the Administration Division and where the keys are not surrendered, an investigation shall be carried out, unless it is known that the vehicle is out of town.

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Rule 84

Logbooks

1. A log book shall be maintained for every pool vehicle of the Commission and details of every journey shall be recorded.
2. The log book shall be kept in the vehicle by the driver and the use of any vehicle without completing the log book shall constitute an act of misconduct .
3. The exact details of the starting point, destination, date and purpose of each trip shall be recorded in the logbook.
4. The Administration Division shall check the logbooks on a weekly basis for reasonableness of the kilometres recorded. This check shall be evidenced by initialling and dating the logbook.

Rule 85

Fuel Consumption

1. Each Driver shall be responsible for filling up the Commission's vehicle under his charge, with fuel, oil, water, coolant and all other necessary lubricants.
2. The Administration Division shall be responsible for maintaining a fuel book for vehicles.
3. The Administration Division shall be responsible for monitoring the fuel consumption of each vehicle.

Rule 86

Accident or Incident Procedure

1. A staff member driving the vehicle of the Commission which is involved in an accident or incident shall report the accident to the police if:
 - (a) damage has been suffered by either or all parties involved in the accident, or
 - (b) anyone is injured.
2. In case a staff member driving a vehicle of the Commission is involved in an accident which was caused by the negligence of the staff member, any insurance excess payable by Commission shall be charged to the staff member.

Rule 87

Fleet Management

1. Unless attached to a senior staff member, the Commission vehicles shall be used for official business only.
2. Unauthorised persons shall not be allowed to travel in the Commission vehicles.
3. When a Commission vehicle is involved in an accident, the officer managing the vehicles shall:
 - (a) inform the insurance company;
 - (b) complete a motor vehicle accident report not later than the following day of the accident;
 - (c) obtain copies of the police report on the accident;
 - (d) advise the Disciplinary Committee whether or not disciplinary action shall be imposed on the driver; and
 - (e) arrange for the assessment of the damage.
4. The driver of the Commission's vehicle or any other officer shall not accept liability or come into agreement with a third party in case of an accident without the approval of the Director on the recommendation of the Head of Legal Division.

Rule 88

Amplification of Rules

1. These Rules may be amplified by implementation procedures and administrative instructions issued by the Director.
2. In the event of conflict between the Rules and any other such procedures and instruction, the Rules shall prevail.

Rule 89

Liability

1. Every staff member of the Commission shall be responsible to the Director for the regularity of actions taken by him in the course of his official duties.
2. Any staff member who takes action contrary to these rules or to the implementation procedures or instructions issued in terms thereof may be held personally responsible and liable for financial and other measures as necessary for the consequences of his action.

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Rule 90

Repeal and Replacement

1. The Financial Rules (November 2020) are hereby repealed and replaced by these Financial Rules.
2. Any action undertaken under the Financial Rules (November 2020) shall remain valid.
3. If there is any inconsistency between these Rules and other rules, directives and practices, with regard to matters covered under these Rules, these Rules shall supersede the other rules , directives or practices.

Rule 91

Amendment of Rules

These Rules may be reviewed or amended by the Council.

Rule 92

Entry into Force

These Rules or any amendments thereto shall take effect upon approval of the Council.

**RULES ON APPOINTMENT OF COMMISSIONERS OF THE
BOARD OF THE COMESA COMPETITION COMMISSION**

RULES ON APPOINTMENT OF COMMISSIONERS OF THE BOARD OF THE COMESA COMPETITION COMMISSION

ARRANGEMENT OF RULES

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Composition of the Selection Panel

PREAMBLE

HAVING REGARD to Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa;

RECOGNISING that the COMESA Competition Regulations provide that the Board shall consist of not less than nine (9) and not more than thirteen (13) Commissioners appointed by the Council, on the recommendation of the Secretary-General of the Common Market;

RECOGNISING that the COMESA Competition Regulations provide that the persons to be recommended for appointment as Commissioners shall be chosen for their ability and experience in competition law and policy, industry, commerce, public administration, labour, economics, law, consumer protection and small-scale business matters and be a citizen of a COMESA Member State;

CONSIDERING that the COMESA Competition Regulations provide for the Board of the Commission to make Rules which shall become effective upon approval by the Council; and

NOW THEREFORE, the Council hereby approves the Rules on Appointment of Commissioners of the Board of the COMESA Competition Commission in English, French and Arabic, all languages being equally authentic.

Rule 1

Citation

These Rules shall be cited as the “Rules on Appointment of Commissioners of the Board of the COMESA Competition Commission”.

Rule 2

Interpretation

In these Rules, unless the context otherwise requires:

“**Board**” means the Board of Commissioners established under the COMESA Competition Regulations;

“**Common Market**” means the Common Market for Eastern and Southern Africa (COMESA) established by Article 1 of the Treaty;

“**Commission**” means the COMESA Competition Commission established by Article 6 of the Regulations;

“**Commissioner**” means a member of the Board;

“**COMESA Dollars**” means the unit of Account determined by Council under Article 74 of the Treaty as read together with the Financial Rules and Regulations of the Common Market for Eastern and Southern Africa;

“**Council**” means the Council of Ministers of the Common Market established by Article 7 of the Treaty;

“**Director**” shall have the same ascribed to it in the COMESA Competition Staff Rules;

“**Regulations**” means the COMESA Competition Regulations;

“**Secretary-General**” means the Secretary-General of the Common Market; and

“**Treaty**” means the Treaty establishing the Common Market for Eastern and Southern Africa.

Rule 3

General Principles

1. The nominations of the Commissioners shall be based on:
 - (a) relevant professional expertise, experience and competence;
 - (b) gender; and
 - (c) The geographical and linguistic representation of the Common Market.

2. A person shall not be eligible for appointment as a member of the Board if that person:
 - (a) is under any written law, adjudged or otherwise declared to be of unsound mind;
 - (b) is an undischarged bankrupt;
 - (c) has been dismissed from the COMESA Secretariat or any of its institutions after following due process; or
 - (d) is not a citizen of any of the Member States.

3. The appointment of Commissioners shall be staggered in order to ensure that there is continuity in the operations of the Commission.

Rule 4

Constitution of the Board

1. The Board shall consist of not less than nine (9) and not more than thirteen (13) Commissioners.

2. The Director shall be an ex-officio member of the Board.

Rule 5

Appointment Procedure

1. The Secretary-General shall, in consultation with the Commission, carry out the nomination and selection process as set out in this Rule.

2. The Secretary-General shall issue a letter to the coordinating Ministry of each Member State requesting nominations of candidates who possess the qualifications stipulated under the Regulations and paragraph 4 to become a Commissioner.

3. Each Member State shall submit a maximum of two (2) nominees together with their detailed curriculum vitae within the time stipulated in the request.

4. The Member States shall ensure that nominees have suitable qualifications and a minimum of ten (10) years relevant experience in any of the following fields:
 - (a) competition law and policy;
 - (b) industry;
 - (c) commerce (including accountancy);
 - (d) public administration;
 - (e) labour;
 - (f) economics;
 - (g) law;
 - (h) consumer protection; or
 - (i) small-scale business matters.
5. Upon receipt of the nominations, the Secretary-General shall appoint a Selection Panel to shortlist and select nominees for appointment to the Board.
6. The composition of the Selection Panel shall be as provided in the Schedule.
7. The Registrar of the Commission shall be the Secretary of the Selection Panel.
8. Decisions of the Selection Panel shall be taken by simple majority, but in the case of a tie, the Chairperson shall have a casting vote.
9. The Selection Panel shall ensure that at least one Commissioner has qualifications and experience in law and one Commissioner has qualifications and experience in economics
10. Not more than one candidate shall be selected from each Member State.

The Selection Panel shall submit a report on the selected nominees to the Secretary-General.

Rule 6 **Tenure of Office and Removal**

1. Commissioners shall hold office for a tenure of three years which may be renewed once in accordance with procedure set out in the Regulations.
2. No Commissioner may serve more than two terms.
3. In an event that a Commissioner does not complete his/her tenure for reasons stated in subsection 3 below, the vacancy shall be filled by requesting Member States whose nationals are not on the Board to submit names for consideration in accordance with Rule 4 above.

4. The office of the Commissioner shall only become vacant for the following reasons:
 - (a) Upon his/her death;
 - (b) If the Commissioner is absent without reasonable excuse from three consecutive meetings of the Board of which there has been due Notice;
 - (c) If the Commissioner is absent even with reasonable excuse from 6 consecutive meetings of the Board of which there has been due notice;
 - (d) If the Commissioner is lawfully detained or his/her freedom of movement is restricted for a period exceeding six months;
 - (e) If a Commissioner becomes an un-discharged bankrupt;
 - (f) If a Commissioner becomes of unsound mind or permanently incapacitated;
 - (g) If a Commissioner engages in any activity that may undermine the integrity of the Commission and/or the Board or amounting to serious misconduct; and
 - (h) If a Commissioner ceases to be a citizen of a Member State.
6. On vacation of office by a member, the vacancy shall be filled by a person appointed in accordance with relevant provisions of Article under which the former member was appointed, provided that if the remaining period is less than six months, the Secretary General may decide not to have the vacancy filled until the expiry of the period

Rule 7

Allowances and Benefits

1. Commissioners shall receive a sitting allowance for every Board meeting or Board Committee meeting attended, as follows:
 - (a) COMESA Dollars Three Hundred and Fifty (COM\$ 350) per day for the Chairperson of the Board;
 - (b) COMESA Dollars Three Hundred and Twenty (COM \$ 320) per day for the Vice-Chairperson of the Board; and
 - (c) COMESA Dollars Three Hundred (COM \$ 300) per day for other members of the Board.
2. Commissioners shall receive a Daily Subsistence Allowance (DSA) when on official business of the Board and out of their registered hometown at a rate of COMESA Dollars Three Hundred (COM\$ 300) per night.
3. Commissioners shall:
 - (a) travel in business class by the most direct and economical route if travelling by air on official duty, provided that an alternative route may be approved when in the opinion of the Director, it is in the best interests of the Commission; and

- (b) be provided with ground transportation when on official duty.
4. Commissioners shall be given internet allowance which shall be determined from time to time and materials to facilitate the meetings.
 5. At the end of their tenure of office, the Commissioners shall be given a token of appreciation for their service rendered to the Commission.
 6. The terms of appointment shall be reviewed by the Office of the Secretary- General from time to time upon the recommendation of the Director.

Rule 8

Amendments

These Rules may be reviewed or amended by the Council.

Rule 9

Entry into Force

These Rules or any amendment shall take effect on approval by the Council.

SCHEDULE

COMPOSITION OF THE SELECTION PANEL

The Selection Panel shall be composed of four members as follows:

NO	MEMBERSHIP	VOTING STATUS
1.	Chairperson who shall be a member of the Council of Ministers or his or her representative and shall have a casting vote An additional member who shall be a member of the Council of Ministers	Voting member Voting member
2.	Board Chairperson or any other Commissioner	Voting member
3.	An external expert with knowledge of competition and consumer law and enforcement. The external expert shall be a citizen of the Common Market	Non-voting member
4.	The Director who shall be ex-officio member	Non-voting member





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