



## **BRIEF ON THE COMESA CUSTOMS UNION**

1. The Member States of COMESA have agreed, under Article 47 of the Treaty, to *“the gradual establishment of a Common External Tariff in respect of all goods imported into the Member States from third countries within a period of ten years from the entry into force of the Treaty and in accordance with a schedule to be adopted by the Council”*. Article 45 of the Treaty expressly provides that, *“there shall be progressively established in the course of a transitional period of ten years from the entry into force of the Treaty, a Customs Union among the Member States.”*

2. The importance of the Customs Union for COMESA cannot be overemphasized. The political leadership and stakeholders are at one on this. The political leaders have indicated how the Customs Union will provide a framework for coordination and harmonisation of policies in a broader range of areas, and strengthen COMESA into a coherent group that has clout in international relations and in its engagement with the rest of the world. The robust performance of intra-COMESA trade, has shown that an integrated COMESA can adequately respond to global challenges and in this manner COMESA equips the Member States and the people of the region with a framework for action and with a safety mechanism.

3. A large workshop in April 2009 attended by over 100 parliamentarians, manufacturers, civil society, traders and other stakeholders examined the prospects, opportunities and challenges for the COMESA Customs Union and concluded that the COMESA Customs Union was necessary and timely. The private sector indicated how trade in COMESA has been profitable and how it is sustainable and allows good planning due to the rule-based regimes under the integration program. The various trade facilitation and infrastructure programs have assisted consolidate the internal market and resulted in reduction of transaction costs including for producers, exporters and importers. Information on COMESA can be obtained from the national coordinating ministry designated by every Member State.

### **Launching of the Customs Union**

4. The preparatory period resulted in recommendations from technical officers of the Member States on key principles and rules for the Customs Union. The recommendations were considered carefully by the senior officers at the level of Permanent Secretary, in several meetings, who in turn made recommendations to the Ministers. Under the Treaty establishing COMESA, the Council of Ministers of COMESA has full powers to make Regulations in implementing the provisions of the Treaty, such as the provisions stating that the Member States will establish the Customs Union.

Member States normally start implementing the Regulations once adopted by the Ministers and published. This streamlined process of decision-making in COMESA assists the implementation of the integration process through adopting and applying the required rules and programs in a timely manner.

5. The Summit of the COMESA Authority of Heads of State and Government took place on 7-8 June 2009 at Victoria Falls in Zimbabwe to launch the COMESA Customs Union. The COMESA Authority endorsed the key principles and rules that will be the basis for the operation of the Customs Union that the Ministers had adopted. These principles and rules are contained in the two key legal instruments of the Customs Union, namely, the Council Regulations Governing the COMESA Customs Union and the Common Market Customs Management Regulations. The Council Regulations Governing the COMESA Customs Union provide for establishment of the Customs Union, the internal free trade area, relations with third countries including the application of the CET, trade remedies, export promotion, and dispute settlement. The Common Market Customs Management Regulations provide for the imposition and collection of duties and taxes; the control, management and administration of Customs; the conclusion of Customs and Trade Agreements and other matters.

6. In addition, the leaders endorsed “the establishment of the COMESA Task Force on the Customs Union for monitoring the implementation and operation of the Customs Union” (to address any future developments). The continuous operation of the Customs Union will require adaptation to regional and international developments from time to time, as well as the finalisation of any outstanding issues such as the implementation of a road map for the transition period. The Task Force will report annually to the higher organs of COMESA. This means that there is an institutional framework in place for dealing with outstanding issues and for responding to any developments that can affect the operation and implementation of the Customs Union

7. It was agreed, also, that Member States should submit their lists of products with rates that are the same as those under the CET (that is, the rates of 0%, 10%, 25%), as well as their lists of sensitive products where current national rates will be aligned to the CET rates during the transition period. It was agreed that the transition period should be three years, but can be extended to a period not exceeding five years. There will be a mid term review after one year and a half (that is, after eighteen months), to take stock of the progress made by Member States in implementing the Customs Union.

8. The CET of COMESA is harmonised with the CET of the East African Community. This means that the Member States in both Customs Unions do not have to choose which one to remain in; for with the same CET, COMESA and EAC in effect have moved closer towards becoming a single customs union. This is in line with the decision of the Heads of State and Government of COMESA, EAC and SADC, adopted at their Summit of 22 October 2008 in Kampala, that the three organisations should form a single Free Trade Area and eventually a single Customs Union.

9. Several other trade instruments and programs are also harmonised or coordinated, and this will further assist the formation of the single FTA and Customs Union. For instance, the Rules of Origin of COMESA and EAC are similar. These rules will continue to apply until there is free circulation of goods within the Customs Union. At the Tripartite level, a common approach has been adopted for elimination of non-tariff barriers to trade. The Tripartite work program covers other areas for harmonisation, such

as infrastructure, energy, trade in services, movement of business persons, customs procedures, health and technical standards, unfair trade practices, and institutional arrangements.

### **Flexibility in the Customs Union**

10. Taking into account the need to cater for specific situations of Member States, the COMESA Customs Union will have policy space, flexibility and periodic reviews of the CET. These principles are there to allow the Member States to be in the Customs Union while at the same time taking important national issues into account.

11. Member States have flexibility in the following main areas:

(i) **Sensitive products:** In the COMESA Customs Union, Member States will be allowed to protect Sensitive Products during the transition period, with the possibility of putting them on a common list with higher rates, or excluding some from the Common External Trade Policy for instance for religious or cultural reasons;

(ii) **Sequencing:** Whilst predictability is important, it is also helpful in the short run to allow Member States requiring more time to adjust to a single position on Sensitive Products leading to a Common List of Sensitive Products;

(iii) **Periodic reviews:** The reviews will be necessary in a Customs Union to allow evaluation of progress and necessary adjustment. There will therefore be periodic mandatory reviews. These reviews should aim at greater harmonisation, reduction of distortions, and consideration of any outstanding issues. For instance, whilst the CET rates for Raw Materials and Capital Goods have been set at zero, in future the region may develop the capacity to produce and export Capital Goods, requiring a review of the relevant rate subject to international obligations. This fine-tuning would be based on the experience of Member States in implementing the adjustment programme for the convergence of national tariff rates to the CET;

(iv) **Market access:** Market access acquired by Member States prior to the establishment of the Customs Union will be preserved.

12. These principles will govern the operation and implementation of the Customs Union and have been included in the key legal instruments.

### **The COMESA Tariff**

13. Subsequent to the adoption of the COMESA CET and the categorization of products into the three bands of the tariff structure (0%, 10%, and 25%), the major task was to allocate the CET rates to tariff lines. The allocation of the CET rates to tariff lines took into account regional production and consumption as well as import and export structures so as to determine which products required protection. A series of meetings on Sensitive Products and Tariff Alignment Schedules were held to allocate the CET rates to specific tariff lines. Member States will apply this COMESA Tariff in trade relations with third countries.

## **Loss of Revenue in Applying the CET**

14. Member States may lose some revenue in the short to medium term as a result of applying the CET. In order to address this, a COMESA Fund has been put in place. The COMESA Fund has two windows. The Adjustment facility caters for revenue loss arising from the implementation of the COMESA trade liberalisation programmes and the other window is the Infrastructure Fund to finance infrastructure projects in the region. It is, however, expected that in the medium to long-term, revenues may increase as import structures change as a result of the application of the CET. In addition, it is expected that Member States will undertake reforms in their domestic tax systems in order to raise more revenue.

## **Message to the world**

15. The advent of the COMESA Customs Union is a monumental step that has sent out an important message to the region and the world as a whole. As the Chairman of COMESA said in his speech when officially launching the Customs Union, the opportunities begging to be utilised are enormous, and to the whole world COMESA says, come, see and invest in our market. This key launching speech is reproduced below.

16. COMESA is a market of about 400 million consumers and a phenomenally increasing volume of internal trade now estimated at USD 15.2 billion, up from USD 3 billion in 2000 when the Free Trade Area was launched, a development that the regional private sector has greatly welcomed and owned. The enormous natural resources in the region are well known, as well as the high rates of return on investment.

17. The COMESA region has proved itself adequately capable of responding to global and regional challenges. Due to the robust intra-COMESA trade, the current financial crisis and economic recession has not had as deleterious an effect on the region as initially feared. Also, the institutions of COMESA have greatly assisted. The African Trade Insurance Agency has continued to provide cover for turmoil and now includes terrorism. The PTA Bank has continued to provide trade and project finance to the private sector. The Clearing House has now established a Regional Payment and Settlement System, to reduce the cost of effecting payment in regional trade, for no longer will the payments have to be routed through banks overseas taking time and costing a fortune. The COMESA Fund Adjustment Facility assists Member States that can face adverse effects due to implementing the trade liberalisation programs, and so far some Member States have already submitted requests for support.

18. With the Customs Union, COMESA has taken another big step towards realising its vision of being a fully integrated region that is internationally competitive.

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### ***The COMESA Chairman's speech officially launching the Customs Union***

*"We have now come to the moment that celebrates our existence as COMESA – the launching of the COMESA Customs Union. This past year, everything in*

*COMESA focused on the customs union – we have thought and talked the customs union, we have slept the customs union, we have dreamt the customs union; only the customs union. This then, is the hour we have all been waiting for.*

*We are busting with joy, with a sense of achievement, as we now launch our customs union here today, at Victoria Falls, at this place that God himself took time to carve out so beautifully and wonderfully, into a most mighty water-fall, a most fitting resort for lovers and visionaries. We, likewise, are here to celebrate mightily, in gratitude and reverence, that we have achieved our dream of all these years. On this occasion, we say to each other, that we are COMESA, bound together as a region, and that together we can achieve what we set out to achieve. To the whole world we want to say that we are COMESA, and that we are serious as a region. We want to be taken seriously. Our message to investors worldwide and to those of our region, is clear – we have a regional market for you, come to COMESA!*

*Trade and investment are the pillars on which COMESA stands. We have talked about it, and now by launching the COMESA customs union, we demonstrate for all to see that we are walking the talk. We want to say it loud and clear, and to be heard by our stakeholders. As a region, the opportunities that are begging to be exploited are inexhaustible, with a market of 400 million people.*

*We have waited long enough, since 2004, and we rejoice that finally we have been able to get there. We are launching our COMESA Customs Union! I say, what an achievement! And I congratulate you all, the Member States of COMESA, upon this achievement.*

*With much excitement and expectation, with all the joy, I now have the pleasure to hereby launch our COMESA Customs Union.”*

The Chairman of COMESA then unveiled a magnificent plaque commemorating the launching of the Customs Union. “Forever to celebrate and support COMESA Customs Union”, was the inscription on the plaque, featuring the COMESA colours of blue and white.

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