



**OFFICIAL GAZETTE**

**of the**

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**of the  
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**By Order of the Council**

**Sindiso N. Ngwenya**  
**Secretary-General**  
**COMESA**

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**IT IS HEREBY NOTIFIED** that Council of Ministers at its Twenty Ninth Meeting held on 6th December 2010 in Lusaka, Zambia issued the following Legal and General Notices:

## **LEGAL AND GENERAL NOTICES**

Legal and General Notices Issued by the Council

### **(A) COMESA COMMITTEE OF CENTRAL BANK GOVERNORS**

#### **Macro-economic developments**

##### ***Decision***

1. Council noted the progress made by Member States and decided that Member States should continue implementing the macro-economic convergence criteria as a key COMESA programme.

### **(B) THE FOURTH REGIONAL INTEGRATION SUPPORT MECHANISM (RISM) ADVISORY COMMITTEE MEETING**

##### ***Decisions***

2. Council endorsed the Report of the Fourth Meeting of the RISM Advisory Committee and made the following decisions:
  - (i.) Member States should strengthen National Inter-ministerial Coordinating Committees in order to effectively implement the COMESA Regional Integration Programmes;
  - (ii.) Member States that have not joined the COMESA Fund need to do so by ratifying the protocol and make their contribution in order to be eligible to benefit from the Adjustment Facility; and
  - (iii.) Member States should actively utilise the remaining funds in the Facility in the course of the year 2011, to assist the utilisation of the next installment under EDF 10.

### **(C) THE TWENTY NINTH MEETING OF THE INTERGOVERNMENTAL COMMITTEE**

#### **(a) Trade Developments**

##### ***Decision***

3. The Secretariat should work with Member States to compile trade statistics reflecting the trade regimes under which trade takes place.

**(b) Trade in Services**

***Decisions***

4. Council made the following decisions:

- (i.) The next meeting of the Committee on Trade in Services should focus on finalising work on the four priority sectors already identified, namely, communications, tourism, financial and transport services before progressively moving into the other sectors taking into account the requirements under the General Agreement on Trade in Services; and
- (ii.) The Secretariat is requested to assist Member States that need assistance to finalise their schedules of specific commitments, and in this regard may undertake missions to Member States to facilitate national workshops.

**(c) Most Favoured Nation (MFN) Exemptions**

***Decision***

5. Council decided that the Committee on Trade in Services should consider the matter of MFN Exemptions and finalise the matter at its next meeting.

**(d) Internal Market**

***Decisions***

6. Council made the following decisions:

- (i.) Congo DR is commended for the positive steps it has taken in participating in the internal market;
- (ii.) The other Member States that have not yet joined the FTA are urged to join as soon as possible given that the region is moving towards the Customs Union;
- (iii.) The Secretariat should continue with efforts to assist non FTA Member States through technical workshops and bilateral consultations; and
- (iv.) Member States that have not yet joined the COMESA Fund are urged to do so in order to benefit from its provisions, particularly the Adjustment Facility Window.

## **(e) ELIMINATION OF NON-TARIFF BARRIERS (NTBs)**

### ***Decisions***

7. Council made the following decisions:

- (i.) Malawi and Kenya are commended for immediately resolving the NTB on iron sheets at a bilateral meeting held in the margins of the Trade and Customs Committee Meeting;
- (ii.) Kenya and Zambia are commended for the good progress made in resolving the milk issue between them;
- (iii.) Zambia and Zimbabwe are commended for resolving the milk issue between them;
- (iv.) All the reported NTBs should be eliminated within an appropriate time frame from the time the NTBs are reported in order to avoid impeding trade in COMESA and causing hardship to business, and in this regard, the NTB should be eliminated within 60 days from the time it is reported;
- (v.) Member State changes on signatories to the COMESA Certificate of Origin should immediately be notified to the Secretariat for circulation to all member states;
- (vi.) Member States should ensure that circulated signatures and stamp impressions are clear and legible in order to avoid unnecessary delays at entry points while confirmations are sought; and
- (vii.) All exporters should fill in all the requirements on the COMESA Certificate of Origin.
- (viii.) The Council decided that an effective system for elimination of NTBs should be developed and that in this regard the draft Regulations should be finalised as soon as possible for appropriate decisions by the Policy Organs. In this regard, Member States should submit their comments to the Secretariat by 30 March 2011, that is, six weeks before the next meeting of the Trade and Customs Committee planned for May 2011.

## **(D) THE CUSTOMS UNION**

### ***Decisions***

8. Council made the following decisions:

- (i.) Member States should take appropriate steps to enhance implementation of the Customs Union road map;
- (ii.) In view of the time left for the transition period and varying budget cycles among Member States, migration to the COMESA CTN should be completed by the beginning of 2012;

(iii.) Member States not yet using the HS 2007 version should adopt the entire COMESA CTN; and

(iv.) The COMESA CTN should be based on HS 2012.

**(a) Additional 5% Tariff Band to the CET**

***Decisions***

9. Council decided that:

(i.) The 5% study should be reviewed, taking into account the comments made which include, among others, the following:

(ii.) The conclusion that introducing the 5% tariff band will increase the costs of production should be re-examined;

- (iii.) If the lists of sensitive products covered the 5% tariff lines, the lists would be large and would exceed the agreed threshold of 30% of tariff lines to be progressively reduced to 20%, in this regard, use of sensitive lists is unlikely to be the solution to the matter;
- (iv.) Implications for revenue and industrial development need to be appropriately taken into account in generating tariff alignment schedules and lists of sensitive products; and in this regard, additional measures should be considered for addressing these issues, which should be taken into account in a further study; and
- (v.) The Secretariat should provide more technical input on the issue of the 5% tariff band, a further study should be undertaken to take these issues into account.
- (vi.) The Secretariat should continue to work closely with Member States including in terms of undertaking country missions as may be necessary, in order to finalise outstanding issues to assist produce the tariff alignment schedules and lists of sensitive products, taking into account the implications for revenue and industrial development and these should be taken into account in a further study.

**(b) Domesticating Process of the Customs Management Regulations and Guidelines**

**Decisions**

10. Council made the following decisions:

- (i.) Member States should implement the Customs Management Regulations, and one possible way of maintaining harmony is by amending the national law to align all conflicting provisions with the Regulations and inserting provisions in the national law providing the same application and effect of the Regulations as the national law; and
- (ii.) Member States should establish national implementation structures, to effectively implement the transition period for the Customs Union.

**(c) Alignment of National Tariffs with the CET and the Thresholds**

**Decisions**

11. Council made the following decisions:



- (i.) The Secretariat should continue to work closely with Member States to assist in the generation of tariff alignment schedules, domestication of the CTN and in the implementation of the transition period;
- (ii.) Alignment under Schedule II should be completed within the transition period by June 2012;
- (iii.) Foreign goods entering the territory at rates lower than the CET should not enjoy free circulation until they are subjected to the CET; and
- (iv.) COMESA Secretariat will continue to work with the EAC Secretariat in assisting the four Partner States of the EAC that are in COMESA, in generating tariff alignment schedules in implementing the COMESA Customs Union.

## **(E) THE TRIPARTITE**

### ***Decisions***

12. Council decided that as the COMESA, EAC and SADC Secretariats are currently undertaking consultations on the draft Tripartite FTA documents and receiving comments on the same, Member States which have not yet submitted any comments or arranged consultative meetings with national stakeholders and with the Secretariats are urged to do so by 15 January 2011 so that their comments can be taken into account at the Tripartite Summit.

## **(F) TRADE NEGOTIATIONS**

### **(a) The Africa Growth and Opportunity Act (AGOA)**

### ***Decisions***

13. Council made the following Decisions:

- (i.) Member States should come up with a work programme of activities to be undertaken in order that the eligible AGOA COMESA countries enhance their ability to take advantage of the AGOA preferences while they still last. Member States should submit the work programmes to the Secretariat by 31 December 2010 and these national work programmes will be compiled into a regional work programme;
- (ii.) The Secretariat should reach out to cooperating partners for technical and financial assistance in carrying out studies that should pave the way for an exit strategy should AGOA fail to be extended beyond its current authorization. In addition, develop position papers for the Tenth AGOA Forum; and
- (iii.) The Secretariat should continue in lobbying the US Congress to assist in capacity building to address supply side constraints so that eligible COMESA Member States can take advantage of AGOA.

## **(G) SINGLE WINDOW**

### ***Decision***

14. Council decided that Member States may engage the Secretariat and other co-operating partners such as the World Bank Trade Facilitation Facility, to assist in the implementation of the Single Window System

## **(H) INTELLECTUAL PROPERTY AND SCIENCE AND TECHNOLOGY**

### ***Decision***

15. Council decided that Member States should report to the next Policy Organs the progress they have made on implementing the relevant Council Decisions on Science and Technology at the national level.

16. Council welcomed the on-going work on intellectual property and made the following decisions:

- (i.) Member States should consider the harmonization of intellectual property laws in the COMESA region in order to promote a common and effective framework for the utilisation of the intellectual property system for socio-economic and technological development of the region, taking into account the WTO TRIPS Agreement;

- (ii.) The Secretariat should send the questionnaire to the Member States and they should kindly respond to the questionnaire by 30 January 2011;
- (iii.) Member States should learn from each other and share experiences, including best practices in setting up intellectual property working groups at the national level;
- (iv.) Member States should prioritize innovation, science and technology, and attraction of investment into the pharmaceutical sector; and
- (v.) Member States should, in accordance with their rights and obligations, fully utilise all the available flexibilities under the TRIPS Agreement and the Doha Declaration on the TRIPS Agreement and Public Health.

## **(I) REPORTS OF COMESA INSTITUTIONS**

### **(a) PTA Re-Insurance Company (ZEP-RE)**

#### ***Decisions***

17. Council reiterated its decisions at the Twenty Eighth meeting as follows:

#### ***a. Hosting Agreements***

- (i) Zambia and Zimbabwe should conclude their respective hosting agreements with ZEP-RE in line with commitments made by the two Members States, and
- (ii) All Member States should avail the Company hosting agreements when required, to enable the Company to discharge its functions appropriately.

*b. Business Facilitation*

- (i) Zimbabwe should formally recognise ZEP-RE as a local reinsurer and allow the institution to directly write business from local insurers in line with the Member State's internal laws; and
- (ii) Swaziland and Libya should facilitate business cessions from their respective territories in line with commitments made in the past.

*c. Capital subscriptions*

- (i) In line with the undertaking made by Member States during the Fourteenth Council of Ministers meeting in 2002, Ethiopia should subscribe for shares in ZEP-RE; and
- (ii) Malawi, Libya, Swaziland and Uganda should consider purchasing shares in ZEP-RE.

**(b) African Trade Insurance (ATI)**

***Decisions***

18. Council noted the report and made the following Decisions:

- (i.) Ivory Coast, Togo and Zimbabwe are commended for taking up membership in ATI; and
- (ii.) African Countries, especially COMESA member states, which are not yet ATI members should consider joining the Agency and by doing so bring the benefits of ATI's products to investors and the business communities in their respective countries.
- (iii.) **COMESA Business Council(CBC)**

***Decisions***

19. Council made the following decisions:

- (i.) Member States are invited to note the work done by the CBC in policy dialogue and continue private sector participation in the formulation and development of policy issues at the national level;
- (ii.) Noting the existing capacity limitations of the CBC, Member States are urged to encourage the private sector apex associations to be members of the CBC and participate in its activities; and

- (iii.) Member States are invited to note the Public-Private Dialogue being nurtured at the regional level and to engage the CBC consistently on these platforms

**(J) COMESA CONSOLIDATED WORK PROGRAMME 2011**

***Decision***

20. Council adopted the 2011 work programme for the COMESA Secretariat.

**(K) REGIONAL CUSTOMS TRANSIT GUARANTEE (RCTG) SCHEME**

***Decisions***

21. Council endorsed the following Decisions of the Council of Surety:

- (i.) Secretariat should seriously consider putting up a deliberate program to take a holistic approach in analyzing the scheme, establish inefficiencies of the system and make drastic changes where necessary;
- (ii.) The Secretariat should expand the scope of operation of the scheme so that many stakeholders are involved and their concerns addressed; and thereafter re-market the scheme to all stakeholders.
- (iii.) With regard to the Northern corridor, where the scheme is operational, Council decided on the following measures to ensure the successful implementation of the RCTG CARNET:
  - (a) Customs administrations should work together with clearing agents and other stakeholders to:
    - (1) Designate an office to oversee the implementation of the scheme in the country and inform the Secretariat by 30th October, 2010;
    - (2) Incorporate the RCTG CARNET in Customs operational procedures;
    - (3) Configure adequately their Customs IT Systems (ASYCUDA, SIMBA, MARSAL, etc) to process transit under RCTG CARNET;
    - (4) Manage the RCTG- Management Information Systems (MIS);

(5) Assisting Clearing and Forwarding Agents and other stakeholders in the implementation of the scheme which includes circulating necessary instructions in order to effectively guide the stakeholders; and

(6) Train Customs officers and Clearing Agents.

(b) COMESA Secretariat should:

- (1) Strengthen the implementation capacity of the Customs Administrations, Clearing Agents and Sureties through the use of short term Consultants;
- (2) Finalize the integration of the RCTG-MIS with the Data Transfer System (DTS), Container/cargo Tracking and other Customs transit facilitation tools and implement the integrated system in member States as a single platform;
- (3) Explore, identify and support the private sector to manage the RCTG Scheme and its facilities; and
- (4) Initiate immediately the self financing process of the scheme through contributions, charges on CARNET issues and fees on IT Services.

22. Council adopted the Management Agreement of the Reinsurance Pool of the Regional Customs Transit Guarantee (RCTG) Scheme as contained in document CS/RCTG/CS/IV/4, as recommended by the 4th Meeting of the Management Committee.

23. Council also decided to have the Agreement signed by the Representative of the Pool Manager and the Chairperson of the Council of Surety on the last day of the meeting, Wednesday 29th September 2010.

24. With regard to the participation of Banks and Insurance companies in the RCTG Scheme, the Council endorsed the recommendations of the Council of Surety and decided as follows:

- (i.) Both Banks and Insurance Companies should be allowed to participate in the operations of the RCTG scheme;
- (ii.) The RCTG Operations Manual and the Reinsurance Pool Constitution, should be reviewed to allow for full integration of Banks in the RCTG Scheme; and

- (iii.) RCTG instruments, particularly the Operations Manual, should be reviewed with respect to the responsibility of National Sureties when there is a call on a transit bond by Customs Administrations.
25. With regard to the RCTG Training Curriculum, the Council endorsed the recommendations of the Council of Surety and decided as follows:
- (i.) In addition to the Kenya Revenue Authority and the COMESA Secretariat, development of the RCTG training curriculum should involve other critical stakeholders such as experts from ZIMRA, Sudan Customs, FEAFFA, FCFASA and National Sureties;
  - (ii.) Clearing Agents, insurance companies and banks should also be involved in the development of the training program, course materials and related activities.

With regard to the budget, the Council endorsed the annual budget of the Management Committee of the RCTG which the Council of Surety adopted USD58,300 for the period from 1st July 2010 to 30th June 2011

**Sindiso Ngwenya**  
**SECRETARY GENERAL**