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ACRONYMS

AEO	Authorized Economic Operators
AGOA	The African Growth and Opportunity Act
ALLPI	Africa Leather and Leather Products Institute
ASYCUDA	Automated Systems for Customs Data
ATI	The African Trade Insurance Agency
AU-IBAR	The African Union Inter-African Bureau for Animal Resources
CAF	COMESA Adjustment Facility
CBC	COMESA Business Council
CBM	Coordinated Border Management
CCC	COMESA Competition Commission
CCIA	COMESA Common Investment Area Agreement
CIDF	COMESA Infrastructure Development Fund
CIRT	Computer Incidence Response Teams
CMR	Customs Management Regulations
CNS/ATM	Communication Navigation, Surveillance for Air Traffic Management
COIDIC	Cooperation between COMESA and China Overseas Infrastructure Development and Investment Corporation
COMSTAT	COMESA Statistical System
COMTEL	COMESA Telecommunication
CVTF	COMESA Virtual Trade Facilitation System
EAC	East African Community
EAPIC	East African Phytosanitary Information Committee.
EDF	European Development Fund
FTA	Free Trade Area
FTTH	Fibre technology to the home
GAP	Good Agricultural Practice
GATs	General Agreement on Trade in Services
GBS	General Budget Support
ICSHP	International Center on Small Hydro Power
ICTS	Information and Communications Technologies
IMF	International Monetary Fund

LAPSSET	Lamu Port-South Sudan-Ethiopia-Transport
LLPI	Leather and Leather Products Institute
MoU	Memorandum of Understanding
MRA	Mutual Recognition Agreements
OSBP	One Stop Border Post
PMAESA	Management Association of Eastern and Southern Africa
PRAs	Pest Risk Analyses
PRP	Prerequisite programs
RCK	Revised Kyoto Convention
RECs	Regional Economic Communities
RCTG	Regional Customs Transit Guarantee
RUC	Road User Charges
SPS	Sanitary and Phyto Sanitary
TADs	Transboundary Animal Diseases
TBT	Technical Barriers to Trade
TRS	Time Release Studies
TTTTFP	Tripartite Transport and Transit Facilitation Programmes
UNECA	United Nations Economic Commission for Africa
UNEP	United Nations Economic Commission for Africa
UN	United Nations
VICMED	the Lake Victoria Mediterranean project
VMNO	Visual Mobile Network Operator
WTO	World Trade Organization
ZEP RE	PTA RE Insurance Company

THE COMESA AUTHORITY - HEADS OF STATE AND GOVERNMENT

As at 24 January 2018

BURUNDI

His Excellency Pierre Nkurunziza,
President of the Republic of Burundi

COMOROS

His Excellency Dr Ikililou Dhoinine,
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 Joseph Kabila Kabange,
President of the Democratic Republic of Congo

EGYPT

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

ERITREA

His Excellency Isaias Afewerki,
President of the State of Eritrea

ETHIOPIA

His Excellency Hailemariam Desalegn,
Prime Minister of the Federal Democratic Republic of Ethiopia
(Rapporteur of the COMESA Authority)

KENYA

His Excellency Uhuru Kenyatta,
President of the Republic of Kenya

LIBYA

His Excellency Fayed al-Sarraj
President of the Council of the State of Libya

MALAWI

His Excellency Professor Peter Arthur Mutharika,
President of the Republic of Malawi

MADAGASCAR

His Excellency Hery Rajaonarimampianina,
President of the Republic of Madagascar
(Chairman of the COMESA Authority)

MAURITIUS

Her Excellency Pravind Jugnauth,
President of the Republic of Mauritius

RWANDA

His Excellency Paul Kagame,
President of the Republic of Rwanda

SEYCHELLES

His Excellency Danny Faure,
President of the Republic of Seychelles

SUDAN

His Excellency Omar Hassan Ahmed al-Bashir,
President of the Republic of Sudan

SWAZILAND

His Majesty King Mswati III,
Ingwenyama of the Kingdom of Swaziland

UGANDA

His Excellency Yoweri Kaguta Museveni,
President of the Republic of Uganda

ZAMBIA

His Excellency Edgar Chagwa Lungu,
President of the Republic of Zambia

ZIMBABWE

His Excellency Emmerson Mnangagwa,
President of the Republic of Zimbabwe

COMESA SECRETARIAT MANAGEMENT COMMITTEE

(As at 24 January 2018)

SECRETARY-GENERAL

Mr Sindiso Ngwenya

ASSISTANT SECRETARY-GENERAL (FINANCE AND ADMINISTRATION)

(Vacant)

ASSISTANT SECRETARY-GENERAL (PROGRAMMES)

Ambassador Dr Kipyego Cheluget

DIRECTOR, LEGAL AND CORPORATE AFFAIRS/LEGAL COUNSEL

Mr Brian Chigawa

DIRECTOR: TRADE AND CUSTOMS

Dr Francis Mangeni

DIRECTOR, INDUSTRY AND AGRICULTURE

Mr Thierry Kalonji Mutombo

DIRECTOR, GENDER AND SOCIAL AFFAIRS

Mrs Beatrice Hamusonde

DIRECTOR, INFORMATION TECHNOLOGY

Ms Lanka Dorby

DIRECTOR, FINANCE

Mr Clement Kanyama

ACTING DIRECTOR, HUMAN RESOURCES AND ADMINISTRATION

Mrs Martha Elimu

COORDINATOR, TECHNICAL CO-OPERATION AND RESOURCE MOBILISATION

Mr Deogratias Kamweya

CHIEF, STRATEGIC PLANNING AND RESEARCH

Mr Simal O. Amor

CHIEF INTERNAL AUDITOR

Mrs Auleria Olunga

CHIEF CONFERENCE SERVICES

Dr Alick Mhizha

HEAD, CORPORATE COMMUNICATIONS

Mr Mwangi Gakunga

TRANSPORT, COMMUNICATION, INFORMATION TECHNOLOGY AND ENERGY TRANSPORT

Axle Load Limits and Vehicle Overload Control

Decisions

1. Council made the following decisions:

- (a) Member States should domesticate road transport facilitation instruments and implement regionally agreed facilitation instruments within 12 months;
- (b) The Tripartite (COMESA-EAC-SADC) Members to review and harmonize the Road User Charges (RUC) formula within 18 months;
- (c) Member States are urged to participate in all Tripartite workshops, domesticate and implement regionally agreed transport facilitation instruments; and
- (d) Tripartite Transport and Transit Facilitation Programme (TTTFP) to accelerate the harmonization of Road User Charges(RUC) used in the Tripartite region within 18 months.

Tripartite Transport and Transit Facilitation Programme (TTTFP) with Support from European Union 11th European Development Fund

Decisions

2. Council made the following decisions:

- (a) Applaud EU for funding the Tripartite Transport and Transit Facilitation Programme;
- (b) Endorse the design and development of the Tripartite Transport and Transit Facilitation Programme(TTTFP) to be funded under the 11th EDF as a strategy to address the common trade and transport facilitation challenges of the region with respect to road transport sector;
- (c) Direct the Secretariat to continue collaborations with SADC and EAC in the implementation of the TTTFP; and
- (d) Urge Member States to participate and collaborate in the implementation of the TTTFP.

Railways Operations and Management

Decisions

3. Council decided that:

- (a) COMESA Secretariat to commission a study on establishment of an integrated regional railway system to be funded by COIDIC; and
- (b) The study should focus, among others, on the introduction of reforms in the railway sector to involve vertical separation of railway operations from infrastructure.

Corridor Development and Management

Decisions

4. Council made the following decisions:

- (a) Member States should adopt and implement COMESA Transit Instruments to improve corridor efficiency;
- (b) Member States should continue with programmes to upgrade and maintain corridor infrastructure and facilities;
- (c) Djibouti Corridor States (Djibouti, Ethiopia, South Sudan, Sudan and Uganda) should be urged to sign the Corridor Agreement by the end of December 2017 with the facilitation of the COMESA Secretariat; and
- (d) The Port Sudan to be a corridor available to serve Central Africa Republic, Chad, Ethiopia, South Sudan and other hinterland countries; and
- (e) Member States support the Djibouti Corridor.

One-Stop Border Posts (OSBP)

Decisions

5. Council made the following decisions:

- (a) Member States are urged to install back-up power systems in all busy border posts to avoid down-time of IT equipment;
- (b) All agencies working at border posts to integrate their operations to enable Member States to easily facilitate movement of goods and persons at their borders; and
- (c) Integrated Border Management (IBM) and not just OSBP should be implemented to promote national and regional coordination and cooperation among all relevant authorities and agencies;
- (d) Member States are urged to accelerate the implementation of Legal Notice No. 2 and Yamoussoukro Decision; and
- (e) COMESA Secretariat is requested to conduct a study and to formulate guidelines on the use of drones in the COMESA region.

COMESA CNS/ATM Project

Decisions

6. Council decided that the following regulations and guidelines be adopted by Council after consideration by the Ministers of Justice and Attorneys General at their next meeting in 2018:

- (a) Regulations establishing the COMESA Seamless Upper Airspace (Cooperative Legal and Institutional Regional Framework) and its annexes;
- (b) Agreement for the setting up of the COMESA Aviation Agency and its organization structure;
- (c) Civil-Military Interface Framework and Model MoU for the establishment of National Civil/Military Committees;
- (d) Model Air Navigation Safety Regulations;
- (e) Framework for the Business and Strategic Plan of the Agency;

- (f) Model Air Navigation Economic and Performance Regulations and Guidelines; and
- (g) Funds initially allocated for Design and Transaction Advisory Services Study (US\$1.7 million) be used for the implementation of activities recommended under the three phases.

SURFACE TRANSPORT

Road Projects

North – South Multimodal Transport Corridor

Decisions

7. Council decided that:

- (a) Member States where COMESA has finalized project preparation and the projects have attained bankability should scale up financial closure and include the projects in their National Development Plans. This would avoid disinvesting the project preparation investment, and avoid revalidation costs of the feasibility studies if left for too long without construction taking place;
- (b) Member States are urged to submit updated information on the road network condition for the regional trunk road network, and submit projects that would require preparation to attain bankability; and
- (c) Member States be urged to update the Programme of Infrastructure Development for Africa (PIDA) PAP, to facilitate the upscaling of the projects under this flagship program.

Railway Infrastructure Projects

Decisions

8. Council made the following decisions:

- (a) Member States should applaud Kenya and Ethiopia for their significant contribution to railway infrastructure development in the region;
- (b) Other Member States neighbouring Kenya are urged to expedite new connections to the Kenyan network to ensure realization of full benefits;
- (c) Member States are urged to promote development of railway infrastructure and use of railway mode of transport in view of its benefits in line with the COMESA Treaty and Brazzaville Declaration;
- (d) Member States are urged to build capacity to support these new developments in railway infrastructure;
- (e) Member States adopt measures to protect the new investment against vandalism;
- (f) Member States to note the planned developments in Swaziland, Ethiopia and Sudan; and
- (g) COMESA Secretariat urged to provide advice on funding and reaching financial closure for railway projects in the region.

Futran System Presentation

Decisions

9. Council made the following decisions:

- (a) Applauded Milotek for inventing relatively cheap and environmental friendly transportation technologies which could also integrate energy data links and pipelines;
- (b) Customized presentations be made to Member States; and
- (c) Member States should explore the possibility of adopting the new technology in their respective countries.

MARITIME TRANSPORT AND PORTS

Decisions

10. Council made the following decisions:

- (a) Member States to applaud Djibouti and Kenya for developing additional port infrastructure capacity
- (b) Djibouti Corridor and LAPSSET Corridor States should utilize COMESA Trade and Transit Transport Facilitation Instruments on the corridor to ensure smooth flow of trade at reduced cost;
- (c) Customs and border management processes should be improved; and
- (d) Member States should share their long-term plans like Kenya.

Performance of Eastern and Southern African Port

Decisions

11. Council made the following decisions:

- (a) COMESA ports should benchmark against best performing ports within the COMESA Member States and beyond to improve their productivity and throughput; and
- (b) Member States should implement COMESA Trade and Transit Transport Facilitation Instruments to improve transit and competitiveness of transport corridors.

INLAND WATERWAYS TRANSPORT

Decisions

12. Council made the following decisions:

- (a) The COMESA Secretariat shall be responsible for coordinating and facilitation of the Lake Victoria Mediterranean (VICMED) project;
- (b) All Member States should participate in the VICMED Project Steering Committee meetings;

- (c) Member States should provide comments on the Inception Report produced by the Consultant within two months after receipt of documents by Sudan;
- (d) Member States should provide necessary information to the consultants;
- (e) Full information about the project be availed to all concerned Member States and COMESA Secretariat to ensure smooth coordination;
- (f) COMESA should start the resource mobilization process in coordination/liaison with Egypt as Champion of the project;
- (g) COMESA Member States are urged to nominate focal persons and establish National Committees for VICMED project by 31st October 2017;
- (h) COMESA Secretariat should mobilize resources to conduct the pre-feasibility study for the navigation of the Baro river section; and
- (i) A central Interactive database should be developed at COMESA Secretariat where Project information can be populated for access by Member States.

Matadi Port – Democratic Republic of Congo

Decisions

13. Council took note of the role played by inland water transport and made the following decisions which will apply to all COMESA inland waterways:

- (a) Member States to note the key role played by inland waterways;
- (b) Member States are urged to support development of inland waterways which provide alternative cheaper transport routes;
- (c) Concerned Member States around Lake Tanganyika to synchronize their investment/development plans to avoid creation of excess capacity on either side;
- (d) Member States to consider introducing new and larger vessels in Lake Tanganyika to improve service delivery and cater for growing demand; and
- (e) COMESA Secretariat and Member States should support capacity building for officers working in the Inland Water Ways Transport sector ;
- (f) A study be undertaken to establish the possibility of establishing Ro-Ro facilities on Lake Tanganyika;
- (g) Benchmark and adopt fishing strategies to enhance trade and inland waterways;
- (h) Explore navigation and ICT systems and infrastructure to be developed in inland waterways for safe navigation;
- (i) Reviews maritime policy framework to capacitate maritime affairs administrators within land linked countries;
- (j) COMESA through regional institutions and Member States to establish a shipping line that would serve both the inland and coastal countries; and
- (k) Develop Security and Safety Standards for inland water ways

LOGISTICS

Decisions

14. Council made the following decisions:

- (a) COMESA Member States should domesticate and implement COMESA Trade and Transit Transport Facilitation instruments;
- (b) Member States subscribe to regional facilitation instruments like CVTFs;
- (c) Member States and the COMESA Secretariat urged to improve border management processes through OSBPs and e-logistics IBM; and
- (d) Build capacity in logistics services.

Container Freight Rates

Decisions

15. Council made the following decisions:

- (a) COMESA should enter strategic partnerships to manufacture own containers in the region;
- (b) Member States need to invest in infrastructure;
- (c) Member States should improve their Transit Systems and Customs Administration; and
- (d) Improve on logistics.

(iii) INSTITUTIONAL CONNECTIVITY

INSTITUTIONAL AND REGULATORY POLICIES

Update on the Air Transport Programme to be Funded Under 11TH EDF

Decisions

16. Council made the following decisions to be applied across all sectors of transport:

- (a) Member States to identify critical areas requiring support within the framework of this programme;
- (b) Member States should provide data for studies when requested to do so to facilitate identification of key issues.
- (c) The COMESA Secretariat to carry out a comparative study on infrastructure construction costs which shall be issued regularly to all Member States; and
- (d) The COMESA Secretariat to look at the experiences and lessons learnt on PPPs for Countries to share experiences and expertise in this area.

Establishment of Djibouti Corridor Authority

Decisions

17. Council made the following decisions:

- (a) The Djibouti Corridor States urged to set a timeline over which the Agreement will be signed;
- (b) A workshop be convened to consider and adopt the Corridor Strategic Plan developed by the Consultant;
- (c) Harmonize activities of COMESA and IGAD on the Djibouti Corridor; and
- (d) COMESA Secretariat mobilizes resources to support the corridor programme and Secretariat once the Agreement is signed; and
- (e) A central Interactive database be developed at COMESA where Member States and Project information can be populated

Establishment of COMESA Railways Association

Decisions

18. Council decided that:

- (a) COMESA Secretariat convenes a workshop for railway operators and asset holding companies to discuss the Draft Constitution and Strategic Plan; and
- (b) Member States should urge railway operators and asset holding companies in their countries to join the Association.

Memorandum of Understanding between COMESA and PMAESA

Decisions

19. Council made the following decisions:

- (a) Member States should provide their comments to the Container Terminal Concession Guidelines by end of October 2017;
- (b) Member States use the Guidelines in their respective countries;
- (c) In reference to the signed MoU between PMAESA and COMESA both entities shall provide expert advisory on planned and review the current container terminal concession agreements;
- (d) PMAESA to collaborate with COMESA, SSATP and member States to create awareness on ICT imperatives through capacity building initiatives to encourage ports to disseminate performance data and reports;
- (e) Develop coordination and monitoring mechanisms at a Regional Level to ensure collection/production/dissemination of performance information;
- (f) Pursue the participation of Ministers of Transport, Finance and Trade together with port stakeholders in the dissemination of guidelines;
- (g) Support the development of integrated policy and legal framework for the implementation of concessions;
- (h) Through the implementation of sustainable development goals create structures for performance (operational and financial) review and reporting;

- (i) Influence and obtain buy-in for Cruise Africa Brand in light of intermodal infrastructure development, such as cruise passenger terminals at the Port, required to implement an alternative growth diversified strategy;
- (j) Member States are encouraged to participate at the upcoming PMAESA conference to influence and elevate the role of land-linked countries;
- (k) Develop inland waterways strategies and infrastructure to enhance growth in the land-linked countries in order to capture and tap on available diversified opportunities in relation to the safe transportation of passengers and cargo; and
- (l) Enhance the safety and security standards and procedures for waterway and dry ports operations to be or close to that of coastal ports.

ENERGY

(A) POLICY AND REGULATORY HARMONISATION

Domestication of the COMESA Model Energy Policy Framework

Decisions

20. Council made the following decisions:

- (a) Countries which are not compliant to the COMESA Model Policy Framework are urged to review/develop their national policies in line with the COMESA Model Energy Policy, and
- (b) COMESA Secretariat should provide technical assistance whenever required by Member States.

Implementation of Ministerial Decisions

Implementation of Decisions on Adoption of Guidelines on Renewable Energy Development, Adoption/Customization by Member States and Development of Detailed Renewable Energy Standards

(B) PHYSICAL INFRASTRUCTURE CONNECTIVITY

Power Generation

Decisions

21. Council made the following decisions:

- (a) Member States are urged to fast track the implementation of the generation projects to enhance energy security and therefore enhancing COMESA's competitiveness;
- (b) Member States are urged to submit their small hydro power projects to COMESA by end of November 2017 so that COMESA can submit them to cooperating partners' consideration and implementation; and

- (c) Member States are urged to take part in the annual training workshops to be organized between COMESA and ICSHP through the COMESA/ICSHP Co-office.

Power Interconnection Projects

Decision

22. **The meeting decided** that Member States be urged to fast track the implementation of power interconnectors to increase power trade in the region to enhance energy security, reliability, affordability and accessibility with the aim to enhance COMESA integration agendas provided that cooperation and regional integration should be based on the win-win and no harm principle and other objectives in accordance with the Inter-Governmental Memorandum of Understanding (MoU) signed in 2005 by all Member States involved in the trans-boundary development projects.

Petroleum

Decision

23. **The meeting decided** that a COMESA petroleum programme be developed to enhance regional cooperation in order to address the challenges that many COMESA countries are facing when managing the petroleum sub-sector.

(C) INSTITUTIONAL CONNECTIVITY

Regional Association of Energy Regulators for Eastern and Southern Africa (RAERESA)

Decisions

24. **Council made the following decisions:**
- (a) Mauritius, Swaziland and Zambia are urged to acquire full membership status of RAERESA as soon as possible;
 - (b) To encourage investment in the energy sector, particularly renewable energy, Member States are urged to consider adopting cost reflective tariffs;
 - (c) Member States are urged to implement energy efficiency measures such as the adoption of Key Performance Indicators (KPIs) to reduce electricity losses; and
 - (d) Member States are urged to share lessons on strategies and know-how on deployment of cheaper renewable energy.

Enhancement of Energy Market in the Eastern Africa, Southern Africa and Indian Ocean (EA-SA-IO) Region

Decision

25. **Council urged** COMESA and RAERESA and all the cooperating RECs to expedite the implementation of the project.

INFORMATION AND COMMUNICATIONS TECHNOLOGIES (ICTS)

(i) POLICY AND REGULATORY HARMONISATION

Domestication of Cybersecurity Policy Guidelines and Bill

Decisions

26. Council made the following decisions:

- (a) Taking into consideration the emerging technological and business dynamics, the COMESA Secretariat should assess COMESA Model ICT Policy and Bill for possible review;
- (b) Member States are urged to adopt the COMESA cybersecurity model bill and Policy guidelines;
- (c) Member States are urged to setup national institutions to deal with cybersecurity matters;
- (d) Member States not compliant with COMESA model bill and Policy guidelines are urged to review/develop their national policies in line with Model guidelines;
- (e) COMESA secretariat urged to work with Member States to carryout capacity building and to enhance institutional capacity and to carryout cybersecurity awareness programs; COMESA Secretariat should develop model guidelines on e-commerce;
- (f) Guidelines developed by COMESA should be updated and aligned with latest ITU's; and
- (g) The Secretariat was directed to work with UNEP and the UN Atomic Agency, to explore means of disposing e- waste.

(ii) PHYSICAL ICT ACCESS, CONNECTIVITY AND PRICING DEVELOPMENTS

Prices of ICT Services

Decisions

27. Council made the following decisions:

- (a) Member States should abolish roaming charges in the COMESA Region;
- (b) Member States should set the proper regulation to encourage investment in the virtual mobile network operator (VMNO) to enhance competition and increase access;
- (c) ICT regulators are encouraged to carry out studies to reduce the interconnection rates and reduce or eliminate the roaming charges; and
- (d) Member States are encouraged to invest into the fibre technology to the home (FTTH) to increase capacity and provide excellent quality.

Physical Connectivity Projects - COMTEL

Decisions

28. Council made the following decisions:

- (a) COMTEL project and associated business model be reviewed to consider the emerging industrial trends; and

- (b) The review report should recommend the best technical and business options going forward.

Infrastructure Development Strategy

Decisions

29. **Council decided** that a regional ICT strategy be developed. The strategy shall identify and prioritise projects which shall support improved regional broadband connectivity, content creation and cyber security.

(iii) INSTITUTIONAL CONNECTIVITY

Support to Seychelles for Computer Incidence Response Teams (CIRT) Setup and Training

Decisions

30. **Council made the following decisions:**

- (a) The COMESA Secretariat develops a CIRT creation standards and guidelines for Member States to facilitate the establishment of their CIRTs;
- (b) Member States are urged to establish national cybercrime teams which closely cooperate with cybercrime teams in other Member States; and
- (c) The Secretariat should organize a cybersecurity study tour to the European union (EU) for the Judiciary, law enforcement agencies, legal practitioners and technical staff with a clear timetable and sufficient notice of at least two months to enable more participation.

Cybercrime Capacity Building Centre in Mauritius

Decisions

31. **Council commended** Mauritius for the offer to host the cybercrime capacity building centre **and decided** that:

- (a) The concept note on the cybercrime capacity building centre, legal framework harmonization be enhanced through Mauritius initiative with the support of COMESA; and
- (b) Mauritius will host the centre and will initially look into the sources of financing for its set up with the support of the COMESA Secretariat.

STATUS OF IMPLEMENTATION OF PROGRAMMES AND PROJECTS FUNDED BY EUROPEAN UNION UNDER EDF 11

Decisions

32. **Council made the following decisions:**

- (a) The COMESA Secretariat should convey on behalf of Member States its appreciation to the European Union for the support for the implementation of regional integration programmes and projects; and
- (b) Member States are urged to submit their projects to be included in the list for

funding under EDF 11 hard infrastructure envelope.

MOBILIZATION OF GRANT FINANCING FOR FEASIBILITY STUDIES FOR INFRASTRUCTURE, ENERGY AND TELECOMMUNICATIONS PROJECTS

Cooperation between COMESA and China Overseas Infrastructure Development and Investment Corporation (COIDIC)

Decisions

33. Council made the following decisions:

- (a) Member States are urged to submit infrastructure projects that would likely promote the economic and social development and will attract more foreign investment to the region; and
- (b) Member States are urged to continue supporting the COMESA Project preparation Unit (PPIU) to facilitate the development of infrastructure project pipeline that is well prepared and bankable.

Legal and Corporate Affairs

COMESA Competition Commission Staff Rules

Decision

34. Council adopted Revised COMESA Commission Staff Rules.

35. *A Copy of the adopted Staff Rules of The COMESA Competition Commission is attached to this Gazette as Annex VII).*

COMESA Competition (Appeals Board Procedure) Rules

Decision

36. Council adopted Revised COMESA Competition (Appeals Board Procedure) Rules.

37. *The Revised COMESA Competition (Appeals Board Procedure) Rules is attached to this Gazette as Annex VIII.*

Amendment to the Rules on COMESA Revenue Sharing of Merger Filing Fees (Amendment), 2017 (No.1)

Decision

38. **Council adopted** an amendment to the Rules on COMESA Revenue Sharing of Merger Filing Fees (Amendment), 2017 (No.1).

39. *A Copy of the amendment on Rules on COMESA Revenue Sharing of Merger Filing Fees (Amendment), 2017 (No.1) is attached to this Gazette as Annex IX.*

Revised COMESA Staff Rules and Regulations (2017)

Decision

40. **Council adopted** Revised COMESA Staff Rules and Regulations.
41. *A Copy of the Revised COMESA Staff Rules and Regulations is attached to this Gazette as Annex X.*

Revised COMESA Common Investment Area Agreement (CCIA)

Decision

42. **Council adopted** the Revised COMESA Common Investment Area Agreement (CCIA).
43. *A Copy of The Revised COMESA Common Investment Area Agreement is attached to this report as Gazette XI.*

Amendments to the Protocol on Cooperation, Compensation and Development (COMESA Fund)

Decision

44. **Council adopted** the amendments to the Protocol on Cooperation, Compensation and Development (COMESA Fund) with minor amendments to the Preamble.
45. *A Copy of the amendments to the Protocol on Cooperation, Compensation and Development is attached to this Gazette as Annex XII.*

Draft Agreement between COMESA Member States and the Republic of Tunisia on Accession to the COMESA Treaty

Decision

46. **Council adopted** the draft Agreement between COMESA Member States and the Republic of Tunisia on Accession to the COMESA Treaty.
47. *A copy of the draft Agreement between COMESA Member States and the Republic of Tunisia on Accession to the COMESA Treaty is attached to this Gazette as Annex XII.*

COMESA Court of Justice

Decision

48. **Council made the following decisions:**
- (a) Adoption of the progress report of the COMESA Court of Justice adopted; and
 - (b) The Republic of Sudan, the Court and the Secretariat to address issues raised by the Court.

Report on Signature, Ratification and Domestication of COMESA Legal Instruments

Decision

49. **Council adopted** the report on Signature, Ratification and domestication of Legal

Instruments and called on Member States to submit updates to the Secretariat.

Interpretation of Articles 9(6) and 9(7) of the COMESA Treaty

Decision

50. **Council decided** that the interpretation of the provisions of Article 9(6) and 9(7) of the Treaty should be referred to the COMESA Court of Justice.

Industry and Logistics (*Agenda item 6.3*)

(i) Local Content and Industrialization

Decisions

51. **Council made the following decisions:**

- (i) Urged Member States to develop an all-encompassing legal framework to guide local content policy and strategy development. The framework should build upon existing initiatives and be based on realities in each Member State and be completed by March 2018; and
- (ii) Directed the Secretariat to conduct periodic audits of local content development and implementation to ensure consistency and equity in associated beneficiation of local content at Member State and Regional levels. This should begin immediately with baseline audits in all Member States.

(ii) Quality Infrastructure (QI) Systems

Decision

52. Council decided that Member States should give status reports on development and implementation of National Quality Policies, Institutional measures for Re-engineering of the National Quality Infrastructure Institutions (Standards; Metrology; Conformity assessment; Accreditation) to ensure trade among Member States and access to international markets, including Mutual Recognition Arrangements by end of June 2018.

(iii) Models of Industrialization and Industrialization Paths

Decisions

53. **Council made the following decisions:**

- (a) Each Member State should apply the best industrial development model according to its specific context or comparative advantage; and
- (b) COMESA Member States should facilitate easy movement of raw materials and finished goods in support of industrial development.

(iv) Diaspora Support to Industrialization

Decisions

54. **Council made the following decisions:**

- (a) Member States without a comprehensive Diaspora policy should develop and/or improve their current policy in order to enhance Diaspora involvement in the region's industrialization drive by taking advantage of investment capital, skills and technology; and
- (b) Member States should create an enabling environment for the Diaspora to develop and operate their Diaspora Investment Fund and other financial instruments.

(v) Country and Regional experiences

Decisions

55. Council made the following decisions:

- (a) Directed the COMESA Secretariat to facilitate peer learning on success stories and experience sharing on industrialization development, among COMESA countries;
- (b) Urged Member States, who have not submitted to the Secretariat their respective Country experiences on industrialization to do so by the end of 2017; and

(vi) Key Priority Sectors

Decision

- 56. Council urged** Member States to identify other industrial sectors based on their competitive and comparative advantage.

(vii) Industrialization Enablers - Leather and Leather Products Institute (LLPI)

Decisions

57. Council made the following decisions:

- (a) The Leather and Leather Products Institute (LLPI) to initiate and complete the process of changing its current name to 'Africa Leather and Leather Products Institute' (ALLPI);
- (b) LLPI should establish regional design studios, and increase its membership from within and outside of the region;
- (c) LLPI should engage the government of Ethiopia for the establishment of the inaugural regional design studio for the leather industry; and
- (d) LLPI should provide critical analysis on the state of development and future directions of the leather industry in all Member States.

Decisions

58. Council made the following decisions:

- (a) Member States are urged to expedite, complete and/or operationalize the competition law with the support of the COMESA Competition Commission (CCC);

- (b) COMESA Competition Commission should engage the private sector, judiciary, professional bodies, public officers and other key stakeholders in competition law advocacy; and
- (c) Directed the COMESA Competition Commission to provide technical assistance to Member States in order to enhance their competition law enforcement.

59. COMESA Business Council (CBC)

Decisions

60. Council made the following decisions:

- (a) The COMESA Secretariat should involve the Private Sector at all stages of policy and programme formulation and implementation related to industrialization; and
- (b) The COMESA Business Council should reach out to more private sector associations in the region and establish working relationships with them.

COMESA FUND

61. Council made the following decisions

A. Progress Report on RISM

- (a) COMESA Secretariat should process all requests for extensions to project agreements under the 9th EDF RISM Rider by 20th December 2016;
- (b) All Member States being granted project extensions should issue contract extensions under their respective projects where applicable but before expiry of the contracts to avoid ineligibility of expenditures;
- (c) All Member States with projects under the 9th EDF to expedite the implementation of the remaining project activities before the extension period expires;
- (d) The implementation period for 2016 targets be extended to June 2017 under the 8th Call for Submissions, to allow Member States to fulfill their regional obligations;
- (e) Project Agreements for Comoros, Malawi, Sudan, Uganda and Zambia, whose resources were approved under the 6th Call for Submissions, be finalized by 31st March 2018;
- (f) EU to be Commended for clarifying that programmes and financing, to encourage regional integration, irrespective of how they are implemented, are not covered by measures under article 96 of the Partnership Agreement between the EU and the ACP countries; and
- (g) That Sudan's project under the 9th EDF be extended for one year in view of delays linked to their eligibility under RISM.

B. Responses under the 7th Call for Submissions

- (a) Kenya, Sudan and Uganda be awarded 100% of their 2016 indicative allocations in line with their respective performance;

- (b) Comoros, DR Congo, Madagascar, Mauritius, Seychelles, Swaziland and Zambia be awarded 50% of their 2016 indicative allocations in line with their respective performance;
- (c) Djibouti, Ethiopia, Malawi and Zimbabwe not be awarded their 2016 indicative allocation in line with the respective performance payment percentage;
- (d) Ethiopia make a PMR submission under the 8th Call for Submissions in 2017 on condition that all 2015 targets are assessed as 2016 targets;
- (e) Burundi's PMR be approved but no disbursement be made on the 2015 performance;
- (f) Rwanda make a PMR submission under the 8th Call for Submissions in 2017 on condition that where applicable, the 2015 targets are assessed in the next call and further that additional targets are provided for 2016 by the launch of the next Call for Submissions;
- (g) All the country-specific recommendations made in the detailed country assessment of each Member State are approved as presented;
- (h) Secretariat revises and updates all PMRs in line with the assessment and notifies the Member States, providing the revised and updated documents as the final record;
- (i) Member States urged to ensure compliance with the Authority's decision on assessed annual contributions to the COMESA Secretariat budget;
- (j) All disbursement to General Budget Support (GBS) countries is made within 3 months of approval;
- (k) The period for the finalization and signature of all project documents is set at 31 May 2017; and
- (l) Secretariat launches the 8th Call for Submissions based on balances under the 6th and 7th Calls for Submissions.

C. Consideration of the 2018 RISM Work Programme

62. **The Ministers adopted** the 2018 workplan.

D. CAF Sustainability Strategy

- (a) The draft CAF Sustainability Strategy is noted and further improvement in analysis of options be undertaken following wider consultations at national level and with donors; and
- (b) The CAF sustainability strategy is considered in the context of the overall COMESA resource mobilization strategy.

E. Consideration of Progress under the COMESA Infrastructure Fund

- (a) The COMESA Fund Protocol is amended to provide for the COMESA Infrastructure Development Fund which will be a vehicle for receiving grants and concessionary financing for leveraging and blending resources to reduce the cost of infrastructure projects;

- (b) The COMESA Secretariat and PTA Bank will submit a progress report on the CIDF in the margins of the IMF/World Bank spring meetings; and
- (c) The draft amendments to the COMESA Fund Protocol should reflect the following.

F. The African Trade Insurance Agency (ATI)

63. **Councils decided** that Member States that had not joined the Africa Trade Insurance and Trade and Development Bank be urged to do so.

STATISTICAL MATTERS

Decision

64. Council:

- a. **Adopted the 2017-2020 COMESA Statistics Strategy; The 2017-2020 COMESA Statistics Strategy is contained in CS/ STATS/CCSM/8/4 attached to this report as Annex XIII;**
- b. Directed the Secretariat to be including COMESA Desk Offices in communication with Member States on statistical matters, in addition to the National Statistics Offices.

TRADE AND CUSTOMS

COMESA Macroeconomic Report

Decisions

65. Council decided that Member States:

- (a) Pursue appropriate macroeconomic policies and at the same time increasing access to key public services, notably education, health and security and further improving institutions and regulations for private sector activity;
- (b) Continuously improve political and economic governance, and economic management to enhance productivity in sectors where a Member State has comparative advantage;
- (c) Address deficits in infrastructure, technology and human capital by mobilizing domestic resources innovatively. This can be accomplished by, for example, improving public sector management; combating tax evasion and illicit financial flows, deepening financial system, issuing infrastructure bonds; developing sovereign wealth funds, etc;
- (d) Undertake structural transformation geared towards economic diversification from commodity exports dependence into higher value-added services and goods, while continuing to raise agricultural productivity, even as agriculture's share in the economy declines;

- (e) Accelerate regional integration by implementing the Tripartite Free Trade Area arrangement thereby boosting intra-regional trade in manufactured goods; and
- (f) Develop country specific action plans to ensure implementation of decisions on macroeconomic issues.

COMESA Trade Statistics

Decision

66. **Council decided** that the Secretariat undertakes capacity building for Member States to facilitate the use of the COMSTAT web portal.

INTERNAL MARKET

Trade in Services

Decisions

67. **Council decided that:**

- (a) The Member States who have not published the negotiated and adopted schedules of specific commitments do so;
- (b) The Secretariat should circulate the reports of the Committee on Trade in Services;
- (c) Member States should implement the schedules of specific commitments in the four priority sectors by 30 June 2018;
- (d) Member States that have not produced their schedules of specific commitments for the first round of negotiations do so; and
- (e) Decisions taken on Trade in Services should be implemented by 30 November 2017 in time for the next meeting of the Committee on Trade in Services.

COMESA-WTO Training Workshop for Member States Trade in Services Experts, 15-18 November 2016 Victoria Falls, Zimbabwe

68. **Council decided that:**

- (a) All official communication to Member States should be sent to the coordinating ministries with copies to the embassies in Lusaka and line Ministries and agencies;
- (b) Member States to address all official communication to the Secretary General when communicating with the Secretariat;
- (c) COMESA negotiations should draw from and build on good practices from other RECs and organisations; and
- (d) The Secretariat to undertake a study on mapping of the services sectors in COMESA.

Progress in the implementation of Schedules of Specific Commitments for the first round of Services Liberalisation

69. Council decided that:

- (a) The Secretariat should translate all the submitted offers into the COMESA official languages and circulate them to all the Member States;
- (b) The Trade in Services Committee should verify the final offers of specific commitments prior to submission to the Council for adoption; and
- (c) A full roadmap for implementation of negotiation outcomes should be agreed and adhered to for the next round of negotiations.

Progress on the Development of the Schedules of Specific Commitments for First Round of Services Liberalization

70. Council decided that:

- (a) Member States that have not yet submitted their offers in the four priority sectors to do so by 30 November 2017; and
- (b) Member States that are Members of the WTO should ensure that their offers are GATS or WTO plus.

Services Trade Barriers

Mutual Recognition of the Movement of Natural Persons

71. Council decided that:

- (a) The COMESA Secretariat should undertake a study on the demand and supply of services in the COMESA region since potential in services in the region is not clearly known;
- (b) The Secretariat in collaboration with relevant partners should undertake capacity building activities in the Member States for stakeholders to enhance implementation of the reforms in the services sectors;
- (c) Member States should develop mechanisms to enhance the participation of SMEs in tapping the opportunities in the services sector; and
- (d) The Secretariat should undertake a study on mutual recognition agreements in the COMESA region.

Draft Schedules of Specific Commitments as a basis for the second round of negotiations

72. Council decided that:

- (a) Member States should ensure inclusive consultations at the national level by involving all the relevant line ministries, agencies and the private sector; and
- (b) Member States are not bound to use the draft schedules prepared by the Secretariat but they can use them as guides in preparing their Schedules of commitments.

Development of a Framework for Negotiation of Mutual Recognition Agreements(MRA) for professional bodies/qualifications

Decision

73. Council decided that the Committee on Trade in Services should hold dedicated sessions to:

- (a) Develop COMESA MRA guidelines drawing on best practices including the WTO template;
- (b) Take into account the five MRAs that have been adopted by the EAC in order to promote coordination; and
- (c) Identify the priority sectors where MRAs should be developed for negotiations.
- (d) **Initiate Agreement on Mode 4 (temporary movement of natural persons/ corporate transferees)**

Decision

74. Council decided that:

- (a) The title of the annex should be “The Temporary Movement of Natural Persons”; and
- (b) A sub-committee should be established to consider the Annex on Temporary Movement of Natural Persons.

75. Council also decided that the next meeting of the Committee on Trade in Services should consider the observations and reservations by Egypt.

TRADE AND TRADE FACILITATION

Innovation, Technology and Trade in COMESA Region

Decisions

76. Council decided that Member States should:

- (a) Increase support to technology research;
- (b) Increase support to technology commercialization;
- (c) Increase support to digital technology infrastructure;
- (d) Mainstream a culture of productivity at all levels of production processes; and
- (e) Foster effective education and skills especially science, technology, engineering and math skills.

Assessment of the COMESA Free Trade Area

Decisions

77. Council decided that:

- (a) COMESA through regional institutions and member States should establish a shipping line that would serve both inland and coastal member States taking into

account the trade-related costs;

- (b) The Secretariat should expeditiously undertake detailed analysis on the rules of origin, trade costs, transportation costs and other elements affecting intra-COMESA trade; and

IMPLICATIONS OF BREXIT FOR COMESA

The Future of COMESA-UK Relationship

Decisions

78. Council decided that:

- (a) In the interim, Member States should take advantage of UK's gesture of "Global Britain" to negotiate, a UK trade deal equal to or better than the existing EU arrangement;
- (b) A further priority should be to identify and support trade interests of Member States that stand to gain from changes brought about by Brexit especially in the agricultural sector and other sectors;
- (c) The Chairperson of the COMESA Authority should write to the UK Prime Minister, to ensure that formal commitment is made to continue trade with UK on the same preferential terms, by the 30 November 2017;
- (d) COMESA SHOULD propose a joint meeting between the UK and COMESA Member States to address issues of development assistance and preservation of existing support; the meeting to take place by 30 March 2018 and
- (e) Secretariat to undertake a detailed assessment of the impact of Brexit on COMESA including the opportunities that will arise as a result of Brexit and measures to be put in place by Member States to harness these opportunities, study to be finalized by 30 March 2018. The Secretariat to provide an update to the next meeting of the Intergovernmental Committee.

Sugar Safeguard Report

Decisions

79. Council decided that:

- (a) Kenya should continue implementing the formula for allocation of quota shares to COMESA Member States which was approved by the Council of Ministers; and
- (b) Member States are urged to use up their allocated quotas.

Kenya Gazette Notice No. 4536 of 12 May 2017

Decision

80. **Council decided** that Kenya should disaggregate the HS code on sugar and conform to the Council decision on the same.

Member States not participating in the COMESA FTA

Decision

81. Council:

- (a) Urged non-FTA Member States to expedite their accession processes to the COMESA FTA to enhance intra-regional trade and create opportunities for citizens of the region;
- (b) Urged Uganda to submit its schedule to phase down duties on products not covered by the COMESA FTA regime once approved by Parliament;
- (c) Requested the Secretariat to circulate to all Member States the gazette of Congo DR effecting the 70 percent tariff reduction once received from Congo DR;
- (d) The Secretariat should advise the Member States by 15 November 2017 whether the document has been received; and
- (e) Requested the Secretariat to transmit to Congo DR the accession instruments of the other Member States.

Simplified Trade Regime (STR)

Decisions

82. Council decided that:

- (a) the Simplified Trade Regime be extended to cover services as well; and
- (b) Urged Member States to implement the agreed common lists.

Trade Facilitation Portals

Decision

83. **Council decided** that the Secretariat develop a regional trade facilitation portal which will include information on all COMESA Member States.

WTO Trade Facilitation Agreement

Decisions

84. Council decided that:

- (a) Member States that are also WTO Members that have not ratified the Trade Facilitation Agreement be urged to do so;
- (b) Member States that have not notified their categories should notify the WTO and should share their category C on the WTO TFA commitments with the Secretariat for compilation and for developing a coordinated and a comprehensive regional program for capacity building and technical assistance purposes;
- (c) Member States that have not established the National Trade Facilitation Committees or similar bodies be urged to do so;
- (d) Non-WTO Member States in the process of accession may submit a formal request for specific support to COMESA Secretariat; and
- (e) The Secretariat to establish a data base on trade facilitation.

The African Growth and Opportunity Act (AGOA)

Decisions

85. Council decided that:

- (a) AGOA Eligible Member States that have not done so, should develop national AGOA utilization strategies and in the process may make use of the Guidelines developed by UNECA namely, Djibouti, Madagascar, Malawi and Comoros;
- (b) AGOA eligible countries should ensure that their national utilization strategies serve as one-stop shops to address the AGOA constraints experienced during the first sixteen years of AGOA's existence and diversify their productive structures, add value and transform their economies;
- (c) AGOA eligible Member States and the Secretariat should work closely with the existing regional US Trade and Investment Hubs to facilitate effective utilization of AGOA and to create sustainable partnerships between the local producers and buyers in the US and to seek capacity building in meeting US market requirements for agricultural and manufactured products;
- (d) In developing the regional strategy for AGOA account should be taken of the national strategies and utilisation of regional value chains;
- (e) Sudan should develop a national AGOA utilisation strategy by making use of Secretariat technical support; and
- (f) Member States request the US to:
 - i. streamline its Aid-for-Trade to Africa by developing Millennium Challenge Account-like compacts for those AGOA eligible countries that have developed their own National AGOA Utilization Strategies; and
 - ii. establish an AGOA Implementation Fund where agencies such as UNECA may access fund to provide assistance to AGOA eligible countries. The Fund could be resourced from US resources and other continental resources.

Capacity Building

Decision

86. **Council recalled its decision**, at its Thirty Sixth Meeting, that the capacity building program be absorbed into the COMESA regular programs and directed the Secretariat to implement this decision.

Audit Report on Non-Tariff Barriers (NTBs)

Decisions

87. Council decided that:

- (a) Outstanding NTBs be resolved and in this regard clear timeframes should be agreed between the concerned member States in line with the COMESA Regulations on NTBs;
- (b) Pending the adoption of the electronic certificate of origin, member States should accept electronic copies of specimen signatures sent by email and should not insist on hard copies;

- (c) Specimen signatures and signatories are required to be sent to the Secretariat for circulation to Member State only when there are changes to existing signatories; and
- (d) COMESA should harmonise SPS standards, which would assist to address non-tariff barriers that arise from some inconsistent national standards.

Action Plan on Digital FTA

Decisions

88. Council made the following decisions:

- (a) A phased approach should be adopted for rolling out the instruments for Digital FTA, beginning with the instruments that are ready and member States who are willing/ready to participate during the year 2017; while finalising the other segments and addressing constraints Member States may have;
- (b) Secretariat should undertake capacity building programmes to enhance the capacity of the Member States that will be implementing the initiative in the first half of 2018;
- (c) Secretariat to organise a regional workshop and national workshops with Member States who are willing to participate in these initiatives to bring on board the public and private sector to provide input and ownership of the systems, as well as ensure that the system integrates the SMEs;
- (d) The Secretariat should undertake a gap analysis of which instruments Member States have and their preparedness to implement the Digital FTA instruments;
- (e) The Secretariat should identify resources to hold a regional workshop on the digital FTA and the e- certificate of origin. In addition, demand driven national workshops will be held for Member States; and
- (f) The Secretariat to expedite the process of organizing a regional workshop and national workshops for Member States that are willing to participate in these initiatives in order to bring on board the public and private sector thereby ensuring input and ownership of the digital FTA and e- certificate of origin, as well as ensure that the system integrates the SMEs.

Blockchain Technology

Decision

- 89. Council decided** that the Secretariat should design a programme for the use of the block chain technology to address challenges that the COMESA region is facing in terms of counterfeit products.

SANITARY AND PHYTO-SANITARY MEASURES

Decisions

90. Council decided as follows:

- A. **Animal Health**
 - (a) Member States should establish the animal health technical working group under the SPS subcommittee;
 - (b) Member States should Harmonize secondary legislation and animal health controls of Transboundary Animal Diseases (TADs) in collaboration with AU-IBAR, OIE and FAO; and
 - (c) Member States should develop/harmonize risk based inspection and certification systems for foods of animal origin.
- B. **Plant Health**
- C. **COMESA Reference Laboratory Model**
 - (a) Member States should establish the food safety technical working group under the SPS subcommittee;
 - (b) Member States should establish and define the scope of reference and satellite laboratories taking into account competencies and geographical location;
 - (c) The Secretariat should develop and implement a capacity building programme for operationalising the reference and satellite laboratories, taking into account key parameters important for intra COMESA trade, including MOUs between reference, satellite and national laboratories
- D. **General**
 - (d) The Secretariat to ensure that invitations to any meetings or workshops should be submitted to the coordinating Ministries in the Member States and Embassies in Lusaka, Zambia; and
 - (e) Member States to integrate the SPS/TBT programme in the COMESA mainstream integration programmes.
- E. **Infant Industry Criteria**

Decisions

91. Council decided that:

- (a) The Secretariat should circulate the revised infant industry criteria and Member States to submit comments by 30 November 2017. The revised infant industry criteria will be considered by the next meeting of the Trade and Trade Facilitation Sub Committee;
- (b) The Secretariat in collaboration with relevant development partners should undertake a comprehensive study on infant industry to be considered by the Trade and Trade Facilitation Sub Committee; and

- (c) Member States should include industry experts in their delegations for the next meeting of the Trade and Trade Facilitation Sub Committee.

CUSTOMS AND TRADE FACILITATION

Building Time Release Studies(TRS) Regional and National Capacities

92. Council decided that:

- (a) COMESA Secretariat should formulate and implement a training programme as part of the Customs Work Programme 2018-2020;
- (b) at the regional level, COMESA should undertake training workshops along the lines of the regional training workshop that took place in Nairobi as part of the launch of this TRS project;
- (c) at the national level, COMESA should implement country-specific training and capacity building targeted at customs officers involved in customs modernisation and IT operations;
- (d) In delivering the training both at national and regional levels, COMESA should collaborate with such institutions as the WCO, Euro Customs, Japan Customs, US Customs, Korea Customs and similar organisations and administrations that have expertise in TRS;
- (e) COMESA Secretariat should develop a deliberate programme under which Member States would undertake TRS periodically, say at 3 yearly intervals, and share their findings at Meetings of the Trade and Customs Committee;
- (f) As part of national capacity building, COMESA Secretariat should urge countries to institutionalise TRS by establishing Units or departments within the Customs Services of the Revenue Authorities similar to the Madagascar Customs Clearance Observatories; and
- (g) While Member States should be urged to undertake and publicise national TRSs, COMESA Secretariat should undertake and publicise regional TRSs taking a corridor approach as demonstrated in the Ethiopia-Djibouti Corridor case study.

Systems Automation and Simplification of Procedures and Processes

93. Council decided that:

- (a) All COMESA Customs administrations be fully computerised and use customs IT systems that interface with other systems in use in other COMESA countries. The systems should be robust and flexible enough to accommodate all processes related to clearance of goods and be able to incorporate all current and future clearing processes such as payments/banking and governmental licences and/or permits;
- (b) The customs IT system should, as a minimum, be ASYCUDA World or its equivalent, and the system should be upgraded regularly in line with ASYCUDA World upgrades and/or developments in the IT field; and
- (c) As part of the 2018-2020 Customs Work Programme, the Secretariat mobilises financial and technical resources to assist countries which have not yet migrated to ASYCUDA World and do not have resources and/or capacity to migrate.

Systems Harmonisation and Inter-connectivity

94. Council decided that:

- (a) the banking/payments system in every country should be linked or inter-faced with the customs IT system. Where this inter-face already exists, it should be strengthened by ensuring that payments made at banks are reflected in the customs system before the close of business each day; and
- (b) COMESA should have a harmonised and standard data connectivity platform among other government agencies and private stakeholders who are active players across the trade supply chain. In this regard, promoting the establishment of a national and regional level Single windows is recommended.

One Stop Border Posts

95. Council decided that:

- (a) As part of the 2018-2020 Customs Work Programme, COMESA should review the efficacy and overall operations of existing One Stop Border Posts across the COMESA region; and
- (b) Taking into account the outcomes of the review I, COMESA should assist Member States to establish or improve One Stop Border Posts, among others, the following:
 - (i) Galafi on the border between Ethiopia and Djibouti; and
 - (ii) Kasumbalesa on the border between Zambia and the Democratic Republic of the Congo.

Single Window

96. Council decided that:

- (a) COMESA, as part of the 2018-2020 COMESA Customs Work Programme, should undertake intensive training and other capacity building measures, including staff exchanges and attachments with Customs authorities within and beyond the region, aimed at supporting the establishment of Single Window platforms in countries where these do not yet exist, or improving their operations where they exist; and
- (b) The MS should develop their national Single window system with a view of establishment of harmonised regional single window in COMESA.

Border Agency Co-operation

97. Council decided that:

- (a) In line with on-going border agency co-operation agreements and arrangements COMESA Secretariat develops a programme, including legal, administrative, human resource and technical aspects, to enable busy border posts (heavy traffic border posts) adopt 24/7 operating hours; and

- (b) COMESA adopts parameters to categorise border posts as light traffic or medium traffic (not-so-busy and moderately-busy) and recommend model working hours for each category, and work with customs administrations to harmonise border post working days and hours.

Electricity Supply and Internet Connectivity

- 98. **Council decided** that all customs administrations in the Member States be urged to explore and utilise all available sources of power and means of connectivity with a view to ensuring uninterrupted power supply and Internet connectivity to customs operations at border posts.

Customs Offices/Facilities

- 99. **Council decided that:**
 - (a) Given the importance of customs operations in each country, Member States be urged to build permanent structures for customs operations; and
 - (b) Operations out of 20 or 40-foot containers should be discouraged.

Roads and Bridges

- 100. **Council decided** that Member States be urged to invest in roads and bridges leading to/from border posts given the significance of customs operations and the high economic return of facilities associated with these operations.

Parking Yards and Driveways

- 101. **Council decided** that customs authorities be allowed to maintain and manage parking yards and driveways within the customs control areas, including allowing them to raise funds for maintenance through reasonable charges for over-staying, unauthorised parking, and similar infractions. The charges should be harmonised at the COMESA level.

Customs Staff Amenities

- 102. **The Council decided** that each customs administration should be urged to provide housing for its staff at or near border posts.

Drivers' Amenities

- 103. **Council decided** that all customs authorities should be urged to ensure that all border posts have adequate and appropriate restrooms, bathrooms and dining areas.

Border Station Staffing Levels

- 104. **Council decided** that the Member States be urged to strive to have requisite staff complements at border posts to avoid temporary closures of some operating stations at some hours such as lunch hour leading to delayed clearance of goods.

Staff Capacity Building

- 105. **Council decided** that COMESA develops a regional capacity building programme covering IT, valuation, classification, rules of origin and work with existing in-house, local and multilateral institutions in delivering it to build the capacity of Member States

on demand driven.

Signage at Border Posts

106. **Council decided** that all customs administrations be reminded, periodically and regularly, to post new or renew signage at border posts to enhance the flow of traffic, both human and vehicular.

Help/Information Desks

107. **Council decided** that customs authorities should be urged to establish Information or Help Desks at border posts to provide guidance to clients and to improve day-to-day communication between customs authorities and other stakeholders.

Customs Union Instruments

Status of implementation

Decision

108. **Council decided** that Member States proactively take advantage of the available resources under the RISM Fund by developing project documents in time and implement as a matter of priority in aligning their tariff books with the COMESA CTN/CET by at least 75%; and by 100% with the CMR and finalise domestication.

Accession to the Revised Kyoto Convention (RKC) and HS Convention

Decisions

109. **Council decided that:**
- (a) Member States that have not acceded to the RKC should do so as soon as possible by taking appropriate actions in order to benefit from the available advantages of the core principles of the RKC; and
 - (b) The COMESA Secretariat should work closely with the WCO Secretariat to provide technical assistance for Member States with a view to support and expedite the accession process by Member States to the RKC.

Publication and Availability of Information, Advance Rulings

Decisions

110. **Council decided that:**
- (a) Member States should share their status of implementation on Publication, Availability of Information and Advance Rulings; and
 - (b) COMESA Secretariat should develop a database for Member States implementing Publication, Availability of Information and Advance Rulings with a view to provide technical assistance as required.

Coordinated Border Management

Decisions

111. **Council decided that the Secretariat should work closely with Member States and development partners with the view to:**

- (a) Develop a strategy for implementing regional CBM by involving all relevant stakeholders to consider broadly the issues of the CBM;
- (b) Build internal capacity of Member States as well as COMESA Secretariat to support the implementation of the CBM;
- (c) Monitor and evaluate implementation of the CBM programmes in Member States;
- (d) Streamline other existing Strategies on regional CBM and undertake advocacy work and seek political support for the Implementation of the CBM programmes; and
- (e) Develop an action plan for the implementation of the CBM Strategies with specific roles and responsibilities for all relevant stakeholders.

One Stop Border Post (OSBP)

Decisions

112. Council decided that the Secretariat should work closely with Member States and the development partners to:

- (a) Develop a capacity building program:
 - (i) on OSBPs as they present a new environment to all border agencies and policy developers;
 - (ii) provide ICT facilities to address the frequent System downtimes in most of the border post; and
 - (iii) Linking all border agencies to the system (single window).
- (b) Monitor and evaluate the efficient and effective implementation of OSBP programmes in Member States;
- (c) Streamline other existing Strategies on regional CBM and undertake advocacy work and seek political support for the Implementation of CBM programmes; and
- (d) Develop an action plan for the implementation of the regional OSBP Strategies for implementation at bilateral level with specific roles and responsibilities for all relevant stakeholders.

Single Window

Decisions

113. Council decided that:

- (a) Member States and the Secretariat should work with development partners to develop a regional single window strategy; and
- (b) Draw up activities that implement the strategy, embed Single Window as a component of national and regional Trade facilitation strategy.

Risk Management

Decisions

114. Council decided that:

- (a) Customs administrations adopt a holistic risk-based compliance management approach focusing towards voluntary compliance (low risk) leaving more scarce control resources to be deployed towards the high-risk end of the risk continuum;
- (b) Customs administrations should implement risk-based control procedures that are informed by intelligence and information holdings, identify reliable operators/persons and low-risk consignments/ transactions which may benefit from greater facilitation and those that require higher levels of control; and
- (c) The Secretariat should work closely with Member States to develop a regional risk management frame-work strategy which will provide guidelines for risk management, identify, assess and manage risks across the organization by empowering officers at all levels to make risk-based decisions in a structured and systematic manner.

Authorized Economic Operators (AEO)

Decisions

115. Council decided:

- (a) The development of harmonised criteria for granting the status of authorised economic operator in line with the CMR and WCO guidelines;
- (b) The development of a database for the Authorised Economic Operators in all Member States;
- (c) Members States are encouraged to establish the Mutual Recognition Agreements and arrangements with their trading country partners so that the AEOs who are authorized in one Member State can get a similar simplified and rapid customs service and contribute their in-supply chain security in the other Member State; and
- (d) The Secretariat to work with Member States and development partners to develop an Authorised Economic Operator Programme and Mutual Recognition Agreements in all Member States.

Customs Automation

Decisions

116. Council decided that the Secretariat work closely with Member States and development partners to:

- (a) Improve skills on the ASYCUDA features to regionally standardize the application of Trade Facilitation Agreement and other WCO/WTO/Regional initiatives and recommendations;

- (b) Provide basic and advanced technical training on the ASYCUDA or equivalent Customs Management Systems, improving skills to develop applications;
- (c) Assist countries in the maintenance of ASYCUDA, and development of new applications to enhance the regional trade facilitation system at the national and regional level;
- (d) Undertake a business process and gap analysis of which instruments and enabling laws Member States have and their preparedness to implement the COMESA electronic certificate of origin system; and
- (e) Secretariat to develop a roadmap with clear actions and timelines for the phased rollout of the eco system, and organise consultation and training workshops to bring on board the relevant public and private sector actors in Member States to provide input, leading to ownership of the systems.

The Outstanding COMESA Exemptions

Decision

117. **Council decided** that the above stated list of exemptions be referred to the next meeting of Heads of Customs for further consideration.

Review of Customs Capacity Building Activities

Decisions

118. **Council decided that:**

- (a) The Secretariat should continue to provide demand driven technical customs related training for Member States on the Harmonised System, Valuation and Rules of Origin, Post Clearance Audit, Risk Management, coordinated border management (OSBP), Customs Automation, Single Window and the WTO Trade Facilitation Agreement;
- (b) The training on the WTO Trade Facilitation Agreement and other COMESA trade facilitation instruments should be arranged for officials at the level of top management, incorporating all the border agencies such as Customs, Trade, Industry, Immigration, Agriculture, Finance and Transport;
- (c) Member States to continue using the COMESA Training Manuals when they undertake capacity building and training activities;
- (d) Member States and the Secretariat should work closely with the World Customs Organisation in creating a regional pool of WCO accredited HS, CV and RoO trainers;
- (e) Member States to take advantage of the WCO e-learning platform noting that it is an essential platform for customs matters and enrichment of technical skills for Customs officers and clearing agents;
- (f) Member States to fully utilize the OSBP Sourcebook (2nd Edition, May 2016) as a basic and useful tool for the development and implementation of the OSBP with their neighbours and facilitate the conclusion OSBP bilateral agreements;

- (g) That awareness creation be conducted for the private sector on the benefits of promoting intra-COMESA; and
- (h) The Ministry of Trade and Industry of Eritrea should process the study recommendations through the normal channels in Eritrea for a decision to be reached regarding the removal of the remaining 20% of the MFN tariffs for COMESA originating products.

Consideration of the Draft Three-Year Work Programme (2018- 2020)

Decision

119. **Council adopted** the Three-year Customs and Trade Facilitation Work Programme and Activities for 2018 –2020, attached as Annex XV.

ECONOMIC POLICY RESEARCH AND CAPACITY BUILDING

120. The Council decided that:

- (a) The Secretariat should circulate the papers presented at the Research Forum to all the Member States;
- (b) The policy implications from the papers should be widely disseminated and implemented to inform regional integration process; and
- (c) The best practices and achievements identified under the Macroeconomic report agenda should be taken up by the Secretariat for deeper study.

OPERATIONS OF THE COMESA YELLOW CARD AND RCTG

Decision

121. **Council urged** the Secretariat of the Bureau of the Yellow Card to write to Sudan on the issue of its arrears.

REGIONAL CUSTOMS TRANSIT GUARANTEE: RCTG CARNET

Decisions

122. Council decided that:

- (a) Zambia implement the RCTG CARNET;
- (b) DR Congo and Malawi commence the operations of the RCTG Carnet before the end of 2017; and
- (c) Ethiopia and Djibouti finalize preparations for the commencement of the operations of the RCTG Carnet in early 2018.

REPORTS BY COMESA INSTITUTIONS

COMESA BUSINESS COUNCIL

Decisions

123. **Council decided** that line Ministries working with the sector regulatory authorities and the Ministries responsible for Trade are requested to enforce regional sectoral competitiveness strategies in agriculture- seed, horticulture, dairy, tobacco, manufacturing ITC and tourism for instance that address the following issues:
- (a) Controlling the sale of fake seed; Member States are urged to strengthen enforcement regulation around sales and marketing fake seeds, primarily by putting in place a stronger enforcement through sanctions such as custodial sentence to encourage compliance with the policies and regulations;
 - (b) On dairy industry and the Regulation of milk pricing and quality; National Dairy Boards and Industry should develop guidelines and pricing models using quality based payment systems with appropriate quality benchmarks for the dairy sector that ensure a fair share of value added is captured by farmers;
 - (c) Harmonisation of Standards at a regional level; Member States are requested to harmonise standards for key agriculture commodities; horticulture, dairy standards within the region and to put in place a regional training and certification program or Prerequisite programs (PRPs) which are based on the appropriate good practices such as Good Agricultural Practice (GAP) for example the KENYAGAP to reduce the costs;
 - (d) On tobacco industry; Member States are called upon to recognise that: Tobacco production and processing is a very important pillar of the economy and the employment of some of COMESA member States, and that the tobacco sector strives for good agricultural practices in social, environmental and economic sustainability. Therefore, to ensure non-differential treatment of the sector in regional and international trade agendas;
 - (e) Member States are called upon to develop regional commodity trade exchange bodies to link national commodity markets and allow regional sourcing of non-tobacco products, thereby establishing sustainable markets for alternative crops;
 - (f) On Trade Facilitation. The COMESA Secretariat is requested to work with the COMESA Business Council in the development and subsequent adoption of a legal framework to support the pilot implementation of the COMESA Business Visa. The framework should allow States that are ready to implement the COMESA Business Visa to do so without necessarily waiting for the whole region to implement at once;
 - (g) On ICT development and the Enforcement of the Global General Data Protection Regulation; Member States are called upon to recognise the EU General Data Protection Regulation to be implemented in May 2018, and its impact on businesses and stakeholders doing business with EU firms. To ensure readiness of industry to respond to this matter, Member States are further called upon to carry out awareness campaigns, develop national data protection legislation and establish enforcement vehicles such as data protection authorities at national level;
 - (h) Member States are called upon to promote the frameworks of Trans-Boundary Tourism Circuits and facilitating regional coalition amongst players in the tourism sector as a way of improving products quality, diversity and promoting COMESA region as a single destination and to provide preferential rates to COMESA travellers as domestic tourists regarding tourism fees and levies to

promote intra-regional travel; and

- (i) Member States are encouraged to ensure the full implementation of the Protocol on Gradual Relaxation and Eventually Elimination of Visa Requirements (Visa Protocol) to encourage intra-COMESA tourism. Furthermore, to work towards the development of common visa systems as a way of advancing regional tourism.

LEATHER AND LEATHER PRODUCTS INSTITUTE (LLPI)

Decision

124. Council decided that:

- (a) The COMESA Secretariat and other Institutions adopt the LLPI model in pursuance of the industrial policy and interventional support in other sectors;
- (b) The COMESA LLPI should be rebranded into a Pan African institution in line with the global and continental dynamics, and should assume a new name "Africa LLPI"; and
- (c) All 32nd COMESA LLPI Board of Directors decisions be submitted to Council for consideration and approval.

AFRICAN TRADE INSURANCE AGENCY (ATI)

Decisions

125. Council decided that:

- (a) 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; and
- (b) Urged countries with delayed payments to refund ATI for sovereign claims paid on behalf by ATI and to make arrangements to reimburse ATI without further delays and no later than 31st December 2017.

PTA RE INSURANCE COMPANY (ZEP RE)

Decisions

126. Council decided that:

- (a) All Member States who are not full participants in the activities of the company to consider doing so in line with the decisions of the Council of Ministers and Authority of Heads of State and Governments. Compliance with these decisions will help the Company fulfil its objectives; and
- (b) Member States to augment their support of its business by assisting in prioritisation and allocation of forex in their respective territories to enable the Company to meet its ongoing obligations and deliver on its mandate.

COMESA FEDERATION OF WOMEN IN BUSINESS (FEMCOM)

Decision

127. **Council decided** that Member States who have not yet provided their FEMCOM National Chapters with offices do so.

STATUS OF IMPLEMENTATION, CHALLENGES AND OPPORTUNITIES OF DONOR FUNDED PROGRAMMES

Decisions

128. **Council decided that:**

- (a) The Secretariat circulates the Draft Guidelines to Member States for input and guidance, and member States to submit their comments by 30 November 2017;
- (b) The Secretariat consolidates and revises the Draft Guidelines on the basis of the comments from Member States; and
- (c) The Draft Guidelines be considered by the next meetings of the Policy Organs in 2018.

IMPLEMENTATION OF THE RISM PROGRAMME (9TH AND 10TH EDF SUPPORT)

Decisions

129. **Council decided that:**

- (a) Member States to expedite implementation of outstanding project activities under the 9th EDF projects before the deadline of 31st December 2017;
- (b) Member States to commence closure activities under the 9th EDF projects;
- (c) Member States to finalize all project documents by 20 November 2017;
- (d) Member States to submit all relevant sources of verifications under the 8th Call for Submissions to allow Secretariat to conduct the final assessment under the programme;
- (e) The Secretariat should engage the EU delegation for a further extension of the 9th EDF RISM to facilitate the completion of outstanding project activities. In the event that the extension is not granted, the Bureau of Council is mandated to engage the EU Commission at the highest level; and
- (f) Seychelles to submit its progress report under the eighth call for submissions by 15 November 2017 for consideration by the COMESA Fund.

IMPLEMENTATION OF THE COMESA, EAC AND SADC INITIATIVE (MARKET, INDUSTRIAL AND INFRASTRUCTURE PILLARS)

Decisions

130. **Council decided that:**

- (a) Member States that have not signed Tripartite FTA Agreement be urged to sign by 31 December 2017;
- (b) Member States that have signed be urged to ratify the Agreement at the earliest opportunity in accordance with national constitutional requirements; and
- (c) Member States to adhere to the principle of building on the acquis in the Tripartite negotiations, in particular on the rules of origin.

POST-COTONOU 2020 PREPARATIONS

Decision

131. **Council decided** that Member States actively participate in the consultations at the ACP, AU and tripartite levels for formulation of Post Cotonou positions for engaging the European Union.

DRAFT COMESA COMMUNICATION STRATEGY

Decisions

132. **Council decided that:**
- (a) The Draft 2016-2020 Communication policy and strategy be considered by a technical committee of communication experts to be convened by the Secretariat by 30 April 2018; and
 - (b) The Strategy be considered by the next meetings of the Policy Organs in 2018.

COMESA MEDIA AWARDS 2017

Decision

133. **Council awarded** Ms. Herrsha Lutchman of Mauritius and Mr. Peterson Tumwebaze of Rwanda the 2017 COMESA Media Awards.

IMPLEMENTATION AND FOLLOW-UP ON COMESA DECISIONS

Decision

134. **Council urged** Member States to implement COMESA programmes and abide by the Treaty of obligations, taking into account Articles 10, 11 and 173 of the Treaty and directed the Secretariat to provide reports on the status of domestication of COMESA instruments and implementation of programs.



ANNEXES

**THE PROTOCOL RELATING TO THE FUND FOR CORPORATION, COMPENSATION
AND DEVELOPMENT OF THE COMMON MARKET FOR EASTERN AND SOUTHERN
AFRICA (AMENDMENT), 2016**

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

RECALLING the adoption of the Protocol relating to the Fund for Corporation, Compensation and Development of the Common Market for Eastern and Southern Africa (herein referred to as the Protocol) in Addis Ababa, the Federal Democratic Republic of Ethiopia on the 23rd day of May, 2002;

DESIRING to amend the Protocol;

Agree as follows:

1. **Commencement**

This amendment to the Protocol shall come into force on the day it shall be adopted by the Authority.

2. **Amendment of Article 1**

Article 1 of the Protocol is amended by inserting immediately after paragraph 4 of this article the following:

“COMESA Infrastructure Development Fund” means the fund as established under Article 11A of this Protocol.

“Special Facility” means the COMESA Adjustment Facility as established under Article 9 of this Protocol.

3. **Amendment of Article 3**

Article 3 of the Protocol is amended by inserting immediately after paragraph (d) the following:

“(e) , manage, invest or operate other funds that are established to achieve the objectives of this Protocol.”

4. **Insertion of a new paragraph 2**

The Protocol is amended by inserting immediately after paragraph (e) the following:

The Ministerial committee shall determine amount of funds to be invested in the other funds

5. **Insertion of a new Part III A**

The Protocol is amended by inserting immediately after Part III the following:

The Ministerial Committee shall determine the amounts of funds to be invested from the base fund.

The Protocol is amended by repealing Article 9 and replacing it with a new article 9 which shall read as follows: “There shall be established a Special Facility, also known as the COMESA Adjustment Facility, for the purposes provided under Article 10.”

PART III A

ESTABLISHMENT, PURPOSE AND OPERATIONS OF THE COMESA INFRASTRUCTURE DEVELOPMENT FUND

Article 11 A

Establishment of a COMESA Infrastructure Development Fund

There shall be established a COMESA Infrastructure Development Fund.

Article 11 B

Purposes of the COMESA Infrastructure Development Fund

The COMESA Infrastructure Development Fund shall invest in various special purpose vehicles for purposes of financing infrastructure projects that promote regional integration among Member States.”

COMESA COMPETITION COMMISSION (APPEALS BOARD PROCEDURE) RULES, 2017

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PART 1 - PRELIMINARY

Article 1

Citation

These Rules may be cited as the COMESA Competition Commission (Appeals Board Procedure) Rules, 2017.

Article 2

Interpretation

In these Rules, unless the context provides otherwise-

“Appeals Board” means the Board of Commissioners when exercising the powers to hear appeals under these Rules;

“Appellant” means a person who, in accordance with these Rules, initiates an appeal to the Appeals Board;

“Board” means the Board of Commissioners of the Commission as established by Article 12 of the Regulations;

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

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

“Committee” means the Committee assigned by the

Chairperson of the Board responsible for

initial determinations pursuant to Article 13(4) of the

Regulations;

“Court” means the Court of Justice of the Common Market established by article 7 of the Treaty”

“day” means a working day;

“file” means to deposit documents with the Registrar in accordance with Rule 6 of these Rules;

“parties” include the appellant, the Commission, and any other person to whom the Appeals Board has given standing to appear as a party to the appeal;

“proceedings” includes appeals and related applications brought before the Appeals Board;

“record” means the record of the decision under appeal.

“Registrar” means an officer of the Commission appointed under Article 11 of the Regulations; and

“Regulations” means the COMESA Competition Regulations of 2004;

Article 3

Application

1. These Rules prescribe the procedure for the conduct of appeals brought before Appeals Board.
2. In applying these Rules, the Appeals Board shall-
 - (a) ensure the just, efficient and expeditious resolution of proceedings; and
 - (b) insofar as it appears appropriate, avoid strict formalities that may delay its proceedings.
3. Where procedure is not provided for in these Rules, the Appeals Board may provide directions in order to effectively determine the matter before it. These directions shall not be in contravention of the Regulations or any other law governing the Common Market.

Article 4

Composition of the Appeals Board

At the hearing of an appeal, the Appeals Board shall be constituted by a minimum of five (5) members of the Board, but in no case shall it be an even number. The members who constituted the Committee which made the decision under appeal shall in no circumstance form part of the Appeals Board.

Article 5

Secretary of the Appeals Board

The Registrar shall serve as the Secretary to the Appeals Board.

Article 6

Filing Of Notices And Computation Of Time

All notices, applications and other documents required to be filed with the Appeals Board, shall be filed with the Registrar at an address to be determined by the Commission, in the official languages.

Where a period of time prescribed under these Rules expires on a Saturday or Sunday or on a public holiday or on a day on which the office of the Registrar is closed, such period shall be extended to the next working day.

Documents shall only be considered as filed with the Appeals Board on a given day if delivery is made during the Registrar's business hours and the full filing fees have been paid.

The office of the Registrar shall be open for business on every day, other than a Saturday, Sunday, public holiday or any other day that is observed as a public holiday by the host country. The working hours shall be from 09:00-12:00 and 15:00-16:00 hours.

PART II - POWERS OF THE APPEALS BOARD

Article 7

Scope of appeals before the Appeals Board

The Appeals Board shall hear appeals initiated by an appellant in any of the following circumstances-

- (a) appeals against a decision of the Commission as may be referred to the Board in terms of Article 15 of the Regulations;
- (b) appeals from initial determinations made by the committee responsible for determination in terms of Article 15 of the Regulations;
- (c) appeals made by an undertaking, or any other person concerned, with a substantial financial interest and affected by a decision of the Commission or the Committee to grant authorization in terms of Article 20 of the Regulations.
- (d) appeals against a decision of the Commission or the Committee relating to mergers in terms of Article 26 of the Regulations;
- (e) appeals against a decision of the Commission or the Committee denying a request for approval for the export of goods in terms of Article 31 of the Regulations;
- (f) appeals against a decision of the Commission or the Committee in relation to compulsory recall of products in terms of Article 33 of the Regulations; or
- (g) any other decision of the Commission or the Committee made in terms of the Regulations or any rules made under the said Regulations.

Article 8

Stay of Decisions Pending Appeal and Interim orders

1. A decision subject to appeal is automatically stayed upon the filing of a Notice of Appeal unless the Appeals Board order otherwise.
2. Once a Notice of Appeal has been filed, and on application by either of the parties, in case of urgency, the Appeals Board may make interim orders, or give directions granting an interim relief sought, on such conditions as it considers appropriate.
3. Provided that in no case shall such interim orders or directions be made without hearing the Commission and to the other parties to the application.
4. Where a party fails to make an appearance to be heard after 14 days of receipt of proper notice, the Appeals Board may proceed to determine the application for the interim order in the absence of that party.
5. Where the Appeals Board has made an interim order, the order shall subsist until the Appeals Board has determined the appeal or may cease at an earlier date as the Appeals Board may determine.

PART III - COMMENCEMENT OF APPEAL PROCESS

Article 9

Notice of Appeal

A person directly affected by a decision of the Commission or the Committee that is subject to appeal to the Appeals Board may appeal against the decision by filing a Notice of Appeal with the Registrar within sixty days after the receipt of the decision.

Article 10

Form and content of a Notice of Appeal

1. A Notice of Appeal shall be in the form prescribed in Form 1 set out in the Schedule to these Rules and shall contain the following information-
 - (a) the name and address of the appellant;
 - (b) the name and address of the appellant's legal representative, if any;
 - (c) the appellant's physical address for service in its domicile, and in the event that the appellant is willing to accept service electronically, the appellant's e-mail, facsimile, or other suitable communications technology;
 - (d) a copy of the disputed decision;
 - (e) the grounds for the appeal;
 - (f) the relief sought by the appellant, including whether the appellant is seeking a stay of the decision pending the appeal;
 - (g) the grounds and urgency for relief sought; and
 - (h) the name or names of the Respondent(s) and the address for service in its or their domicile.
2. A Notice of Appeal shall be signed and dated by the appellant or the appellant's duly authorised officer or legal representative.
3. A Notice of Appeal shall be translated into all official languages of COMESA. The cost of translation shall be borne by the appellant.

Article 11

Filing fee

A Notice of Appeal shall-

- (a) be accompanied by a non-refundable filing fee of the equivalent of COM\$ 10 000, at the prevailing official exchange rate; and
- (b) not be considered as filed with the Appeals Board unless the above prescribed non-refundable filing fee has been paid.

Article 12

Service of Notice of Appeal on Respondent

An appellant shall serve a copy of the Notice of Appeal on the Respondent, and other interested parties within 14 days of filing the Notice of Appeal.

PART IV - PRE-HEARING PROCEDURES

Article 13

Pre-appeal conference on procedural directions

1The Appeals Board, on its own motion or on application by a party, may give procedural directions in writing or in a pre-appeal conference concerning any matter related to the conduct of the appeal.

Article 14

Notification of procedural directions

The Registrar, after consultation with the parties and the Appeals Board, shall notify the parties in writing of the procedural directions given.

Article 15

Absence of a party at a pre-appeal conference

15. If a party fails to attend a pre-appeal conference for which it has received proper notice, the Appeals Board may continue with the pre-appeal conference in the absence of that party.

Article 16

Record of proceedings being appealed against

1. Within 30 days of receiving the Notice of Appeal, the Commission shall-
 - (a) prepare and file the record of the proceedings, in the official languages of COMESA, being appealed against with the Registrar and shall supply ten (10) copies of the record; and
 - (b) provide a copy of the record to the appellant.
2. The record shall include the decision, any documentary evidence, transcript of any oral evidence, and written submissions or record of oral submissions, which were considered by the Commission or the Committee in making the decision.

Article 17

Statement of appeal

Within 14 days of receiving the record, the appellant shall file with the Registrar a statement of appeal as prescribed in Form 2 of the Schedule to these Rules.

Article 18

Statement of response

Within 30 days of receiving a statement of appeal, the Respondent shall file a statement of response as prescribed in Form 3 of the Schedule to these Rules.

Article 19

Scheduling the date for appeal hearing

Once the record, the appellant's statement of appeal and the Respondent's statement of response and any other document required to be filed by these Rules have been filed, the Registrar shall schedule a date for hearing of the appeal after consultation with the Appeals Board and the parties.

Where any of the parties to an appeal fails to cooperate, the Registrar shall proceed to set a date for the appeal hearing without further consultations with the uncooperative party.

Article 20

Notice of time, date and place of hearing

The Registrar shall give notice of the time, date and place of the hearing to each party and publish this notice on the Commission's website.

PART V - HEARING AND CONCLUSION OF THE APPEAL

Article 21

Place of hearing and manner of proceedings

1. Subject to sub-rule (2), every oral hearing of an application or appeal shall take place at the Secretariat of the Commission or such other place within the Common Market as the Appeals Board may determine.
2. The Appeals Board may hold an oral hearing of an application or appeal by video link or telephone conference which the participants, including the members of Appeals Board, may attend whether or not they are physically present in the member state hosting the Secretariat of the Commission.
3. The Appeals Board may dispense with an oral hearing of an application or of an appeal and make its decision on written submissions and evidence.
4. Hearing of an appeal shall proceed as follows-
 - (a) the appellant shall present its case first, justifying why the decision under appeal is wrong and why the appeal should be allowed;
 - (b) the Respondent shall present its case next, justifying the decision under appeal and why the appeal should not succeed;
 - (c) the appellant shall then be given an opportunity to reply to the Respondent's case; and
 - (d) the Respondent shall be given an opportunity for a final reply.

Article 22

Confidentiality of Hearing Proceedings

The Appeals Board shall, on the application of a party or on its own motion, determine whether the hearing of proceedings shall be conducted in camera or be accessible to the public.

The Appeals Board may, on the application of a party or on its own motion, order that part or

all of the information in the proceedings brought before it be treated as confidential and not disclosed publicly.

An application under this rule shall state the grounds for objection to public hearing or public disclosure of information and, where applicable, shall be accompanied by a sealed copy of the information for which confidential treatment is sought.

In determining an application for confidential treatment, the Appeals Board shall consider, in so far as it is practicable-

- (a) whether the disclosure of information would, in its opinion, be contrary to the public interest;
- (b) whether the disclosure of information which is of a commercial nature would or might, in its opinion, significantly harm the legitimate business interests of the undertaking to which it relates;
- (c) whether the disclosure of information relating to the private affairs of an individual would, or might, in its opinion, significantly harm the person's interests;
- (d) the extent to which any such disclosure is necessary for the purpose of explaining the reasons for the decision; and
- (e) any other matter which the Appeals Board may consider relevant.

Pending the determination of an application for confidential treatment:

- (a) transcripts, interim orders, including an initial decision, if any, and other materials in connection with the application shall be for the confidential use of the Appeals Board and parties to the proceedings and their counsel only; and
- (b) shall be made available to the public only in accordance with orders of Appeals Board.

Article 23

No new evidence

The Appeals Board will not receive new evidence when hearing an appeal except in exceptional circumstances where such evidence was not available to both parties at the time the decision being appealed against was made.

Article 24

Electronic documents

The Appeals Board may permit parties to produce documents in electronic form.

Article 25

Telephone or Video conference

The Appeals Board may allow parties to appear by way of telephone or video conference when presenting their cases on such conditions as the Appeals Board considers appropriate.

Article 26

Findings and decisions of the Appeals Board

1. The Appeals Board may determine all questions of fact and law that arise in an appeal.
2. Findings of fact shall be determined on a balance of probabilities.
3. Subject to sub-rule (5), at the conclusion of the appeal, the Appeals Board shall deliver its decision in writing, and the Registrar shall serve the decision on the parties within 10 days of the date of the decision.
4. The Appeals Board shall deliver one decision which shall be the decision of the Board reached in private by majority verdict.
5. In the event that the Appeals Board delivers its decision orally, the decision and the reasons for the decision shall be reduced to writing within 30 days and availed to all parties within 10 days.
6. The Appeals Board shall issue its decision and reasons as soon as it is practicable and not later than thirty (30) days after the conclusion of the hearing of the appeal.
7. A copy of the decision and the reasons for the decision shall be published on the Commission's website subject to the confidentiality provisions under these Rules or the Regulations.
8. In rendering its decision, the Appeals Board shall consider the principles of the Treaty establishing the Common Market, the Regulations, the COMESA Competition Rules, and directives and decisions of COMESA Policy Organs .
9. A party aggrieved by the decision of the Appeals Board may refer the matter to the COMESA Court of Justice within 60 days of the decision being made, failing which the decision of the Appeals Board shall be final and binding.

PART VI-SUMMARY DISPOSAL

Article 27

Power to strike out

1. The Appeals Board may, on its own initiative or on the application of a party, after giving the parties an opportunity to be heard, strike out in whole or in part an appeal at any stage of the proceedings if—
 - (a) it forms the view that the Appeals Board has no jurisdiction to hear or determine the appeal;
 - (b) it determines that there are no reasonable grounds for making the appeal;
 - (c) it is satisfied that the appellant has habitually and persistently and without any reasonable ground—
 - (i) made vexatious applications in any proceedings before the Commission; or
 - i. (ii) fails to comply with any rule, practice direction issued under these Rules or any order or direction of the Appeals Board.

2. When the Appeals Board strikes out an appeal, it may make any other consequential order it considers appropriate.

Article 28

Summary judgment

1. The Appeals Board may, on its own initiative or on the application of a party, after giving the parties an opportunity to be heard, give summary judgment against an appellant or respondent on the whole of the appeal or on a particular issue if—
 - (a) it considers that—
 - (i) the appellant has no real prospect of succeeding on the appeal or issue; or
 - (ii) the respondent has no real prospect of successfully defending the decision appealed against or issue; and
 - (b) there is no other compelling reason why the appeal or issue should be disposed of at a substantive hearing.
2. The Appeals Board may give any directions it considers appropriate for dealing with an application under this rule.
- (3) Upon giving summary judgment, the Appeals Board may make any consequential order it considers appropriate.

PART VII - GENERAL

Article 29

Filing and service of documents

1. A document which is required under these Rules to be served on any person other than the Registrar may be –
 - (a) delivered personally to the person's physical address for service;
 - (b) sent to the person's physical address for service by registered post;
 - (c) sent to the person electronically to any e-mail address which the person has provided as an address for service;
 - (d) sent to the person by facsimile at any facsimile address which the person has provided as an address for service; or
 - (e) sent to the lawyer representing the person.
2. A document shall be treated as having been sent at the time when, having regard to all the circumstances, including the method of sending and the incidence of non-working days, the document should in the ordinary course have come to the notice of the intended recipient.
3. The Appeals Board may dispense with the filing or sending of a document if the interests of justice so require and shall give written reasons for so doing.

Article 30

Representation by Lawyers

Parties to an appeal may be represented by a lawyer qualified to practise in any of the Member States of the Common Market. Where a lawyer is acting for a party, documents may be served on the party by delivering them to the lawyer.

Article 31

Withdrawal of Appeal

1. An Appellant may withdraw an appeal, and the Respondent may withdraw its opposition to the appeal, prior to Appeals Board commencing the hearing by filing a notice to that effect.
2. A party that withdraws its appeal shall not be refunded the fees which were paid on filing its documents.
3. An appeal may be withdrawn during the hearing of the appeal with the permission of the Appeals Board.
4. The Appeals Board may dismiss an appeal if the appellant has not filed all or any documents required under these Rules or in accordance with any directions given by the Appeals Board.

Article 32

Costs

1. The Appeals Board shall make such order as is appropriate in respect of costs.
2. When making awards for costs, the Appeals Board shall as much as possible consider the merits of the appeal before it and the nature of the issues comprising the appeal.

Article 33

Conflict of interest

1. Any member of the Appeals Board who is assigned to hear any matter in which he or she has an interest or may have an interest, shall-
 - (a) disclose to the Chairperson of the Board of Commissioners such interest as soon as is practicable upon being assigned the matter; and
 - (b) not take part in any consideration of, any question touching on such matter.
2. For purposes of this rule, "interest" includes the involvement of the member of the Appeals Board in the determination being appealed against at the Committee stage.
3. Notwithstanding sub-rule (1), a party may request for the recusal of a member of the Appeals Board in any proceedings in which the impartiality of that member might reasonably be questioned. Such application shall be made in writing disclosing sufficient grounds in support.

Article 34

Immaterial Omissions

In the event of any omission to adhere to these Rules which does not prejudice any of the parties, the Appeals Board may give any directions it considers appropriate to cure the omission.

Article 35

Correction of clerical mistakes

Clerical mistakes or errors arising from any inadvertent error or omission in any document recording a decision of the Appeals Board may be corrected by Appeals Board by a certificate signed by the Chairperson of the Appeals Board.

Article 36.

Extension or Abridgement of time

The Appeals Board may on its own motion or at the request of a party extend or abridge the time for doing any act under these Rules where there is sufficient justification.

Article 37

Practice Directions

The Appeals Board may issue Practice Directions relating to the procedures governed by these Rules.

Article 38

Entry into Force

These Rules shall enter into force upon adoption by Council.

SCHEDULE
APPEALS BOARD FORM 1 **(Rule. 10(1))**
NOTICE OF APPEAL

COMESA COMPETITION COMMISSION APPEALS BOARD
Appeal No. ...of 20....
IN THE MATTER OF [insert the name of the appellant(s) i.e., the entity or institution(s) appealing the decision, here]
AND
[Insert the name of the Respondent]
NOTICE OF APPEAL
TAKE NOTICE that [put the name of the appellant (s) here] hereby appeals against the decision of the Committee of Initial Determinations made on [date of decision], [here briefly describe the decision of the Committee].

The grounds of appeal are –

[List the grounds of appeal]

State how you are affected by the decision here.

The relief sought is -

[Here state what you want the Appeals Board to do. (Quash, reverse, vary, modify, direct, etc., the decision)

If you want Appeals Board to stay the decision under appeal (i.e. stop the decision from going into effect) ask for a stay order and describe the grounds and urgency for the stay here.

State the address of the appellant.

State the name and address of the appellant's legal representative, if any.

State the appellant's physical address for service. (This is where you have agreed that documents concerning the appeal can be sent to you).

State the Respondent's name and physical address for service. (This is where you will serve the documents concerning the appeal).

If the appellant is willing to accept service electronically, state the appellant's e-mail or facsimile address of service.

Signed by [type name of appellant or appellant's duly authorized officer or legal representative]

On: [date]

Signature:

Further instructions

You must attach a copy of the written decision you want to appeal to your Notice of Appeal.

You must file your Notice of Appeal with the Registrar at this address-

Note: You must pay a filing fee of equivalent of COM\$ 50 000 when you file your Notice of Appeal. If you do not pay the filing fee, your Notice of Appeal shall not be considered as filed. You must serve a copy of your Notice of Appeal on the Respondent within ten (10) days of filing your Notice of Appeal.

APPEALS BOARD FORM 2 (Rule 17)

CONTENTS OF A STATEMENT OF APPEAL

COMESA COMPETITION COMMISSION APPEALS BOARD

Appeal No. ... of 20...

IN THE MATTER OF [put the name of the appellant i.e., the entity or institution appealing the decision, here]

AND

[Insert the name of the Respondent]

STATEMENT OF APPEAL

TAKE NOTE THAT following the Notice of Appeal filed by the Appellant herein on the..... day of.....20... Appellant filed on.....day of, 20_, the following details shall constitute the Statement of Appeal-

- (a) A summary of the facts and the law relied upon by the appellant:
- (c) any other documents that the appellant may want to rely upon.

Signed by [type name of appellant or appellant's duly authorized officer or legal representative]

On: [date]

Signature:

APPEALS BOARD FORM 3 (Rule. 18)

CONTENTS OF A STATEMENT OF RESPONSE

COMESA COMPETITION COMMISSION APPEALS BOARD

Appeal No. ... of 20...

IN THE MATTER OF [put the name of the appellant i.e., the entity or institution appealing the decision, here]

AND

[Insert name of the Respondent]

STATEMENT OF RESPONSE

TAKE NOTE THAT following the Statement of Appeal filed by the Appellant on.....day of, 20_, the following details shall constitute the Statement of Response by the Respondent-

(a) the Respondent shall rely on the following facts and law:

.....

.....

(b) the Respondent intends to rely on the following copies of documents:

.....

.....

Signed by [type name of Respondent or the Respondent's duly authorized officer or legal representative]

On: [date]

Signature:

COMESA COMPETITION COMMISSION

PREAMBLE

HAVING REGARD to Article 55(3) of the Treaty establishing the Common Market for Eastern and Southern Africa ("COMESA") which empowers the COMESA Council of Ministers ("the Council") to make regulations to regulate competition within Member States.

RECOGNIZING:

That Article 6 of the COMESA Competition Regulations ("the Regulations") establishes the COMESA Competition Commission ("the Commission") which shall enjoy international legal personality and shall have in the territory of each Member State the legal capacity required for the performance of its functions under the Treaty;

That Article 8 (8) of the Regulations provides that the Commission may appoint on such terms and conditions as it may determine, such other staff as considers necessary for the performance of its functions under these Regulations;

That Article 12 of the Regulations establishes the Board of Commissioners which shall be the supreme policy body of the Commission; and

That Article 39 of the Regulations provides for the Board of the Commission to make rules which shall become effective upon approval by the Council.

NOW, THEREFORE, the Board of Commissioners with the approval of the Council hereby adopts these Staff Rules.

CHAPTER I- GENERAL

Rule 1- Title

These Rules shall be called "the COMESA Competition Commission Staff Rules" (hereinafter referred to as the "Rules").

Rule 2- Definitions

In these Rules, unless the context otherwise provides:

"Beneficiary" means any person appointed or designated as such by the staff member as a recipient of benefits resulting from the death of that staff member or former staff member of the Commission;

"Board" means the Board of Commissioners as established by Article 12 of the Regulations;

"Casual employee" means a person who is employed on hourly or daily basis or on the basis of a piece of work;

"Code" means the COMESA Competition Commission Disciplinary Code;

"Commission" refers to the COMESA Competition Commission established under Article 6 of the Regulations;

"Common Market" means the Common Market for Eastern and Southern Africa (COMESA) established under Article 1 of the COMESA Treaty;

"Consultant" means a person who is not a staff member of the Commission but is employed on *ad hoc* basis for technical or professional work on a fixed-term contract with specific key

deliverables;

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

"Court" means the Court of Justice of the Common Market established by Article 7 of the Treaty;

"Dependent child" means a staff member's:

- (a) natural child;
- (b) or legally adopted child; or
- (c) stepchild living with the staff member;

who is not gainfully employed up to the age of eighteen (18) years or twenty-five (25) years in the case of a dependent still pursuing full time education;

"Dependents" means a dependent spouse and or a maximum of four dependent children;

"Dependent Spouse" means any person lawfully married to a staff member and who is not gainfully employed and for the purpose COMESA shall recognize one dependent spouse;

"Director" means the Director of the Commission appointed under Article 9 of the Regulations;

"Disciplinary committee" means an internal disciplinary committee established under these Rules;

"Dismissal" means the separation of a staff member from the service of the Commission as a result of a gross violation of these Rules;

"Executive Management" means the Director and Deputy Directors of the Commission appointed under Article 9 and Article 11 of the Regulations respectively;

"Fixed term employee" means an employee who is subject to these Rules and whose appointment has an expiry date specified in the letter of appointment but does not include consultants, project staff and temporary staff;

"General Service Category" means the category of staff holding positions designated as General Service Category;

"Geographical distribution" means the principle of seeking to attain equitable distribution of regular posts among the Member States.

"Home leave" means periodic leave to which a staff member is entitled to every two (2) years in order to visit his/her home country in the case of professional staff or home town in the case of General Service Staff at the time of recruitment, if circumstances do not permit such a visit, any other approved place provided that the cost of the ticket shall be equivalent to the cost of the destination of the staff members home country;

"Host Agreement" means the agreement made between the Commission and the host government of the Commission;

"Intermediate Category Staff" means the category of staff holding positions designated as intermediate posts;

"Leave" shall be described as a period during which a staff member of the Commission is on an authorized absence from duty;

"Locally recruited staff" means a staff member in the intermediate or General Service Category;

"Member State" means a Member State of the Common Market;

"Non-established position" means a position in which a staff member is employed under a project wholly supported with extra budgetary funding from cooperating partners or other sources;

"Professional Category" means the category of staff holding positions designated as professional posts;

"Project staff" means staff employed under a project supported with extra-budgetary funding from a Project or other sources;

"Qualifying Service" means one year or more of continuous service and residence away from the home country and the country of nationality of a staff member, or the country where the staff member has acquired permanent resident status;

"Regulations" means the COMESA Competition Regulations;

"Secretary General" means the Secretary-General of the Common Market provided for by Article 17 of the COMESA Treaty;

"Separation" means cessation of a staff member from the Commission's service as a result of resignation or dismissal, or termination of appointment, or expiration of contract, or retirement, or permanent disability, or on conviction leading to imprisonment *for a period exceeding six months, or death*;

"Spouse" means any person lawfully married to a staff member, and for this purpose, the Commission shall recognize one spouse;

"Staff member" means a fixed term employee in the executive management, professional, intermediate, and general service category and it shall not include consultants, project staff and temporary staff;

"Summary Dismissal" means termination of employment contract of a staff member

without notice and without salary in lieu of notice on grounds of gross misconduct by the staff member such that it would be unreasonable to require the staff member to continue with the employment relationship;

"Temporary staff" means staff employed on an *ad hoc* basis; and

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

Rule 3- Scope and Purpose

These Rules have been made and issued in pursuance of Article 39 of the Regulations. They set out the terms and conditions of staff members of the Commission.

Rule 4- Interpretation of these Rules

The interpretation of these Rules shall rest with the Director. However, the Court of Justice may consider appeals under Article 27(1) of the Treaty and its interpretation shall in accordance with Article 31(1) of the Treaty be final, and not open to further appeal.

Rule 5- Application

1. These Rules shall apply to all staff members of the Commission irrespective of their category and the duration of their contracts. The Executive Management shall also be subjected to additional rules.
2. These Rules shall not apply to consultants, project staff and temporary staff. The rules for consultants, project staff and temporary staff shall be stated in their respective contracts.

Rule 6- Delegation of Powers

The Director may delegate some or any of his/her powers under these Rules to appropriate staff members.

CHAPTER II- DUTIES AND OBLIGATIONS

Rule 7- Impartiality and Integrity of Staff Members

Staff members shall conduct themselves with strict impartiality and with the highest level of integrity, and shall to this effect refrain from any activity which may compromise their impartiality and integrity.

Rule 8 - Allegiance of Staff Members

1. In the performance of their duties, staff members shall not seek or receive instructions from any Member State or from any other authority external to the Commission and they shall refrain from any actions which may adversely reflect on their position as international civil servants and shall be responsible only to the Commission.
2. Staff members shall be duty bound and obliged to devote themselves to the performance of their duties. The Director shall assign tasks to staff members according to their job descriptions with regard to their competence and qualifications where the staff members shall always remain at the disposal of the Director and answer the call of duty at any time.
3. Staff members shall maintain the highest standards of conduct and shall avoid any actions incompatible with the standards of conduct required of an international civil servant.
4. While a staff member is not expected to give up his/her national sentiments or political rights and religious beliefs, he/she shall, however, bear in mind the reserve and tact incumbent upon him/her by reason of international status.

Rule 9- Proprietary Rights

All proprietary rights, including titles, copyright and related rights, patents, trademarks, industrial designs, utility models and any other intellectual property rights in any work produced by a staff member as part of his/her official duties shall be the property of the Commission.

Rule 10- Confidentiality of Information

1. All staff members of the Commission shall exercise the utmost confidentiality in regard to all official business matters. They shall not communicate to any person any information known to them by reason of their official position which has not been made public except in the course of their duties or by authorization of the Director. At no time shall they, in any way, use the information available to them by reason of their official

position. These obligations do not cease with their separation from service.

2. Staff members shall take due care of the confidentiality of all documents on which restriction of publication has been claimed. Staff members in breach of the confidential clause shall be liable to disciplinary action.

Rule 11- Other Obligations

1. A staff member shall not engage in any private or commercial agency or agencies or business which may affect his/her impartiality in the performance of his/her official duties or his/her undivided loyalty to the service and interest of the Commission.
2. A staff member who, in his/her official capacity or otherwise, has to deal in any matter involving a business concern in which he/she, or his/her family members, friends, and business associates hold commercial interest shall disclose the fact of that interest to the Commission.
3. Staff members shall ensure that where there is need in the course of their duties to:
 - (a) issue statements to the press, radio or other media of public information;
 - (b) accept speaking engagements;
 - (c) participate in film, radio or television production or interviews or making of public pronouncements; such activities are carried out with appropriate care being taken to ensure that the information released is not damaging to/or prejudicial to the interests of the institution.
4. It shall be unlawful for any staff member to engage in the following activities in connection with his work without approval and clearance from the Director:-
 - (a) disclosure of any information which he/she might have obtained in the course of his/her normal duty except with the authority of the Director. This obligation does not cease upon separation until after a period of three years has elapsed;
 - (b) accept from any government or any other source external to the organisation any honour, decoration, form of remuneration or all sorts of favours incompatible with his obligations and duties towards the organisation, or likely to compromise his independence. Every staff member shall be duty-bound to report immediately to the Director any such offer received. Failure to do so shall render him liable to disciplinary measures.

Rule 12- Immunities and Privileges

1. Every staff member of the Commission shall be covered by one form of insurance or another arranged by the Commission for its staff members as may be determined by the Council upon recommendation of the Board from time to time.
2. Staff members shall be entitled to such privileges and immunities as may be accorded to them by the government of the Republic of Malawi or by the governments of the other COMESA member States as determined by the Council. Provided that a distinction shall be made between privileges and immunities accorded to Staff in the professional category from those accorded to Staff in the general service category, in accordance with international practice.

CHAPTER III- CLASSIFICATION OF POSTS

Rule 13- Classification of Posts

1. The Director may order that posts be classified or reclassified from time to time. Any such reclassification shall be subject to the approval of the Board.
2. The Director may amend, whenever necessary, the establishment of the General Service Staff subject to the approval of the Board.
3. Such classifications or reclassification shall be based on job analysis and evaluations.
4. The Director shall implement the approved classification or reclassification of posts subject to the availability of funds.
5. The Director shall introduce a system for the maintenance of classification.

CHAPTER IV- RECRUITMENT, APPOINTMENTS AND PROMOTIONS

Rule 14- Appointment and Promotion

1. The Director, with the approval of the Board, may appoint and promote staff in the Professional Category and shall, in the exercise of this duty, ensure that appointments and promotions are made through a process, which is transparent and ensures fairness and competition.
2. The Director shall appoint and promote staff members in the General Service Category on the recommendations of the Human Resources Committee.

Rule 15 - Human Resources Committee

In relation to the General Service Category, the Director shall appoint periodically a Human Resources Committee composed of Administration and staff representatives to advise on:

- (a) appointments and promotions;
- (b) classification or re-classification of posts;
- (c) loans or advances that can be made to staff; and
- (d) any other matter on human resource management policies.

Rule 16 - Procedures of the Human Resources Committee

The Director shall issue a circular on the procedure, which the Human Resources Committee shall follow and in so doing he/she shall ensure that the process is fair and transparent.

Rule 17- Procedure for Recruitment of Professional Staff Members

1. All vacancies for the positions in the professional category shall be advertised in all Member States. And all applications shall be screened by the Member States before submission to the Commission by the due date. A maximum of two applications shall be submitted for each position. The Commission shall pay travel expenses and per diem for shortlisted candidates. Where advertisements are sent to all Member States but only three or less candidates apply the recruitment process shall proceed, provided that the candidates meet the minimum requirement for the positions.

2. The maximum age limit for applying to a position in the Commission shall be 55 years taking into account the recruitment cycle.
3. All applications shall be screened at the end of a closing period of six (6) weeks from the time when the notices of the vacancies are sent to the Member States by the Director.
4. The Director shall appoint a Recruitment Agency or a shortlisting Panel to conduct shortlisting exercise.
5. Notwithstanding the other criteria for shortlisting and evaluation of candidates as specified in the Recruitment and Selection Manual of the Commission, the Commission should adopt a one stage advertisement system with a three (3) stage shortlisting process that reduces time and costs while simultaneously maintaining the requirements for the quota system as well as geographical distribution and linguistic balance. In this regard a three (3) stage shortlisting process will be implemented as follows:
 - (a) **Stage 1:** The short listing should be done for applications received from those Member States that are not represented or under represented. If the Shortlisting Panel does not find any or adequately suitable candidates from Stage 1, the Panel should move to Stage 2.
 - (b) **Stage 2:** This stage should only be implemented by the Commission if no suitable candidates were shortlisted at Stage 1. Under this stage, the Short listing Panel shall also consider applications from Member States who have filled but not exceeded their quota. If no suitable candidates are found or not enough candidates are identified at this stage, the Panel should then move to Stage 3.
 - (c) **Stage 3:** The Shortlisting Panel should now also consider applications received from those Member States that have exceeded their quotas.
6. The interviewing Panel should proceed, in line with the above three stages and with an expansion of the points award system as follows:

Interviews for Stage 1:

- (a) 10 points to be awarded to those candidates whose Member States are not represented at the Commission; and
- (b) 5 points to those candidates whose Member States are underrepresented (partly filled their quota) at the Commission.

Interviews for Stage 2:

In case of no or inadequate candidates shortlisted under Stage 1:

- (a) 2 points to those candidates whose Member States have filled but not exceeded their quotas.

Interviews for Stage 3:

In case of no or inadequate candidates shortlisted under Stages 1 and 2:

- (a) 0 points to those candidates whose Member States have exceeded their quotas.

7. Member States when submitting their screened applications to the Commission, should attach a copy of the advertisement published in their local media

8. Member States shall take the responsibility of ensuring that all approved posts are advertised extensively in their local media and that applications received are screened and short-listed on the basis of the established criteria for the advertised vacant professional posts.
9. Member States shall bear the cost of advertisement of posts in their countries.
10. Appointments for the posts in the Professional Category except that of the Director shall be made by the Board on the recommendation of a Selection Panel. The Selection Panel shall be responsible to interview the shortlisted candidates.

The Panel shall be composed of:

- (a) Three Board members appointed by the Chairperson, the Director and a senior staff member who will act as the Secretary to the Committee.
- (b) At most, two additional persons from the public or private sector with specialized knowledge in the profession of the post being filled, provided that, members of the Panel shall be qualified to carry out the interviews.

In selecting the panelists, consideration shall be made to ensure that none of the panelists are of the same nationality with the candidates and not participated in the shortlisting. The Manager of Human Resource and Administration or his/her representative shall be an ex-officio member. The Chairperson shall appoint a Board member to Chair the panel.

11. Staff members of the Commission shall not participate in the shortlisting and interviewing process if their nationals are candidates. In addition to the Recruitment Process in these Rules, the members of the COMESA Member States Embassies and the Diplomatic Corps based in Malawi may be allowed to participate in the shortlisting and interviewing of candidates where their technical expertise is required for the advertised profession posts by the Commission provided their nationals are not candidates. However, Managers who participate on the short-listing panels will be eligible to participate in the interviewing of the short-listed candidates.
12. Application by a staff member shall be submitted directly to the Commission.
13. At the end of the closing date of any advertised Position (s), if at least three candidates have applied, the recruitment process can proceed provided that the applicants meet the minimum requirement of the position.
14. At the end of the closing date of any advertised position (s), not more than five qualified candidates and not more than one candidate for each position from each Member State shall be shortlisted and interviewed. Where such advertisements are sent to all Member States but only one candidate among those short-listed appears for interview, he/she shall be interviewed and offered the position if found suitable. The Commission shall pay travel and per diem expenses for shortlisted candidates for the position advertised.

Rule 18-Procedure for Recruitment of Staff Members in the General Service Category

1. The Director shall appoint all staff members in the General Service Category. They shall, to the extent possible, be recruited locally.
2. Posts in the General Service Category shall be advertised, as widely as possible, within the host country and citizen of Member States residing in the host country are free to apply.
3. Each advertisement shall state the post, duties, qualifications and the salary scale

attached to the post.

4. Recruitment shall be based on a statement of qualifications and relevant experience. Candidates shall meet the set requirements for each position and shall be assessed on knowledge, abilities and personal suitability to the position.
5. The Director shall establish a Human Resource Committee comprising the Human Resource Manager, any Manager nominated by the Director and an independent member.
6. The Human Resource Committee shall be responsible for the process of recruitment of a new staff member to fill a vacancy in the General Service Category save that, if not already a member, the Committee shall co-opt as an ad hoc member the Manager under whose Division the vacancy belongs.
7. The Committee shall review the candidates who apply and shall shortlist candidates for interviews.
8. Upon completion of the interviews, the Committee shall choose the best candidate and recommend the candidate for appointment. The Director shall determine the new candidate's entry point into the salary scale taking into account all personal attributes, qualifications and relevant experience.

Rule 19- Geographical Distribution

Subject to Article 17(5) of the Treaty, the Director and the Board shall ensure that the recruitment process endeavors to attain geographical distribution of posts. This principle is necessary to ensure that the Commission is a cross section of the membership of COMESA. However, appointments shall, as much as possible, be based on merit.

Rule 20 – Offer of Appointment

1. Where an appointment is made under this chapter, such appointment shall be notified within two (2) weeks ,by way of a letter of appointment which shall specify the following:
 - a) that the appointment is governed by these Staff Rules;
 - b) the type and duration of the appointment and period of probation;
 - c) the duty station where the position is tenable;
 - d) the notice required to terminate it;
 - e) the nature, grade and category of the post;
 - f) the salary offered;
 - g) the effective date of the appointment; and
 - h) any special conditions to which the appointment may be subject.
2. All appointments shall be subject to medical clearance by any physician designated by the Commission
3. Letters of Appointment of all staff members in the professional category shall be issued by the Director on behalf of the Board.
4. A newly appointed staff member shall be given a copy of these Rules on commencement of his/her duties.

5. The Commission shall arrange for an orientation programme for newly recruited staff.
6. The appointment of a staff member shall take effect from the date on which he/she enters into official travel status to assume duty or, if no official travel is involved, from the date on which he/she assumes his/her duties.

Rule 21 Acceptance of Offer

Acceptance of an offer of appointment shall be made in writing by the appointee to the appointing authority. An appointment not accepted within the time specified in the Letter of Appointment shall be deemed to have been declined and the next qualified candidate may then be considered for the post, otherwise the post may be re-advertised.

Rule 22- Oath/Affirmation of Office

All staff members shall subscribe to the following oath or affirmation on their appointment:

"I

solemnly swear/affirm to exercise in all loyalty, discretion and conscience the functions entrusted to me as a staff member of the Commission to discharge these functions and regulate my conduct with the interests of the Commission in view, and not to seek or accept instructions regarding the performance of my duties from any Government or other authority external to the Commission."

.....

.....

Signature
Competition Commission

Sworn/Affirmed before me the Director of the COMESA

At....., this, day of

.....

Registrar

Rule 23 – Contract and Length of Employment

1. With the exception of the Director, a new staff member shall be offered initially a fixed-term contract of four (4) years for the professional category and five (5) years for the general service category. The subsequent contract for professional staff shall be for four (4) years each while for the general staff shall be for five (5) years each subject to satisfactory performance. No professional staff member shall be allowed to remain in the service of the Commission for a period of twelve (12) years in the same post.
2. Upon entering into contract of employment with the Commission, a staff member undertakes and agrees to abide by these Rules, and to discharge his/her responsibilities with due diligence and to the best of his/her ability at all times. The Letter of Appointment and the Staff Rules, as amended from time to time, shall form part of the Contract of Employment.
3. The Board, on recommendation of the Director, shall consider and approve or not approve the renewal of contract for staff in the professional category.
4. Notice of intention of non-renewal of contract shall be given to the staff member concerned at least three (3) months prior to the expiry of the contract. The decision to renew or not to renew a contract shall be based on performance appraisal reports. If a staff member intends not to renew his/her contract, he/she shall likewise inform the Commission three (3) months prior to the expiry of the contract.

Rule 24- Re-employment

1. A former staff member may be re-employed provided that the reasons for his/her separation from service are not incompatible with his/her re-appointment. However, prior service shall not waive the process of competition from a former staff member
2. A re-employed staff member shall be given the terms and conditions applicable at the time of re-employment, without regard to any period of prior service.

Rule 25- Probationary Period

1. Probationary period shall be one (1) year for the Professional Category and six (6) months for the General Service Category.
2. The Director shall submit the written assessment of the performance of the appointee based on the performance appraisal system to the Board which shall assess the report and determine whether or not the staff member shall be confirmed in the service.
3. After satisfactory completion of the probationary period, a staff member shall be informed by the Director of his/her confirmation in writing within fourteen (14) working days of the end of the probationary period. Failure to communicate whether or not the staff member has successfully completed his/her probation period will serve to automatically confirm the staff member's contract.
4. The Manager of a Division shall submit a written assessment of the professional aptitude and conduct of the appointee based on the performance appraisal system to the Director who shall assess the report and determine whether or not the appointee shall be confirmed in the service. The assessment of the Deputy Directors, Manager shall be made by the Director.
5. In all cases, if the period of probationary service has been unsatisfactory, it may be extended once for a period of three (3) months, in the case of the Professional Category

and two (2) month in the case of the General Service Category.

6. If the period is extended, the performance of the holder of the probationary appointment shall be reviewed once again to determine whether or not he/she has improved. Where the officer has failed to improve after the extension of the probationary, he/she shall be informed in writing that his/her appointment shall not be confirmed and his/her contract has been terminated.

Rule 26- Personal Files

1. The Human Resources and Administration Division shall maintain a personal file for each staff member where all the relevant information shall be kept.
2. The following information/documents shall be contained in a staff member's personal file, where applicable:
 - a) Staff member Record Form;
 - b) Copy of Contract;
 - c) Copy of staff member's most recent Curriculum Vitae;
 - d) Certified copy of staff member's certificates, diplomas, qualifications, etc;
 - e) Records of staff member's dependents, i.e. spouse, children, etc;
 - f) Copies of birth certificates of children;
 - g) Marriage certificate;
 - h) Leave records:
 - i) Salary advance application form;
 - j) Loan records;
 - k) Copy of passed medical examination;
 - l) Offer of Appointment;
 - m) Letter of Acceptance;
 - n) Bank account details for payment of salaries;
 - o) Notices of salary increments;
 - p) Medical certificates covering sick leave and maternity leave;
 - q) Performance Appraisals relating to the current contract, correspondence of explanations and penalties; and
 - r) Any other relevant information pertaining to the staff member.

Rule 27- Promotion

1. Staff members' promotion shall be done taking into account the qualifications, competence, experience, good conduct and good performance of eligible officers.
2. The existence of a vacancy shall not in itself entitle any staff member to be promoted to that vacancy and there will be no obligation on the part of the Commission to fill a

vacant post by direct promotion.

CHAPTER V- PERFORMANCE MANAGEMENT SYSTEM

Rule 28 - System of Appraisal

The Director shall, from time to time, develop an effective system of performance appraisal subject to the approval of the Board. The Performance Appraisal format shall be standard throughout the Commission and may, from time to time, be amended by the Board.

Rule 29- Transparency and Fairness

The system of appraisal shall ensure transparency and fairness. In so far as possible there shall be provision for two evaluators one of whom shall be the immediate supervisor. In cases where the staff member has only one supervisor the Director may nominate any other staff member senior to that staff member and who often interacts with that staff member in their course of duty to be a second evaluator.

Rule 30 - Relevance of Performance Appraisal

Decisions on renewal of contracts and promotions shall be based on an objective appraisal of a staff member's performance.

Rule 31- Rebuttal

1. A staff member shall have the right to contest and rebut the appraisal of his or her performance within a period of one month from the date the staff member receives the appraisal report.
2. The system of appraisal shall explain the procedure to be used in rebuttal including the appointment of an ad hoc investigative panel.
3. The result of the rebuttal may confirm, amend or replace the related appraisal.

Rule 32- Upgraded Position

A Staff member in the professional category shall remain on the grade at which he/she was recruited. If the position is upgraded, the Director may recruit or recommend to the Board the appointment of the incumbent if he/she qualifies for the new position.

CHAPTER VI- EMOLUMENTS AND OTHER BENEFITS

Rule 33- Emoluments

1. The emoluments of staff members shall consist of salaries and allowances.
2. Allowances shall be determined and revised by the Council on the recommendations of the Board.
3. A staff member shall receive annual salary increments unless otherwise denied as a result of disciplinary action or because of poor performance revealed in the course of a performance appraisal, subject to ceilings or longevity or accelerations, which may determine the periodicity of increments.

Rule 34- Salaries

1. The salaries of the staff shall be in accordance with the schedule approved by Council and may be revised periodically in a manner prescribed by the Council.

3. First appointment to all the Commission posts shall be at Step 1 of the appropriate salary scale except in exceptional circumstances where the Selection Panel feels that a candidate has outstanding qualifications and proven relevant experience to warrant placement at a higher entry point. Salary adjustment shall be considered by way of re-classification only in exceptional circumstances when, upon the request of the staff member it is the opinion of the Board for the professional category and the Human Resource Committee for the general service category that he/she was undergraded in relation to his/her duties at the time of appointment. Such re-classification can take place within one year of appointment.
4. A salary increment shall normally be awarded on satisfactory performance report with effect from the first day of the anniversary of the appointment each year. The rate of increment shall normally be one step a year within the salary scale. In the event of unsatisfactory service, a staff member may be denied the annual increments.

Rule 35- Salaries Adjustment Review

1. The Council upon recommendation of the Board may order a salary review to be conducted from time to time and shall commission an independent body to conduct such review.
2. Every five years the Board upon recommendation of the Director shall conduct a salary adjustment review which involves conducting of a salary survey to compare Commission basic salaries and allowances with those of comparator organizations as well as the cost of living at the duty station. The difference between the chosen market percentile and Commission pay rates for each grade/level surveyed should be computed and a determination made of how much the Commission is behind the market. The Commission salaries and allowances for all staff can then be adjusted to market levels following approval of Council.
3. Any salary increase recommended by the survey shall take into account Commission's ability to pay. To this end, a simulation exercise should be conducted to assess its financial implications.
4. In the event of unforeseen developments such as drastic currency fluctuations, and before the expiry of the five years referred to in paragraph 1, the Commission shall present the case to the Policy Organs for guidance.

Rule 36- Salary Advance

1. A staff member may be granted a salary advance to be recovered in a period not exceeding three (3) months.
2. A staff member may be granted salary in advance to cover the period of approved leave.
3. The recovery of an advance shall commence at the end of the month in which it is obtained.
4. No salary advance shall be given before the previous one has been fully recovered.
5. In the case of separation the advance shall be recovered from the last pay or the terminal benefits.

Rule 37- Overtime Allowance

1. The General Service Staff shall be entitled to overtime allowance or compensatory time off in the event they are required to work during holidays or in excess of the normal daily

working hours, provided that overtime allowance does not exceed 25 per cent of the basic salary per month.

2. Overtime allowance shall be calculated at the rate of one and half times the normal prorated pay during week-days and twice the rate during weekends and public holidays.
3. Members of the Professional staff shall not be entitled to overtime or to compensatory time off for any work done in excess of the normal working hours.

Rule 38- Acting Allowance

1. A staff member who has been instructed to carry out the functions of a higher post and has been carrying out such functions for more than thirty days shall thereafter be entitled to acting allowance from the 31st day of the acting period.
2. The amount of such allowance shall be the difference between the staff member's basic salary and the basic salary of the post in which he/she is acting.
3. Any acting allowance in excess of one year shall be submitted to the Human Resources Committee for review and appropriate decision to be taken.

Rule 39- Spouse Allowance

1. A professional staff member shall receive spouse allowance for a spouse who is not gainfully employed.
2. Payment of such allowance shall be based on a written claim submitted and supported by incontrovertible documentary evidence.
3. The Council, upon recommendation of the Board, shall determine the rates of such allowance from time to time.

Rule 40- Dependency Allowance

1. A staff member shall receive dependency allowance for each dependent child subject to a maximum of four children.
2. Payment of such allowance shall be based on a written claim submitted and supported by incontrovertible documentary evidence.
3. The Council, upon recommendation of the Board, shall determine the rates of such allowance from time to time.

Rule 41- Housing Allowance

A staff member shall be entitled to housing allowance at rates and conditions set by Board and approved by Council.

Rule 42- Installation Support

1. A staff member and dependents accompanying him/her shall receive installation support upon arrival at his/her duty station provided the staff member is not recruited from the country where the duty station is located.
2. The support shall be in the form of payment of per diem at the current rate and the staff member shall receive the full rate of the support for up to a maximum of 30 days. The dependents of the staff member only if accompanying the staff member during the period of support to the staff member shall receive half the rate for the same period.

3. The grant shall, however, cease if the staff member finds accommodation before the thirty days are over.
4. No staff member shall be paid installation support and a housing allowance at the same time.

Rule 43- Education Allowance

1. Education allowance determined by Council, upon recommendation of the Board, may be paid to a staff member whose dependent child is undertaking an educational programme at one recognized school or university up to the attainment of a post-secondary diploma or degree.
2. The allowance shall not be paid in respect of attendance at a free school, apprenticeship or private tuition.
3. The allowance shall only be paid upon submission of a certificate of attendance together with receipts issued by the educational institution concerned.
4. The amount of allowance per scholastic year for each dependent child up to a maximum of four (4) children shall be determined by the Council from time to time.
5. When the attendance is less than two thirds of the scholastic year, the amount of the allowance shall be that proportion of the allowance.
6. For purposes of this Rule, "private tuition" means tuition offered at an institution that is not registered by any educational authorities.

Rule 44- Ex-Gratia Payments

The Director may, on the recommendation of the Human Resource Committee, pay a once off *ex-gratia* payment to dependents of a deceased staff member. Provided that such *ex-gratia* payment shall not exceed twenty per cent of the annual basic salary that was being received by the deceased staff member.

Rule 45- Loans

The Director may, on the recommendation of the Human Resource Committee, approve loans to staff members for housing and means of transport. However, the Director shall determine a system for the administration of such loans.

Rule 46- Gratuity and Provident Fund

1. A staff member shall be entitled to gratuity on termination or expiration of contract at the rate to be determined by the Board and approved by the Council from time to time.
2. The Board may, on the approval of the Council, set-up a Provident Fund into which gratuity accruing to staff may be deposited together with such contribution from the staff emoluments as may be appropriate.

Rule 47- Medical Scheme

1. A staff member shall be entitled to reimbursement of 80% of medical expenses incurred by him/her in respect of recognized dependents or himself/herself subject to a ceiling determined by the Board and approved the Council. However, such reimbursement shall be for medical expenses incurred for the following conditions:-
 - (a) consultation;

- (b) hospitalization and medication;
 - (c) laboratory expenses;
 - (b) dental treatment, filling but excluding dentures and beautification;
 - (c) ear treatment; or
 - (d) eye treatment.
2. Medical expenses incurred by a staff member for treatment outside the COMESA sub-region is reimbursable provided that prior authorization from the Director for such treatment is approved on recommendation of a physician appointed by the Commission. However, a medical emergency while on leave or mission shall be an exception and in such a case the expenses shall be reimbursable in accordance with paragraph 1 of this Rule.
 3. The Board may, upon the recommendation of the Director, establish a medical scheme or medical insurance scheme with a reputable international company. The establishment of a medical scheme or medical insurance scheme shall substitute the reimbursement scheme stipulated under paragraph 1 of this Rule and the necessary provision shall be made on the extent of staff contribution to the scheme.

Rule 48- Retroactivity of Payments

No financial entitlement, with the exception of salary, shall be paid retroactively unless it is claimed within a period of one year.

Rule 49- Outstanding Loan or Advance

Any outstanding loan or advance at the time of resignation, retirement, termination, dismissal or death, shall be payable forthwith by deducting from any salary or gratuity or other benefits due to the staff member or his/her beneficiaries.

CHAPTER VII- LEAVE

Rule 50- Annual Leave

1. A staff member shall be entitled to earn leave of thirty working days per year prescribed in these Rules.
2. No staff member shall accumulate more than sixty days of leave at the end of each year unless a staff member is prevented by the exigencies of duties to go on leave
3. Where a staff member has accumulated more than sixty days of leave at the end of each year and that staff member is prevented by the exigencies of duties to go on leave, the accumulated leave days may be carried forward to the next year upon approval by the Director.
4. A staff member may take part of his or her earned leave as annual leave at any time of the year. However, such leave shall not be approved within three months of his or her return from home leave unless there are exceptional circumstances, such as death or serious illness of family members, which warrant such approval.

Rule 51- Home Leave

1. A staff member shall be entitled to spend at least one week of his or her earned leave in his/her designated place of home leave once every two years.

2. The place of home leave in the case of staff shall be the place where the staff member originates within the COMESA region at the time of recruitment.
3. Travel expenses in respect of home leave for the staff member and eligible dependents shall be paid by the Commission.
4. The Director may authorize a staff member to spend home leave outside his or her country provided the travel cost to the Commission will not exceed the cost of travel to and from the staff member's home leave.
5. A staff member may take home leave at any time in the year it falls due subject to exigency of duty.
6. The Director General may approve advance home leave for a staff member provided the circumstances so warrant and the staff member has rendered at least 18 months of service since his or her last home leave.

Rule 52- Special Leave

The Director may grant special leave with or without pay to a staff member if the circumstances so warrant.

Rule 53- Study Leave

1. The Director may grant a study leave with full pay for a period not exceeding three months during the duration of a contract.
2. Study leave granted under paragraph 1 shall not be charged against the staff member's accrued leave.
3. Any application for such leave shall be supported by proper documents and the subject of study shall be related to the staff member's work or profession.
4. The Director may grant a study leave without pay for a maximum period of one year ,during the duration of a contract, provided the application is supported by documents.
5. Study leave without pay may not be related to the staff member's work in the Commission.

Rule 54- Sick Leave

1. A staff member who falls ill or is incapacitated by illness or injury or is otherwise prevented by public health requirement shall be granted sick leave under the following terms and conditions, subject to approval by the Director upon certification by a qualified medical practitioner:
 - (a) a staff member serving for one year or less shall be entitled to sick leave at the rate of two working days with full pay per month of contractual service;
 - (b) a staff member serving for one year or more but less than three years may be granted sick leave of up to three months, wherein two months shall be on full pay and one month on half pay;
 - (c) a staff member serving for more than three years on a continuous basis shall be granted sick leave of one month per year subject to a maximum of eight months. In such a case the staff member shall be in full pay for four months and in half pay for the remaining four months.
2. The Director may approve emergency medical evacuation of a staff member or his/her

certified dependents upon the recommendation of a panel of medical officers appointed by him. The travel cost of such medical evacuation shall be paid by the Commission.

3. No staff member who is on sick leave shall undertake travel outside his or her duty station without the approval of the Director.
4. A staff member who is continuously ill or incapacitated for a period exceeding nine months shall be examined by a medical board established upon the request of the Director in order to determine his or her suitability for continued service.
5. Unauthorized leave on grounds of illness shall be deducted from the concerned staff member's earned leave provided it exceeds the limit of uncertified leave granted in these Rules.
6. Except with the special approval of the Director or the immediate supervisor concerned, no staff member shall absent himself/herself through illness or injury for a period of more than two consecutive working days without producing a certificate of illness from a duly registered medical practitioner stating the cause of illness and the probable duration of absence from duty. As much as practicable the medical practitioner shall be one of those recognized practitioners to cater for the health of staff members.

Rule 55- Maternity/Paternity Leave

1. A female staff member shall be entitled to a maternity leave of fourteen weeks upon presentation of medical certification of pregnancy subject to the following conditions:-

(a) that she has finished at least one year of continuous service at the expected date of confinement;

(b) that at least eight weeks of the maternity leave is post-delivery.

2. A female staff member whose continuous service is less than one year at the expected time of confinement shall be granted accrued annual leave and, on her request, special leave without pay for two months to cover a post-delivery resting period.
3. Paternity leave shall be granted to a male staff member for a period of five days beginning from the time of delivery by his spouse subject to application by the staff member and medical certification of the birth of a child.
4. A female staff member shall be provided with the right to one (1) or more daily breaks or a daily reduction of one (1) hour of work to breast feed the child until the child is one (1) year old.

CHAPTER VIII- OFFICIAL HOLIDAY AND WORKING HOURS

Rule 56- Official Holidays

1. The Commission shall observe the official holidays of the host country.
2. A staff member may also be excused from duty on his or her national day or on important religious holidays. Any day or days in which staff members are prevented from reporting to work by force majeure or by circumstances beyond their control such as demonstrations, riots etc shall be deemed to be unofficial holidays.
3. Any unofficial holiday shall be compensated for by working an additional day or part thereof.

CHAPTER IX- TRAVEL AND REMOVAL EXPENSES

Rule 57- Official Travel

1. Official travel of staff members and their dependents shall be subject to written authorization by the Director. No official travel shall be undertaken without such authorization.
2. Subject to the relevant provisions of the Financial Rules and Regulations the following shall constitute the grounds for official travel:
 - (a) Official missions;
 - (b) Initial appointment of a staff member from his/her place of recruitment or recognized home country to his/her official duty station of Commission;
 - (c) Home leave;
 - (d) Separation from service;
 - (e) Authorized medical evacuation; and
 - (f) Security and safety;
3. Official travel shall be through the most direct and most economical route
4. The Director shall determine the route, mode and conditions of travel in conformity with the relevant provisions of the Financial Rules and Regulations.
5. The Commission shall pay all expenses related to official travel including, where applicable, daily subsistence allowance for the duration of such travel in accordance with the relevant provisions of the Financial Rules and Regulations.
6. All staff members except the Director shall travel in economy class on all regional and intercontinental flights. If another mode of transport is used, they shall travel according to the terms and conditions prescribed by the Director.
7. The Council shall, on the recommendations of the Board, decide on the daily subsistence allowance applicable to the various places of travel and shall publish such rates on a periodical basis.
9. A staff member who undertakes a mission out of station, which is paid for in part by a sponsor other than the Commission, may be paid such subsistence allowance as is determined by Council, subject to a maximum of fourteen days to meet incidental expenses. Provided that if the mission is fully sponsored this allowance shall not be paid.
10. A staff member may be authorized to go on official mission while on leave and may be allowed to resume his or her leave after the mission.
11. Upon completion of official travel, a staff member shall submit a financial claim and shall attach thereto any unused or used stubs of travel tickets.
12. Where a staff member on official travel has to take up accommodation whose rate is above the allowance the staff member is entitled to, he or she shall be entitled to payment of the difference upon presentation of documentary evidence

Rule 58- Removal of Personal Effects

1. On initial recruitment and on separation from the service, the Commission shall pay the costs for the removal of personal effects and household goods according to the terms and conditions establishing the authorised luggage weight in Rule 59 of these Rules
2. The Director shall determine from time to time the specific conditions for payment of excess luggage, including the transport of official documents and other effects of the Commission, particularly during conferences organised by or in collaboration with the Commission.
3. On initial appointment, the Commission shall pay the travel expenses for the staff member and his dependents from his/her home country of normal residence to the official duty station. The same shall apply to return travel expenses on separation from service.
4. Payment of such travel expenses shall be subject to the following conditions:
 - (a) Any staff member who resigns after less than one (1) year of service shall not be entitled to payment of the return travel expenses for himself/herself or his/her dependents;
 - (b) The Director may, however, authorize the payment of such expenses if he/she is satisfied that there are compelling or plausible reasons for so doing;
 - (c) The Commission shall not pay return travel expenses if without good reasons the travel has not commenced within three (3) months of the date of separation from service;
 - (d) A staff member who is dismissed from the service of the Commission under a serious breach of conduct shall be entitled to baggage allowance and one-way air tickets to enable such a staff member and his/her dependents to return to their home country.
5. Shipment and insurance of household goods and personal effects shall be arranged by the Commission and the cost thereof shall be paid directly to the appropriate removal Company.
6. Under no circumstances shall a staff member be paid any money in lieu of the shipment of his/her household goods and personal effects.

Rule 59- Travel Allowance on Initial Recruitment and Separation from Service**1. Travel Allowance on Initial Recruitment**

On first appointment, a member of staff recruited for two years or more from outside the duty station may be reimbursed expenses in transportation of excess baggage or unaccompanied personal effects and household goods, within one year following date of appointment, as follows:-

(a) By sea or by Land up to a maximum of:

- (i) 40 foot container for the staff member

(b) By Air up to a maximum of

- (i) 150 kilos unaccompanied baggage; and

- (ii) 10 kilos excess baggage for each eligible person authorized to travel at the expense of the Commission.
1. **Travel Baggage Allowance on Separation from Service**
 - (a) **By sea or by Land up to a maximum of:**
 - (i) 40 foot container for the staff member
 - (a) **By Air up to a maximum of**
 - (i) 150 kilos unaccompanied baggage; and
 - (ii) 10 kilos excess baggage for each eligible person authorized to travel at the expense of the Commission.

Rule 60- Transportation in Case of Death

1. Upon the death of a staff member, his/her spouse or a dependent, the Commission shall pay the expenses of transportation of the body from his/her official station or in the event of death having occurred whilst in official travel status, from the place of death to the place of home leave.
2. In the case of the death of a staff member, or his/her spouse or his/her dependent, the Commission shall bear the cost of the coffin, burial place, fees for the undertakers, including the expenses for embalming the body.
3. In the case of the death of the spouse of a staff member or dependent outside his duty post, The Commission shall bear the transport expenses of the staff member by the most direct and quickest route.
4. In the case of the death of a staff member at duty post or in the event of death having occurred while in official travel status the Director shall designate a representative(s) to accompany the body. The travel expenses of the representative shall be borne by the Commission.

CHAPTER X- STAFF RELATIONS

Rule 61- Staff Relations

1. The Director may establish joint internal committees for periodic as well as ad hoc consultations between Management and staff.
2. The staff shall have the right to choose their own representatives to such joint internal committees.
3. The Director shall encourage the participation of the staff in making the decisions concerning their career advancement and welfare.

CHAPTER XI- SEPARATION FROM SERVICE

Rule 62- Resignation

1. Any staff member shall have the right to resign on his/her own free will from service with the Commission but in so doing shall give a written notice to the Director as follows:
 - (a) A staff member who has been in continuous services of the Commission for eight (8) years or more shall give notice of at least three (3) months;

- (b) A fixed term staff member who has been in the service of Commission less than eight (8) years shall give notice of at least one (1) month;
- 2. A staff member still serving a probationary period shall give one (1) month's written notice to the Director.
- 3. A staff member who intends to resign may elect to pay an amount in lieu of notice. This amount must be equivalent to the salary he/she would have received had he/she served the notice period, or part thereof.
- 4. A staff member shall be paid upon resignation a sum of money equivalent to his/her period of accrued leave up to the time his/her resignation goes into effect, provided that no such payment shall exceed sixty (60) days accumulated leave.
- 5. A staff member, who so requests upon leaving the service of the Commission, shall be given a certificate of service which states the length of service, the staff member's overall performance and his/her last title and grade.
- 6. Notice of resignation shall be addressed to the Human Resource and Administration Division who shall acknowledge receipt and take note of the resignation and shall notify the Director of the Commission.

Rule 63- Termination

- 1. The Board, on recommendation of the Director, having followed due process, may terminate the services of a professional staff member including the Deputy Directors:
 - (a) if the exigencies of the services so demand (budgetary reduction or redundancy);
 - (b) if the staff members' physical or mental health as confirmed by medical report prevents the staff member from performing his/her duties;
 - (c) if the services of the staff member are deemed unsatisfactory or his/her conduct is deemed inconsistent with his/her status by the disciplinary committee;
 - (d) if certain facts antecedent to his/her appointment and relating to his/her suitability and moral conduct come to light which, if they had been known at the time of his/her appointment, should have precluded his/her appointment under the provisions of these Rules; and
 - (e) if he/she loses his/her right and status of a staff member of the Commission as a result of a final sentence or imprisonment by a national Court.
- 2. A staff member whose services are terminated under Rule 64(1) (a) and (b) shall be given three (3) months written notice or three (3) month's salary in lieu of notice.
- 3. A staff member whose services are terminated for reasons of redundancy shall be paid any salary or allowance due to him/her for the remainder of the contract if the service is terminated before the end of a fixed-term contract, provided that no such salary or allowance shall apply in the case of summary dismissal.
- 4. The Board, on the recommendation of the Director, may terminate the appointment of a staff member on probationary appointment on the conditions of termination stipulated in paragraph 1.
- 5. In the case of the General Service Category, the Director may terminate the service of a staff member for inefficiency or any other serious breach of contract on the basis of a report by an ad hoc investigative panel composed jointly by Human Resources and

Administration Division and representatives of the staff member concerned.

6. The service of a staff member who fails to report for duty for seven (7) working days without justifiable grounds shall be considered terminated without notice on grounds of abandonment of duty.
7. The service of a staff member who has been pronounced by a medical board to be unfit to continue his/her work in the Commission shall be terminated without prejudice to any terminal benefits which he/she may otherwise be entitled to.
8. The service of a staff member may be terminated as a result of a disciplinary action without loss of benefits unless such loss is part of a disciplinary measure as in the case of summary dismissal.

CHAPTER XII- MAINTENANCE OF DISCIPLINE AND ENSURING JUSTICE

Rule 64- Grounds for Disciplinary Action

1. The following shall constitute grounds for disciplinary action:
 - (a) acts or omissions which violate those provisions of the Treaty and the COMESA Competition Rules and Regulations which require probity, honesty and integrity in personal conduct;
 - (b) commission of unlawful acts such as theft, fraud, possession or sale of illegal substances and smuggling; irrespective of whether the staff member was on official duty or not;
 - (c) misrepresentation or false certification in connection with any claim or benefit from the Commission including failure to disclose a fact material to that claim or benefit;
 - (d) assault upon, harassment of, or threats to other staff members;
 - (e) misuse of the funds or the equipment of the Commission including electronic data and files;
 - (f) misuse of office;
 - (g) abuse of authority;
 - (h) breach of confidentiality;
 - (i) abuse of privileges and immunities; and
 - (j) any other behaviour or act which would discredit the Commission.

Rule 65- Due Process

1. No staff member may be charged with an offence under these Rules without communicating to him or her in writing the allegations made against him or her.
2. No disciplinary proceedings may be instituted against a staff member unless he or she has been given at least fifteen working days to enable him or her answer the allegations in writing.
2. A staff member against whom disciplinary proceedings have been instituted may be assisted by a person of his or her choice and may call witnesses, including from among the staff.

4. Even in the case of summary dismissal, where a matter is not referred to a disciplinary committee for hearing, no staff member may be charged for an offence under these Rules without communicating to him or her in writing the allegations made against him or her after an investigation has been conducted and he/she has responded to the charges.

Rule 66- Exceptions

A disciplinary case may not be referred to the disciplinary committee:

- (a) if referral to the disciplinary committee is waived by mutual agreement of the staff member concerned and the Secretary General;
- (b) in respect of summary dismissal imposed by the Director in cases where the seriousness of the misconduct warrants immediate separation from the service.

Rule 67- Disciplinary Committee

1. The membership of the disciplinary committee shall not exceed seven and shall be no less than five staff members:

2. In case of consideration of any disciplinary case, there shall be established a disciplinary committee, which shall include one staff member who is at least on the same level as the staff member concerned. The disciplinary committee shall include the following: -

- a) Chairman – Manager of another Division,
- b) Senior Human Resource Officer - Chairman/Member
- c) Manager of a Division
- d) Registrar - Ex-Officio
- e) One staff member of equivalent or higher - Members grade from amongst the staff
- f) Personnel Officer – Secretary.

No Officer with a conflict of interest shall be appointed to the disciplinary committee.

3. In the event that the quorum of the five members cannot be met from the staff of the Commission or in complex matters which require the assistance of an expert, the Director may co-opt members and/or experts on an adhoc basis, from outside the Commission.

4. The Board shall adopt a disciplinary code of conduct and disciplinary procedures, which shall lay down the disciplinary procedure, which the disciplinary committee shall follow.

Rule 68- Disciplinary Measures

1. Disciplinary Measures may take the form of one or more of the following:-

- (a) Written warning by the Director;
- (b) Loss of one or more within grade increments;
- (c) Deferment; for a specified period of eligibility for within-grade-increment;

(d) Suspension without pay;

(e) Fine;

(f) Surcharge;

(f) Demotion;

(g) Separation from service; and

(h) Summary dismissal.

2. Suspension with pay shall not constitute a disciplinary measure.

Rule 69- Suspension Pending Investigation

The Director with the approval of the Board may suspend a staff member with full pay for a maximum period of six months pending the investigation of an alleged serious breach of these Rules.

Rule 70- Summary Dismissal

The Board may dismiss a professional staff member summarily. In the case of a General Service staff member the power of summary dismissal may be exercised by the Director.

Rule 71- Review by the Disciplinary Committee

A staff member may within two months of the decision being made, ask for his/her case to be reviewed by the same disciplinary committee if there is new evidence, which would have changed the findings of the Committee had it been known to them at the time of consideration.

Rule 72- Complaints

1. The Board shall establish a panel, which will consider complaints of any kind.
2. The complaints panel shall conduct its own investigations and shall report on the matter to the Board.
3. The Board shall send copies of the report of the complaints panel to the concerned parties, unless the contents are highly sensitive or embarrassing and the unsuccessful party may then make a rebuttal to him. He/she should thereafter decide on the report and shall communicate his decisions to all concerned.
3. The Board shall in a circular publish the composition of the complaints panel and the procedure it should follow.

CHAPTER XIII - APPEALS

Rule 73- Appeals to Administrative Appeals Panel

1. Any person aggrieved by the decision of the of the Board on the recommendation of the Disciplinary Committee or Complaints Panel or Administrative decision taken under these Rules shall first appeal to an Administrative Appeals Panel set up under these

Rules.

2. An Administrative Appeals Panel shall be set up by the Board within three (03) months of an appeal being lodged by a staff member.
3. The Administrative Appeals Panel shall consist of three independent persons who are citizens of member States and are qualified to practice as legal practitioners or arbitrators in any of the member States. The persons shall be chosen by the Board from a list of nominees submitted one each by the member States to sit on such a Panel.
4. The Director shall provide all the necessary secretarial arrangements for the functioning of the Panel.
5. The Panel shall submit its findings to all parties.
6. To enable a staff member to exercise their right of appeal to the Court of Justice under Rule 74, the Chairman of the Administrative Appeals Panel concerned shall, at the request of the staff member, communicate to him or her the report of the Panel, if the Director has not made a decision upon the report within a period of three months after the date on which the report was submitted to him.
7. The Rules of the Administrative Appeals Panel adopted by the Council shall govern the procedures and operations of any Panel established under sub-rule 3 of this Rule.
8. A party to a case in which a decision of the Panel has been delivered may, in the event of the discovery of a fact which by its nature might have had a decisive influence on the decision of the Panel which at the time judgment was delivered was unknown both to the Panel and that party, request the Panel to revise the decision.

Rule 74- Appeal to the Court of Justice

Any party who is not satisfied with the decision of the Board may appeal to the Court of Justice within three (03) months of the delivery of the finding of the Panel.

Rule 75- Time for Claims

1. No appeal may be submitted to the COMESA Court of Justice one year after the decision of the Board has been made, following a decision of an Administrative Appeals Panel.
2. No application to an Administrative Appeals Panel shall be brought against the Commission one year after the decision or matter for which the applicant seeks redress has taken place.

Rule 76- Precedent

The Board or the Director shall in making decisions on disciplinary and other matters take previous court judgments into account in order to reduce the amount of litigation and the costs arising therefrom to COMESA.

CHAPTER XIV- MISCELLANEOUS

Rule 77- Special Arrangement for Physically Challenged

The Commission shall make special arrangements to any staff member who has a registered physical challenge.

Rule 78- Loss or Damage to Property

1. Any staff member may be required to reimburse the Commission either partly or in full for any financial loss to the Commission as a result of the staff member's negligence or as a result of his or her violation of any rule, regulation or administrative circular.
2. Any loss or damage caused to the Commission under paragraph 1 shall be made good in the form of deductions from salary subject to the Director's discretion to waive them.

Rule 79- Age Limit

Except the Director, no staff member who has reached the age of sixty (60) shall remain in the service of the Commission.

Rule 80- Review of the Rules

1. These Rules may be reviewed, amended or modified by the Council upon recommendation of the Board.
2. An amendment or modification of the Rules shall come into effect on approval by the Council.
3. The rights and obligations of a staff member shall not be affected adversely by any review, amendment or modification of these Rules if at the time of such review, amendment or modification his/her particular rights or obligations happened to be under consideration.
4. The Director shall establish the necessary consultative procedures for review and possible amendment of these Rules and shall take into account the necessity for the consistency of these Rules.

Rule 81 Authenticity

These Rules shall be issued in the official languages of COMESA.

Rule 82- Entry into Force

These Rules shall take effect on approval of the Council.

**REVISED INVESTMENT AGREEMENT FOR THE COMESA COMMON
INVESTMENT AREA (CCIA)**

INVESTMENT AGREEMENT FOR THE COMESA COMMON INVESTMENT AREA

PREAMBLE

The Governments of Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe, Member States of the Common Market for Eastern and Southern Africa (COMESA);

REAFFIRMING the importance of having sustainable economic growth and development in all Member States and the region, including through joint efforts in liberalising and promoting intra-COMESA trade and investment flows;

RECALLING the decision of the Third COMESA Summit of the Authority held on 29 June 1998 in Kinshasa, Democratic Republic of Congo, to establish the COMESA Common Investment Area (hereinafter referred to as "CCIA"), in order to enhance COMESA's attractiveness and competitiveness for promoting foreign direct and cross border investments;

RECALLING the establishment of the COMESA Free Trade Area (FTA) on 31st October 2000 and recognising that direct investment is an important source of finance for sustaining the pace of economic, industrial, infrastructure and technology development; hence, the need to attract higher and sustainable level of direct investment flows in COMESA;

RECALLING that the Member States have agreed under paragraph 1 of Article 159 of the Treaty Establishing COMESA to encourage and facilitate private investment flows into COMESA;

RECOGNISING that particular pressures on the balance of payments of a Member State in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition;

UNDERSTANDING that this Agreement is designed to recognise the right of Member States to regulate and to introduce new measures relating to investments in their territories in order to meet national public policy objectives;

DETERMINED to realise the vision of COMESA to establish a competitive COMESA Common Investment Area through a more liberal and transparent investment environment; and

BEARING IN MIND that the measures agreed upon shall contribute towards the realisation of the Common Market and the achievement of sustainable development in the region.

HAVE AGREED AS FOLLOWS:

PART ONE
PRELIMINARY PROVISIONS

ARTICLE 1

Definitions

In this Agreement, unless context otherwise requires:

"Agreement" means the Investment Agreement for the COMESA Common Investment Area;

"CCIA" means the area that covers the whole of the territories of Member States of COMESA as defined by their respective legislation;

"CCIA Committee" means the Committee referred to under Article 7 of this Agreement;

"COMESA" means the Common Market for Eastern and Southern Africa established under Article 1 of the COMESA Treaty;

"COMESA investor" means:

- (i) a natural person of a Member State; or
- (ii) a juridical person of a Member State,

making an investment in another Member State, in accordance with the laws and regulations of the Member State in which the investment is made.

(i) **"Natural person"** means a person having citizenship of a Member State in accordance with its applicable laws and regulations; and

(ii) **"Juridical person"** means any legal entity duly constituted or otherwise organised under the applicable laws and regulations of a Member State provided that a juridical person owned or controlled by foreign nationals shall not qualify as a COMESA investor unless it maintains substantial business activity in the Member State in which it is duly constituted or organised;

"COMESA Treaty" means the Treaty establishing the Common Market for Eastern and Southern Africa;

"Council" means the Council of Ministers of COMESA as established under Article 7 of the COMESA Treaty;

"economic activities" means all economic activities of the economy, including services, where investment, as defined in this Article, is taking place;

"enterprise or company" means any entity duly constituted or otherwise incorporated under the applicable laws and regulations of a Member State provided that it maintains substantial business activity in the Member State in which it is located;

"freely convertible currency" means a convertible currency as classified by the International Monetary Fund or any currency that is widely traded in regional or international foreign exchange markets;

"home state" means, a State from where the COMESA investor originates;

"host state" means the Member State where the investment is located;

“investment” means an enterprise or a company, which is established, acquired or expanded by an investor, including through the constitution, maintenance or acquisition of shares, debentures or other ownership instruments of such an enterprise, provided that the enterprise or company is established or acquired in accordance with the laws of the Member State. In order to qualify as an investment under this Agreement the investment must have the following characteristics: the substantial business activity, commitment of capital or other resources, the expectation of gain or profit, the assumption of risk, and significance for the host State’s development but does not include;

- (a) debt securities issued by a government or loans to a government;
- (b) portfolio investments;
- (c) claims to money that arise solely from commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Member State to an enterprise in the territory of another Member State, a bank letter of credit or an extension of credit in connection with a commercial transaction, such as trade financing;
- (d) investments of a speculative nature, such as futures, swaps, forwards and derivatives;

“LIBOR” means London Interbank Offered Rate ;

“measures” means any legal, administrative, judicial or policy decision that is taken by a Member State, directly relating to and affecting an investment in its territory, after this Agreement has come into effect;

“Member State” means a Member State of COMESA that has ratified or acceded to this Agreement;

“returns” mean the amount yielded by an investment and in particular, though not exclusively, includes dividends, profit, interest, capital gains or other equivalent charges, royalties and other payments deriving from licenses, franchises, concessions and other similar rights; and

“Substantial business activity” requires an overall examination, on a case-by-case basis, of all the circumstances, including, inter alia:

- (a) the amount of investment brought into the country;
- (b) the number of jobs created;
- (c) its effect on the local community; and
- (d) the length of time the business has been in operation.

PART TWO

GENERAL PROVISIONS

ARTICLE 2

Objective

The parties to this agreement hereby designate the COMESA region as a common investment area with the following objectives:

- (a) promote investments that support sustainable development in Member States;
- (b) encourage the gradual elimination of investment restrictions and conditions, which may impede investment flows and the operation of investment projects in COMESA and promote a more transparent investment environment;
- (c) provide COMESA investors, in the conduct of their business, with an overall balance of rights and obligations between investors and Member States, in accordance with this Agreement;
- (d) strengthen and increase the competitiveness of COMESA's economic activities; and
- (e) promote COMESA as an attractive investment area.

ARTICLE 3

Coverage

1. This Agreement shall only apply to investments of COMESA investors that have been registered by relevant authority of the host State as listed in Schedule IV, and in accordance with the relevant procedures of the host state.
2. Subject to paragraph 1 of this Article, this Agreement shall cover investments of COMESA investors made in the territory of Member States in accordance with their laws and regulations prior to or after entry into force of this Agreement.
3. This Agreement shall not be applicable to claims arising out of any measures, which occurred or were taken prior to entry into force of the Agreement.

ARTICLE 4

Transparency

1. Each Member State shall make available to the CCIA Committee relevant measures, which pertain to, or affect, the operation of this Agreement. This shall also apply to international agreements pertaining to or affecting investment to which a Member State is also a signatory.
2. Each Member State shall publish relevant measures, which pertain to, or affect, the operation of this Agreement.
3. Each Member State shall, within 30 days of the enactment or the introduction of any new measure or any changes in existing measures, which affect investments or its commitments under this Agreement, inform the CCIA Committee and the general public.
4. Nothing in this Agreement shall require any Member State to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

ARTICLE 5

General Obligations

To realize the objectives referred to in Article 2, the Member States shall:

- (a) undertake appropriate actions to promote transparency and consistency in the application and interpretation of their investment laws, regulations and administrative

procedures;

- (b) strengthen the process of facilitation, promotion and liberalisation which would contribute continuously and significantly to achieving the objective of a more liberal and transparent investment environment;
- (c) take appropriate actions to enhance the attractiveness of their investment environment for direct investment flows;
- (d) promote, maintain and encourage competition to enhance economic efficiency in investment and consumer protection;
- (e) prohibit any anti-competitive investment conduct that prevents, restricts or distorts competition at the national and regional levels;
- (f) not waive or otherwise derogate from or offer to waive or otherwise derogate from measures concerning labour, public health, safety or the environment as an encouragement for the establishment, expansion or retention of investments;
- (g) develop national policies to guide investors in developing human capacity of the labour force. Such policy may include incentives to encourage employers to invest in training, capacity building and knowledge transfer;
- (h) develop national policies that pay particular attention to special needs of youth, women, persons with disabilities and other vulnerable groups;
- (i) take measures to protect the health, safety and economic interests of consumers and their right to information, education and to organize themselves in order to safeguard their interests; and
- (j) take such reasonable actions as may be available to them to ensure observance of the provisions of this Agreement by the regional and local government authorities within their territories.

ARTICLE 6

International Multilateral Agreements

Member States are encouraged, where appropriate, to endeavour to accede to the following multilateral agreements designed to promote, facilitate and protect investment:

- (a) the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards;
- (b) the International Convention on Settlement of Investment Disputes between States and Nationals of other States;
- (c) the Convention Establishing the Multilateral Investment Guarantee Agency;
- (d) the Agreement Establishing the African Trade Insurance Agency; and
- (e) any other multilateral agreement designed to promote or protect investment.

ARTICLE 7

Institutional Arrangements

1. The following COMESA Organs shall be responsible for administering this Agreement:

- (a) Ministers responsible for investment of each Member State, or cabinet representatives, which for the purposes of this Agreement, shall be known as the COMESA Common Investment Area Committee ("CCIA Committee"); and
 - (b) the Technical Committee on Investment composed of senior officials from Ministries responsible for investment and Chief Executives of Investment Promotion Agencies as may be designated by each Member State, which for the purposes of this Agreement, shall be known as the Technical Committee on Investment (TCI).
2. The CCIA Committee shall be responsible for:
- (a) overall supervision of the implementation of this Agreement;
 - (b) making decisions or issuing directions that may require to be made under this Agreement;
 - (c) recommending to the Council any review of this Agreement when necessary;
 - (d) making recommendations to the Council on any policy issues that need to be made to enhance the objectives of this Agreement. For example the development of common minimum standards relating to investment in areas such as:
 - (i) environmental impact and social impact assessments;
 - (ii) labour standards;
 - (iii) respect for human rights;
 - (iv) conduct in conflict zones;
 - (v) corruption; and
 - (vi) subsidies and incentives; and
 - (e) conducting a review of the effectiveness of this Agreement and its implementation in the light of its objectives four years after its entry into force and every four years thereafter.
3. The Technical Committee shall be responsible for:
- (a) advising on the technical aspects of the Agreement;
 - (b) submitting its reports and recommendations to the CCIA Committee, either on its own initiative or upon the request of the CCIA Committee, concerning the implementation of the provisions of this Agreement;
 - (c) preparation and development of action plans for the implementation of this Agreement; and
 - (d) carrying out such other functions as are assigned to it by or under this Agreement.
4. The COMESA Secretariat shall provide secretarial services to the institutions described in paragraph 1 of this Article.
5. The head of the COMESA Regional Investment Agency or his/her representative shall

participate in all the meetings of the organs described under paragraph 1 as an ex-officio member.

6. Subject to this Agreement and any directions given by Council, the CCIA Committee and the TCI shall meet as often as necessary for the proper discharge of their functions and shall determine their own Rules of Procedure.

ARTICLE 8

Implementing Programmes and Action Plans

1. Member States shall, for purpose of the implementation of the obligations under this Agreement, undertake the joint development and implementation of the following programmes:

- (a) co-operation and facilitation programme as specified in Schedule I annexed hereto;
- (b) promotion and awareness programme as specified in Schedule II annexed hereto;

2. Member States shall submit action plans for the implementation of programmes mentioned in paragraph 1 to the CCIA Committee within a year of ratifying or acceding to this Agreement.

3. The Action Plans shall be reviewed by the CCIA Committee every two years to ensure that the objectives of this Agreement are achieved.

Article 9

Liberalisation Programme

1. The parties shall adopt a liberalisation programme, whereby they shall:

- (a) unilaterally reduce and eliminate restrictive investment measures and review their investment regimes regularly towards further liberalization. In this context, Member States may undertake actions to liberalise, among others:
 - (i) rules, regulations and policies relating to investment;
 - (ii) rules on licensing conditions;
 - (iii) rules relating to access to domestic finance; and
 - (iv) rules to facilitate payment, receipts and repatriation of profits by investors;
- (b) undertake individual action plans to:
 - (i) open up all industries for investment to COMESA investors in accordance with the provisions of this Agreement; and
 - (ii) extend national treatment to all COMESA investors in accordance with the provisions of this Agreement; and
- (c) promote free flow of capital, skilled labour, professionals and technology among COMESA Member States.

2. The liberalisation programme under paragraph 1 shall be implemented in a manner to be determined by the parties.

ARTICLE 10

Relation to Dispute Settlement

No recourse to dispute settlement shall be initiated for any matter relating to Part Two of this Agreement.

PART THREE

STANDARD OF TREATMENT OF INVESTORS AND INVESTMENTS

ARTICLE 11

Admission

Each Member State shall promote, encourage and facilitate investments in its territory, and admit such investments in accordance with its laws and regulations.

ARTICLE 12

Encouragement and support of investments

Member States may introduce incentives in order to attract investments. Such incentives may include:

- (a) financial incentives in the forms of investment insurance, grants or loans at concessionary rates;
- (b) fiscal incentives such as tax holidays, pioneer status and reduced tax rates;
- (c) subsidized infrastructure or services, market preferences;
- (d) development-oriented incentives, to encourage preferential markets schemes and specific investors within the region;
- (e) incentives for technical assistance or technology transfer requirements; or
- (f) investment guarantees.

ARTICLE 13

Support to domestic investors

Notwithstanding any other provision of this Agreement, Member States may support the development of local and regional industries that provide, *inter alia*, up-stream and down-stream linkages and have a favourable effect on attracting investments and generating increased employment in Member States. The support covered by this paragraph include:

- (a) measures to grant preferential treatment to any qualifying enterprise under the domestic law of a Member State in order to achieve national or regional development goals;
- (b) measures to support the development of local entrepreneurs;

- (c) measures to enhance productive capacity, increase employment, increase human resource capacity, research and development including, new technology, technology transfer, innovation and other benefits of investment through the use of specified requirements on investors; or
- (d) measures to address historically based economic disparities suffered by identifiable ethnic or cultural groups due to discriminatory or oppressive measures against such groups.

ARTICLE 14

Fair judicial and administrative treatment

1. Member States shall ensure that investments of investors of another Member State are not subjected to measures that constitute:

- (a) denial of justice in criminal, civil or administrative proceedings;
- (b) un-remedied and egregious violations of due process;
- (c) targeted discrimination on manifestly unjustified grounds, such as gender, race or religious belief; or
- (d) manifestly abusive treatment, such as coercion, duress and harassment.

2. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

ARTICLE 15

Transfer of Assets

1. Taking account of the need to facilitate, promote and enhance the movement of capital in the CCIA, Member States shall accord to COMESA investors the right to freely and without any inordinate delay, and according to their laws and regulations:

- (a) repatriate investment returns;
 - (b) repatriate funds for repayment of loans;
 - (c) repatriate proceeds from compensation upon expropriation, the liquidation or sale of the whole or part of the investment including an appreciation or increase of the value of the investment capital;
 - (d) transfer payments for maintaining or developing the investment project, such as funds for acquiring raw or auxiliary materials, semi-finished products as well as replacing capital assets; and
 - (e) remit the unspent earnings of expatriate staff of the investment project.
2. Notwithstanding provision in paragraph 1, a Member State may delay or prevent a transfer in a non-discriminatory manner and in good faith application of its laws relating to:
- (a) fulfilment of tax obligations to the host state;
 - (b) bankruptcy, insolvency, or the protection of the rights of creditors;
 - (c) issuing, trading or dealing in securities, futures, options or derivatives;

- (d) criminal or penal offences and the recovery of the proceeds of crime;
- (e) financial reporting or record keeping of transactions when necessary to assist law enforcement or financial regulatory authorities;
- (f) ensuring compliance with orders or judgments in judicial or administrative proceedings;
- (g) social security, public retirement or compulsory savings schemes;
- (h) severance entitlements of employees; or
- (i) the formalities required to register and satisfy the central bank and other relevant authority of a host state.

ARTICLE 16

Movement of Labour

Taking account of the need to facilitate labour resources, in the CCIA and subject to the laws in force in the host state, Member States shall accord to investors the right to hire technically qualified persons, necessary for investment from any Member State. Such persons shall have the right to enter and receive the necessary authorisations to reside in the Member State. However, COMESA investors shall accord a priority to workers who possess the same qualifications or expertise and are available in the host Member State or any other Member State.

ARTICLE 17

National Treatment

1. Subject to Article 19, each Member State shall accord to COMESA investors and their investments treatment no less favourable than the treatment it accords, in like circumstance, to its own investors and to their investments with respect to the management, operation and disposition of investments in its territory.
2. For greater certainty, references to 'like circumstances' in paragraph 1 of this Article requires an overall examination on a case by case basis of all the circumstances of an investment including, inter alia:
 - (a) its effects on third persons and the local community;
 - (b) its effects on the local, regional or national environment, including the cumulative effects of all investments within a jurisdiction on the environment;
 - (c) the sector the investor is in;
 - (d) the aim of the measure concerned;
 - (e) the regulatory process generally applied in relation to the measure concerned; or
 - (f) other factors directly relating to the investment or investor in relation to the measure concerned, and the examination shall not be limited to or be biased towards any one factor.

ARTICLE 18

Most Favoured Nation Treatment

1. Subject to the exceptions provided for under paragraph 3 of this Article, each Member State shall accord to COMESA investors and their investments treatment no less favourable than that it accords, in like circumstances, to investors and their investments from any third country with respect to the management, operation and disposition of investments in its territory. This paragraph shall not apply to investment agreements entered into by Member States with non-Member States prior to the entry into force of this Agreement.
2. For greater certainty, references to 'like circumstances' in paragraph 1 of this Article requires an overall examination on a case by case basis of all the circumstances of an investment including, inter alia:
 - (a) its effects on third persons and the local community;
 - (b) its effects on the local, regional or national environment, including the cumulative effects of all investments within a jurisdiction on the environment;
 - (c) the sector the investor is in;
 - (d) the aim of the measure concerned;
 - (e) the regulatory process generally applied in relation to the measure concerned; or
 - (f) other factors directly relating to the investment or investor in relation to the measure concerned, and the examination shall not be limited to or be biased towards any one factor.
3. Nothing in paragraph 1 of this Article shall oblige a Member State to extend to COMESA investors the benefits of any treatment, preference or privilege resulting from:
 - (a) any customs union, free trade area, common market or monetary union, or any similar international convention or other forms of regional preferential arrangements, present or future, of which any of the Member States is or may become a party;
 - (b) any matter, including international agreements, pertaining wholly or mainly to taxation;
 - (c) any other international agreements, or chapters of international agreements, pertaining to the promotion or protection of investment; or
 - (d) any dispute settlement procedures in any other treaty.

ARTICLE 19

Specific Exceptions

1. Articles 17 and 18 shall not apply to:
 - (a) any measures existing at the date of entry into force of this Agreement maintained by each Member State under its laws and regulations or any amendment or modification to such measures, provided that the amendment or modification does not decrease the conformity of the measure as it existed immediately before the amendment or modification;

- (b) privileges available within the Member State's economy made for the exclusive benefit of its own nationals within the framework of its national development programmes;
- (c) subsidies, incentives under Article 12 or grants provided by a government or a state enterprise, including government-supported loans, guaranties and insurance; or
- (d) taxation measures aimed at ensuring the effective collection of taxes, except where this results in arbitrary discrimination.

2. Notwithstanding any other provision of this Agreement, a Member State may take measures necessary to address historically based economic disparities suffered by identifiable ethnic or cultural groups due to discriminatory or oppressive measures against such groups prior to the signing of this Agreement.

3. The implementation of these exceptions shall not entitle any investor or investment to compensation for any competitive disadvantages he may suffer.

4. For greater certainty, non-discriminatory measures taken by a Member State to comply with its international obligations under other treaties shall not constitute a breach of this Agreement.

ARTICLE 20

Expropriation

1. Member States shall not nationalize or expropriate investments in their territory or adopt any other measures tantamount to expropriation of investments except:

- (a) in the public interest; and
- (b) in accordance with due process of law.

2. Where expropriation has been carried out, prompt and adequate compensation shall be paid.

3. Adequate compensation shall normally be assessed in relation to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation") and shall not reflect any change in value occurring because the intended expropriation had become known earlier. However, where appropriate, the assessment of fair and adequate compensation shall be based on an equitable balance between the public interest and interest of those affected, having regard for all relevant circumstances and taking account of the current and past use of the property, the history of its acquisition, the fair market value of the investment, the purpose of the expropriation, the extent of previous profit made by the foreign investor through the investment, and the duration of the investment.

Compensation may be adjusted to reflect the aggravating conduct by a COMESA investor or such conduct that does not seek to mitigate damages.

4. If payment is made in a currency of the host or home state, compensation shall include simple interest at the 6-month average U.S. dollar LIBOR rate from the date of expropriation until the date of actual payment.

5. If a Member State elects to pay in a currency other than a host or home state currency, the amount paid on the date of payment, if converted into a host or home state currency at the market rate of exchange prevailing on that date, shall be no less than if the amount of compensation owed on the date of expropriation had been converted into that host or home state currency at the market rate of exchange prevailing on that date, and simple interest had accrued at the 6-month average U.S. dollar LIBOR rate from the date of expropriation until the date of payment.

6. On payment, compensation shall be freely transferable. Awards that are significantly burdensome on a host state may be paid yearly over a period agreed by the Parties, subject to interest at the rate established by agreement of the disputants or by a tribunal. Where the Parties do not agree on a specific period, the matter shall be referred to a competent tribunal to determine the period within which the award shall be paid.

7. This Article shall not apply to the issuance of compulsory licences granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with applicable international agreements on intellectual property.

8. A measure of general application shall not be considered an expropriation of a debt security or loan covered by this Agreement solely on the ground that the measure imposes costs on the debtor that cause it to default on the debt.

8. Bona fide regulatory measures taken by a Member State or awards by judicial bodies of a Member State that are designed and applied to protect or enhance legitimate public welfare objectives, such as public health, safety and the environment, shall not constitute an expropriation or measures tantamount to expropriation under this Article.

9. The investor affected by the expropriation shall have a right under the law of the Member State making the expropriation, to a review by a juridical or other independent authority of that Member State, of his/its case and the valuation of his/its investment in accordance with the principles set out in paragraphs (1) to (8) of this Article. The Member State making the expropriation shall ensure that such a review is carried out promptly.

10. The Parties confirm their shared understanding that:

(a) expropriation may be direct or indirect:

(i) direct expropriation occurs when an investment is nationalised or

otherwise directly expropriated through formal transfer of title or outright seizure; and

(ii) indirect expropriation occurs if a measure or series of measures of a Party has an effect equivalent to direct expropriation, in that it substantially or permanently deprives the investor of the fundamental attributes of property in its investment, including the right to use, enjoy and dispose of its investment, without formal transfer of title or outright seizure; and

(b) the determination of whether a measure or a series of measures have an effect equivalent to expropriation requires a case-by-case, fact-based inquiry, that takes into consideration:

(i) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;

(ii) the duration of the measure or series of measures of a Party;

(iii) the character of the measure or series of measures, notably their object, context and intent; and

(iv) whether a measure by a Party breaches the Party's prior binding written commitment to the investor whether by contract, licence or other legal document.

ARTICLE 21

Compensation for Losses

1. COMESA investors whose investments in the territory of the Member States suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot shall be accorded treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which Member States accord to their own investors or to investors of any third State. Resulting payments shall be freely transferable at the exchange rate applicable on the date of transfer pursuant to the exchange regulations in force.

2. Without derogating from the provisions of paragraph (1) of this Article, any investor who, in any of the situations referred to in that paragraph, suffers losses in a Member State resulting from:

- (a) requisitioning of their property by the forces or authorities of the Member States, acting under and within the scope of the legal provisions relating to their competences, duties and command structures; or
- (b) destruction of their property by the forces or authorities of the Member States, which was not caused in combat action or was not required by the necessity of the situation or observance of any legal requirement;

shall be accorded restitution, or adequate compensation not less favourable than that which the Member States accord to their own investors or to investors of any third State.

3. For the purposes of this Article, state of emergency excludes natural disaster.

ARTICLE 22

General Exceptions

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between investors where like conditions prevail, or a disguised restriction on investment flows, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member State of measures designed and applied to protect or enhance legitimate public welfare objectives

such as:

- (a) national security and public morals;
- (b) human, animal or plant life or health;
- (c) environment; or
- (d) public health and safety.

2. Nothing in this Agreement shall be construed to:

(a) preclude a Member State from applying measures that it considers necessary for the fulfilment of its obligations under the United Nations Charter with respect to the maintenance or restoration of international peace or security;

(b) preclude a Member State from applying measures that it considers necessary for the protection of its own national security interests; or

(c) require a Member State to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests.

3. A Member State reserves the right to deny an investor the benefits of this Agreement, and to grant special and differential treatment to any investor and investment in such cases, where the investor is engaged in activities inimical to the economic and security interest of the Member State.

ARTICLE 23

Taxation

1. This Agreement shall not apply to taxation measures except as provided for in paragraph 3 of this Article.

2. Member States, with a view to encouraging cross-border investments, may conclude between themselves double taxation avoidance agreements.

3. Nothing in this Article prevent an investor from claiming that a taxation measure by a Member State is tantamount to an expropriation of investment that contravenes Article 20.

4. Where an investor makes a claim under paragraph 3, that investor shall refer the matter to the Secretary General who shall use his good offices with a view to assisting the Member State and the investor to reach to an amicable solution.

5. Where, within 6 months of a referral under paragraph 4, no amicable solution has been reached, the investor may refer the matter to arbitration in the manner provided for under this Agreement.

ARTICLE 24

Measures to Safeguard Balance of Payments

1. In the event of serious balance of payment and external financial difficulties or threat thereof, a Member State may adopt or maintain restrictions on investments on which it has

undertaken commitments provided for in Articles 15, 17, 19 and 20, including on payments or transfers for transactions related to such commitments.

2. Where measures to safeguard balance of payments are taken pursuant to this Article, notice of such measures shall be given to the CCIA Committee within 14 days from the date such measures are taken.

3. The measures referred to in paragraph 1 shall:

- (a) not discriminate among Member States;
- (b) be consistent with Article VIII of the Agreement of the International Monetary Fund;
- (c) avoid unnecessary damage to the commercial, economic and financial interests of any other Member State;
- (d) not exceed those necessary to deal with the circumstances described in paragraph 1; and
- (e) be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

4. A Member State adopting the balance of payment measures shall commence consultations with Member States through the CCIA Committee within 90 days from the date of notification in order to review the balance of payment measures adopted by it.

5. The CCIA Committee shall determine the rules applicable to the procedures under this Article.

PART FOUR

INVESTOR AND INVESTMENT OBLIGATIONS

ARTICLE 25

Compliance with domestic laws

COMESA investors and their investments shall comply with all applicable domestic laws and measures of the host state.

ARTICLE 26

Framework for corporate governance

1. COMESA Investors and their investments shall meet or exceed national and internationally accepted standards of corporate governance for the sector involved, in particular for transparency and accounting practices. In this regard, Member States, public bodies and companies are encouraged to improve the legal, institutional and regulatory framework for corporate governance that result from the separation of ownership and control and any other issues relevant to a company's decision-making process, such as environmental or ethical concerns, as set forth in this Agreement.

2. COMESA Investors and their investments shall ensure that all transactions with related or affiliated companies shall be arm's length transactions at fair market price. Investors and their investments shall not undertake any transfer pricing practices between themselves or any other related or affiliated companies.

3. COMESA Investors and their investments shall, in accordance with domestic laws and

regulations:

- (a) ensure the equitable treatment of all shareholders, in accordance with national laws;
- (b) encourage active co-operation between corporations and stakeholders in creating wealth, jobs and the sustainability of financially sound enterprises;
- (c) ensure that timely and accurate disclosure is made on all material matters regarding a corporation, including the financial situation, performance, ownership, and governance of the company, risks related to environmental liabilities, and any other matters in accordance with the relevant regulations and requirements; and
- (d) provide information relating to human resource policies, such as programs for human resource development.

ARTICLE 27

Socio-political obligations

1. COMESA Investors and their investments shall adhere to socio-political obligations including, but not exclusively, the following:
 - (a) respect for national sovereignty and observance of domestic laws, regulations and administrative practices;
 - (b) respect for socio-cultural values;
 - (c) non-interference with internal political affairs; and
 - (d) non-interference with intergovernmental relations.
2. COMESA Investors and their investments shall refrain from influencing the appointment of persons to public office or finance political parties.
3. COMESA Investors and their investments shall refrain from all acts that may be prejudicial to public order, morals or to the public interest. The investor shall also to refrain from exercising restrictive practices and from trying to achieve gains through unlawful means.

ARTICLE 28

Bribery and Corruption

1. COMESA Investors and their investments shall not offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a public official of a Member State, or to an official's relative or business associate or other person in close proximity to an official, for that official or for a third party, in order that the official or third party act or refrain from acting in relation to the performance of official duties, in order to achieve any favour in relation to a proposed investment or any other rights in relation to an investment.
2. COMESA Investors and their investments shall also not be complicit in any act described in paragraph 1 of this Article, including through incitement, aiding and abetting or conspiracy to commit or authorize such acts.

3. Member States shall adopt such legislative and other measures as may be necessary to establish jurisdiction and enforce laws and procedures against any criminal offence committed in whole or in part in their territory by a national, or a COMESA investor and investment or its agent, or by any other person acting in relation to an investment in a Member State.
4. A breach of this article by a COMESA investor or its investment is deemed to constitute a breach of the domestic law of the Host State concerning the establishment and operation of an investment.

ARTICLE 29

Business Ethics and Human Rights

1. COMESA investors and their investments shall observe the United Nations Guiding Principles on Business and Human Rights with modifications necessary for local circumstances.
2. COMESA investors and investments shall among others:
 - (a) support and respect the protection of internationally proclaimed human rights;
 - (b) ensure that they are not complicit in human rights abuses;
 - (c) uphold the freedom of association and the effective recognition of the right to collective bargaining;
 - (d) eliminate all forms of forced and compulsory labour, including the effective abolition of child labour; and
 - (e) eliminate discrimination in respect of employment and occupation.

Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, COMESA investors should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.

ARTICLE 30

Corporate Social Responsibility

1. In pursuit of their economic objectives, COMESA investors and their investments shall proceed in ways that do not conflict with the social and economic development of host countries. Investors shall be sensitive to changes in the social and economic goals of the host countries.
2. Investors and their investments should act in accordance with fair business,

marketing and advertising practices when dealing with consumers and should ensure the safety and quality of goods and services they provide.

ARTICLE 31

Environmental Protection and Social Impact Assessment

- 1 COMESA Investors and their investments shall, in performing their activities, protect the environment and where such activity causes damages to the environment; take reasonable steps to restore it as far as possible, and to ensure fair compensation is paid to those impacted by the environmental damages.
2. COMESA Investors or their investments shall comply with environmental and social assessment screening criteria and assessment processes applicable to their proposed investments prior to their establishment, as required by the laws of the host state for such an investment.
3. The impact assessments required under paragraph 2 shall include assessments of the impacts on the human rights of the persons in the areas potentially impacted by the investment.
4. COMESA Investors or their investments shall make the environmental and social impact assessments:
 - (a) public; and
 - (b) accessible to the local communities, or other areas with potentially affected interests, in an effective and sufficiently timely manner so as to allow comments to be made to the investor, investment and/or government prior to the completion of the host state processes for establishing an investment.
5. COMESA Investors, their investments and the host state authorities shall apply the precautionary principle to their environmental impact assessment and to decisions taken in relation to a proposed investment, including any necessary mitigating or alternative approaches to the investment, or precluding the investment if necessary. The application of the precautionary principle by investors and investments shall be described in the environmental impact assessment.

ARTICLE 32

Environmental Management and Improvement

1. COMESA investments shall, in keeping with good practice requirements relating to the size and nature of the investment, and as required under the domestic laws, maintain an environmental management system consistent with recognized international environmental management standards and good business practice standards.
2. Emergency response and decommissioning plans shall be included, and regularly reviewed and updated in the environmental management system process, and made accessible to the host state and the public.
3. A closure fund to ensure that resources are available to implement the decommissioning plan shall be established and maintained by the Investor or its Investment in accordance with good industry practice for such funds.
4. Environmental management plans shall include provision for the continued improvement of environmental management technologies and practices over the life of the Investment. Such improvements shall be consistent with applicable laws, but shall strive to exceed legally

applicable standards and always maintain high levels of environmental performance consistent with best industry practice.

ARTICLE 33

Implications of breach of investors' obligations

Without prejudice to other rights and remedies of a host state or its population, a host state may initiate a proceeding against a COMESA investor or its investment in the courts of the host state for breaches of its obligations under this Agreement. By specific written agreement, the disputing parties may submit the dispute to an arbitral tribunal in accordance with Article 36.

PART FIVE

DISPUTE SETTLEMENT

ARTICLE 34

Negotiation and Mediation

1. In the event that a dispute arises from the interpretation or application of this Agreement between Member States, or between a Member State and a COMESA investor, the party wishing to raise the dispute shall issue a notice of intention to initiate a claim under the dispute resolution process provided for under Articles 35 or 36 under this Agreement to the other potential disputing party ("notice of intention").
2. For the purposes of this Agreement, there shall be the minimum of a six-month cooling-off period between the date of a notice of intention under this Agreement ("the cooling-off period"), and the date a party may formally initiate a dispute under Articles 35 or 36.
3. The parties shall seek to resolve potential disputes through amicable means, both prior to and during the cooling-off period.
4. Where amicable means fail, the disputing parties shall seek the assistance of a mediator to resolve disputes during the cooling-off period required under this Agreement between the notice of intention and the initiation of dispute settlement proceedings under Articles 35 or 36. The potential disputants shall use a mediator from the list established by the COMESA Secretariat for this purpose, or another one of their joint choosing. Recourse to mediation does not alter the minimum cooling-off period.
5. If no mediator is chosen by the disputing parties prior to three months before the expiration of the cooling-off period, the President of the COMESA Court of Justice or his/her designate shall appoint a mediator from the COMESA Secretariat's list who is not a national of the Member State of the COMESA investor or the Member State(s) party to the dispute. The appointment shall be binding on the disputing parties.
6. If the parties accept a mediation ruling, the ruling shall immediately be implemented thereafter.

ARTICLE 35

Settlement of Disputes between Member States

1. Any dispute between Member States as to the interpretation or application of this Agreement not satisfactorily settled through amicable means in the cooling-off period may be referred for decision to the COMESA Court of Justice sitting as a court of arbitration, in accordance with Article 28(b) of the COMESA Treaty.

2. The decision under paragraphs 1 shall be final and binding.

ARTICLE 36

Investor-State Disputes

1. In the event that a dispute between a COMESA investor and a Member State has not been resolved, pursuant to Article 34, a COMESA investor may, subject to the exhaustion of local remedies in the host state, submit a claim to the COMESA Court of Justice under Article 26 (1) of the Treaty .

2. Paragraph 1 shall apply unless the disputing parties, by specific written agreement, submit the dispute to the following arbitral fora:

(a) an African international arbitration institution; or

(b) under any other arbitration institution or under any other arbitration rules, as both parties to the dispute agree.

3. A COMESA investor or its investment may submit a claim to arbitration pursuant to this Agreement, provided that the COMESA investor or investment, as appropriate:

(a) has first submitted a claim before the domestic courts of the Host State for the purpose of pursuing local remedies, after the exhaustion of any administrative remedies, relating to the measure underlying the claim under this Agreement, and a resolution has not been reached within a reasonable period of time from its submission to a local court of the host state; or

(b) demonstrates on a motion to permit arbitration that there are no reasonably available legal remedies capable of providing effective remedies for the dispute concerning the underlying measure, or the legal remedies provide no reasonable possibility of such remedies in a reasonable period of time.

4. No claim shall be submitted to arbitration if more than three (3) years have elapsed from the date on which the COMESA investor or its investment first acquired, or should have first acquired, knowledge of the breach and knowledge that the COMESA investor or its investment has incurred loss or damage.

5. If the COMESA investor elects to submit a claim at one of the fora set out in paragraph 1 of this Article, that election shall be definitive and the investor may not thereafter submit a claim relating to the same subject matter or underlying measure to other fora.

6. Each Member State consents to the submission of a claim to arbitration under this Agreement in accordance with its provisions. Each COMESA investor or its investment, by virtue of establishing or continuing to operate or own an investment subject to this Agreement,

consents to the terms of the submission of a claim to dispute resolution under this Agreement.

7. A Member State against whom a claim is brought by a COMESA investor or its investment under this Article, may assert as a defence, counterclaim, right of set off or other similar claim, that the COMESA investor or its investment bringing the claim has not fulfilled its obligations under this Agreement, including the obligations to comply with all applicable domestic measures or that it has not taken all reasonable steps to mitigate possible damages.

ARTICLE 37

Enforceability of Final Awards and Other Decisions

Enforceability of final awards and other decisions shall be governed by the rules of civil procedure in force in the Member State in which execution is to take place.

PART SIX

FINAL PROVISIONS

ARTICLE 38

Other Agreements

1. This Agreement or any action taken under it shall not affect the rights and obligations of the Member States under existing agreements to which they are party.
2. Nothing in this Agreement shall affect the rights of the Member States to enter into other agreements not contrary to the principles, objectives and terms of this Agreement.
3. In the event of inconsistency between this Agreement and such other agreements between Member States mentioned in paragraph 2 of this Article, this Agreement shall prevail to the extent of the inconsistency, and in so far as it is more favorable to the investor.

ARTICLE 39

Amendments

Any amendments to this Agreement shall be adopted by the Council and shall enter into force when ratified by two thirds of the Member States that have ratified or acceded to the Agreement.

ARTICLE 40

Supplementary Arrangements

Annexes and any other arrangements arising under this Agreement shall form an integral part of this Agreement.

ARTICLE 41

Adoption of Regulations

The Council may on the recommendation of the CCIA Committee adopt additional regulations to this Agreement, which shall come into force in accordance with the provisions of Article 43

of this Agreement.

ARTICLE 42

Entry into Force

1. This Agreement shall enter into force when signed and ratified by at least two thirds Member States.
2. This Agreement shall enter into force in relation to an acceding Member State on the date its instrument of accession shall be deposited.

ARTICLE 43

Accession

Any Member State that has not ratified this Agreement on the date of its entry into force may accede to this Agreement.

ARTICLE 44

Depository

This Agreement and all instruments of ratification or accession shall be deposited with the Secretary General who shall transmit certified true copies of this Agreement to all the Member States.

ARTICLE 45

Withdrawal

1. This Agreement shall remain in force unless terminated by consensus of Member States.
2. A Member State may withdraw from this Agreement by written notification to the Secretary General who shall immediately inform all the Member States. The Agreement shall expire for that Member State one year after the date of such notification, provided that the rights of COMESA investors where an investment is substantially in the process of being established or has been established shall survive for a period of five years from such withdrawal.

IN WITNESS WHEREOF, the undersigned being duly authorised by their respective Governments, have signed this Investment Agreement for the COMESA Common Investment Area.

DONE at this day of **2017**, in the English, French and Arabic languages, all three texts being authentic.

The President of the Republic of Burundi
The President of the Union of the Comoros
The President of the Democratic Republic of Congo
The President of the Republic of Djibouti
The President of the Arab Republic of Egypt
The President of the State of Eritrea
The President of the Federal Democratic Republic of Ethiopia
The President of the Republic of Kenya
The President of the State of Libya
The President of the Republic of Madagascar
The President of the Republic of Malawi
The Prime Minister of the Republic of Mauritius
The President of the Republic of Rwanda
The President of the Republic of Seychelles
The President of the Republic of Sudan
His Majesty the King of the Kingdom of Swaziland
The President of the Republic of Uganda
The President of the Republic of Zambia
The President of the Republic of Zimbabwe

SCHEDULE I

CO-OPERATION AND FACILITATION PROGRAMME

In respect of the Co-operation and Facilitation Programme, Member States shall take:

- (a) individual initiative to:
 - (i) increase transparency of Member State's investment rules, regulations, policies and procedures through the publication of Such information on a regular basis and making such information widely available;
 - (ii) simplify and expedite procedures for applications and approvals of investment projects at all levels; and
 - (iii) expand the number of bilateral Double Taxation Avoidance Agreements among COMESA Member States;
- (b) collective initiative to:
 - (i) establish a Database for COMESA Supporting Industries and COMESA Technology Suppliers;
 - (ii) establish a COMESA database to enhance the flow of COMESA investment data and information on investment opportunities in COMESA:
 - (iii) promote public-private sector linkages through regular dialogues with the COMESA business community and other international organizations to identify investment impediments within and outside COMESA and propose ways to improve the COMESA investment environment;
 - (iv) identify target areas for technical co-operation, e.g. development of human resources, infrastructure, supporting industries, small and medium-sized enterprises, information technology, industrial technology, R & D and co-ordinate efforts within COMESA and other international organizations involved in technical co-operation;
 - (v) review and where possible improve the Investment Agreement for the COMESA Common Investment Area; and
 - (vi) examine the possibility of a COMESA Double Taxation Agreement.

SCHEDULE II

PROMOTION AND AWARENESS PROGRAMME

In respect of the Promotion and Awareness programme, Member States shall:

- (a) organise joint investment promotion activities e.g. seminars, workshops, inbound familiarization tours for investors from capital exporting countries, joint promotion of specific projects with active business sector participation;

- (b) conduct regular consultation among investment agencies of COMESA on investment promotion matters;
- (c) organize investment-related training programmes for officials of investment agencies of COMESA;
- (d) exchange lists of promoted sectors/industries where member States could encourage investments from other member States and initiate promotional activities; and
- (e) examine possible ways by which the investment agencies of Member States can support the promotion efforts of other member States.

SCHEDULE III

List of national authority contact points for Member States for the purposes of registering an investment under Article 3.

**COMESA'S REGIONAL STATISTICS DEVELOPMENT STRATEGY TO SUPPORT ITS MEDIUM
TERM STRATEGIC PLAN (MTSP) 2016-2020 AND REGIONAL INTEGRATION AGENDA
FROM 2018 – 2020**

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Foreword

The COMESA Medium Term Strategic Plan (2016-2020) anchors the COMESA region's policy thrust and responds to the COMESA Treaty provisions to foster economic development through regional integration. COMESA has adopted a developmental approach to regional integration, which covers market integration, industrialization and infrastructure development. This approach is designed to achieve our public policy objectives of creating jobs, raising incomes, and achieving economic transformation towards improved livelihoods and well-being of our people.

Embedded and clearly highlighted in the MTSP 2016-2020 is the need for policy responsive statistics that will underpin evidence based decision making. The MTSP 2016-2020 and in particular its strategic objectives are heavily statistics dependent. As such this has necessitated a statistical response to the MTSP 2016-2020 which this tier 2 Statistics Strategy aims to achieve.

The Statistics Strategy set forth in this document builds on the 2014-2017 Strategy in which a number of laudable successes were registered, among them, greater development of human capital in our Member States, robust statistical leadership and coordination in the COMESA Statistical System, development of harmonization methods and statistical guidelines, increased knowledge generation and improved data management and dissemination.

The Strategy aims to learn from challenges faced in the implementation of the predecessor strategy. Through an independent review of the performance of the 2014-2017 Strategy a number of key recommendations have been incorporated. In this context, the focus of the Strategy will not only be to serve as a statistical response to the MTSP 2016-2020 but also to build on lessons learnt in the implementation of the previous Strategy. Special emphasis will be made on strengthening the use of technology to enhance production, transmission and dissemination of regional statistics, enhancement of technical skills, competencies, literacy and structures, consolidation of gains on harmonization of statistics in the COMESA region, strengthening strategic partnerships for support of the MTSP 2016- 2020 in addition to supporting the MTSP's Strategic objectives.

The Strategy also recognizes the role of the COMESA Statistical System in the global Statistical Architecture and places significant emphasis on it developing recognizable synergies with global partners.

Under the able leadership of the COMESA Committee on Statistical Matters (CCSM), it is envisaged that the Strategy will provide a basis for monitoring and review, resource mobilization and statistical advocacy.

Lastly it is our expectation that as a result of the implementation of this Strategy the role of statistics in evidence based regional policy making will be enhanced, a result that is consonant with the COMESA Treaty provisions for development of a relevant regional statistical system.

Acknowledgements

An independent evaluation of the 2014-2017 Statistics Strategy was undertaken by the African Development Bank and Paris 21. The outcome of this evaluation was key in shaping the 2017-2020 Statistics Strategy.

The drafting of the Strategy was undertaken by the COMESA Statistics and COMESA Strategic Planning Units. Member States undertook the final review at the 2017 COMESA Committee on Statistical Matters meeting.

ACRONYMS

ACBF	African Capacity Building Fund
AFDB	African Development Bank
AIKP	African Infrastructure Knowledge Platform
CCSM	COMESA Committee on Statistical Matters
COMESA	Common Market for Eastern and Southern Africa
COMSTAT	COMESA Statistics Website
CPI	Consumer Price Index
CSS	COMESA Statistics Strategy
EAC	Eastern Africa Community
EDF	European Development Fund
EPA	Economic Partnership Agreement
EU	European Union
EUROTRACE	Software for Processing External Trade Statistics
FTA	Free Trade Area
GDP	Gross Domestic Product
HCPI	Harmonized Consumer Price Index
ICT	Information and Communication Technology
MTSP	Medium Term Strategic Plan
NSDS	National Strategy for the Development of Statistics
NSS	National Statistical System
PARIS21	Partnership in Statistics for development in the 21 st Century.
RECS	Regional Economic Communities
RISM	Regional Integration Support Mechanism
RSS	Regional Statistics Strategy
SADC	Southern African Development Community
SCB	Statistical Capacity Building Programme
SDMX	Statistical Data and Meta Data Exchange
SHASA	Strategy for the Harmonization of Statistics in Africa
SNA	System of National Accounts
STATCOM	Statistical Commission for Africa
TCF	Technical Cooperation Fund
UN	United Nations
UNSC	United Nations Statistical Commission
WB	World Bank

1. Introduction

0.1 Background

The Common Market for Eastern and Southern Africa (COMESA) was established by Treaty in 1994, with the goal of being “a fully integrated, internationally competitive regional economic community with high standards of living for all its people, ready to merge into an African Economic Community” (Article 3 of the COMESA Treaty).

COMESA is the largest of the eight Regional Economic Communities (RECs) recognized by the African Union, bringing together 19 Member states, with a total population of 520 million people and a combined GDP of over USD 755 billion (2016). The trade integration agenda of COMESA includes a functioning Free Trade Area (FTA) currently including 15 Member States. It also entails various trade and transport facilitation instruments, the creation of a Customs Union as well as the progressive liberalization of trade in services, investments and the free movement of persons in the region. COMESA is also involved in various trade agreements and negotiation processes with third parties, such as the Tripartite (COMESA – EAC – SADC) Free Trade Area (formally launched in June 2015), the Continental Free Trade Area (CFTA) at the African Union level and the Economic Partnership Agreements (EPAs) with the European Union.

COMESA has adopted a developmental approach to regional integration, which covers key pillars of market integration, industrialization and infrastructure development. This approach is meant to achieve the shared policy objective of job creation, increased incomes and economic transformation all of which lead to the penultimate goal of improved livelihoods for the citizens of COMESA.

This developmental approach has been guided by Medium Term Strategic Plans (MTSP) which focuses on achieving key strategic objectives for a period of five years. The 2011-2015 MTSP focused on; Removing Barriers to Trade; Building Productive Capacity for Global Competitiveness; Addressing supply side constraints related to infrastructure; Peace and security and Cross cutting issues (Gender and social affairs, Climate change, Aid for trade and the knowledge based society and human capital). In crafting a statistical response to the MTSP 2011-2015, the COMESA Committee on Statistical Matters, drafted the COMESA Statistics Strategy which was adopted by the Council of Ministers in 2014, with tenure of four years. In order to operationalize key aspects of the strategy, the Committee approved a decision on statistical domains that would form the focus of annual work plans for the period of its tenure. Each annual meeting of the Committee reviewed progress on implementation. It must be understood that implementation was and continues to be twofold. The first component on the part of Secretariat (technical support and capacity building) and the second aspect on the part of Member States (implementation of surveys, data compilation, data dissemination, technology adoption etc.)

2017 marked the end of the Statistics Strategy's tenure. At the same time, a new COMESA MTSP covering the period 2016-2020 was approved by Council in 2016.

These two events necessitated first a review of the performance of the COMESA Statistics Strategy and second, a need to craft a new statistical response to the MTSP 2016-2020. The MTSP 2016-2020 has nine strategic objectives, six of which require statistical responses. These six cover the following areas; market integration, investment, the Blue economy, Economic infrastructure, Industrialization and gender equality and Social development. The drafting of the new Statistics Strategy took on board, among other issues; the need to synchronize the tenure of the statistical response to the MTSP 2016-2020 and secondly the overlap with the MTSP 2011-2015.

0.2 Mandate of Statistics – Treaty Provisions

Statistical Development and management in COMESA is guided by Article 140 of the Treaty. The Treaty provisions state that Member States undertake to co-operate in the field of statistics in order to create an enabling environment for the regular flow of up-to-date, reliable, harmonised and comparable statistical data on various sectors of economic activity, required for an efficient implementation of the objectives of the Common Market. To this end, the Member States shall:

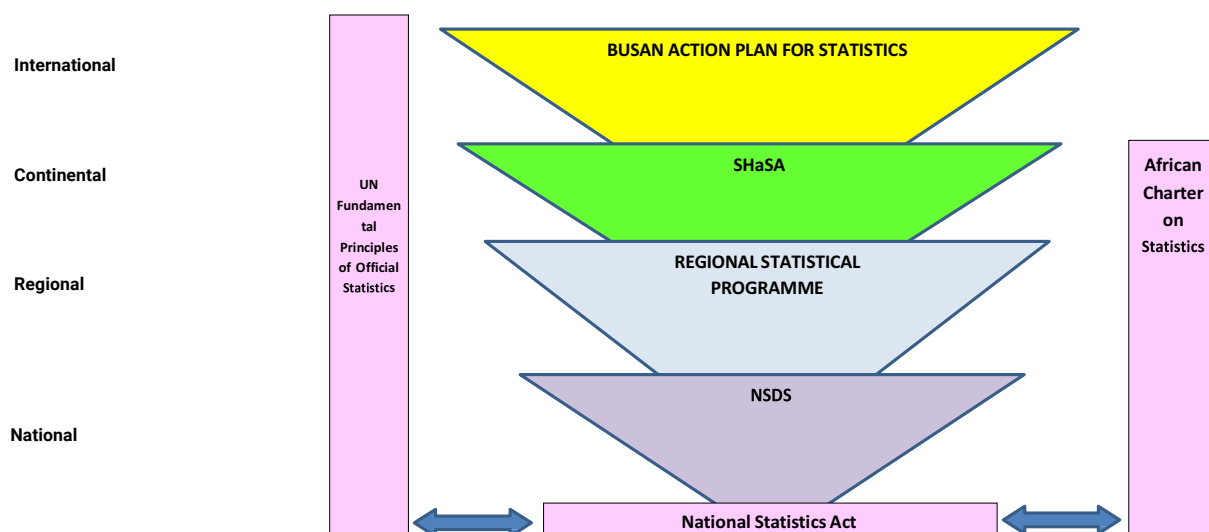
- i. provide regularly and timely to the Secretariat statistical data that are reliable, harmonised and comparable, through the harmonisation and adoption of common methodologies, concepts and definitions to be used in collecting and compiling statistics;
- ii. harmonise and adopt common statistical classification to be used in compiling their statistics;
- iii. encourage co-operation among their national statistical systems in the exchange of statistical data covering various sectors of their economic activities such as external trade, agriculture, industry, energy, natural resources, transport, communications, tourism, population, manpower, money and banking, balance of payments, external debt, government finance, prices, purchasing power parities and national accounting investments;
- iv. promote the exchange of skills and personnel and enhance co-operation in statistical training through the use of existing training institutions;
- v. co-operate in the field of data processing; and
- vi. adopt a Common Market strategy for the implementation of the Addis Ababa Plan of Action for Statistical Development in Africa.

0.3 Institutional framework on the development and dissemination of Statistics

0.2.1 Regional Statistical System interface with continental and the international statistical systems

Regional Statistical System are part of wider statistical systems that include Global, Continental and National statistical systems and its development is impacted by statistical developments at these various levels. It is, therefore, crucial to appreciate and develop the Regional Statistics Systems in context of these systems, taking advantage of opportunities they present for knowledge transfer, peer learning and benchmarking on best practices. The following figure presents the cascading of statistical principles, frameworks and strategies from the international level, to continental, regional and finally to the national level.

Figure 1. A map of statistical principles and frameworks cascaded from the international down to national level



These principles are the overarching standards for official statistics across countries and for the global statistical system. The Principles were adopted by the UN Statistical Commission in 1994 and endorsed by the UN General Assembly in January 2014. They provide a compass and point of reference for all official statistical work and operations in all countries. As such the statistical fraternity engaged in official statistics are expected to be well versed in these principles and apply them in their work.

At continental level, there is the African Charter on Statistics which was endorsed by the 12th Ordinary Session of the Assembly of Heads of State and Government of the African Union in February 2009. The Charter which builds on the Fundamental Principles works as a tool for statistical advocacy at the highest level of government and commits countries to develop statistics in a manner consistent with best practice and international standards; to use statistics for policy development, planning and decision-making at all levels; and African governments to scale up support to statistics.

At national levels, most COMESA Member States have revised their Statistics Act to capture new and emerging developments in the areas of data production and use. The key areas of concern revolved around governance, resource mobilisation and other institutional arrangements that regulate statistical production and development within Member States. The revised Statistics Acts build on both the Fundamental Principles and the Charter on statistics at global and continental levels.

0.2.2 Frameworks

The Busan Action Plan for Statistics is the international framework for statistical development. The plan was adopted at the 4th High-Level Forum on Aid Effectiveness, held at Busan, Korea in 2011. It updates the priorities and work of the Marrakech Action Plan for Statistics (MAPS) and provides direction for statistical development in the decade ahead. The Busan Action Plan supports three principles, namely: fully integrate statistics in decision making, promote open access to statistics and increase resources for statistical systems.

The Strategy for the Harmonization of Statistics in Africa (SHaSA) has been adopted by the

African statistical community as the general framework for statistical development in the continent. The strategy was endorsed by the Joint Conference of African Ministers for Finance and Economy in 2010. It aims to provide harmonized and quality statistics for the design and implementation as well as monitoring and evaluation of integration and development policies in Africa.

The National Strategy for the Development of Statistics (NSDS) is internationally recognized as the best framework for building statistical capacity across the entire NSS and for dealing with a plethora of statistical challenges in developing countries. In Africa the NSDS is expected to be aligned to the Busan Action Plan and the SHaSA as well as being anchored in national development processes especially the National Development Plan.

0.2.3 Statistical bodies

In addition to the above principles and frameworks, there are statistical bodies at regional, continental and international level in which Member States play an active role. These are:

- The COMESA Committee on Statistical Matters responsible for the provision of policy and strategic guidance regarding development of statistics in the region. The Committee comprises Heads of National Statistical Offices of COMESA Member States and Heads of other organisations in the National Statistical system such as Central Banks, Sectoral Ministries and Customs offices.
- The Statistical Commission for Africa (StatCom-Africa) is the apex inter- governmental body established by the Conference of African Ministers of Finance, Planning and Economic Development in 2006 to oversee and coordinate statistical development in Africa. It comprises Heads of National Statistical Offices from African countries.
- The UN Statistical Commission (UNSC) which was established in 1947 is the highest body of the global statistical system. It brings together the Chief Statisticians from Member States from around the world. It is the highest decision making body for international statistical activities especially the setting of statistical standards, the development of concepts and methods and their implementation at the national and international level.

0.2.4 Latest global statistical developments

There have been a number of global statistical developments in the recent past that need to be taken into account in designing the new plan. Two such initiatives which have been endorsed by the UN Statistical Commission are prominent. They are:

- The Data Revolution which has been called for by the United Nations to support the post-2015 international sustainable development agenda. The data revolution is basically about unlocking the power of data and delivering the *“right data to the right people in the right format and at the right time”*.
- The Transformative Agenda for Official Statistics which is a collaborative initiative for the modernization and transformation of official statistics. This agenda emphasizes five themes that need to be addressed under the National Statistical Systems and official statistics to be improved, namely:
 - ü coordination at and between global, regional and national statistical systems,
 - ü communication and advocacy

- ü integrated statistical systems for data collection, processing and dissemination
- ü innovation and modernization through standards-based statistical business architecture
- ü training and capacity building

0.2.5 COMESA Secretariat

Through the Statistics Department, the Secretariat provides technical services, coordinates and facilitates capacity building and servicing of technical meetings. The implementation of this strategy, as drafted, will require a competent secretariat with a diversity of skills and experience relevant to the mandate. As supported by and recommended by the recent evaluation, a solid – and enlarged – core of long-term staff will be essential, complemented by bringing in additional experts for specific tasks or projects as needed.

In order to involve development partners more closely in the processes of statistical systems, they will be invited to second staff to the Secretariat on a regular basis albeit for specific, limited periods. The secretariat will need to maintain flexible engagement processes to allow it to adapt quickly to a changing environment and take on board new activities when necessary – and when financing can be secured – reacting quickly to the new demands from the international community and its partners.

The secretariat will continue to strengthen the communication strategy, so as to trumpet successes more, advertise best practices, and generally make policy-makers and a broader public aware of COMESA's work through its website, newsletters, and other means.

2. COMESA Statistical System

2.1 Membership of the COMESA Statistics System

Under the principle of subsidiarity, implementation of the strategy is the responsibility of COMESA Member States. Each Member State has a National Statistical System (NSS) that is underpinned and regulated by a national statistical legislation. The statistical legislation confers on National Bureaus of Statistics (NBSs) the responsibilities to develop and coordinate the NSS. In most Member States, this is not being done effectively and as a result, NSSs remain weak and under-performing, which in part explains lack of quality in some data they produce. In many countries, statistical reforms are being undertaken to firm up statistics as one of the anchors of national development and to also enhance statistical production. In particular, NSOs are being transformed from mainstream government departments into semi- autonomous government statistical agencies to make them more effective and efficient and also to enhance the impartiality and credibility of official statistics. This is particularly noteworthy from the perspective of provision of statistics to gauge compliance with macroeconomic convergence criteria. National statistical legislations are also being revised in many Member States to take on board emerging statistical trends and issues.

In addition, Member States are designing or implementing statistical plans to improve their official statistics. The National Strategy for the Development of Statistics (NSDS) is recognized internationally as the new standard in statistical planning. The NSDS is a second generation, statistical plan. Unlike the first generation, statistical plan that aims at improving the performance of the National Bureau of Statistics, the NSDS aims to improve performance of the entire NSS. The NSDS is a framework that, *inter alia*, aims to address data challenges including: effective assessment and prioritization of data needs at every level, integration of statistics into policy and decision-making, resource mobilization for statistics and their effective utilization, introduction of change and its management and capacity building across the entire National Statistical System.

The COMESA Committee on Statistical Matters (CCSM) is a Council approved technical committee charged with the oversight of statistical development in the region. The CCSM approves annual work programs that are coordinated by the Secretariat and implemented at both the Secretariat and Member State level. The CCSM has a bureau which the Secretariat can call upon and consult in the implementation of its work program. CCSM comprises representatives from Member States and it meets once a year to review implementation of the work program for the past year and approves the work program for the coming year. The National Statistical Offices of Member States are the primary focal points for communication and coordination of the implementation of the strategy at the member State level. Ad hoc committees of experts play a technical advisory role with respect to specific statistical issues. The CCSM plays a critical role to drive statistical development in the region. The fact that all Member States are represented in the CCSM gives a sense of country ownership of the regional programs and activities. Successful implementation of the strategy rests on the effective participation of all Member States and their continued support to the implementation of agreed activities at regional and country levels.

Under the said subsidiarity principle, the COMESA Statistics Unit is responsible for coordination of the COMESA statistical system including production and promotion of regulations for data harmonization, capacity building in specific areas and resource

mobilization. The Statistics Unit is placed directly under the Secretary General Office and services all departments and agencies of COMESA. The work of the Unit is guided by the Statistical Strategy which is implemented through annual work plans. The Statistics Unit is also responsible for compiling COMESA statistics and disseminating them.

The framework for implementation of the COMESA Statistical System is represented in table 1 below.

Table 1: The COMESA Statistical System

Institution	Role and Responsibility
a. COMESA Council of Ministers	□ The Council of Ministers provides overall policy guidance and reviews and approves recommendations from the CCSM
b. COMESA Committee on Statistical Matters	□ The CCSM has oversight of the implementation of the strategy and
	specifically annual work plans.
c. COMESA Secretariat	□ The Secretariat's role is involves coordination of the implementation of the strategy, coordination of technical aspects of strategy, financial mobilization, preparation of annual work plans, liaison with CCSM bureau, reporting on progress
d. CCSM Bureau	□ The bureau's role is advisory and it has more regular communication with the Secretariat during the implementation of the annual work program until the CCSM approves a new bureau.
e. National Statistical System	□ The national statistical system is the composite of all data compilers in the Member State. Their role is the implementation of CCSM and Council decisions related to their specific statistical clusters.
f. Focal Points	□ The National Statistical Offices of Member States will be the primary focal point for communication and co-ordination of the implementation of the strategy at the member State level.
g. Experts Committees	□ Experts Committees shall be formed to undertake specific work related to a specific area of statistics. These will comprise experts from statistical offices and any other organization whose membership the CCSM may deem necessary.

3. Key issues and performance of the past 4 years COMESA Statistics Strategy 2014-2017

2.1 Performance by Key Areas

Following the approval of the Strategy in 2014, implementation of annual work programs commenced based on agreed clusters of statistics in which to intervene. The strategic thrusts and highlights of achievements of the strategy are discussed below:

2.1.1 Statistical Leadership, Coordination, Partnerships, and Advocacy

COMESA Secretariat established partnerships with key organizations supporting regional integration at the continental and regional level.

- i. **Catalyst for Mobilizing Resources from Development Partners:** The resources approved by COMESA Management for statistical development amounted to USD 613,687.20 between 2014 and 2017. These served as a catalyst to leverage contributions from other donors, thereby multiplying many times the size of COMESA's contributions. Over the period of the Strategy's implementation, the European Union and African Development Bank contributed USD 796,200 and USD 2,110,409 respectively towards Statistical Development. Other partners contributing to the strategy were ACBF (USD 173,200), USAID (USD 520,000). Further based on the work undertaken in the strategy period the European Union has pledged an allocation under the overall European Development Fund's (EDF 11) US\$7 Million support to general Secretariat capacity building.
- ii. **Statistical Governance Framework:** The COMESA Committee on Statistical Matters played a key role in monitoring and evaluating the performance of the work program during the period of the Strategy's tenure. COMESA played its leadership role by ensuring representation at the Africa Committee on Directors General, the Africa Statistical Committee and the United Nations Statistical Commission.
- iii. **Statistical Advocacy and Partnership for Statistical Development in Africa:** The Secretariat maintains close cooperation with development partners and governments of Member States in formulating and implementing statistical initiatives and for coordinated statistical support to RMCs on areas relevant to regional integration.

2.1.2 Development of Harmonization Methods, Country and Regional Roadmaps and Guidelines

Methodological approaches and guidelines developed or deepened under the Strategy's tenure programs in areas of data generation, analysis, management and dissemination, diagnosis, and operations framework cover the following areas:

- i. **Strengthening consumer price indices (CPI) and national account statistics.** This has led to significant improvements in (a) streamlining, improving the timeliness and the quality of country CPI data to ensure the representativeness of the indicators (c) development of a harmonized CPI (d) improving staff capabilities; and (e) supporting the development of a regional guideline on financial aspects of the System of National Accounts SNA 2008.
- ii. **Strengthening development of Statistics of International Trade in Services:** Through its capacity building program, the Secretariat has been supporting countries in the implementation of the Minimum Core Recommendations of the Manual of

Statistics of International Trade in Services.

- iii. **Strengthening Environment Statistics:** The Secretariat took the lead in implementing the United Nations Framework for Development of Environment Statistics. So far 6 countries have commenced the development of this framework.
- iv. **Industrial Statistics:** A regional assessment of industrial statistics was undertaken during the period under review. This further led to the development of a regional roadmap on development of industrial statistics.
- v. **International Merchandise Trade Statistics:** Secretariat supported Member States in deepening the implementation of the Manual of Statistics of International Trade Statistics. By the end of 2017, seventeen (17) countries will have implemented the COMESA core recommendations of the manual.
- vi. **Contributions to Continental frameworks:** The Secretariat made contributions to the development of the Strategy on Harmonization of Statistics in Africa (SHASA) as well as the Africa Statistics Charter.

2.1.3 Development of Human Capital in Member States

The development of human capital is a major strategic focus under the Strategy. This was undertaken through regional and national capacity building initiatives as well as through provision of targeted and demand driven technical assistance. Over the period of the strategy, over 1000 experts have received practical statistical training.

2.0.4. Data Generation, Analysis, Management, and Dissemination

Dissemination: The COMSTAT data portal and the COMSTAT mobile applications were developed respectively during the Strategy's tenure. Secretariat also began a program of implementation of statistical data and metadata exchange (SDMX) first on a pilot basis prior to scaling up. To this end, Secretariat has engaged the African Development Bank and other partners to be among the founder institutions of the Africa SDMX Consortium.

Improving Data Generation and Analysis: Seventeen Member States have been assisted in improving the generation of international merchandise trade statistics. This is primarily through the migration to the EUROTRACE SQL Server platform. Related to trade statistics Secretariat also developed a tool for the estimation of missing quantity data. Roll out of this tool will commence in late 2017 with an initial 4 countries. Two more Member States were assisted in analysis of their household budget surveys, derivation of weights and finalizing their national CPI data to be able to compile the HCPI for regional compilation. Secretariat also designed a mobile app for capture of small scale cross border trade. This will be piloted in three countries initially. Secretariat is also assisting Member States extend their small scale cross border trade data collection to include services trade. As of 2017, four countries have expressed interest in piloting the collection of small scale cross border trade in services.

2.0.5. Data Development under Special Initiatives.

Together with key partners Secretariat managed the following initiatives;

Infrastructure Statistics: Secretariat together with the African Development Bank managed the African Infrastructure Knowledge Program (AIKP) Initiative in the participating COMESA Member States. The objective is to increase the knowledge base on the state of infrastructure in Africa, the investment needs, and the efficiency of the infrastructure services such as

access, utilization, satisfaction levels, etc. for different population groups. Activities under the AIKP are making major improvements in COMESA country-level knowledge base of the infrastructure sector. Regional capacity building workshops on the AIKP were also organized prior to and after the data collection.

International Comparison Program (ICP): Secretariat managed two rounds of the ICP. The ICP is a worldwide statistical initiative led by the World Bank under the auspices of the United Nations Statistical Commission and in Africa under the auspices of the AfDB. Its main objective is providing comparable price and volume measures of gross domestic product (GDP) and its expenditure aggregates among countries within and across regions. Secretariat managed to conduct the ICP surveys in 24 countries in the region. A new round of surveys commenced in 2017 and will be completed in 2018.

2.0.6. Knowledge Generation: COMESA's Statistical Publications

During the 2014-2017 COMESA Statistics Strategy (CSS) tenure, Secretariat produced a number of knowledge products including flagship statistical publications and occasional publications which include:

- The COMESA Bulletin of International Trade Statistics
- The COMESA Investment Report, jointly with the Division of Industry and Agriculture.
- COMESA Bulletin of Agriculture Statistics
- COMESA Bulletin of Infrastructure Statistics
- Country Statistical Profiles
- Trends in Aid for Trade in COMESA Countries
- Contributions to Key Issues in Regional Integration publications
- Contributions to the African Statistics Journal

2.2 Major lessons learnt from the 2014-2017 strategy.

- i. Insufficient awareness creation of the Statistics Strategy probably hindered its full adoption and implementation among some stakeholders
- ii. Lack of implementation of the Strategy's proposed statistical personnel structure by COMESA Member States has led to difficulty in providing the full range of technical assistance required to strengthen statistics in all the MTSP's strategic objectives.
- iii. Statistical products such as *COMSTAT* were not sufficiently popularized. There is need to improve in this in the successor strategy.
- iv. Due to the centralization of communication and resource mobilization strategies in COMESA, efforts related to statistical communication and resource mobilization were not designed. The new strategy should seek to ensure the COMESA wide communication and resource mobilization strategies are cognisant of unique statistical contexts.
- v. Due to delays in commencement of implementation, a mid term review was not undertaken.
- vi. Delays in the implementation or domestication of Council statistical decisions by Member States continued to be a major challenge. Key lesson learnt was that

country based funding initiatives such as The Technical Cooperation Facility (TCF) and the Regional Integration Support Mechanism (RISM) proved effective in domestication of Council Statistical decisions.

2.3 Rationale for developing this Strategic Plan and the strategic planning process

2.2.1 Rationale

This Strategic Plan builds on the successes and challenges experienced in the operationalization of Global, Continental, Regional and National Statistics systems and serves as a source of information for stakeholders. The plan also takes into

consideration the changing needs and expectations of stakeholders which take into account changes in the global, regional and national landscapes.

The plan will be a document for agreed strategic objectives and initiatives to guide the implementation of the strategy over a period of time. It will serve as a tool for communication and resource mobilisation.

2.2.2 Strategic planning process

This Strategic Plan was developed in a highly participatory manner, to ensure relevance and ownership of the results. The process commenced by commissioning an independent review of the 2014-2017 Strategic Plan by Paris 21 and AfDB whose key results are reported in the sections covering achievements and inadequacies.

Following the independent assessment, consultations (workshops and questionnaires) with a cross section of industry practitioners, executives, regulators, consultants and other stakeholders of Regional Statistical System to obtain their inputs on the development and dissemination of statistics in the region and also seek strategic direction to be addressed in this new Strategic Plan.

2.2.3 SWOT/PESTEL Analysis

Table 2: SWOT / PESTEL Analysis

Factor	Strengths	Weaknesses	Opportunities	Threats
Political	<ul style="list-style-type: none"> Support from Member States Director Generals Anchored on COMESA Treaty and continental and global plans / charters Existence of a COMESA Statistics Strategy Development partners have played a key role in the development of COMESA Statistics as well as statistics in Member States 		<ul style="list-style-type: none"> High profile of statistics function in the MS Possibilities to establish partnerships with various organizations in statistical development Well defined statistical function in the COMESA Treaty 	<ul style="list-style-type: none"> Political instability in some MS Disqualification of some MS by certain donors towards statistical development Failure by MS to implement agreed activities

Factor	Strengths	Weaknesses	Opportunities	Threats
	<ul style="list-style-type: none"> COMESA has developed a niche in international trade statistics which is well recognised and leveraged by Member States and other RECs including SADC and EAC. 			

Economic	<ul style="list-style-type: none"> Existence of a Statistics Department at Secretariat Expertise in various statistics areas Existence of National Statistical Systems that are a source of COMESA statistics Existence of statistical plans in partner states including National Strategies for the Development of Statistics (NSDS) 	<ul style="list-style-type: none"> Poor and inconsistent funding of National Statistical Systems Poor quality of some data from Member States Inadequate tracking of demand especially at the level of the Member States Poor and inconsistent funding by national governments of national statistics systems. Over dependence on donor funding on censuses and surveys. There are data gaps on important development areas that need to be filled. This in some cases will require development of methodology and skills to be able to collect and compile data. 	<ul style="list-style-type: none"> Mainstream statistics into all COMESA programmes and projects. 	<ul style="list-style-type: none"> Inadequate funding of statistical budgets at all levels Over- dependence on donor funding Uncoordinated donor interventions which lead to duplication of effort Staff turnover for greener pastures
Social	<ul style="list-style-type: none"> Closeness of Member States which makes COMESA a convenient channel for statistical development in Member States by development partners. COMESA has coordinated and facilitated capacity building among Member States in development areas of interest to the region. 	<ul style="list-style-type: none"> COMESA statistical system is not elaborated Inadequate awareness creation about the COMESA Statistics Strategy and COMSTAT 	<ul style="list-style-type: none"> Possibilities to establish partnerships with various organisations in statistical development 	<ul style="list-style-type: none"> Inadequate coordination of National Statistical Systems

Table 2: SWOT / PESTEL Analysis

Factor	Strengths	Weaknesses	Opportunities	Threats
Technological	<ul style="list-style-type: none"> COMSTAT data portal for data dissemination 	<ul style="list-style-type: none"> Delays in remitting data from Member States to COMESA secretariat Inadequate connectivity in Member States The portal has not been well publicized and not used as the first point of call for data in the region. 	<ul style="list-style-type: none"> Advances in ICT that bring about possibilities to improve data collection, management and dissemination Opportunity to introduce new tools for data compilation such as tablets and mobile phones. 	<ul style="list-style-type: none"> Inadequate regional analyses based on COMESA data
Legislative/Regulatory	COMESA has produced Rules and Regulations for compiling international trade and other statistics.	<ul style="list-style-type: none"> Inadequate tracking of demand for data especially at level of member state Inadequate established positions in the Statistics Unit at COMESA Secretariat Inadequately designed COMESA Statistics Strategy (limited stakeholder involvement) and lack of an action plan/log frame. COMESA Statistical System not elaborated 	<ul style="list-style-type: none"> Diverse policy areas that call for new statistical outputs and approaches Existence of international and continental frameworks to guide improvement and development of statistics 	<ul style="list-style-type: none"> Inadequate implementation of agreed activities by Member States

2.2.4 Stakeholder Analysis

Statistical Development is undertaken in collaboration with a number of stakeholders that also play key roles and have varying expectations. Stakeholder analysis is also useful for accountability purposes.

Accountability for the implementation of this plan and the use of resources will be critical since it will require proper utilization of financial, human and material resources. This demands that all stakeholders in the regional integration agenda take responsibility and be accountable for their use. All stakeholders including COMESA Secretariat will be required to account for all resources in accordance to laid down regulations and procedures.

Table 3: Stakeholder Analysis Matrix of the CSS

Stakeholder	Their needs/expectations	Their role
COMESA Secretariat/ Institutions	<input type="checkbox"/> Good analytical work <input type="checkbox"/> Advice on policy recommendations <input type="checkbox"/> Reports <input type="checkbox"/> Implement continental agenda <input type="checkbox"/> Guidance and timely decisions by Member States <input type="checkbox"/> Detailed, disaggregated and harmonised data <input type="checkbox"/> Timely, accurate and relevant statistical data	<input type="checkbox"/> Provide quality control, corrective actions and checks and balances to regional statistics
<input type="checkbox"/> Governments (Member States)	<input type="checkbox"/> Good analytical work <input type="checkbox"/> Advise policy recommendations <input type="checkbox"/> Reports <input type="checkbox"/> Implement continental agenda <input type="checkbox"/> Guidance and timely decisions by Member States <input type="checkbox"/> Detailed, disaggregated data <input type="checkbox"/> Timely and relevant data <input type="checkbox"/> Detailed, disaggregated and harmonised data	
<input type="checkbox"/> National Statistical Offices (NSOs),	<input type="checkbox"/> Capacity building <input type="checkbox"/> Technical assistance <input type="checkbox"/> Updated regional data <input type="checkbox"/> Harmonized regional data	<input type="checkbox"/> Provide quality national data on a timely basis.

□ Central Banks	□ Capacity building □ Technical assistance □ Updated regional data □ Harmonized regional data	□ Provision of monetary statistics □ Provision of BoP □ And other national data
□ Sectoral Ministries	□ Technical Assistance □ Capacity building □ Detailed disaggregated data □ Regional data analysis □ Timely and relevant data	□ Provide quality national data on timely basis
□ Academia/ Researchers/ Think Tanks	□ Historical data □ Updated regional	

	and harmonised data	
□ Development Partners	□ Information (reports, monitoring information)	□ Financial support
□ African Union and other RECs	□ Developed synergies in work in statistical development	
□ Business Community	□ Database for business opportunities. □ Business relevant statistics □ Foreign direct investment and trade statistics. □ Linkages and networking	
□ Media/ Journalists	□ Up to date information across the region. □ Up to date website.	

4.0 Balanced Scorecard Perspectives and Strategic Objectives

3.1 COMESA Strategy Map

The balanced scorecard is a strategic planning and management system that is used extensively in business and industry, government, and non-profit organizations worldwide to align business activities to the vision and strategy of the organization, improve internal and external communications, and monitor organization performance against strategic goals.

While various terminologies can be used to refer to the Balanced Scorecard, all of them drive at the fact that it is an integrated strategic planning and performance management system that has emerged as a best practice for organizations that intend to enhance productivity through the “balancing” of non-financial performance measures to traditional financial metrics.

The balanced scorecard was adopted by the COMESA Council of Ministers in 2012 in Kampala, Uganda as the performance tool to enable the organization to translate its vision and strategy into reality.

Drawing from the key perspectives of the Balanced Scorecard, the Statistics Strategic Plan objective areas have been aligned as follows:

i. The Sustainability Perspective

The Sustainability perspective identifies the jobs (human capital), systems (information capital), and climate (organizational capital) that support the value creating process. In addition, the perspective recognizes rapid technological change, and the necessity for knowledge workers to be in a continuous learning mode as well as the need for dynamic organizational ICTs. Among the key results of the perspective are human capital, tools and innovation.

ii. Internal Processes Perspective (Areas for Continuous Improvement)

This perspective refers to internal business processes, allowing the organisation to know how well its business is running, and whether its products and services conform to customer requirements as it especially relates to its mission. For non-profit organisations, this perspective refers to the formulation of policies and frameworks that fulfill the achievement of the organisational mission. Key results of this perspective are efficiency and quality.

iii. The Financial Perspective

Also referred to as financial stewardship, this perspective describes the tangible outcomes of the strategy using familiar metrics such as return on investment, economic value added and operating profits among others. For non-profit organizations, this perspective recognises how mission value and effectiveness are maximized. Key results of this perspective are value addition and effective resource use.

iv. The Customer Perspective

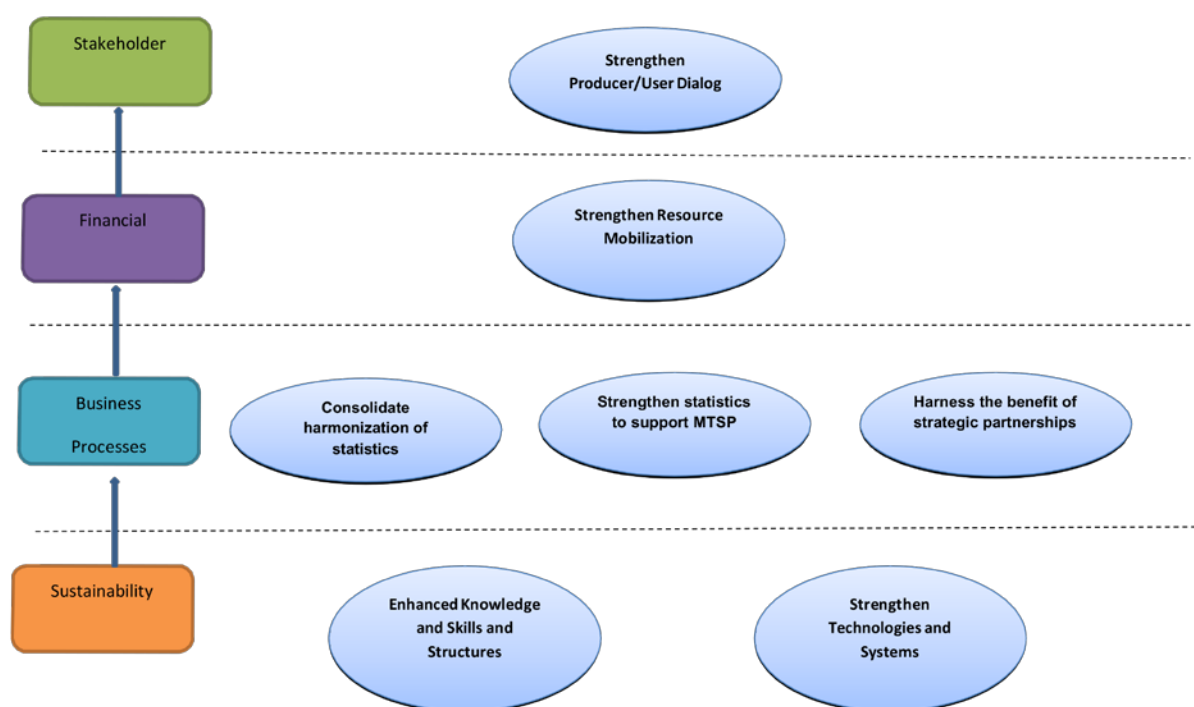
This perspective includes customer outcome measures such as satisfaction, retention, and growth. This perspective asks the critical question of how well the organisation is meeting the needs of its customers and stakeholders.

A strategy map is a key element of the balanced scorecard methodology. It describes the process of value creation through a series of cause and effect linkages among objectives in the four balanced scorecard perspectives outlined above. The map using a bottom-up, cause-effect linkage describes how strategy builds value from the internal to the external

through the perspectives. Therefore, improvements in internal capacity through learning and growth result in improved internal business processes which in turn drive improved external financial and customer results.

The Regional Statistical Strategy (RSS) Map below, therefore, illustrates the cause- effect linkages among the objectives that have been identified as priorities for the 2017-2020 planning period, which are in line with the mission of the organisation.

Figure 2: COMESA Statistics Strategy Map



3.2 Strategic objectives, implementation initiatives and expected outcomes

4.2.1 Introduction

The strategic directions outlined below are the COMESA response to the key challenges and issues that require adequate attention over the strategy period in a focused and action oriented manner. The strategic directions reflect the priorities in terms of the strategic objectives and initiatives. For these objectives to be realised there is need to have the following preconditions.

- Subsidiarity principle, each implementing agency in Member States, COMESA Institutions, Secretariat, Development Partners and Pan African Institutions undertake their roles in cooperation and not competition towards the production and use of statistics,
- Policy Organs desire to have statistics as a key driver in the decision making process and therefore provide for appropriate organization structures and budgets for statistics systems. It is also important that there are proper coordination mechanisms to facilitate quality control in statistics production.

3.3 Statistics Strategic Directions

The strategic objectives, as well as implementation initiatives and expected outputs of the

Statistics Strategy are as follows;

3.3.1 Strengthen producer / User dialog

This objective aims to boost the use of statistics in policy and decision making so that the efforts undertaken in statistics production are fully realized. The result of this will be increased statistical advocacy to enhance data demand and use as well as investment in statistical production and development.

- i. Undertake strategy awareness sessions among stakeholders. This is at the level of the Secretariat, Member States (Academia, Government and Industry actors – Triple Helix) and at regional level.
- ii. Hold User-Producer Forums at regional level.
- iii. Develop feedback mechanisms to get information and proposals on areas of statistical improvements.
- iv. Provide and follow up with Member state on the timely provision of Statistics.

3.3.2 Strengthen statistics to support MTSP 2016-2020 Strategic objectives.

Statistics is recognised as an integral part of the development process and needs to be mainstreamed into regional and national development plans as an enabler to decision and policy formulation. The Strategy assessment recognised that a lot of work has been done in some of the areas identified in the MTSP; however, there are also new areas that should be brought on board such as Blue Economy. Whilst some Member States are facing statistical challenges, collectively there is ample statistical capacity in the region as a whole that needs to be harnessed to support regional statistical development.

This new strategy proposes that human, technical and financial resources be put in place to facilitate production of policy responsive statistics in support of the MTSP 2016-2020. The Strategic objectives that have been identified for which statistics will be required are:

- a. **Strengthen Market Integration** – The following statistics will be required to support this objective; International merchandise trade statistics, import and export trade indices, statistics of international trade in services, small scale cross border trade statistics, harmonized consumer price indices, international comparison prices and national accounts statistics and statistics on free movement of persons (migration)
- b. **Attract increased investment** - Statistics on foreign direct investment and activities of foreign affiliates, will be required to support this objective.
- c. **Strengthen the Blue / Ocean Economy** – This objective will require the development of blue economy base statistics and a satellite account for the blue economy;
- d. **Strengthen Development of Economic Infrastructure** - The following statistics will be necessary to support monitoring of developments in this objective; energy statistics, transport statistics and ICT statistics.
- e. **Industrialization** – This objective will firstly require industrial statistics. Secondly and given the important role that agriculture plays in COMESA economies, agriculture production and agro value addition statistics will also be required to support this strategic objective.

- f. **Foster Gender Equality and Social Development** – Gender disaggregated statistics will be required to support this objective.

Initiatives

- i. Include Statistical activities in the objective of the COMESA Annual Work-plan.
- ii. Regional and national capacity building
- iii. Undertake subject specific technical assistance
- iv. Undertake regional analysis of aggregated national statistics
- v. Regional assessments of new areas of statistical developments
- vi. Participate in the design and implementation of sector inclusive national statistics development strategies (NSDS) to improve statistics in Member States
- vii. Monitor progress on Sustainable Development Goals (SDGs) linked to statistics related to the MTSP's strategic objectives.

3.3.3 Strengthen Strategic partnerships

In the Strategy review process, all Member States and other stakeholders expressed appreciation for the work done by COMESA and its development partners in Statistics. The production of relevant statistics is a collaborative process. In this regard partnerships help to enhance the process by providing technical and financial resources. The increased demand for MTSP responsive statistics implies that COMESA needs to continue to seek and cement partnerships to be able to deliver results within the tenure of the MTSP.

- i. Identify new and non- traditional strategic partners
- ii. Develop concept notes and proposals for statistical development in areas related to the MTSP.
- iii. Participate and network at all partner forums including the annual UN Statistical Commission meetings and, the Statistical Commission for Africa meetings etc
- iv. Engage and undertake joint statistical programs with partners including other RECs

3.3.4 Consolidate harmonisation of Statistics

This objective aims to ensure that statistics in the region are produced using harmonized frameworks and/or international standards which in turn enables regional and international comparative analysis.

Initiatives

- i. Develop country specific roadmaps on harmonization of relevant statistics;
- ii. Develop regulations and guidelines of harmonization and practice at a country level.

3.3.5 Enhance Statistical technical skills, competencies, literacy and structures

This objective recognizes that capacity building is an ongoing function that takes into account the needs of new people but also retrains and retools the existing statisticians in emerging areas, methodologies and tools.

Initiatives

- i. Capacity building workshops at Secretariat.
- ii. Development of e- learning capacity building initiatives.
- iii. Publication of statistical research materials
- iv. Strengthen database of regional statistical experts
- v. Implementation of the proposed staff structure for the Statistics Unit recommended in the 2017-2020 Statistical Strategy

3.3.6 Strengthen Technologies and systems as enablers for the Statistical System

When properly harnessed, ICT's can be transformative and significantly bring down the cost of doing business, and the elements of this strategy will provide a means of enhancing COMESA's capacity to achieve its objectives by ensuring a strategic application of ICT's as an enabler. Several initiatives and innovations have been developed which have led to the tools and applications being less costly and more available and accessible to a wider section of the population through various sectors of development such as trade in services, capacity building (online courses), environment, public sector operations, agriculture and mining, among many others. In the recent past there has been a greater shift towards Cloud computing which has also positively impacted on the storage of massive data and adoption and use of ICT's.

For COMESA to ensure that ICT's increasingly become an effective enabler for the region's statistical development, it means adoption of modern systems and technologies to support production, compilation and dissemination of statistics.

a. Production

COMESA will continue to play a key role in building Member State capacity in the use of software for purposes of statistical production or compilation. The main Initiative in this area will include:

Initiatives

- Build capacity on use of tablet/mobile based data collection for surveys in Member States
- Build capacity on use of appropriate database software for statistical database administration and querying

b. Transmission

Data transmission from Member States to the COMESA Secretariat is critical for ensuring timely dissemination of statistical outputs. As the main initiative in this area, COMESA will play a critical role in promotion of Statistics and Meta Data Exchange (SDMX) in order to ensure efficient data transmission between Member states and Secretariat

Initiatives

- i. Strengthen Statistical Data and Meta Data Exchange (SDMX) capacity at Secretariat and in the Member States on a pilot basis

c. Dissemination

The assessment of the concluding Strategy showed that COMESA adopted COMSTAT

as its dissemination portal for statistics and reports. The review of the utilization of the portal by stakeholders shows a mixed picture with more of those surveyed not either being aware or not using it as a source for regional statistics. On the other hand, the AfDB report has consistently shown COMSTAT to be among the more utilized portals on the African Information Highway.

This strategy seeks to build on the COMSTAT infrastructure by proposing a program to make COMSTAT the first data source on COMESA Statistics for policy makers. Indeed COMSTAT is seen as a low lying fruit that does not require significant financial resources.

Initiatives

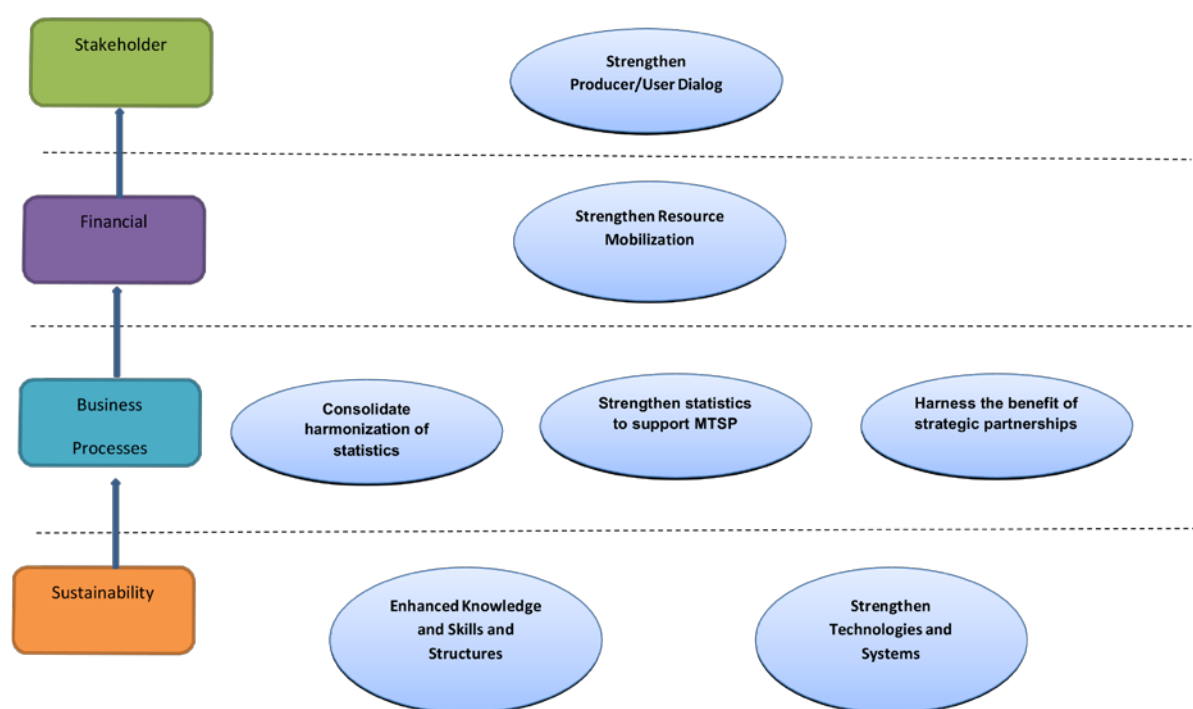
- i. Monitor access to the COMESA portal
- ii. Track user statistics of the COMSTAT portal
- iii. Promote use of COMSTAT portal at all COMESA technical meetings and conferences, regional and international conferences, meetings of COMESA institutions, related missions, student competitions etc.
- iv. Undertake promotion of COMSTAT through social media and other digital platforms.
- v. Support increased usage of COMSTAT products to mobile platforms and monitor their use.

4.1 Implementation Framework

4.2 Human resources Management

Human Resource is central towards the implementation of the strategy and as such it calls for adequate, knowledgeable and skilled capacity both at Member State and Secretariat level. Human Resource Management is therefore a strategic component that requires support with adequate financial resources and human resource development initiatives. Consequences of not addressing this strategic issue include COMESA not being able to deliver on its mandate as well as loss of confidence among stakeholders on the regional integration agenda. COMESA will endeavour to improve its organisational capacities by establishing the human capital requirements. This will include deployment of a talent management system to recruit, develop and retain competent staff at all levels, improving knowledge and skills through training and capacity building initiatives and institutionalization of the Balanced Scorecard performance management system.

In order to ensure the effective implementation of Statistics Strategy and the overarching mandate of the Treaty, the required human resource complement at the Secretariat is proposed as shown below:

Figure 3: Organisational Structure

4.3 Resource Mobilisation

Statistics production is highly demanding on both time and financial resources and therefore this strategic plan makes it a prerequisite to undertake resource mobilisation. The result will be increased mobilized resources to fund the Statistical production, dissemination and capacity building. The sources of funds is usually but not limited to funds generated from Member States' assessed annual contributions, development partners and any other resources that are generated from related activities that are carried out within the region. Resource mobilisation in this case will extend to include accountability and improved efficiency in delivery of donor resources. As noted in the assessment, there is need for increased coordination of activities and synergies of resource mobilization across donors, COMESA Institutions, Divisions, Units and Programmes.

Initiatives:

- i. Develop funding proposals for the period of the Strategic Plan and hold targeted meetings to close the funding gap. For example, all projects and programmes in COMESA should allocate a fixed sum from the budget for statistics production
- ii. Undertake studies that can help lower the cost of undertaking statistics work
- iii. Engage governments of Member States and COMESA Secretariat to fund the programme from own resources progressively to avoid the donor-overdependence trap which can distort statistical priorities in the region

4.4 Proposed Budget for 2017-2020 COMESA STATISTICS STRATEGY

The estimated budget for the COMESA Statistics Strategy 2017-2020 is shown in the table below. The estimated total cost, includes the activities required to meet the strategic objectives

as laid out in the MTSP 2016-2020, such as regional and national workshops, capacity building and technical assistance missions, consultancy, staff costs and publication costs. The estimated total cost is just over \$ 10 million for the three year period from 2018 to 2020.

Table 4: Estimated Total Cost of the 2017-2020 COMESA Statistics Strategy in US \$

Strategic Objective	Total
Strengthen Producer/User Dialogue	280,000.00
Strengthen Statistics to support MTSP 2016-2020 Strategic objectives	7,470,000.00
Strengthen Strategic Partnerships	100,000.00
Consolidate harmonisation of statistics	440,000.00
Enhance technical skills, competencies, literacy and structures	780,000.00
Strengthen Technologies and systems	1,120,000.00
Total	10,190,000.00

The largest component of the proposed budget is on statistical responses to supporting the COMESA MTSP 2016-2020 strategic objectives in the areas of market integration, increased investment, improved economic infrastructure, industrialization, the Blue economy, Gender equality and social development.

It is foreseen that funding from a number of different sources will be needed to ensure the Strategy can be realized. COMESA has a long standing partnership with the European Union (EU) and the African Development Bank (AfDB). It is hoped that these long standing partners will continue to support the COMESA Secretariat Statistics Unit in the upcoming EDF11 from the EU and the SCB V programs from the AfDB. Components of the 2017-2020 COMESA Statistics Strategy such as long term staff costs, consultancy costs, meeting costs and equipment will need to be supported by the COMESA Secretariat.

4.5 Communication and advocacy

COMESA recognizes that public awareness is a critical component of achieving the aspirations of the Treaty and the full realization of the role of statistics and statisticians towards regional integration agenda. This entails the dissemination of information and raising awareness and level of knowledge of the public which is a prerequisite in mobilizing their participation and use of the data produced. COMESA will use multiple communication channels to disseminate knowledge of statistical products using print and digital media platforms to popularize the MTSP 2016-2020 and the associated Statistics Strategy and advise stakeholders—including COMESA Secretariat and the public—of key activities and their benefits.

The Assessment of the concluding strategy pointed out the need for increased communication and advocacy of COMESA Statistical work. While it was observed that COMESA undertook a lot of work with respect to systems upgrade, capacity building and harmonisation of procedures and practices, little was attributed to COMESA. There was therefore a gap in attribution to bring out the work undertaken towards statistical development. In implementing the 2017-2020 Strategic Plan, there is a call for increased advocacy if the position and profile of statistics is to be upheld by stakeholders, resulting in ownership of the strategy

4.6 Monitoring and evaluation and learning

Monitoring and Evaluation (M&E) is an approach to how the organization should effectively learn from the lessons of the past, build on the progress now underway and strategically exploit all possible opportunities available in the immediate and medium term, so as to ensure positive socio-economic transformation.

The successful implementation of this Plan will depend largely on how the activities and outputs are effectively monitored and evaluated. The Plan's monitoring will be through the institutional arrangements both at Member State and Secretariat levels. Monitoring may be supported by the use of the COMESA M&E online system. Supporting effective implementation of the COMESA online monitoring and evaluation system and to the development of other monitoring and evaluation tools. With respect to evaluation, the Plan will be subjected to two evaluations, Mid-Term Evaluation and Review; and Final Evaluation to ensure that the undesired experiences of the previous Plan's implementation are not repeated. As per good practice, the two evaluations will be done by an independent team of evaluators. The evaluation will be done in collaboration with Member States.

Reporting the progress of implementation will be critical in adjusting strategic directions and measuring performance. Progress reports will be made on annual basis. The reports will outline projected targets, achievements, facilitating factors and challenges.

6.0 ANNEXES

Annex 1: COMESA Statistics Strategy 2017-2020 Logical Framework

Strategic Objective 1.1: Strengthen Producer/User Dialogue						
This objective aims to boost the use of statistics in policy and decision making						
Outcome	Initiatives	Indicators	Baseline	Target	Sources of Verification	Assumptions
Increased user usage/ appreciation of statistical data	Undertake strategy awareness sessions among stakeholders. This includes professionals at the Secretariat, Member States (Academia, Government and Industry actors – Triple Helix) and at regional level	Structure and tools for advocacy developed	None	Tools developed by first quarter 2018.	COMESA reports	Funding availability
					User Surveys	
					Reports of the COMESA Statistical Matters Committee Meetings	
		Number of awareness sessions held (Frequency)	None	Four (4) per annum	COMESA reports	Funding availability
		Number of participants from the target groups participating in the sessions (disaggregated by gender)	None	Hundred Fifty (150) participants per year	COMESA reports	Funding availability
Hold user-Producer forums at regional level		Number of User/Producer dialogues held				
		Number of User / Producer entities participating in the forums				
		Number of new users accessing statistical data				
Develop feedback mechanisms to get information and proposals on areas of statistical improvements		Feedback mechanisms to get information and proposals on areas of statistical improvement developed				

		Percentage of users reporting satisfaction with statistical data (User satisfaction statistics)							
		Number of new areas of statistical improvements identified							
								</	

	Regional and national capacity building	Number of MS whose capacity has been built	26	By end of 2020	COMESA Reports	Funding availability
		Number of people trained (disaggregated by gender)	1000 80 workshops	26 At least 500 30 workshops		
	Undertake subject	Number of MS provided	45	30	COMESA Reports	Funding availability

	specific technical assistance	with technical assistance				
	Undertake Regional analysis of aggregated national statistics	Reports on the analysis of aggregated regional statistics produced annually	Six(6) Bulletins	Eight (8) Bulletins	COMESA Reports	Funding availability
	Regional assessments and development of roadmaps for new areas of statistics	Number of assessments on new areas of statistical development Number of regional and national roadmaps for new areas of statistical development developed	SITS, FDES, Industrial Statistics	By end of 2020 One(1) for regional assessment for the Blue Economy Six(6) countries for national roadmaps	COMESA Reports COMESA Reports	Funding availability Funding availability
	Participate in the evaluation and design of sector inclusive national statistics development strategies (NSDS) to improve statistics in Member States	Number of sector inclusive national statistics development strategies (NSDS) in which COMESA has participated	None	By end of 2020 Three	PARIS 21	PARIS 21

Monitor progress on Sustainable Development Goals (SDGs) linked to statistics related to the MTSP's strategic objectives.	Progress report	None	one	COMESA Reports		
Strategic Objective 1.3: Strengthen Strategic Partnerships						
The production of relevant statistics is a collaborative process. Partnerships help to enhance the process by providing technical and financial resources. The increased demand for MTSP responsive statistics implies that COMESA needs to continue to seek and cement partnerships to be able to deliver results within the tenure of the MTSP.						
Outcome	Initiatives	Indicators	Baseline	Target	Sources of Verification	Assumptions
Strategic partnerships strengthened	Identify new and non- traditional strategic partners	Number of new partnerships developed	Four long term partnerships(namely EU, AfDB, USAID, WB)	By end of 2020 Six (6)		Existence of common areas of interest
	Develop proposals for statistical development in areas related to the	Number of concept notes and proposals for statistical development in	None	Eight (8) proposals	COMESA Reports	
MTSP.						
Participate and network at all partner forums including the annual UN Statistical Commission meetings and, the Statistical Commission for Africa	areas related to the MTSP developed and presented to partners					
	Number of cooperation agreements with partners for statistical development in areas related to the MTSP signed.		Three(3)	Four (4)		
	Number of COMESA staff participating in forums including the annual UN Statistical Commission meetings and STATCOM Africa annually.	Four(4) (UNCTAD, UNECA, AfDB, AUC)	Eight(8) -Four additional to identify	COMESA Reports, Mission reports	Funding availability	

Engage and undertake joint statistical programs with partners including other RECs	Number of joint statistical programs undertaken with partners and other RECs identified, developed and implemented	One(1) (SADC-HCPI)	Three (3) (EAC, IOC)	COMESA Reports	Existence of common areas of interest and agreement by partner RECS	
Strategic Objective 1.4 : Consolidate harmonization of statistics						
The objective aims to ensure that statistics in the region are produced using harmonized frameworks and/or international standards which in turn enables comparative analysis						
Outcome	Initiatives	Indicators	Baseline	Target	Sources of Verification	Assumptions
Statistics compiled using harmonized frameworks	Develop country specific roadmaps on harmonization of relevant statistics	Number of country specific roadmaps on the harmonization of relevant statistics developed	Eight (8)	By end of 2020 Ten (10)*	COMESA Reports	Availability of country funding, Appropriate structures at Member States level to implement harmonized frameworks.
	Develop regulations for compilation and dissemination of statistics by Member states	Number of regulations and guidelines developed	Twenty one(21)	Twenty five (25) By end of 2020		
Strategic Objective 1.5: Enhance technical skills, competencies, literacy and structures						
The feedback received from the 2014-2017 Statistics Strategy review was that COMESA with support from development partners and some Pan African Institutions has played a leading role in capacity building and requested that this objective be consolidated.						
Outcome	Initiatives	Indicators	Baseline	Target	Sources of Verification	Assumptions
Regional statistical technical skills, competencies and	Capacity building workshops at Secretariat.	Number of experts trained at Secretariat (disaggregated by	One thousand and thirty	By end of 2020 Five hundred(500)	COMESA Reports Reports of the COMESA	Funding availability

structures enhanced	gender)	eight(1038)			Statistical Matters Committee Meetings	
	Development of e-learning capacity building initiatives.	Number of e-learning capacity building initiatives undertaken	None	Two(2)	COMESA Reports	Funding availability
		Number of users signing up and completing the developed e-learning initiatives.				
	Publication of statistical research materials	Number of statistical research materials published	None	Four(4)	COMSTAT	Funding availability
	Strengthen database of regional statistical experts	Number of regional statistical experts in the database	None	Hundred(100)	COMESA Reports COMESA HR Consultant Database	
	Implementation of the proposed staff structure for the Statistics Unit recommended in the 2017 2020 Statistical Strategy	Recruitment of statisticians with expertise in relevant areas such as Prices, National Accounts, Balance of Payments/Finance, Industry, Infrastructure, Agriculture/Environment, International Trade, Social areas and GIS	1 (One)	Four (4)	COMESA Reports	Availability of funding to implement the proposed staff structure.

Strategic Objective 1.6: Strengthen Technologies and systems						
The elements of this strategy will provide a means of enhancing COMESA' MS capacity to achieve its objectives by ensuring a strategic application of ICT's as an enabler.						
Use of technologies and systems to support statistical development and usage strengthened	Building capacity on use of tablet/mobile based data collection for surveys in member states	Number of training workshops held on the use of tablet/mobile based data collection for surveys in member states	None	Two(2)	COMESA Reports	Country funding for tablet based data collection
			None	Twenty(20)	Reports of the COMESA Statistical Matters Committee Meetings	Country requests for training
					COMESA Workshop	

Building capacity on use of appropriate database software for statistical database administration and querying	Strengthen Statistical Data and Meta Data Exchange (SDMX) capacity at Secretariat and in the Member States on a pilot basis	Number of training workshops held on use of appropriate database software for statistical database administration and querying	8		Reports	Funding availability
		Number of training workshops held on SDMX at Secretariat and in the Member States	Two(2)	By end of 2020 10	COMESA Workshop reports	Robust IT infrastructure; IT competent staff in MS; Funding availability
		Number of experts trained on SDMX	Seven(7)	Fifteen(15)	COMESA Workshop reports	Robust IT infrastructure; IT competent staff in MS; Funding availability
	SDMX projects initiated	None	Five(5)		Robust IT infrastructure; IT competent staff in MS; Funding availability	
Monitor the access to the COMSTAT Portal	Bounce rate	50%	Less than 30%	Reports of the COMESA Statistical Matters Committee Meetings Online usage statistics		

Track COMSTAT portal user statistics	% increase in usage of portal	620			African Information Highway reports	
Promote use of COMSTAT portal at all COMESA technical meetings and conferences, regional and international conferences, meetings of COMESA institutions, related missions, student competitions etc	Number of technical meetings where presentations on COMSTAT portal are made. (meetings include conferences, regional and international conferences, meetings of COMESA institutions, related missions, student competitions)	Ten (10)			COMESA Reports	Buy-in from Divisions and Secretariat.
Undertake promotion of	Number of promotion	None		Ten(10) promotion	COMESA Reports	

COMSTAT through social media and other digital platforms.	activities (FB, links to COMSTAT on Member States) undertaken to market COMSTAT portal on social media and other digital platforms			activities per annum		
Support increased usage of COMSTAT products to mobile platforms and monitor their use.	Number of users accessing COMSTAT products on mobile platforms , using Google analytics % increase in usage of portal by target groups	2000 installations		By end of 2020 Additional 1000 installations	COMESA Reports	



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