

TP/TWG-TBT-SPS-NTB/9/2019

Adopted Report



COMESA-EAC-SADC TRIPARTITE

TENTH MEETING OF THE TRIPARTITE TECHNICAL WORKING GROUP ON
TECHNICAL BARRIERS TO TRADE, SANITARY AND PHYTOSANITARY
MEASURES AND NON-TARIFF BARRIERS

NAIROBI, KENYA

16 - 21 SEPTEMBER, 2019

REPORT

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INTRODUCTION

1. The Tenth Meeting of the Technical Working Group (TWG) on Technical Barriers to Trade, Sanitary and Phytosanitary Measures and Non-Tariff Barriers was held on 16 - 21 September 2019 in Nairobi, Kenya. The objective of the meeting was to consider the draft Tripartite Working procedures for implementation of Annex III on Non-Tariff Barriers, draft Rules of Procedure for the Tripartite Non-Tariff Barriers Sub-Committee, the 1st draft Rules of Procedure for the SPS Sub-Committee and the 2nd draft Rules of Procedure for the TBT Sub-Committee.
2. The Meeting was held in parallel with the 3rd Meeting of the TWGs on Trade in Services and Competition Policy, 26th Meeting of the Rules of Origin, 4th Tripartite Meeting on Resource Mobilization and the 12th Meeting of the TWG on Customs Cooperation, Documentation, Procedures and Transit Instruments.
3. The Tenth Meeting of the Technical Working Group (TWG) on Technical Barriers to Trade, Sanitary and Phytosanitary Measures and Non-Tariff Barriers was attended by the following RECs/Member/Partner States: EAC (Burundi, Kenya, Rwanda, South Sudan, Tanzania, Uganda); Malawi; SACU (Botswana, Lesotho, Namibia, Eswatini and South Africa); and Zimbabwe. The meeting was also attended by representatives of the Tripartite Secretariats of COMESA, EAC and SADC. The list of participants is attached as Annex 1.
4. The meeting was Chaired by Mrs. Helen Kenani, Assistant Director, State Department for Trade in the Ministry of Industry, Trade and Cooperatives, representing COMESA. The Vice Chair was Mr. Louis Uwimana, EAC and Eastern Africa Officer, Ministry of Foreign Affairs and International Cooperation representing EAC and the Rapporteur was Ms. Stella E. Mrosso, Senior Quality Assurance Officer, Tanzania Bureau of Standards, representing SADC.

CONSTITUTION OF THE BUREAU (*Agenda Item 1*)

5. The meeting constituted its Bureau as follows:

Chairperson: Kenya, (Representing COMESA)
Vice Chairperson: Rwanda, (Representing EAC)
Rapporteur: Tanzania, (Representing SADC)

WELCOME AND OPENING REMARKS (*Agenda Item 2*)

6. A joint opening session for the five parallel TWG meetings was held. On behalf of the Tripartite Task Force, Dr Seth Gor, the Tripartite Capacity Building Programme Coordinator at COMESA Secretariat, welcomed the delegates to the meetings and appraised them of the progress made by the various TWGs in the development of guidelines and working procedures and the status of ratification of the Tripartite Free Trade Area Agreement (TFTA) by Member/Partner States. He expressed gratitude at the response by Member/Partner States to the call to expedite process of ratifications and observed that although only five Tripartite Member/Partner States had ratified the Agreement, it was expected that the required



14 ratifications could be achieved by the Tripartite Sectoral Ministerial Committee (TSMC) deadline of 30th September 2019. He informed the meeting that, initially the five TWG meetings had been scheduled for two weeks, from 16 - 27 September 2019. However, due to financial constrains the TTF had reduced the days to six. He apologised for the inconvenience caused. He urged the Member/Partner States to endeavour to maximise on the opportunity and make as much progress as possible.

7. In her opening remarks the representative of the host country, Mrs Helen Kenani recalled the Tripartite Sectoral Ministerial Committee (TSMC) directive made during the meeting held in Cape Town in June, 2018 to convene meetings of the relevant TWGs and Technical Committees in order to develop working procedures/operational manuals/detailed technical guidelines for the implementation of the Annexes to the Agreement. She noted that some progress have been made in previous TWG meetings in order to implement the directive of the TSMC and emphasized the need to conclude on the outstanding work. She wished the Tenth TWG meeting successful deliberations.

ADOPTION OF THE AGENDA (Agenda Item 3)

8. The meeting adopted the following agenda:
1. Constitution of the Bureau (*Agenda item 1*)
 2. Welcome and Opening Remarks (*Agenda item 2*)
 3. Adoption of the Agenda (*Agenda item 3*)
 4. Matters Arising from the previous meeting (*Agenda item 4*)
 5. Consideration of 4th draft Working Procedures on Annex III on Non-Tariff Barriers to Trade (NTB) (*Agenda item 5*)
 - a. Consideration of Draft Rules of Procedure for the Tripartite Non-Tariff Barriers Sub-Committee;
 - b. Consideration of Draft Time Bound Elimination Plans for monitoring the elimination of NTBs at the Tripartite level by the NTBs Sub-Committee;
 - c. Consideration of Draft functions for the Tripartite Non-Tariff Barriers Monitoring Unit;
 - d. Consideration of Draft Rules of Procedure for the establishment of a Tripartite Non-Tariff Barriers Monitoring Unit;
 - e. Consideration of Draft NTBs Sub-categories.
 6. Consideration of the 1st draft Rules of Procedure for the SPS Sub-Committee (*Agenda item 6*)



7. Consideration of the 2nd draft Rules of Procedure for the TBT Sub-Committee (*Agenda item 7*)
8. Any other business (*Agenda item 8*)
9. Date and Venue of next meeting (*Agenda item 9*)
10. Adoption of Report and closing of the Meeting (*Agenda item 10*)

MATTERS ARISING FROM THE PREVIOUS MEETING (*Agenda item 4*)

i. TTF to seek legal opinion on the binding status of the working Procedures for the elimination of NTBs and circulate the report before the 10th TWG

9. The TTF legal Counsel informed the meeting that, for purposes of effecting the Annexes, working procedures/guidelines are read together with the Annexes and main Agreement. Read on their own, the Working procedures were not binding because they do not impose any sanctions on a Member/Partner State for failing to implement the working Procedures or Guidelines. He emphasized that the Member/Partner were expected to implement the agreement in a good faith.

10. The TTF legal Counsel submitted a legal opinion in respect to the matter, which is hereto attached in **Annex II**

11. The meeting noted the written submission by the legal counsel and agreed that the Tripartite Member/Partner States will consult and seek further clarification.

ii. Member/Partner States to submit comments on the proposed NTB sub-categories electronically by 30th August 2019

12. The TWG noted that TTF received comments from EAC on the proposed Non-Tariffs Barriers sub-categories by the set date. The 10th TWG meeting noted that this matter was substantive agenda item for the meeting and decided to discuss it under agenda item 5 (e).

iii. The Member/Partner States to undertake further consultation of the agreed tools for TBT and SPS and submit comments to the TTF by 10th September 2019

13. The TWG noted that prior to the meeting none of the Member/Partner States had submitted comments on agreed tools for TBT and SPS. The meeting requested the Member/Partner States wishing to submit comments to do so by 30th September 2019 for circulation to all Member/Partner States for consideration at the 11th TWG meeting. TTF reminded the TWG that guidelines for Implementation of Annex IX on SPS had been completed and circulated to Member/Partner States.

14.

CONSIDERATION OF 4th DRAFT WORKING PROCEDURES ON IMPLEMENTATION OF ANNEX III ON NON-TARIFF BARRIERS (NTB) (*Agenda item 5*)

15. The TWG deliberated and finalised the Draft Working Procedures which are hereto attached as **Annex III**

(a) Consideration of Draft Rules of Procedure for the Tripartite Non-Tariff Barriers Sub-Committee

16. In considering the Draft Rules of Procedure for the Tripartite Non-Tariff Barriers Sub-Committee, the meeting recalled the decision of the TSMC that the Rules of Procedure of the lower organs should be aligned to the Rules of Procedure of the TSMC.

17. The 10th TWG meeting finalised the Rules of Procedure for Sub-Committee on Tripartite Non-Tariff Barriers which are hereto attached as **Annex IV**.

(b) Consideration of Draft Time bound elimination plans for monitoring the elimination of NTBs at the Tripartite level by the NTBs Sub-committee

18. The 10th TWG meeting deliberated upon the draft Time Bound Matrix for monitoring NTBs in the Tripartite region and agreed on improvements on the matrix through inclusion of HS Code, date of report and replacement of time frame by progress report. The Time Bound Matrix will be appended to the Working procedures for the implementation of Annex III on NTBs. The Time Bound Matrix is hereto attached as **Annex V**.

(c) Consideration of Draft functions for the Tripartite Non-Tariff Barriers Monitoring Unit

19. The 10th TWG meeting considered and finalised the Draft functions of the Tripartite Non-Tariff Barriers Monitoring Unit. The functions for the Tripartite Non-Tariff Barriers Monitoring Unit are an integral part of the Working procedures for the implementation of Annex III on NTBs.

(d) Consideration of Draft Rules of Procedure for the establishment of a Tripartite Non-Tariff Barriers Monitoring Unit

20. The 10th TWG meeting reviewed the necessity of developing Rules of procedures for the Tripartite NTB monitoring unit, and agreed that it was not required since it will be an institution within the Tripartite Secretariat when it is established and will operate within the Rules and Procedures of the Secretariat.

(e) Consideration of Draft Non-Tariff Barriers Sub- categories

21. The 10th TWG noted that prior to the meeting the TTF received written comments from the EAC-REC on the Draft NTB Sub-categories. Other Member/Partners States provided their comments on the matter at the meeting. The

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meeting discussed the comments and finalised the Non-Tariff Barriers Sub-categories, which are an integral part of the Working Procedures for the Implementation of Annex III on NTBs.

CONSIDERATION OF THE 1ST DRAFT RULES OF PROCEDURE FOR THE SPS SUB-COMMITTEE (*Agenda item 6*)

22. The TWG considered and finalised the Draft Rules of Procedures for the SPS Sub-Committee which is hereby attached as Annex VI.

23. The 10th TWG finalised the Rules of procedure for the SPS Sub-Committee.

CONSIDERATION OF THE 2ND DRAFT RULES OF PROCEDURE FOR THE TBT SUB-COMMITTEE (*Agenda item 7*)

24. The 10th TWG considered and finalised the Draft Rules of Procedures for the TBT Sub-Committee which is hereby attached as Annex VII.

RECOMMENDATIONS

25. The TWG recommends to TTNF the following procedures for consideration:

- i. Rules of Procedure for the Tripartite Sub-Committee on Non-Tariff Barriers;
- ii. Working Procedures for the Implementation of Annex III on Non-Tariff Barriers;
- iii. Rules of Procedure for the Tripartite Sub-Committee on Sanitary and Phytosanitary Measures; and
- iv. Rules of Procedure for the Tripartite Sub-Committee on Technical Barriers to Trade.

26. TWG recommends that Member/Partner States submit comments on TBT and SPS tools to the TTF by 30th September 2019 and TTF to circulate to Member/Partner States by 21st October 2019 for consideration at the 11th TWG meeting.

ANY OTHER BUSINESS (*Agenda item 8*)

27. There was no other business.

DATE AND VENUE OF NEXT MEETING (*Agenda item 9*)

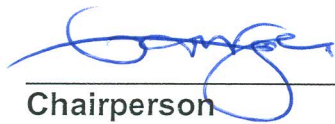
28. The 11th meeting of the TWG on TBT/SPS/NTB will be advised by the TTF.

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ADOPTION OF REPORT AND CLOSING OF THE MEETING (*Agenda item 10*)

29. The Vice-Chairperson closed the meeting by thanking the delegates for their participation and contributions to the deliberations of the meeting.

30. The Report was adopted and signed by the Chairperson, Vice Chairperson and Rapporteur on 21 September 2019 as reflected under:



Chairperson
Mrs. Helen Kenani
(Republic of Kenya)
COMESA



Vice Chairperson
Mr. Louis Uwimana
(Rwanda)
EAC



Rapporteur
Ms. Stella E. Mrosso
(Tanzania)
SADC

LIST OF PARTICIPANTS

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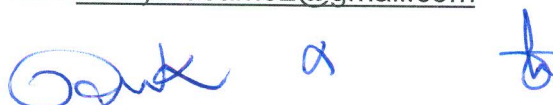
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