

ANNEX II



COMESA-EAC-SADC TECHNICAL WORKING GROUP ON NON-TARIFF BARRIERS

ISSUED LEGAL OPINION ON STATUS OF WORKING PROCEDURES FOR THE ELIMINATION OF NON-TARIFF BARRIERS

Under International Law, International Agreements are entered into by contracting parties in good faith with an international obligation to perform and see them through until they are fully implemented and enter into force.

The COMESA-EAC-SADC Tripartite Free Trade Area (TFTA) Agreement is an International Agreement that has *inter alia* Annex 3 on Non-Tariff Barriers (NTBs) for which Working Procedures were developed in order to make Annex 3 operational.

These Working Procedures are an important operational tool. In the strictest sense of the word, when considered alone, they are not binding in the sense that there is no threat of punishment or sanction that follows their breach unlike with a law or regulation or penal code.

However, the Working Procedures are essential and functional in order to give effect to Annex 3 and make it operational hence cannot be viewed in isolation from the TFTA Agreement and Annex 3.

Wherefore, the international obligation of performing the implementation of an International Agreement in good faith applies also to the TFTA Agreement and Annex 3.

COMESA-EAC-SADC
17 September 2019

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