

**THE TRIPARTITE WORKING PROCEDURES FOR IMPLEMENTATION OF
ANNEX III ON NON-TARIFF BARRIERS**

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Understanding on Inter Regional Cooperation and Integration Amongst COMESA, EAC and SADC.

Guideline 2 Objectives

The Objective of these Working Procedures is to facilitate implementation of Annex III on Non-tariff Barriers.

Guideline 3 Non-Tariff Barriers

A Member/Partner State shall have imposed a Non-Tariff Barrier if that Member/Partner State undertakes any activity that falls under NTB categorisations as identified in Article 3 of Annex III on Non -Tariff Barriers

Guideline 4 Prohibition of activities by Member/Partner States that create non-tariff barriers

1. A Member/Partner State shall take necessary measures to prevent NTBs while they engage in trade practices, customs procedures and any other measures;
2. The Member/Partner States are urged to review their procedures and practices identified as causing non- tariff barriers.

Guideline 5 Non-Tariff barriers Sub-Categories

1. The categorisation of NTBs does not determine the legitimacy, adequacy, necessity or discrimination of any form of policy intervention used in international trade and it does not prejudice the rights and obligations of the Tripartite Member/Partner States under the WTO Agreements;
2. The Non-Tariff Barriers sub categories in the Complaint Reporting Form (Appendix 1a) will be the toolkit to assist in reporting NTBs;
3. The NTBs Sub- categories (Appendix 1b) provide clarity and information to guide an economic operator to file a complaint in the correct NTB sub-category to facilitate reporting of NTBs by stakeholders in the web based and other reporting tools.

Guideline 6 National Monitoring Committees

1. The National Monitoring Committees (NMC) shall consist of such representatives of the relevant:
 - i. Government Institutions;

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- ii. Private Sector, producers, trade or industry associations; and
 - iii. Any other members that may be deemed necessary as per Article 5 (3) of Annex III on Non-Tariff Barriers.
2. Tripartite Member/Partner State may as necessary initiate changes in their respective Committee's membership;
3. When composing the NMC membership, the Member/Partner State shall consider Gender and Persons with disability;
4. Each Member/Partner State shall notify the List of Institutions forming the NMC membership to the Tripartite Task Force;
5. The meetings of the NMC shall be chaired by representative from the Public Sector while the Vice Chair will be drawn from the Private Sector shall serve as Vice Chairperson.

Guideline 7 Functions of the National Monitoring Committees

1. The Functions of the National Monitoring Committee are laid out in Article 5 of Annex III on Non-Tariff Barriers;
2. The National Monitoring Committee shall undertake the following specific functions: receive reports and complaints from affected parties, on the existence of non-tariff barriers in the Member/Partner State:
 - i. outline the process of elimination of non-tariff barriers in the Member/Partner State;
 - ii. monitor the process of elimination of the non-tariff barriers in the Member/Partner State;
 - iii. identify, on its own initiative, a non-tariff barrier that exists in the Member/Partner State and notify the concerned organ, institution or public authority of the Member/Partner State of the existence of the non-tariff barrier;
 - iv. make recommendations to the relevant institutions and public authorities of the Member/Partner State on the removal of a non-tariff barrier;
 - v. advise the Member/Partner State on the policies and laws that contain or lead to non-tariff barriers;
 - vi. prepare periodic reports on the elimination of non-tariff barriers in the Member/Partner State, indicating the proposed action to eliminate the non-tariff barriers in each Member/Partner State; and
 - vii. with facilitation of the Tripartite Task Force, undertake bilateral missions to resolve outstanding Non-Tariff Barriers in a timely manner as specified in Annex III on NTBs.
3. NMC shall develop and implement an elaborate NTBs elimination work programme as determined by the scope of NTBs identified and reported in the Tripartite online, SMS and any other mechanisms as determined by Member/Partner States;



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4. The Tripartite Task Force shall convene Tripartite Meetings of the NTBs Coordinating Focal Points annually or as frequently as need may arise;
5. NMC shall submit their reports to the Tripartite Non- Tariff Barriers Sub-Committee.

**Guideline 8
National Focal Points**

1. Each Member/Partner State shall designate an institution to be the National Focal Point;
2. Each Member/Partner State shall designate additional focal points from the Public and Private sectors;
3. The designated National Focal Point Institution shall coordinate the activities of the National Monitoring;
4. The functions of the National Focal Points are contained in Article 6 of Annex III on Non-Tariff Barriers;
5. The Tripartite Task Force shall maintain an online Tripartite Focal Points database; The National Focal Point shall update the Focal Points database as and when changes occur; and
6. The database shall contain details on email, fax, and mobile or hotlines for focal points.

**Guideline 9
Membership of Tripartite Non-Tariff Barriers Monitoring Unit**

Membership of the Tripartite Non-Tariff Barriers Monitoring Unit shall be comprised of representatives of the REC Tripartite NTBs Monitoring Units

**Guideline 10
Functions of the Tripartite Non- Tariff Barriers Monitoring Unit**

1. The functions of the Tripartite Non-Tariff Barriers Monitoring Unit contained in Article 7 of Annex III on Non-Tariff Barriers are hereby expanded as follows;
 - i. Support and Coordinate implementation of the NTBs elimination work programme by the Non- Tariff Barriers Sub-committee;
 - ii. Coordinate monitoring, evaluation and implementation of the review outcomes of the M & E reports by the Tripartite Member/Partner States;
 - iii. Facilitate knowledge sharing including lessons learned from NTBs resolution procedures among the Tripartite Member/Partner States/RECs;

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- iv. Facilitate Development and implementation of Tripartite NTBs monitoring and evaluation (M&E) mechanisms by the NTBs Sub-Committee;
- v. Facilitate capacity building for RECs /Tripartite Member/Partner States for the elimination of NTBs;
- vi. Facilitate and Support where necessary the activities of National Monitoring Committees and National NTBs Focal Points for the elimination of intra- Tripartite NTBs; and
- vii. Hosting and administration of the Tripartite web and non- web based NTBs reporting, monitoring and elimination mechanisms.

Guideline 11
Online/SMS Reporting and Monitoring Tools

1. The Tripartite Member/Partner States have established Online and SMS reporting, monitoring and eliminating tools for effective elimination of Non-Tariff Barriers;
2. The TTF shall, in collaboration with relevant Partners and within the Tripartite framework of the Common Market for East and Southern Africa States (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC), put in place a programme for the maintenance sustainability of the Tripartite NTBs reporting, monitoring and elimination tools;
3. The Tripartite online Reporting, Monitoring and Eliminating mechanism is available in the website: www.tradebarriers.org;
4. The reporting forms shall be obtained in Member/Partner States (Appendix 1a & 1b of working procedure);
5. The Tripartite Task Force shall host and maintain the web based Tripartite Online reporting, monitoring and eliminating mechanism;
6. The online mechanism shall be reviewed periodically to enhance its effectiveness;
7. The web based online reporting mechanism shall contain an index of relevant website links of Tripartite Member/Partner States Government and Government Agencies responsible for trade related matters;
8. A Tripartite Time Bound Elimination Plan (Appendix 2 of working procedure) for monitoring elimination of NTBs at Tripartite level shall be developed in the form of a matrix.

Guideline 12
Elimination and Co-Operation in the Elimination of Non-Tariff Barriers

For purposes of this Working Procedure, Member/Partner States shall eliminate NTBs using the procedures for Elimination and Co-operation in the Elimination of


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Non-Tariff Barriers as laid out in Appendix II of Annex III on Non-Tariff Barriers, and Appendices 1 and 2 of these Working Procedures.

Guideline 13
Transparency and Exchange of Information

The Tripartite Task Force shall develop a Tripartite NTBs report template for ongoing and recently resolved NTBs.

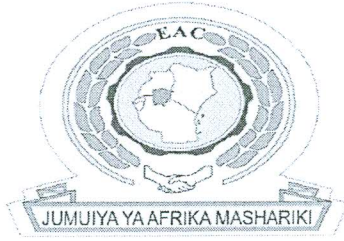
Guideline 14
Technical Assistance

The Tripartite Task Force and or the Secretariats of COMESA, EAC and SADC will collaborate with cooperating partners and donor organisations to provide the required technical assistance.

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APPENDIX 1(a) - NTBs Reporting Form



TRIPARTITE NON-TARIFF BARRIERS COMPLAINT REPORTING FORM

To: National Focal Point	
Reporting Member/ Partner State:	
Imposing Member/ Partner State:	
Complainants Details	
REC where NTB is experienced (<i>Tick Appropriate Box</i>)	COMESA
	EAC
	SADC
Name	
Name of Company/ Institution	
Address:	
Telephone No:	
E-mail:	
Contact Person:	
Information on affected product	
Name of product:	
Tariff Code:(Optional)	
Type of service:	
Value affected by barrier: US \$.	
Description of the Non-Tariff Barrier:	
Type of Non-Tariff Barriers	

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Place of Occurrence:	
Date of Occurrence:	
Description of the trade barrier or incident	
Attach Evidence to confirm NTB occurred	
Signed:.....	
Date:	

APPENDIX 1(b) - Non-Tariff Barrier Categories and Sub Categories

CATEGORY 1: Government participation in trade & restrictive practices tolerated by governments

- 1.1. Export subsidies
- 1.2. Government monopoly in export/import
- 1.3. Requirement for counter trade
- 1.4. Domestic assistance programmes for companies
- 1.5. Discriminatory or flawed government procurement policies
- 1.6. Import bans
- 1.7. Determination of eligibility of an exporting country by the importing country
- 1.8. Determination of eligibility of an exporting establishment (firm, company) by the importing country
- 1.9. Occupational safety and health regulation
- 1.10. Multiplicity and Controls of Foreign exchange market
- 1.11. "Buy national" policy
- 1.12. Lack of coordination between government institutions
- 1.13. Other

CATEGORY 2: Customs and administrative entry procedures

- 2.1. Government imposing antidumping duties
- 2.2. Arbitrary customs classification
- 2.3. Issues related to the rules of origin
- 2.4. Import licensing
- 2.5. Decreed customs surcharges
- 2.6. International taxes and charges levied on imports and other tariff measures
- 2.7. Issues related to transit fees
- 2.8. Lack of control in Customs infrastructure
- 2.9. Lack of capacity of Customs officers
- 2.10. Issues related to Pre-Shipment Inspections
- 2.11. Other

CATEGORY 3: Technical barriers to trade (TBT) classifications (Version 2012 UNCTAD NTMs classification)

CATEGORY 4 : Sanitary & Phyto-sanitary (SPS) measures classifications use (Version 2012 UNCTAD NTMs classification)

CATEGORY 5: Specific limitations

- 5.1. Quantitative restrictions
- 5.2. Exchange controls
- 5.3. Export taxes
- 5.4. Quotas
- 5.5. Import licensing requirements
- 5.6. Proportion restrictions of foreign to domestic goods (local content requirement)
- 5.7. Minimum import price limits
- 5.8. Embargoes
- 5.9. Non-automatic licensing
- 5.10. Prohibitions
- 5.11. Quantitative safeguard measures
- 5.12. Export restraint arrangements
- 5.13. Restrictive licenses
- 5.14. Other

CATEGORY 6 : Charges on imports

- 6.1. Prior import deposits and subsidies
- 6.2. Administrative fees
- 6.3. Special supplementary duties
- 6.4. Import credit discriminations
- 6.5. Variable levies
- 6.6. Border taxes
- 6.7. Other

CATEGORY 7: Other procedural problems

- 7.1. Arbitrariness
- 7.2. Discrimination
- 7.3. Corruption
- 7.4. Costly procedures
- 7.5. Lengthy procedures
- 7.6. Lack of information on procedures (or changes thereof)
- 7.7. Complex variety of documentation required
- 7.8. Consular and Immigration Issues
- 7.9. Other

CATEGORY 8: Transport, Clearing and Forwarding

- 8.1. Government Policy and regulations
- 8.2. Administrative (Border Operating Hours, delays at border posts, etc.)
- 8.3. Immigration requirements (Visa, travel permit)

- 8.4. Infrastructure (Air, Port, Rail, Road, Border Posts,)
- 8.5. Vehicle standards
- 8.6. Costly Road user charges /fees
- 8.7. Issues related to transit

COMESA-EAC-SADC
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