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**COMMON MARKET FOR EASTERN AND**

**SOUTHERN AFRICA**

Twenty Second Meeting of the Sub-Committee on

Audit and Budgetary Matters

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***STATUS OF MEMBER STATES FUNDS***

***PART I: ASSESSED ANNUAL MEMBER STATES CONTRIBUTIONS***

***THEME: COMESA - Towards Digital Economic Integration***

*DH/CK/SMZ/2019*

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# **INTRODUCTION**

1. COMESA is an inter-governmental organisation established by Member States (nineteen Member States, with two additional Member States admitted in July 2018, but are yet to submit an instrument of ratification) under a Treaty, wherein Article 3 articulates its aims and objectives. The 2016-2020 Medium Term Strategic Plan further unpacks its specific undertakings (Article 4) and general undertakings (Article 5) into strategic objectives and interventions.
2. Key COMESA stakeholders:

(i) **Member States**: have state and non-state actors with specific roles and responsibilities. The implementation of this plan calls for close collaboration and participation between these actors. Member States provide the resources required to implement COMESA activities. State actors provide the political leadership necessary for the formulation and implementation of sound regional policies and programmes. Non-state actors: bring with them increased financial discipline, capital injection, new management styles and a stronger commercial orientation.

**(ii) COMESA Organs:**

Article 7 establishes organs of the Common Market. These are (a) the Authority; (b) the Council;(c) the Court of Justice; (d) the Committee of Governors of Central Banks; (e) the Intergovernmental Committee; (f) the Technical Committees; (g) the Secretariat; and (h) the Consultative Committee.

**(iii) COMESA Secretariat**:

* It is a provider of organisation (***as a principle executive institution***) services, e.g. servicing and facilitating activities of all other COMESA policy organs
* It has a ***coordinating***, ***facilitating***, ***monitoring*** and ***convening*** mandate.
* Its responsibilities include being a ***think tank*** thus facilitating the achievement of COMESA mission, aims and objectives and interventions.
* It is a provider of ***institutional services*** (all corporate requirements including, communication; promotion; resource mobilisation; legal; human resources; administrative and logistics - procurement & conferences; and financial management services).
* It provides ***technical assistance*** and ***capacity building*** to Member States and other COMESA Institutions
* It also provides ***interface*** between COMESA and external stakeholders as well as to provide Member States with a platform relevant to achieve mutually acceptable formal cooperation. Such policy dialogue is key to shaping interventions.

(iv) **COMESA Institutions and agencies**: established with a specific mandate. Given their technical focus, institutions and agencies provide guidance, technical support and implement decisions of the Policy Organs. These also play a key role in implementing the MTSP.

(v) **Co-operating Partners**: provide financial and technical support for achievement of the strategic objectives, support aid effectiveness by promoting harmonization, coherence, rationalization, alignment and ownership of development partner assistance; and require mutual accountability in relation to the commitment, provision, utilization and reporting on all adjustment support and regional integration resources.

# **BACKGROUND**

### **Context**

1. In October 2016, the Council of Ministers deliberated on the matter relating to remittance of assessed annual Member States contributions, as follows:
2. Para 9 (iii): In considering the report on the contributions received by the Secretariat (and COMESA Court of Justice and ALLPI), Council noted that the successful implementation of programmes by COMESA depended on the extent to which Member States contributed towards the implementation of its programmes. It was suggested that during the up-coming Council of Ministers meeting and Summit, there should be a substantive agenda on the low payment of contributions by Member States. This matter should also be considered by the Ministers of Finance during the COMESA Fund and Governors of Central Banks meetings.

**Decisions**

1. ***Para 10 (x): Council decided that the Secretariat should submit a report on the status of contributions payable by Member States to the*** ***Ministers of Finance and Governors of the Central Banks Meeting and that of the COMESA Fund Ministerial meeting.***

**Action taken**

1. ***The paper has been prepared. Date of the meeting of Ministers of Finance and Governors of the Central Banks is yet to be decided by the Chair.***

### **Purpose of this paper**

1. Purpose of this paper is thus to engage the Council on measures to enhance existing framework by:

(i) Ensuring Compliance of Treaty provisions and decisions of the Authority by Member States in remittance of assessed annual Member States contributions;

(ii) Facilitate remittance of all amounts due towards 2019 budget;

(iii) Facilitating submission and follow-up of a repayment plans to clear the arrears of assessed annual Member States contributions; and

(iv) Ensuring that the adequate budgetary funds, that are part of national budget are remitted at source, i.e. from Ministry of Finance and or Central Banks in each Member State.

# **EXISTING FRAMEWORK - REMITTANCE OF ASSESSED CONTRIBUTIONS**

### 3.1 **Treaty Provisions**

**Source: COMESA Treaty**

**Article 166(6):** *“Fifty per cent of the contributions for each Member State shall be paid into the budget of the Secretariat within one month from the beginning of the financial year to which they relate, and the remainder shall be paid within six months from the beginning of the financial year”.*

**Source: COMESA Treaty**

***ARTICLE 171 (6) Sanctions)****: Where a Member State is in arrears for more than two years in the payment of its contributions for reasons other than those caused by public or natural calamity or exceptional circumstance that gravely affects its economy, such Member State may, by a resolution of the Authority, be suspended from taking part in the activities of the Common Market and shall cease to enjoy the benefits provided for under this Treaty.*

### **3.2 Decisions of the Authority**

**Source: Second Summit of the COMESA Authority (April 1997)**

1. *Any Member State that failed to meet its budgetary commitments for two or more years should have all benefits and operations suspended in that Country and lose its rights and privileges, including addressing Policy Organs Meetings. The suspension should also cover all new extra budgetary resources, projects, except these currently being implemented;*
2. *All arrears at the end of every financial year should accrue interest of one per cent; and*
3. *No new recruitment should be undertaken from Member States with arrears of two years or more.*

**Source: Fourth Summit of the COMESA Authority (May 1999)**

*Where the (COMESA) Authority had waived the application of sanctions on any State and such state failed to comply with her repayment plan, then such state shall* automatically *revert into the sanction status.*

### **3.3 Relevant Financial Rules, Regulations and Debtors Policy**

1. The Council has enacted Financial Rules, Regulations and Debtors Policy, to ensure adherence to standards and risk management practices, pertaining assessed contributions from Member States. These provisions are adhered to by the COMESA Secretariat and Its institutions. They relate to:

PART II – DEBTORS CONTROL ACTIVITIES

Article 4 - Establishing debtor

Article 5 - Initial recognition and measurement

Article 6 - Subsequent recognition and measurement

Article 7 – Collections

Article 8 – Provisions for estimated uncollectible debtors

Article 9 - Write-off

PART III – IDENTIFICATION OF DEBTORS

Article 10 - Assessed annual Member States contributions

Article 11 - Other debtors

# **LAST REVIEW AND DIRECTION OF COMESA POLICY ORGANS**

### **COMESA Authority of Heads of State and Government (July-2018)**

1. During its most recent meeting, the COMESA Authority of Heads of State and Government received and deliberated on a Report from the Council of Ministers, highlighting status of remittance of assessed contributions. Regarding unremitted assessed annual Member States contributions, the Authority endorsed the decisions submitted to it by the Council.
2. The Authority in July 2018, decided that Member States should remit assessed Member States contributions as follows:

***(i) 2018 budget: The Authority set a deadline of 31st July 2018, for 2018 assessed contributions to the remitted; and***

***(ii) 2017 budget: The Authority set a deadline of 30th September 2018, for 2017 assessed contributions to the remitted. The Authority urged Member States, which are unable to clear the 2017 arrears by this date, to propose and submit a repayment plan.***

***(iii) Uganda: which had arrears of over two (2) years was urged to address the following Article 171 (6) provision, as well as its previous decisions.***

***(iii) Comoros, Djibouti and Libya: to address adherence to the arrears’ repayment plans approved by the Authority in October 2016.***

1. The direction given by the COMESA Authority should be seen in light of the following provisions under Article 8 (The Authority - Composition and Functions) of the Treaty:

***Article 8(2). The Authority shall be the supreme Policy Organ of the Common Market and shall be responsible for the general policy and direction and control of the performance of the executive functions of the Common Market and the achievement of its aims and objectives and shall have such other powers as are vested in it under this Treaty.***

***Article 8(3). Subject to the provisions of this Treaty, the directions and decisions of the Authority taken or given in pursuance of the provisions of this Treaty, shall as the case may be, be binding on the Member States and on all other organs of the Common Market other than the Court in the exercise of its jurisdiction, and on those to whom they may be addressed to under this Treaty.***

***Article 8(4): The directions and decisions of the Authority shall be notified to those to whom they are addressed and shall take effect upon the receipt of such notification or on such date as may be specified in the direction or decision.***

### **COMESA Council of Ministers (April 2019)**

1. In November 2018, as well as in April 2019, the Council of Ministers deliberated on implementation of the decisions of the Authority.
2. The Council discussed the issues and risks, regarding the non-remittance of assessed contributions by Member States, which included the following:

(i) The continued dependence on Reserve Fund to finance COMESA programmes and activities;

(ii) The depletion of the Reserve Fund as arrears have built up; and

(iii) Erosion of trust and confidence by Cooperating Partners, as non-remittance of contributions is translated as non-commitment of Member States to COMESA.

1. ***The Council (in April 2019) decided that:***
2. ***The Secretariat should consistently apply the sanctions, as approved by the Authority on all defaulting Member States with immediate effect;***
3. ***The matter on non-remittance of assessed contributions should be escalated to the Bureau of the Authority; and***
4. ***The draft report on resource mobilization strategy should be finalised. To this effect, Member States should submit their comments not later than 30 April 2019 as decided in November 2018***.

# **REVIEW OF THE PERFORMANCE AND TREND REGARDING ASSESSED CONTRIBUTIONS REMITTANCE**

### **Outstanding assessed contribution as at 30 September 2019**

1. Table 1 below shows that remittance of assessed annual Member States contributions is not in accordance with the provisions (Article 166)(6)): -

****

1. As indicated in Table 1, remittance of assessed annual Member States contributions is not in accordance with the provisions (Article 166)(6)).of the Treaty and the binding decisions of the Authority. The analysis given in Table 2 below, should be a cause for concern by Member States and COMESA Policy Organs:

**Table 2: Analysis of Assessed Contributions due from Member States, as at 31 May 2019 (US$)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Description** | **Total Due** | **Member States: Comoros, Djibouti** | **2017** | **2018** | **2019** |
| **Repayment plan** | **Arrears: 1-2 years** | **Arrears: up to 1 year** | **Current year** |
| **Col 1** | **Col 2=Col 3-7** | **Col 4** | **Col 5** | **Col 6** | **Col 7** |
| **Amount** |  27,079,013  |  7,450,516  |  830,661  |  5,575,113  |  13,222,723  |
| **%** | 100% | 28% | 3% | 21% | 49% |

1. Data and information in Table 2 can be explained as follows: -
2. Three Member States with repayment plans agreed between each of them and the COMESA Authority have not adhered to the conditions set out in the agreement;
3. Amounts in respect of assessed contributions for 2017 (US$830,661) and 2018 (US$5,575,113) remain remitted;
4. Amounts in respect of assessed contributions for 2019 (US$13,222,723) also remain remitted; and
5. Budgetary requirements for 2019, as in previous years continue to be met from withdrawals of the Reserve Fund.

### **Trend over the years**

1. An examination of remittances made by Member States since 2007, shows that a number of Member States do not comply with provision under Article 166 (6) of the Treaty, requiring assessed annual Member States contributions to be fully remitted within a financial year.
2. The flexibility permitted by the Treaty is that at least 50% be remitted at the end of the first month of a financial year, with the balance being remitted at the end of sixth month.
3. On average, only 44% of assessed contributions are remitted within a budget year, as shown in Table 3 below:

**Table 3: Cash received against Assessed Contributions 2007 – 2019 (US$)**



1. The above trend is resulting in build-up of significant arrears of assessed annual Member States contributions. Annual budgets are consistently being financed from the Reserve Fund – a non-sustainable financing strategy, as the Reserve Fund will be depleted soon.

# **COMPARABLE RECs**

1. The 30th Meeting of the Bureau of Ministers held in June 2019, directed the Secretariat to obtain information regarding remittances of assessed contributions to comparable organisations and application of penalties and sanctions, including EAC; IGAD; SADC; and AU.
2. Information gathered as of August 2019: -
3. Indicates that Member States should be engaged regarding their remittances to COMESA;
4. Shows that whilst COMESA, EAC and SADC, are all considered as AU building blocks, scope of their programmes is considerably different;
5. COMESA’s performance regarding receipt of remittances of assessed contributions is behind the other RECs, as demonstrated below:



1. Like COMESA, the above comparable RECs have a regime of sanctions and penalties.



# **SUBMISSION TO MINISTERS RESPONSIBLE FOR FINANCE**

1. The Sub Committee is invited to note that the Secretariat has prepared a paper on operationalization of COMESA Market Levy, as stipulated under Article 168 (3) of the COMESA Treaty for discussion by Ministers responsible for Finance in October 2019. The paper is intended to address linkage of budgeting, collecting and remittance of the assessed Member annual Member States contributions to COMESA Organs and other COMESA Institutions. The paper has discussed in detail the current situation regarding remittance of assessed annual Member States contributions.
2. A deeper discussion by the Ministers responsible for Finance dedicated to remittance annual Member States contributions will be convened in 2020.

# **RECOMMENDATIONS**

### **2019 Receipts**

1. *The Sub Committee on Audit and Budgetary matters commends Member States for the remittance US$9,326,831 made in 2019, as of 30 September 2019, as follows: -*
2. *DRC: US$1,958,949, towards*
3. *2017 arrears: US$1,228,159; and*
4. *2018 arrears: US$19,396.*
5. *Egypt: US$2,098,745 towards 2019 full assessed annual Member States contributions;*
6. *Eritrea: US$159,876 towards*
7. *2017 arrears: US$158,293*
8. *2018 arrears: US$1,583*
9. *Madagascar: US$473,245 towards*
10. *2018 arrears: US$16,646; and*
11. *US$456,599 being part remittance of 2019 assessed annual Member States contributions, with a balance of US$12,163*
12. *Malawi: US$80,975, being part remittance of 2019 assessed annual Member States contributions, with a balance of US$420,960*
13. *Mauritius: US$593,585 towards 2019 full assessed annual Member States contributions;*
14. *Rwanda: US$597,447 towards 2018 assessed annual Member States contributions;*
15. *Seychelles: US$174,895 towards 2019 full assessed annual Member States contributions;*
16. *Uganda: US$2,130,547 towards*
17. *2015 and 2016 arrears: US$1,037,656;*
18. *2017 arrears: US$815,365; and*
19. *2018 arrears: US$277,526.*

### **Outstanding assessed contributions**

1. *The Sub Committee on Audit and Budgetary matters recommends that Member States be urged to: -*
2. *remit the outstanding amounts, before end of December 2019; and*
3. *submit a schedule of remittances, for purposes of facilitating follow-up and consultations.*

### **Member States not adhering to arrears repayment plans**

1. *The Sub Committee on Audit and Budgetary matters is invited to note that as of 30 September 2019, Comoros:*
2. *Has not adhered to an equal annual instalment plan, approved by the Authority, with a total of US$112,060 in arrears (Condition 1 of the agreement).*
3. *Has not kept assessed annual Member States contributions kept up to date  - 2017:US$158,293; 2018:US$172,684; 2019:US$190,724 (Condition 2 of the agreement)*
4. *Failure to adhere to above conditions has automatically invoked sanctions, as stipulated by the Authority (Condition 3 of the agreement)*
5. *Is required by the approved repayment plan to remit US$633,761 in order for the sanctions to be lifted, as reflected below:*

**

1. *Sub Committee on Audit and Budgetary matters is invited to note that as of 30 September 2019, Djibouti:*
2. *Has not adhered to an equal annual instalment plan, approved by the Authority, with a total of US$765,105 in arrears (Condition 1 of the agreement).*
3. *Has not kept assessed annual Member States contributions kept up to date   - 2017: US$232,690; 2018: US$233,299; 2019: US$174,895 (Condition 2 of the agreement)*
4. *Failure to adhere to above conditions has automatically invoked sanctions, as stipulated by the Authority (Condition 3 of the agreement)*
5. *Is required by the approved repayment plan to remit US$1,405,989 in order for the sanctions to be lifted, as reflected below:*

**

1. *That Sub Committee on Audit and Budgetary matters is invited to note that as of 30 September 2019, Libya:*
2. *Has not adhered to an equal annual instalment plan, approved by the Authority, with a total of US$ 1,553,286 in arrears (Condition 1 of the agreement).*
3. *Has not kept assessed annual Member States contributions kept up to date -  2017: US$1,899,511; 2018: US$1,899,511; 2019: US$1,219,217 Condition 2 of the agreement)*
4. *Failure to adhere to above conditions has automatically invoked sanctions, as stipulated by the Authority (Condition 3 of the agreement)*
5. *Is required by the approved repayment plan to remit US$6,571,525 in order for the sanctions to be lifted, as reflected below:*



### **Sanctions and penalties, as decided by the Authority**

1. *The Sub Committee on Audit and Budgetary matters also recommends the following: - The Sub Committee on Audit and Budgetary matters also recommends that all sanctions and penalties, as decided by the Authority be applied consistently.*

### **Tunisia and Somalia**

1. *The Sub Committee on Audit and Budgetary matters also recommends the following: -*
2. *The amount due from Tunisia is reduced from US$1,878,879 to US$1,001,113 as Tunisia submitted the instrument of ratification to become a Member State of COMESA in June 2019.*
3. *The amount due from Somalia of US$174,895 is not collectible as of 30 September 2019, as the Member State is yet to submit instrument of ratification to become a Member State of COMESA.*