

OFFICIAL GAZETTE



**of the
COMMON MARKET FOR
EASTERN AND SOUTHERN AFRICA**

Vol. 5 No. 3

Published by Order
of the Council

16 November 1999
Price:

TABLE OF CONTENTS

Legal and General Notices

- (a) COMESA Regional Economic Conference
- (b) Transport and Communications
- (c) Legal and Institutional Matters
- (d) Trade and Customs
- (e) Industry
- (f) Energy
- (g) Women in Business
- (h) COMESA Institutions

By Order of the Council

Mr. Erastus J.O. Mwencha MBS
Secretary-General
COMESA

IT IS HEREBY NOTIFIED that the COMESA Council of Ministers, at its Eighth Meeting held on 15 – 16 November, 1999 in Zambia issued the following Legal Notices:

(a) COMESA REGIONAL ECONOMIC CONFERENCE IN CAIRO, EGYPT

41. Council decided as follows:

- (i) The conference should go ahead as planned and be called the first Regional Economic Conference of the Common Market for Eastern and Southern Africa;
- (ii) The conference should become a regular event of COMESA;
- (iii) Tourism should be included as a workshop topic; and
- (iv) The Secretariat should be fully involved in the planning of the conference.

(b) TRANSPORT AND COMMUNICATIONS

COMESA Telecommunications Policy and Regulatory Framework

42. Council decided that:

- (a) the Secretariat should update on annual basis, the information on the preliminary regulatory surveys carried out for member States;
- (b) the Final Report of the study should be discussed by Regulatory Authorities and National Telecommunications Operators (NTOs) before it is submitted for consideration by the Council of Ministers Meeting; and
- (c) the study should address issues of capacity building to the Regulatory Authorities.

Programme on Skills Enhancement in Telecommunications

43. Council took note of the existence of a skills gap in many areas of telecommunications and the need for COMESA to develop a programme for addressing it and made the following decisions:

- (i) The programme should be carried out in collaboration with Pan-African Telecommunication Union (PATU) and other institutions;
- (ii) The National Telecommunications Operators be encouraged to actively participate in the programme; and
- (iii) The Secretariat should go ahead and organise workshops and seminars on skills development which shall also involve the private sector.

LIBERALISATION OF AIR TRANSPORT SERVICES

Establishment of the COMESA Air Transport Regulatory Board

44. Council decided that:

- (i) An interim COMESA Air Transport Regulatory Board be established;

- (ii) Modalities for the establishment of a proper COMESA Air Transport Regulatory Board structure be worked out by the Secretary General of COMESA with the assistance of a legal consultant conversant with air space law;

Approval/Authorisation of COMESA Air Carriers

45. Regarding the Approval/Authorisation of COMESA Air Carriers, Council decided that the following procedures be observed during the approval of the intra-COMESA airlines to operate in the region:

- (i) A COMESA Air Carrier shall apply for air service licence to the competent authority of the destination country. A copy of the application shall be sent to the COMESA Secretary General and to the competent authority in the country where the carrier is resident or domiciled;
- (ii) The competent authority in the destination country shall within thirty days of receiving the application grant authorisation on a no objection basis after ensuring that the carrier has fulfilled safety and licensing requirement. A copy of the authorisation shall be sent to the Secretary General and the competent authority of the country where the carrier is resident or domiciled;
- (iii) In the event of the competent authority denying to approve the application, the reasons thereof shall be provided to both the Secretary General of COMESA and the competent authority of the country where the carrier is resident or domiciled. This shall be done within the stipulated thirty days period;
- (iv) Upon receipt of the reasons for denial, the COMESA Secretary General shall evaluate the reasons thereof taking into account the COMESA Treaty provisions and regulations on the liberalisation air transport. In cases where substantive facts prove that the competent authority had unduly exercised its right, the COMESA Secretary General shall advise the said competent authority and request a review of its decision and response within fifteen days. Should the competent authority, communicate its inability to grant authorisation, notwithstanding the Secretary General's advice, the Interim Board shall make a determination of the case prior to the establishment of the COMESA Air Transport Regulatory Board. The decision of the Interim Board shall with by such parties within fifteen days of receiving the decision to deal with the matter; and
- (v) All communications relating to cases of denied authorisations shall be copied to all competent authorities of member States.

Filing of Air Services Schedules and Allocation of Slots

46. Regarding the filing of air services schedules and allocation of slots, Council decided on the following procedures:

- (i) Upon being granted an air service licence, the carrier shall file its schedule with the competent authority with a copy to the COMESA Secretary General;
- (ii) The competent authority shall allocate airport slots to the air carrier;
- (iii) In the case of authorisation of Non-Scheduled Passenger Carriers:
 - (a) In non-scheduled passenger carrier shall not operate on a regular time table or programme; and

- (b) The non-scheduled passenger carriers shall be subject to the same conditions as the scheduled operators when applying for the operating licence.

Establishment of a COMESA Air Transport Facilitation/Security Committee

47. Council decided that a Regional Air Transport Facilitation/Security Committee be established.

CNS/ATM Systems Implementation

48. Council decided that:

- (i) Those States that needed further internal consultations should complete the consultation and sign the MOU, within 30 days.
- (ii) Regarding future activities, member States should provide additional information needed to revise the study.
- (iii) Direct consultations and discussions with individual member States be undertaken by the Secretariat and the SADG Ltd.

COMESA Transit Traffic Facilitation Instruments

49. Council decided as follows:

- (i) the COMESA Secretariat should find out why private weigh bridges had not been legalised;
- (ii) member States which had not yet implemented some of the COMESA transit traffic instruments should do so; and
- (iii) more workshops aimed at identifying obstacles in the implementation of these instruments should be carried out by the Secretariat.

Status of Implementation of the Advanced Cargo Information System (ACIS) Project

50. Council made the following decisions:

- (i) The European Union be requested to expedite approval of the Rider to the Financing Agreement to enable UNCTAD to resume work and to address the issue of Y2K compliance of the ACIS systems, as a matter of urgency;
- (ii) The Congo River basin be included in cargo tracking system of the COMESA region.

Preparation of the Five Year Priority Projects in Transport and Communications Programme

51. Council decided that the Secretariat should concentrate efforts on completion of the preparation of priority projects and convene an Investor/Donor Conference early in the year 2000.

Meteorological Services

52. Council noted that the Draft Memorandum of Understanding between COMESA and WMO had been submitted to WMO in Geneva and that the Memorandum of Understanding would be ready for signature in February 2000. Council decided that the COMESA Secretariat should convene a meeting of the Directors of Meteorological Services in March 2000 to facilitate the preparation of a COMESA programme on meteorological services to be considered by Council during the May 2000 meeting.

(c) LEGAL AND INSTITUTIONAL MATTERS

Study on Harmonisation of Trade and Investment Laws

53. Council decided that the study be carried out in two phases:

- (i) the first phase should involve inputs from national consultants covering several member States who would monitor, update and compile the trade and investment laws of the respective member States and consult the national investment authorities in the process;
- (ii) the second phase would involve the coordination of the activities of the national consultants by at least two consultants who shall formulate proposals on the harmonisation of the trade and investment laws for consideration by the Committee on Legal Affairs.

54. Council further decided that the study should be undertaken over a period of eighteen months. The first phase should take twelve months and the second phase should take six months. The report of the study would be submitted to the Committee on Legal Affairs at the end of eighteen months from the commencement of the study.

Proposal on the legal and Institutional Structure for the Regional Trade Facilitation (Guarantee) Project

55. Council decided that:

- (i) The legal team when determining the final option for a legal framework for the new institution should also consider the possibility of establishing the facility within the legal framework of the existing COMESA institutions, such as the PTA Re-insurance Company;
- (ii) The States that had not yet responded to the questionnaire on the legal and institutional structure for the RTFP are urged to complete it and submit them as soon as possible. The Committee on Legal Affairs should be continuously updated on the process of determining a suitable institutional option for the project; and
- (iii) The first Legal Instrument for establishment of the institution should be scrutinised by the Committee on Legal Affairs.

Consideration of the Draft Model Law for incorporation of the COMESA Treaty into National Laws

56. Council decided that:

- (i) all the member States should ensure that within their legal and constitutional framework, the provisions of the Treaty or any Legal Instruments arising

therefrom are given the force of law as required under Article 5(2)(b) of the COMESA Treaty;

- (ii) every member State should adhere to the main legal obligations enshrined in Article 5 relating to the granting of legal capacity to COMESA and its institutions and allowing COMESA to function effectively;
- (iii) States with a system requiring transformation into national legislation could request the Secretariat to assist in adapting the Treaty provisions into national legislation taking into account the relevant constitutional practices; and
- (iv) in view of the recommendations in sub-paragraphs (a) to (c) of this paragraph, there was no need to adopt a model law for the transformation of the COMESA Treaty into national law.

Determination of the Seat of the COMESA Court of Justice

57. Council adopted the following criteria as minimum requirements for hosting the Court;
- (a) the hosting State should provide an independent building or wing of a building which is adequate to house at least 10 large offices for supporting staff;
 - (b) the independent building or wing of a building offered to house the Court should not be occupied by any other organisation of company for reasons of security and confidentiality.
 - (c) the building offered by the Host State should be such that the Court would be easily accessible;
 - (d) the ideal conditions for the location of the headquarters of the Court should take into account the need to site the Court in a city;
 - (i) which is easily accessible by air to nationals of all the member States;
 - (ii) with efficient modern logistics, especially telecommunications;
 - (iii) with adequate accommodation facilities for visitors or persons attending Court Sessions.
58. Council further decided that:
- (a) the Secretariat should communicate the adopted criteria to all the member States and request for offers to host the Court;
 - (b) the Secretariat and the Registrar should conduct missions to the States offering to host the Court so as to assess the facilities being offered by those States;
 - (c) a report of the missions to the States offering to host the Court should be submitted to the Council through the Ministers of Justice and Attorneys-General;
 - (i) all the offers for hosting of the Seat of the Court shall be submitted to the Council of Ministers for consideration and determination;
 - (ii) the Council of Ministers shall consult with all the member States with a view to obtaining consensus;

- (iii) if the council of Ministers fails to obtain consensus then a vote shall be conducted to select the Host State;
- (iv) after the Council of Ministers has selected a Host State the recommendation should be submitted to the Authority of heads of State or Government for final determination; and
- (v) after the Authority of Heads of State or Government has made a final determination on the selected Host State, a final agreement on the status, privileges and immunities to be granted to the Court by the Host State shall be negotiated and concluded between the Host State and COMESA.

Consideration of the Draft Intergovernmental Agreement on COMTEL

59. Council decided that:

- (i) the proposed Agreement should be between the national Telecommunications Operations (NTOs) and not between the governments;
- (ii) the members of Committees on Legal affairs should be given the background information, which led to the proposed Intergovernment Agreement. In addition, the NTOs should consult the Ministers of Justice and Attorneys-General on the re-draft of the Agreement before the next meeting of the NTOs Legal Experts scheduled for 25 and 26 November, 1999;
- (iii) the Secretariat should endeavour to extend a formal communication to the Ministers of Justice and Attorneys-General requesting for scrutiny and approval of the Draft Agreement;
- (iv) the member States should endeavour to send their legal experts from the Ministers of Justice and/or Attorney-Generals Chambers to the meeting of the NTOs legal experts scheduled for 25 and 26 November, 1999; and
- (v) the NTOs should be asked to sponsor the participation of the Committee on Legal Affairs in the meeting of the NTOs Legal Experts scheduled for 25 and 26 November, 1999.

COMESA Court of Justice

60. Council decided that:

- (i) the Ministers of Justice and Attorneys-General should in future scrutinise the Draft Budget of any other financial or administrative matter, before their submission to the Intergovernmental committee and Council; and
- (ii) the budget of the Court or any other financial or administrative matters should be presented to all the respective technical meetings by the Registrar rather than the Judge-President. This is to ensure that the Court is shielded from engaging in debates with the member States.

61. On other matters relating to the Court, Council decided as follows:

- (i) that the Staff Rules and Regulations for the COMESA Secretariat apply to the Court in accordance with the decision of the council of Ministers until the

committee on legal Affairs meets to scrutinise the Draft Staff rules for the Court and also until the Council meets to approve the new Rules;

- (ii) that in view of the existing lacuna (vacuum) in respect of the interim Financial rules and Regulations, the Court, makes uses of the Financial Rules and Regulations of the COMESA Secretariat (with the necessary changes) pending scrutiny of the Court's Draft Financial Rules by the Committee on Legal Affairs and approval by the Council. The Financial Rules and Regulations of the COMESA Secretariat to be used shall be those currency in use or as may be amended or replaced by the Council of Ministers; and
- (iii) A meeting of the Committee on Legal Affairs be convened before the COMESA policy organs meetings of May 2000, to consider the Draft Staff Rules and Regulations and Financial Rules and Regulations for the Court. The Committee on legal Affairs mandated to finalise scrutiny of those drafts and transit them to the Council of Ministers through the Intergovernmental Committee.

(d) TRADE AND CUSTOMS

COMESA Rules of Origin

62. Council decided as follows:

- (i) That substantial transformation, as reflected by a change in tariff heading, be included as a new origin conferring criterion;
- (ii) A Working Group be set up to review the Rules or Origin, on a regular basis, including all technical issues, among them specific processes, percentages local value added and material content; as origin conferring criteria;
- (iii) Member States complete studies of their industrial structures in order to determine the most appropriate level of local value added;
- (iv) A formalised dispute settlement mechanism for the rules or origin be established;
- (v) Information about the COMESA preference regime should be broadly disseminated and that the current system should be refined and strengthened to bring further awareness of the regime among all the key stake holders in the region;
- (vi) That the use of a COMESA Mark of Origin should be examined including its administrative and operational modalities;
- (vii) Some procedure should be explored by the Secretariat to cater for small consignments that do not require any document in the country of exportation to ensure that such consignments enjoy COMESA preferential treatment if they are entitled to; and
- (viii) That small scale traders be treated ad bona fide traders by COMESA member States' authorities and that there was a need for capacity building and a development of awareness of all customs procedures for small scale traders.

Programme for the attainment of a COMESA Free Trade Area

63. Council decided as follows:

- (i) Member States and the business community should not continue making general statements on the implementation of the COMESA tariffs reduction programme but facilitate progress by providing and sharing specific information regarding the specific problems their economies or industries were experiencing;
- (ii) Member States which had been given derogation not to publish tariffs over a certain period should be obliged to produce a report to Council in March 2000 to explain the progress being made to fulfil the conditions of the derogation;
- (iii) Member States which had the will to implement the tariff reductions but failed because of lack of manpower should seek technical assistance from other member States through the Secretariat;
- (iv) Member States which had not published the 90% tariff reduction should implement the reductions urgently to ensure that the Free Trade Area is achieved by 31 October 2000;
- (v) Member States observe the decisions of the Authority to publish the 100% reduction rate by July 2000 in order to ensure the launching of the COMESA Free Trade Area by 31 October 2000;
- (vi) Member States note the steps being taken by the Secretariat to address problems which may result from the establishment of the COMESA Free Trade Area, and provide ideas in this area for the sake of regional integration;
- (vii) Member States that have published COMESA tariffs should implement them as soon as possible; and
- (viii) Member States which had determined the effect of the COMESA tariff reduction programme on their economies should avoid taking unilateral actions in disregard of the standstill provisions but submit requests to Council to invoke the provisions of the COMESA Treaty, if deemed necessary.

Progress Report on the Study on the Revenue Implications of the Free Trade Area

64. Council decided that:

- (i) The Secretariat should study how member countries of other free trade areas dealt with the problems of revenue loss;
- (ii) The IMF study on revenue implications of the COMESA Free Trade Area, once completed, should be circulated to all member States for study and comments; and
- (iii) Member States should consider reforming their tax systems to compensate for revenue loss from the tariff reduction programme.

Trade and Customs Unit

65. In view of Legal Notice 60, Council decided that initially the Trade and customs Division at the Secretariat should have 5 additional experts, to the current staffing position of the Division of Trade, customs and Monetary Affairs. The additional staff should include:

- (i) Head of Section;
- (ii) Tariff Nomenclature expert;

- (iii) Customs valuation expert;
- (iv) Tax policy expert (exemptions, rebates and duty reliefs); and
- (v) Intelligence and monitoring (investigation) expert.

Relations between the COMESA Secretariat and member States in the administration of the Common External Tariff and Customs Union

66. Council decided that:

- (i) The Trade and Customs Unit and other members of staff of the division undertake the co-ordination; and
- (ii) Member States establish a specialised well-staffed liaison office at national level to implement the Common External Tariff and Customs Union.

World Customs Organisation (WCO) COMESA Liaison Section

67. However, due to budgetary constraints, Council agreed that the functions of WCO COMESA Liaison Section be undertaken by the staff of the COMESA Secretariat Trade and Customs Division.

Relations with Common External Tariffs and Customs Unions of other sub-regional organisations in Eastern and southern Africa

68. Council decided that:

- (a) a detailed study of the potential conflicts arising from multiple membership of some member States to different Free Trade Areas and Customs Unions in the region as well as the Free Trade Area with the EU, be undertaken by the Secretariat; and
- (b) Council establishes a Committee to undertake negotiations with SACU, EAC, SADC to resolve the problem posed by several Common External Tariffs in the region.

COMESA Customs Union vis-à-vis bilateral and multilateral agreements

69. Council decided that member States should be free to enter into bilateral or multilateral agreements provided that such agreements were not in conflict or did not undermine the COMESA Free Trade Area and Customs Union.

Some members of the Free Trade Area not being members of the Customs Union

70. To avoid the above problem, Council agreed that all member States should implement the tariff reduction programme and ensure that they belong to the Customs Union by 2004.

Requirements of National Customs Departments

71. Council decided that the Secretariat develop efficient and effective co-ordination machinery with members States' customs administrations to administer the Customs Union.

Establishment of Common Tariff Nomenclature

72. Council decided that:

- (i) The Secretariat convenes a workshop of technical experts in tariff classification to consider the technical details of the COMESA Common Tariff Nomenclature.
- (ii) The Secretariat should collaborate and assist member States in seeking assistance from co-operating partners to put into operation the COMESA Common Tariff Nomenclature; and
- (iii) Member States should approach co-operating partners for assistance to enable them to put the Common Tariff Nomenclature into operation.

Adoption of a Common Customs Valuation System

73. Council decided that:

- (i) all member States who are not using the GATT Valuation System should adopt the GATT Valuation Code of the WTO and levy customs duties on the basis of the code, as decided by Council at its seventh meeting in May 1999 in Nairobi;
- (ii) Member States who may need assistance to prepare and introduce the GATT Valuation System should, in collaboration with the Secretariat, approach the WCO, WTO and other co-operating partners as early as possible in order to introduce the system by year 2001; and
- (ii) Member States seek assistance from the European Union to adopt and operate the GATT Valuation Code.

Trade and Customs Data

74. Council decided as follows:

- (i) Member States support and provide adequate counterpart funds to install Asycuda and Eurotrace, ensure that Asycuda is installed at all border posts and adopt comprehensive training programmes for customs staff to ensure that the systems work effectively and efficiently and are sustainable; and
- (ii) Member States' Customs and Statistics Departments should urgently implement the use of the Common Statistical Rules adopted by the Council in April 1997.

Free Trade Area (FTA)

75. Council decided that:

- (i) all member States implement the 100% tariff reduction by July 2000 as already decided by the Authority and Council in Nairobi in May 1999; and
- (ii) member States which would suffer serious adverse effects from the application of the Treaty should be permitted to invoke the Treaty provisions on safeguard measures for a period of time to be determined by Council.

Common External Tariff (CET)

76. Council decided that since the process of Customs Tariff Reforms in member States was still continuing, the review be deferred to the year 2002 when the reforms would have settled down.

Customs Union

77. Council decided that:

- (i) the COMESA Secretariat should increase efforts to sensitise member States and articulate measures to resolve some of the concerns and constraints that hinder some member States from full implementation of the tariff reductions as well as member States concerns on the implications of the Common External Tariff; and
- (ii) Council allows member States that experience economic difficulties as a result of implementing the Common External Tariff and Customs Union to invoke the safeguard measures provided for under the Treaty.

Member States continue collecting import duties at Port of final entry into the consuming State as at present upon adoption of the Customs Union

78. Council agreed that option (d) be adopted and that member States continue to collect customs revenue at their port of entry until conditions permit the adoption of an alternative option.

Other duties and taxes

79. Council decided that:

- (i) all member States take early action to eliminate any discriminatory taxes of equivalent effect as import duties; and
- (ii) a study be undertaken on the harmonisation of tax policy and taxation among the member States to facilitate the smooth working of the Customs Union.

Standardisation of Policies and Rules

80. Council decided that during the interim period before the establishment of the Common External Tariff and customs Union, the ASYCUDA Project staff handle the problems relating to clearance of goods at customs border posts.

Verification of the origin of goods

81. Council decided that:

- (i) the Secretariat be supported in soliciting assistance from co-operating partners for undertaking of the awareness, publicity and education campaign on the COMESA Rules of Origin; and
- (ii) Member States should submit the original signatures and stamp impressions for the Certificates of Origin to the Secretariat by 31 March 2000 for circulation to member States.

Temporary importation and exportation

82. Council decided that the Secretariat undertakes a study on the diversity of the terms and conditions for temporary importation and exportation of goods, identify diversities and formulate common terms and conditions including standard procedures, rules and guidelines that should be applicable to remission of duty on goods returned for outward processing.

The Customs Declaration Document (COMESA-CD)

83. Council decided that:

- (i) Member States should raise through the Secretariat all the problems which had constrained them from implementing the COMESA-CD;
- (ii) Member States that have not yet implemented the COMESA-CD should introduce the document as soon as possible, preferably before the launching of the FTA on October 31, 2000;
- (iii) In view of the various modifications made to the COMESA-CD by the member States, the Secretariat undertake a study to harmonise the modifications into a uniform COMESA-CD; and
- (iv) The Secretariat should organise a workshop for Customs experts to consider the revised COMESA-CD and make appropriate recommendations on the adoption of a revised COMESA-CD.

The COMESA Customs Bond Guarantee Scheme (CBGS)

84. Council decided that:

- (i) member States address all the problems which hinder them from introducing the COMESA Customs Bond Guarantee Scheme; and
- (ii) all member States, including island member States, that have not ratified the Agreement should do so as soon as possible.

Exemptions and other duty reliefs

85. Council decided that a comprehensive study be made by the Secretariat on the criteria, range, nature and magnitude of duty exemptions and reliefs among the member States with a view to recommending their reduction and streamlining, advise on standard criteria for determining exemptions and duty reliefs; and formulate principles and guidelines for standardisation and harmonisation.

Non-Tariff Barriers

86. Council decided that a study on all barriers, restrictions and constraints to intra-COMESA trade on a country by country basis be undertaken by the Secretariat as soon as possible to enable Council resolve the problem expeditiously.

Pre-shipment inspection

87. Council decided that member States, which use pre-shipment inspection, should avoid using it as a non-tariff barrier to intra-COMESA trade.

Anti-dumping and countervailing duties

88. Council decided that the Secretariat should undertake a study on:

- (i) How Articles 51 and 52 of the COMESA Treaty could be strengthened, taking into account the WTO rules; and
- (ii) How a simple but effective machinery of anti-dumping measures could be formulated and administered in COMESA.

Free Zones

89. Council decided that a study on the possibility of standardising the rules of free processing zones, with a view to promoting industrialisation of the region, should be undertaken.

Legal framework and instruments

90. Council decided that the legal framework and instruments for the Common External Tariff and Customs Union should be considered first by a Workshop of Customs and Legal Experts.

Common Tariff Nomenclature (CTN)

91. Council decided that as the CTN was highly technical, workshop be conducted on the CTN to consider all technical details.

Programme for harmonious balanced regional development and least developed member States

92. Council decided that a study be carried out by the Secretariat on putting into effect Articles 3(a), 82 and 150 of the Treaty and any other measures to accelerate the economic development of member States.

Intra-COMESA Export Promotion: Opening of Bonded Warehouses

93. Council decided as follows:

- (i) In order for member States to promote exports of their products into COMESA market, they should collaborate with their export companies to adopt the bonded warehouse export strategy;
- (ii) Manufacturers Association/Confederations of Industries, Chambers of Commerce and Industry and National Export Promotion Agencies develop a programme with identified export companies to find ways of adopting this export promotion strategy;
- (iii) Governments devise ways of providing some incentives or support to exporting companies which adopt this strategy; and
- (iv) Governments and companies' intent to adopt this strategy should ensure a thorough study of the target markets and start with only a few markets at a time.

COMESA Regional Competition Policy

94. Council decided as follows:

- (i) Article 55 of the COMESA Treaty should be used as a starting point for developing a COMESA regional competition policy;
- (ii) UNCTAD be requested to continue to extend its technical and financial support to COMESA member States in formulating and enforcing national competition laws and to assist the COMESA Secretariat in carrying out a study on the formulation of a Regional Competition policy;
- (iii) COMESA should, as much as possible, develop an institutional framework for a regional competition policy with the existing framework. In this respect, the existing COMESA Court of Justice and the national court could be linchpins for giving legal interpretation to the 'purpose' and 'intention' of Article 55;
- (iv) The COMESA Court of Justice should be utilised to develop a body of uniform interpretation of anti-competitive practices;
- (v) Careful consideration should be given to the development of a linkage between national competition policies (where they exist) and the regional competition;
- (vi) Extra effort should be put into the encouragement of member States that have not developed national competition policies and laws to do so as soon as possible;
- (vii) A study on the Regional Competition Laws should focus on the problems faced by existing national competition agencies, such as, lack of sufficient resources, weak enforcement mechanism and compliance standards; and weakness in the judicial systems, such as delays;
- (ix) There is need to recognise and address the lack of human resource capacities and general knowledge about competition issues in the member States. Resources should be mobilized to popularize competition issues and develop capacity for the private sector to enforce their rights through an educational and communication programme;
- (x) COMESA should carefully study experiences of other regional groupings in the area of competition policy laws. Those groups include the European Union, UDEAC and MERCOSUR. Wherever possible, COMESA should adopt only those policies and laws that apply to its conditions;
- (xi) COMESA should consider the development and adoption of a 'National Model Law' on competition for ensuring in all member States legislation;
- (xii) In the long term, as COMESA moves towards the establishment of a Customs Union with a Common External Tariff, COMESA should develop a competition policy that replaces the use of internal trade measure;
- (xiii) All existing national agencies and the regional authorities should become more pro-active in raising and identifying anti-competitive acts and practices; and
- (xiv) COMESA should as much as possible utilize the services of capacity building institutions existing in the sub-region (such as the International Law Institute (ILI)) to develop the necessary capacities both for the private and public sectors in developing national and regional policies and laws.

The new ASYCUDA/EXTRADE Project

95. Council decided that the report on the evaluation carried out by KRA in 1998 on several options that included ASYCUDA should be availed to the Secretariat through the Kenyan co-ordinating Ministry.

96. Council also decided that the Secretariat should resume its work early next year since the ASYCUDA++ is to be installed in Zimbabwe and at the COMESA Regional Centre.

Common Position in the Third World Trade Organisation Ministerial Conference and the ACP-EU Negotiations

97. Council decided that:

- (i) The Secretariat maintain co-ordination with OAU/AEC and other regional organisations in preparation of COMESA positions at all international negotiations, particularly on WTO and ACP;
- (ii) The Secretariat continues to mobilise recourses for organisation of seminars for the increasing awareness and capacity building of member States in international negotiations, particularly WTO ACP/EU and WCO;
- (iii) The Secretariat finalise preparation of a handbook to guide member States in the negotiations on WTO and ACP/EU future relations;
- (iv) Member States should ensure that all the issue of concern to them were included in the Ministerial Declaration to be adopted in Seattle and to this end adopt a strong negotiating position at the Seattle conference;
- (v) Member States closely study the Draft Ministerial Declaration and consult one another to ensure inclusion of all issues of interest to them; and
- (vi) The EU REPA proposal should be studied to determine its impact on the member States' economies.

The International Trade Point

98. Council decided that the Secretariat should identify trade points, information networks and telecentres, existing in member States and in the region and organise a workshop of all these trade information networks to consider in detail the Egyptian offer as well as the modalities of co-operation and establishment of the Federation of Trade Points in Eastern and Southern Africa. The Secretariat should report to the next meeting on the results of its contacts with these trade information networks.

Abrogation of COMESA Tariffs and Refusal by some member States to accept COMESA certificate of origin for certain products

99. Council decided that:

- (a) Kenya, Malawi, Tanzania, Uganda and Zambia should eliminate the suspended or specific duties or surcharges which had been imposed in contravention of the COMESA tariff reduction programme and the standstill provisions of the Treaty; and
- (b) all member States avoid unilateral actions such as imposition of tariffs and other restrictions on COMESA products.

Operations of the Yellow Card Scheme

100. Council agreed that the use of the current card be terminated on 31 December, 1999 and the re-designed Yellow Card format be implemented with effect from 1 January 2000.

The Proposed changes to improve the Yellow Card Scheme

101. Council agreed that the scheme should include liability cover for Third Party property damage, when the vehicles insured are transiting/visiting the territories of other member countries, where liability for third party property damage is not compulsory, or is not provided for under Article 6(8) of the Yellow Card Protocol, subject to the following maximum limits of damage payable:

- (i) Private Car/Motorcycle = COM\$5,000 any one person, any one event; and
- (ii) Commercial vehicle = COM\$30,000 any one person/any one event.

102. Council also endorsed the recommendations of the Council of Bureaux that:

- (i) The Yellow Card format incorporate the following wording to reflect the inclusion of the third party liability for property damage cover;

“The insurance cover provided under this card shall be extended to third party liability for property damage or loss where such liability is not covered under the motor insurance law of the country visited, or is not provided for under Article 6, item 8 of the Yellow Card Protocol, by the motorist involved in the accident and subject to the usual terms and conditions of a third party liability for property damage cover provided under the insurance law and the limit of liability indicated therein” and

- (ii) The standardisation be effected on 1 January 2000.

Regarding the scrutiny of Yellow Card Books, Council agreed that National Bureaux who have failed to report the loss and/or damage of Yellow Card Books shall be liable for insurance theft liability claims which may arise from the issuance of such cards as follows:

- (a) where an officer of an insurance company issues a yellow card without due authority from the insurance company; or
- (b) where an insurance company loses a yellow card.

The COMESA Yellow Card Reinsurance Pool

103. Regarding the resolution of the claims between Rwanda and Uganda and between Rwanda and Kenya, Council agreed as follows:

Rwanda/Kenya Issues

- (i) The National Bureau of Kenya should reimburse the National Bureau of Rwanda claims settles in the case of Stallion Insurance Company, while they proceed to take legal action against Stallion and/or insured; and
- (ii) Gateway Insurance Company together with the national Bureau of Kenya should travel to Rwanda and try to negotiate with the claimants on the amount awarded

by the Rwanda Court of appeal, in collaboration with the National Bureau of Rwanda.

Rwanda/Uganda Issues

- (i) In the case of RIO Insurance Company, the meeting noted that the Rwanda National Bureau was being paid in instalments and decided that the national Bureau of Uganda should reimburse the National Bureau of Rwanda in full; and
- (ii) In the case of EAGEN, the Council of Bureau decided that the National Bureau of Uganda should reimburse the National Bureau of Rwanda, while they proceed to pursue legal action against EAGEN.

(e) INDUSTRY

Metal and Engineering Industry

Progress Report on Project US/RAF/88/183

104. Regarding the future sustainability of the project an assistance to COMESA countries in Rehabilitating and Upgrading their Metallurgical Industry with regard to iron and Steel Sector Council agreed that:

- (i) COMESA Secretariat should put in place a suitable organisational framework to ensure the continuity and sustainability of the activities carried out by the project.
- (ii) The Knowledge and experience gained during the course of implementation of the project should be harnessed and disseminated through a regional focal point which would establish and information network on experts, technology, investment and business opportunities which are relevant to regional integration;
- (iii) Activities such as training and promotion of co-operation should be continued because they are of great importance for strengthening enterprises. COMESAMIA, once fully operational, should be able to undertake most of these activities;
- (iv) International technical assistance services should be replaced by local and regional consultancy services as clearly demonstrated by the cleaner production and industry energy conservation and management initiated by the project;
- (v) The valuation in factor costs such as land, electricity, fuel, labour, water, transport and communications, interest rates, duties, taxes, levies etc will continue to adversely affect a number of companies' competitiveness in the Free Trade Area. Accordingly, the Secretariat was requested to undertake a study on this issue;
- (vi) Potential investors wishing to produce steel from iron ore available in the region should consider using down-scaled technologies from India which utilises direct reduction/sponge iron route which also have an added advantage of co-generating electricity to supply the requirements of the melt shop and rolling mill, and
- (vii) the rolling mill project in Zambia and production of sponge iron in the region using India technology should be expeditiously implemented; to increase the supply of steel in the region.

Industrial Strategy

105. Council agreed that:

- (i) Member States constitute national expert groups at country level by January 2000 and develop/revise national industrial strategies and submit copies to the Secretariat before the next meeting of the regional expert group meeting;
- (ii) An expert group meeting on industrial strategy formulation be convened during the first half of next year, at which at least two officers (one government official responsible for industry and at least one private sector representative) from each member State would attend to exchange experiences and discuss the revised draft COMESA industrial strategy;
- (iii) Technical assistance be sought to assist member countries in preparing/updating national strategies;
- (iv) Studies be undertaken on the proposals made by Egypt to:
 - (i) Establish a regional centre in Cairo for small-scale industries; and
 - (ii) Establish a specialised Committee for Small enterprises to enhance relations among member States and create a constitutional framework of co-operation; and
- (v) A meeting of the Ministers of Industry be convened to consider and adopt the Industrial Strategy when finalised.

COMESA Pharmaceutical Manufacturers Association (PHARMESA)

106. Council recommends as follows:

- (a) PHARMESA should adopt the SEAMRAC documents on registration and harmonisation procedures;
- (b) PHARMESA should collaborate with SEAMRAC so that recommendations from SEAMRAC meeting can be submitted to COMESA Policy Organs Meetings for consideration and adoption;
- (c) A Forum to be known as “COMESA Medicine Regulatory Forum” be established for the exchange of information and follow up on the harmonisation of aspects related to legislation and implementation; and
- (d) COMESA should continue to mobilise resources to assist PHARMESA in the implementation of its programmes as well as mobilise resources from EU, COMSEC and WHO to support capacity building in member States whose regulatory control of medicines are weak.

Growth Triangles

107. Council recommended that member States that not carried out investor roadmaps do so as soon as possible and the Secretariat should seek support from the cooperating partners to fund the programme.

Seed Treater Project – Phase II

108. Council endorsed the project proposal for implementation by COMESA in collaboration with UNIDO and decided that:

- (i) the International Centre of Insect Physiology and Ecology (ICIPE) should be requested to co-operate with COMESA in the implementation of the project to assist the development of environment friendly biopesticides; and
- (ii) COMESA and UNIDO should jointly mobilise the resources required to implement the project estimated at US\$2.7 million.

Building Materials Industry

109. Council recommends that the mobilisation of resources required to implement the programme should be a joint effort between COMESA and UNIDO and that the Government of India should be requested to support the programme as she had earlier indicated her willingness to do so.

COMESA SQMT Programme

110. Council decided that:

- (i) National Focal Points (NFP's) should be established in all countries based at the NSBs to carry out the various activities;
- (ii) The NFPs should develop national programmes based on the framework agreed upon at the workshop for submission to the Secretariat within two month;
- (iii) A National Task Force (NTF) on COMESA SQMT Programme comprising a maximum of six members should be established in each country and chaired by the NSB Director. Members should be drawn from Chambers of Commerce, Manufacturers Associations, Export Board, Federation of Employers as well as the Government. The main tasks for the NTF will be to implement COMESA SQMT Programme;
- (iv) The Secretariat should revise the SQMT report prepared by the consultant to serve as a benchmark document for the evaluation of the programme periodically and at the end of the programme implementation;
- (v) Member States should adopt the 349 African Regional Standards (ARS) already developed by African Regional Organization for Standardization (ARSO).

Review of COMESA SQMT Programme focusing on Planning of Programme Activities

111. With regard to the expansion of the Steering Committee, Council decided that four countries, including the host country (Zambia), should be co-opted in to the Steering Committee. The four members should preferably be drawn from the NSBs. The COMESA Secretary General would determine in consultation with member States the countries which would be co-opted into the existing Steering Committee.

112. Council further decided that:

- (a) Member States should continue to support the SQMT programme;

- (b) Countries that were not members of ARSO should seek membership as soon as possible;
- (c) There should be co-ordination between the COMESA SQMT Programme and other similar projects in the region so that maximum benefits could be realised for the region; and
- (d) All Member States should adopt the 349 standards developed by ARSO subject to normal national procedures.

Industrial Information

113. Council thanked UNIDO for its support and recommends as follows:

- (a) UNIDO be requested to provide financial and technical assistance to COMESA to establish a regional centre for the INTIB/RMS which would link all COMESA member countries to the network;
- (b) UNIDO be requested to provide technical and financial assistance to COMESA to carry out a comprehensive needs assessment of industrial information requirements in member countries;
- (c) The Japanese government be requested to provide financial and technical assistance under Second Tokyo International Conference on African Development (TICAD-II), or other sources to facilitate the establishment of a COMESA INTIB network, with its centre at the COMESA Secretariat and linked to all member States, the Asia-Africa Investment Regional Centre and other relevant industrial networks; and
- (d) Member States be urged to include the development of national INTIB network in their national plans and also ensure that the programme is included in the national integrated programme of UNIDO.

Franchising

114. Council decided that COMESA member States should initiate a programme on franchising.

(f) ENERGY

115. Council decided that the regional supply and distribution of energy resources be addressed by COMESA as it is crucial for industrialization.

(g) WOMEN IN BUSINESS

116. Council recommends that the Secretariat should mobilise additional resources required to expand this programme to other member States and to dialogue with the co-operating partners to finance phase two of the project.

Consultative Technical Meeting of chief Executives of Investment Promotion Agencies

117. Council decided as follows:

- (i) Chief Executives of national Investment Promotion Agencies be requested by the Secretariat to attend the next meeting planned for March, 2000 in order to reach consensus;

- (ii) As a way forward, council urged the Secretariat to mobilise resources and begin to implement some of the functions proposed by the consultative technical meeting of Chief Executives of IPAs;
- (iii) With regard to the Regional Investors' Roadmap, the Secretariat should collaborate with the Cross Border Initiative (CBI); and
- (iv) The issue of how the RIA would relate to other regional organisations within the region should be examined further by the Secretariat.

(h) COMESA INSTITUTIONS

Progress Report of the PTA Reinsurance Company (ZEP-RE)

118. Council decided that:

- (i) COMESA co-ordinating ministries should work closely with the Ministers of Finance in order to speed up implementation of the decisions of the Fourth Summit of the authority of COMESA Heads of State and Government regarding the need to accede to the Agreement establishing ZEP-RE, facilitate business cessations and subscribe to the share capital of the institution; and
- (ii) Member States endeavour to accord ZEP-RE national treatment in their respective countries.

The Eastern and Southern African Trade and Development Bank (PTA Bank)

119. Council urges all member States that have not yet joined the PTA Bank to do so as soon as possible.

Leather and Leather Products Institute (LLPI)

120. Council:

- (i) endorsed LLPI's request to the CFC for support in implementing the project which has been submitted to the Fund, on Adding Value to African Leather: Leather Products Manufacturing in selected COMESA countries;
- (ii) directed the COMESA Secretariat to continue assisting LLPI in the mobilisation of domestic and external funds. The Secretariat was also requested to pool together the regular budgets and collect contributions from member States;
- (iii) noted the Budget of LLPI for the year 2000 amounting to COM \$824,090 of which COM \$511,074 is to be subscribed by LLPI member States; and
- (iv) appealed to the member States to recommit themselves in supporting and participating in LLPI programmes.