

OFFICIAL GAZETTE

of the COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA

Volume No. 28

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ACRONYMS

ACBF - African Capacity Building Foundation

AfDB - African Development Bank

AFCAC - African Civil Aviation Commission

AGOA - Africa Growth and Opportunity Act

ARIPO - African Regional Intellectual Property Organisation

ATI - African Trade Insurance Agency

AU - African Union

CA - Conservation Agriculture

CDC - Center for Disease Control and Prevention

CNS/ATM - Communication Navigation Surveillance Air Traffic Management System

COMESA - Common Market for Eastern and Southern Africa

COMTEL - COMESA Telecommunications Company

CSR - Common Statistical Rules

EAC - East African Community

EDF - European Development Fund

ESA-EPA - Economic Partnership Agreement

ESA - Eastern and Southern Africa (and Indian Ocean Region)

FTA - Free Trade Area

IC - Intergovernmental Committee

ICT - Information and Communications Technology

IMO - International Maritime Organization

RAERESA - Regional Association of Energy Regulators for Eastern and Southern

Africa

RECs - Regional Economic Communities

RIA - Regional Investment Agency

RISM - Regional Integration Support Mechanism

SADC - Southern African Development Community

STR - Simplified Trade Regime

UNCTAD - United Nations Conference on Trade and Development

WTO - World Trade Organization

ZEP-Re - PTA Re-Insurance Company

THE COMESA AUTHORITY - HEADS OF STATE AND GOVERNMENT

As at 08 February, 2023

BURUNDI

His Excellency Evariste Ndayishimiye,
President of the Republic of Burundi

COMOROS

His Excellency Dr Ikililou Dhoinine,
President of the Union of the Comoros

DJIBOUTI

His Excellency Ismail Omar Guelleh,
President of the Republic of Djibouti

DEMOCRATIC REPUBLIC OF CONGO

His Excellency Felix Antoine Tshilombo Tshisekedi,
President of the Democratic Republic of Congo

EGYPT

His Excellency President Abdel Fattah el-Sisi,

President of the Arab Republic of Egypt

(Chairperson of the COMESA Authority)

ERITREA

His Excellency Isaias Afewerki,
President of the State of Eritrea

ESWATINI

His Majesty King Mswati III,
Ingwenyama of the Kingdom of Eswatini

ETHIOPIA

Right Honourable Abiy Ahmed

Prime Minister of the Federal Democratic Republic of Ethiopia

V

KENYA

His Excellency Dr William Ruto
President of the Republic of Kenya

LIBYA

His Excellency Mr. Mohamed Younes al-Menfi,
President of the Council of the State of Libya

MADAGASCAR

His Excellency Andry Nirina Rajoelina

President of the Republic of Madagascar

MALAWI

His Excellency Dr Lazarus Chakwera

President of the Republic of Malawi

MAURITIUS

Her Excellency Pravind Kumar Jugnauth,
Prime Minister of the Republic of Mauritius

RWANDA

His Excellency Paul Kagame,
President of the Republic of Rwanda

SEYCHELLES

His Excellency Wavel Ramkalawan,

President of the Republic of Seychelles

SOMALIA

His Excellency Hassan Sheikh Mohamud

President of the Federal Republic of Somalia

SUDAN

His Excellency Abdelftah AlBurhan,

Chairman of the Transitional Sovereignty Council of the Republic of the Sudan

TUNISIA

His Excellency Kais Saied

President of the Republic of Tunisia

UGANDA

His Excellency Yoweri Kaguta Museveni,

President of the Republic of Uganda

ZAMBIA

His Excellency Hakainde Hichilema,
President of the Republic of Zambia

ZIMBABWE

His Excellency Emmerson Mnangagwa,
President of the Republic of Zimbabwe

COMESA SECRETARIAT MANAGEMENT COMMITTEE

SECRETARY-GENERAL

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CHIEF INTERNAL AUDITOR

Mr Asish Daby

HEAD, GOVERNANCE, PEACE AND SECURITY

Ms. Elizabeth Mutunga

HEAD, CORPORATE COMMUNICATIONS

Mr Mwangi Gakunga



COMESA INSTITUTIONS

Africa Leather and Leather Products Institute

African Trade Insurance Agency

COMESA Clearing House

COMESA Competition Commission

COMESA Federation of Women in Business (COMFWB)

COMESA Monetary Institute

COMESA Regional Investment Agency

Council of Bureaux

PTA Reinsurance Company (ZEP-RE)

Trade and Development Bank

Specialized Agencies

Alliance for Commodity Trade in Eastern and Southern Africa - ACTESA

COMESA Business Council - CBC

East African Power Pool

Regional Association of Energy Regulators in Eastern and Southern Africa - RAERESA

Judicial Arm

COMESA Court of Justice

IT IS HEREBY NOTIFIED that the Council of COMESA Ministers at its Forty Third meeting the meeting was held physically on 1st December 2022 issued the following Legal and General Notices:

HEALTH

COMESA Ministers of Health

Decision

1. The Council commended the Africa CDC and urged the organization to continue the work to promote health security in Africa.

COVID in the Region and the Saving Life and Livelihood Initiative in the context of COVID 19 vaccines and beyond

Decision

2. Council urged the AU CDC to revisit the statistics of those vaccinated on the continent to come up with the true picture on the uptake of vaccines from eligible groups.

Development of the Pharmaceutical Sector in the COMESA Region

Decisions

3. Council:

- (a) Noted the report on the Market Research on the supply and demand gaps on COVID
 19 related pharmaceutical goods and services and supported the strengthening of Good Manufacturing Practices (GMP) in the pharmaceutical industry in the region;
- (b) Directed the Secretariat to develop programmes to strengthen the pharmaceutical industry including the development of a detailed regional pharmaceutical strategy in addition to the existing programmes based on the recommendations from the report of the market research;
- (c) Directed the Secretariat to develop interventions to address recommendations from the report of the pharmaceutical market research including issues relating to patenting under the TRIPS Agreement of the WTO;
- (d) Urged Member States to develop interventions to address the recommendations that require country specific actions including issues relating to access to finance to drive the pharmaceutical industry, preferential procurement of pharma goods and services from the COMESA region to increase intra-regional trade and revision of tariffs on raw materials for the pharmaceutical industry to encourage investment in the sector, among others; and
- (e) Directed the Secretariat to fast track the process of the operationalization of the health desk and continue its collaboration with the Africa CDC.

COMESA Business Council (CBC) Pharmaceutical and Health Care Services Work Group

Decisions

Council directed:

- (a) The COMESA Business Council pharmaceutical group to prepare a concept note on the COMESA Medicines Agency (CMA) to be shared with Member States for consideration; and
- (b) The Secretariat to convene a Meeting of Drugs Authorities to discuss the concept note of the COMESA Medicines Agency (CMA) and harmonisation of procedures for registration and inspection of drugs in the COMESA region.

Pharmaceutical Industry in COMESA Region by CBC

Decisions

- 5. Council directed:
 - (a) That the Secretariat undertakes a study to assess the pharmaceutical industry in the COMESA region and propose measures to address varying procedures for registration and inspection; and
 - (b) The COMESA Business Council to draft a concept note about Zambia, Zimbabwe Botswana and Namibia (ZAZIBONA) experience and how it can be implemented in COMESA Member States.

Development/Strengthening of Pharmaceutical Industry in COMESA Region by CBC

Decisions

6. Council:

- (a) Directed the COMESA Secretariat and CBC to develop a regional strategy for pharmaceutical industry in COMESA region;
- (b) Directed CBC to promote the concept of contract manufacturing of pharmaceutical products among the Member States;
- (c) Urged Member States to establish schemes to facilitate local manufacturers to import all their inputs duty free or source their inputs tax free;
- (d) Urged Member States to set up special economic zones for pharmaceutical manufacturers to accord them tax holidays;
- (e) Urged Member States to extend preferential treatment to goods originating from other COMESA Countries in tenders taking into consideration price issues;
- (f) Urged Member States to consider providing more attractive incentives to Pharmaceutical Industry and healthcare services providers for purposes of attracting more investment in the sector:
- (g) Urged COMESA to invest in the development of regional centres of excellence, focusing on the pharmaceutical industry, and encourage national Governments to do the same; and
- (h) Urged Member States to incentivise the pharmaceutical industry to enhance

Operationalization of the COMESA Health Desk

Decisions

7. Council:

- (a) Directed the Secretariat to operationalize the COMESA Health Desk to facilitate the development of policy and strategic frameworks on health, promote and coordinate the implementation of health programmes, promote research and sharing of best practices on health, promote local manufacturing of medicines, prepare reports and service Meetings of Member States;
- (b) Directed the Secretariat to ensure that the next Meeting of COMESA Human Resources Sub Committee considers, amongst others, the position(s) of health expert(s) in the structure of COMESA Secretariat;
- (c) Directed the COMESA Committee of Budgetary and Administrative Matters to allocate a budget for health expert/s and activities for the health desk;
- (d) Directed the Secretariat to develop a Health Programme guided by the provisions of the Treaty and the Social Charter, Continental and Global priorities on Health and to be presented to the next Meeting of the Technical Committee on Health;
- (e) Directed Secretariat, Institutions and Member States to promote and support initiatives on investments on local manufacturing of pharmaceuticals in the region;
- (f) Commended the AU-CDC for the collaboration and commitment to support the operationalization of the COMESA Health Desk to kick off the implementation of regional and continental priorities on health to ensure the health security of the COMESA citizens;
- (g) Directed the Secretariat to engage other cooperative partners such as Global Fund, World Health Organisation (WHO), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA), and others to support the operationalization and implementation of the COMESA health programme;
- (h) Directed the Secretariat to mobilise extra budgetary resources through cooperating partners;
- (i) Urged Member States to designate focal point persons to support Secretariat in the development of the framework for health desk;
- (j) Urged Member States to encourage and support Member States that produce medicine including COVID-19 vaccines; and
- (k) Directed the Secretariat to develop programmes that support access to traditional medicine in the region.

Agriculture, Environment and Natural Resources

Decisions

8. Council:

(a) Approved the COMESA regional guidelines for the establishment, operation and management of warehouse receipt system for agricultural commodities;

- (b) Urged Member States to make every effort to domesticate the Guidelines for the establishment, operation and management of warehouse receipt system for agricultural commodities;
- (c) Urged Member States to make every effort to mobilize resources for implementation of the Guidelines;
- (d) Directed the Secretariat to make every effort to mobilize resources to support implementation of the Guidelines;
- (e) Approved the COMESA regional Blue Economy Strategy;
- (f) Urged Member States to domesticate the COMESA regional Blue Economy Strategy;
- (g) Urged Member States commit to provide necessary resources to promote blue economy governance and appropriate institutional frameworks;
- (h) Urged Member States support Public Private Partnerships to participate in the implementation of the Blue Economy Strategy;
- (i) Directed the Secretariat to establish a Blue Economy Unit;
- (j) Directed the Secretariat to mobilize resources to support implementation of the COMESA Regional Blue Economy Strategy;
- (k) Directed the Secretariat to call on Development Partners and Non-State Actors to support the implementation of the COMESA Blue Economy Strategy;
- (I) Approved the COMESA regional Resilience Framework Implementation Plan and Resource Mobilization Strategy;
- (m) Urged Member States to domesticate the COMESA Regional Resilience Framework Implementation plan and resource mobilisation strategy;
- (n) Urged Member States operationalize the Regional Resilience Framework Implementation plan;
- (o) Directed the Secretariat to mobilise resources to support the operationalisation of the Regional Resilience Framework Implementation plan;
- (p) Urged Member States to support Small Holder Farmers to have access to improved technologies such as mechanisation, irrigation and quality inputs, and extension/ advisory services to boost productivity and production;
- (q) Urged Member States to re-purpose investment in innovation, research, and development to generate technologies and management practices to drive sustainable agricultural transformation;
- (r) Directed the Secretariat to strengthen engagement with development and strategic partners including private sector to leverage financial and technical resources to fast-track the implementation of CAADP Malabo Commitments;
- (s) Urged Member States to commit resources to support the development and implementation of the Regional Food Balance Sheet (RFBS) initiative;
- (t) Urged Member States to build technical working group to ensure efficient data collection and validation of crop production estimates and national food balance sheet data and sharing data sets with the secretariat for compilation of the Regional Food Balance Sheets;
- (u) Directed the Secretariat to mobilise additional resources to support the development and expansion of the RFBS initiative to cover more commodities and Member States;
- (v) Directed the Secretariat to establish Regional Food Balance Sheet committee to drive strategic decisions on regional food balance sheet initiative;

- (w) Urged Member States to commit to producing food security statistics from consumption and expenditure surveys in a harmonized way;
- (x) Urged Member States to commit to making use of food security statistics for national planning and programming;
- (y) Directed the Secretariat to mobilise additional resources for second phase beyond 2023 to cover more Member States;
- (z) Directed the Secretariat to commit to make use of the food security statistics for COMESA regional integration agenda;
- (aa) Urged Member States to commit resources to support the development and implementation of initiatives to address climate change issues;
- (ab) Directed the Secretariat to develop mechanisms to ensure sustainable financing for climate change interventions in the region;
- (ac) Directed the Secretariat to upscale good practices and lessons learnt from the five pilot projects to the remaining Member States;
- (ad) Urged Member States to take note and support the ongoing work on the strengthening of COMESA Reference and Satellite Laboratory System;
- (ae) Directed the Secretariat to coordinate with Zambia, Zimbabwe, Kenya, Sudan, Tunisia, Uganda, Somalia, Egypt, and Mauritius on the establishment of the Food Safety Technical Working Group (FS-TWG) under the SPS Sub-Committee; and
- (af) Directed the Secretariat to coordinate with Egypt, Somalia, Sudan and Mauritius on the establishment of Animal Health Technical Working Group (AH-TWG) under the SPS Sub Committee."

Legal Affairs

Decisions

- 9. The Council adopted the following legal instruments:
 - (a) COMESA Court of Justice Financial Rules;
 - (b) COMESA Court of Justice Procurement Rules; and
 - (c) Charter Regulating the Council of Bureaux of the Yellow Card;

A Copy of the revised COMESA Court of Justice Financial Rules, COMESA Court of Justice Procurement Rules and the Charter Regulating the Council of Bureaux of the Yellow Card is attached to this report as Annex I,II and III.

- 10. On the COMESA Competition Commission, Council decided that:
 - (a) The Nominated Commissioners be appointed for a period of three years;
 - (b) Draft Rules on Appointment of Commissioners for the COMESA Competition Commission be submitted to the Twenty Fourth Meeting of the COMESA Legal Drafting Sub-Committee in April 2023 for legal review so that they are applicable in the upcoming appointment process; and
 - (c) In future, the selection process of Commissioners should consider gender parity and transparency.
- 11. On COMESA Regional Investment Agency, Council:

- (a) Approved the appointment of the nominees from Comoros, Djibouti, Egypt, Eswatini, Seychelles, Tunisia, and Zimbabwe and endorsement by the COMESA Council of Ministers; and
- (b) Directed that he RIA Charter be reviewed to take into consideration recommendations made by the Meeting on staggering and standardizing the expertise and qualifications required for the position of a Board Member.

COMESA Institutions

Trade and Development Bank (TDB)

Decisions

- 12. Council directed that:
 - (a) TDB and the other COMESA specialised institutions organize workshops in Member States on funding modalities; and
 - (b) TDB provide a list of projects that it has financed.

Re-Insurance Company (ZEP-RE)

Decisions

- 13. Council urged:
 - (a) Member States to utilise ZEP-RE's technical capacity and resources to develop policies, products and services that will help support financial inclusion, including using the services of ZEP-RE's subsidiary, Acre Africa Ltd, experts in linking smallholder farmers to financial products and climate risk solutions;
 - (b) Non-participating Member States to join and support the company;
 - (c) Member States to support ZEP-RE by recognising and comparably treating ZEP-RE to local companies in their territories so that the Company can discharge its mandate effectively; and
 - (d) Member States to extend preferred credit status to ZEP-RE to assist with prioritising and allocating foreign exchange to enable the Company to meet its ongoing obligations as it discharges its mandate.

COMESA Competition Commission (CCC)

Decision

14. The Council urged Member States to develop a common position with regard to the implementation of the AfCFTA Competition Protocol to ensure that the jurisdiction of the COMESA Competition Commission is preserved.

Africa Leather and Leather Products Institute (ALLPI)

Decisions

15. Council directed that:

- (a) ALLPI enhances its resource mobilization effort from development partners; and
- (b) Decisions by ALLPI Board of Directors be presented to Council for adoption.

Regional Association of Energy Regulators For Eastern And Southern Africa (RAERESA)

Decisions

- 16. Council adopted the following reports and guidelines on renewable energy for domestication at national level:
 - (a) Regional guidelines for renewable energy integration in the Eastern Arica-Southern Africa-Indian Ocean (EA-SA-IO) region;
 - (b) A credit facility guideline to support renewable energy projects;
 - (c) Renewable energy procurement guidelines for the Eastern Africa-Southern Africa-Indian Ocean (EA-SA-IO) region;
 - (d) Gender mainstreaming strategy and action plan in renewable energy (RE) and energy efficiency (EE) in the Eastern Africa-Southern Africa-Indian Ocean (EA-SA-IO) region; and
 - (e) The revised monitoring and evaluation framework for the Renewable Energy and Energy Efficiency Strategy and Action Plan (REEESAP) and an on-line monitoring tool for monitoring the implementation of the Renewable Energy and Energy Efficiency Strategy and Action Plan (REEESAP) EA-SA-IO region.
- 17. Council adopted the following reports and guidelines on energy efficiency for domestication at national level:
 - (a) Minimum energy performance standards (MEPS) and policy guidelines for electric fans and TVs in the Eastern Africa-Southern Africa-Indian Ocean (EA-SA-IO) Region;
 - (b) The on-line monitoring tool for the implementation of minimum energy performance standards (MEPS) and labelling standards in the Eastern Africa-Southern Africa-Indian Ocean (EA-SA-IO) region;
 - (c) Regional guidelines on demand side management for the Eastern Africa-Southern Africa-Indian Ocean (EA-SA-IO) region;
 - (d) Regional guidelines on power system losses measurement and mitigation;
 - (e) Lifeline tariff policy and guidelines;
 - (f) Credit facility guidelines for energy efficiency projects;
 - (g) Gender mainstreaming strategy and action plan in renewable energy (RE) and energy efficiency (EE) in the Eastern Africa-Southern Africa-Indian Ocean (EA-SA-IO) region; and
 - (h) The revised monitoring and evaluation framework for the Renewable Energy and Energy Efficiency Strategy and Action Plan (REEESAP) and an on-line monitoring tool for monitoring the implementation of the Renewable Energy and Energy Efficiency Strategy and Action Plan (REEESAP)- EA-SA-IO region.

Council of Bureaux of the Yellow Card Scheme

Decision

18. Council urged the Government of Uganda to resolve the issue of detention of visiting/ transiting drivers and motor vehicles involved in a road traffic accident in Uganda having Yellow Cards.

REGIONAL CUSTOMS TRANSIT GUARANTEE (RCTG CARNET)

Decisions

- 19. The Council expressed concern on the delays in the implementation of the RCTG Carnet in North- South Corridor countries and urged:
 - (a) Zambia to address the issues raised by the Clearing and Forwarding Agents and implement the RCTG Carnet;
 - (b) DR Congo, Malawi and Zimbabwe to commence the operations of the RCTG Carnet without further delay and by early 2023; and
 - (c) Ethiopia and Djibouti finalize preparations for the commencement of the operations of the RCTG Carnet in early 2023.
- 20. Council adopted the recommendation of the 34th Meeting of the Tripartite Task Force which was held on 16th July 2022, on the side-lines of the 41st Session of the Executive Council and the 4th Mid-Year Coordinating Meeting, held in Lusaka, Zambia from 14th 17th July 2022, the agreement on the need for harmonization of the COMESA RCTG Carnet with similar instruments in EAC and SADC into a Tripartite RCTG system and scaling it up at the Continental/AfCFTA.

COMESA Federation of Women in Business (COMFWB)

Decisions

- 21. Council directed:
 - (a) COMFWB Secretariat to engage service providers to build the perimeter fence and hire expertise to improve their operational systems;
 - (b) COMFWB to commence the recruitment of the two approved professional staff (Digital Communication Officer and Resource Mobilization Officer); and
 - (c) COMFWB Chapters to continue implementation of programs, creation of employment, showcase national products for investment opportunities both in blue economy and green economy.

Alliance for Commodity Trade in Eastern and Southern Africa (ACTESA)

Decision

22. Council noted the progress made on Staple Food Programme Implementation and on ACTESA's Resource Mobilisation activities.

Trade and Customs

Decisions

23. Council:

- (a) Urged Non-FTA Member States (Eritrea, Ethiopia, Eswatini, DRC and Somalia) to fast track the process of joining the COMESA FTA as a matter of priority;
- (b) Directed the Secretariat to provide written updates to Member States on Non-FTA Member States status of joining COMESA FTA by end of January 2023 and thereafter on a quarterly basis as per the 42nd Council directive;
- (c) Urged DR Congo and Uganda to provide updates on progress towards full implementation of the COMESA FTA to the upcoming policy organs meetings; and
- (d) Urged Uganda to submit and circulate its current list of sensitive goods to Member States within two weeks of the adoption of the report of this meeting.

Elimination of Non-Tariff Barriers (NTBs) in the COMESA Region

Decisions

24. Council:

- (a) Urged Members States that had not formally submitted composition of their NMCs and National Focal Points to the Secretariat, to do so in line with the agreed template by 31st December 2022;
- (b) Urged Member States with long outstanding NTBs to conduct bilateral and other engagements and agree on the resolution of the pending NTBs;
- (c) Directed the Secretariat to provide technical assistance and or financial support as and where applicable to support addressing the NTBs that are still outstanding;
- (d) Directed the Secretariat to provide capacity building support to National Focal Points on utilization of the online NTBs reporting system;
- (e) Encouraged the Secretariat and Member States to consider establishing integrated NTMs and NTBs systems that provide interface between the various initiatives that are being taken by UNCTAD, AfCFTA, Tripartite, REC's and national authorities;
- (f) Directed the Secretariat to expedite developing an app for reporting NTBs by 30th June 2023; and
- (g) Directed the Secretariat to put in place a regular schedule for training of newly appointed Focal Points and NMC Members.

TRADE FACILITATION

Decisions

25. Council directed:

- (a) The Project Team to expedite the implementation of activities in the remaining period of the project duration;
- (b) The Secretariat to engage Malawi and expedite activities on the border upgrade at Mchinji border;

- (c) The Secretariat to consider a regional approach to implementation of the Trade Facilitation Agreement Category C measures identified by Member States; and
- (d) The Secretariat to provide an update on the status of implementation of WTO Trade Facilitation Agreement (TFA) in future meetings.

Small Scale Cross Border Trade Initiative

Decisions

26. Council:

- (a) Urged Member States to continue working with the Secretariat in facilitating the work to ensure that the remaining activities are carried out within the time of the extension;
- (b) Directed the Project Team to expedite implementation of the activities in the remaining period of the project duration;
- (c) Urged Member States to provide their inputs and comments to improve the draft Regional Strategy and Action plan as the Secretariat continues implementation of Single window project activities based on the adopted strategy and action plan taking into account the limited project period under the EDF 11 TFP; and
- (d) Urged Member States to provide their inputs and comments on the revised draft regulations to the Secretariat by 31st January 2023 so that it can be re-submitted for consideration in the next Trade and Customs Committee meeting.

The implementation of the Common Market Electronic Single Window

Decisions

27. Council:

- (a) Urged Member States to provide their inputs and comments on the Draft Strategy and Action plan and the revised Draft regulations to the Secretariat by 31st January 2023 so that it can be re-submitted for consideration in the next Trade and Customs Committee meeting;
- (b) Directed the Secretariat to make periodical progress review of Member States' implementation of eSW based on best practices and instruments such as the UN Global Survey on Digital and Sustainable Trade Facilitation and WCO tools; and
- (c) Directed the Secretariat to ensure that the next meeting of TWG on eSW includes legal and single window experts to consider the draft regulations and the draft Terms of Reference (ToRs) to engage a consultancy firm to assist in developing and implementing a COMSW as planned under the EDF 11 TFP.

COMESA Digital Free Trade Area

Decision

28. Council directed:

(a) The Secretariat to convene a meeting on online market in the first quarter of 2023; and

(b) The Secretariat to assist Member States that do not have a national presence with developing regional online market interfaces with existing national markets for countries to customize the COMESA developed online market.

Common list for the STR

Decisions

29. Council:

- (a) Decided that COMESA maintains the bilateral common lists model, at least over the immediate/medium term since it is at a lower level of integration and the implementation has been smooth so far with only a few minimal challenges;
- (b) Directed the Secretariat and urged Member States to expeditiously roll out the other Member States that are willing to ensure the inclusion of SSCBTs in accessing the benefits of the FTA:
- (c) Encouraged COMESA-EAC-SADC to prepare and gradually move towards a harmonized STR at the proposed 3 Stage Roadmap;
- (d) Adopted the recommendations of the study on the suitability of the STR threshold; and
- (e) Directed the Secretariat to draft a strategy to address the splitting of consignments by traders on the effective implementation of the COMESA STR by DR Congo.

STR Threshold

30. Council:

- (a) Adopted recommendations of the study report on options for inclusion of selected trade in services to the simplified trade regime; and
- (b) Directed the Secretariat to present the study report to the Committee on Trade in Services.

Trade Information Desk Officers

Decision

31. The Council adopted the recommendations of the study on sustainability of Trade Information Desk Officers (TIDOs).

Ratification of the Tripartite FTA Agreement

Decision

32. The Council urged Member States that had not ratified the TFTA Agreement to do so as a matter of priority in order to pave way for its implementation.

WTO matters

Decisions

33. Council urged Member States to:

- (a) Participate at the various levels of the WTO decision making and rule-making processes, including negotiations to ensure that they are not left behind in the integration of developing countries into the international trading system; and
- (b) Utilize and take advantage of the special benefits, treatment, flexibilities, and support granted to Developing Countries and LDCs which are aimed at enhancing their participation in the multilateral trading system.
- 34. Council directed the Secretariat to submit a request for regional technical capacity building support to the WTO.

AGOA Matters

Decision

35. Council directed the Secretariat to explore the possibility of reviving the COMESA Trade and Investment Framework Agreement (TIFA) with the view to providing a platform for discussions on trade and investment issues including AGOA.

Kenya Sugar Safeguard Measures

Decisions

36. Council:

- (a) Directed the Secretariat to prepare a comprehensive report on the Kenya Sugar Safeguard, including previous Council Decisions, implementation modalities, trade in sugar (intra and extra COMESA), deficit figures, allocation of quotas and performance of the Kenya domestic sector for consideration in next Sugar sub-committee and subsequent Trade and Customs meeting. Secretariat was requested to develop ToRs and share with Member States for feed back by 31st December 2022;
- (b) Urged Member States that have not submitted brown sugar statistics to do so by 15 December 2022 in accordance with the template circulated by the Secretariat;
- (c) Decided that subsequent allocations be based on a minimum deficit figure of 282,227 MT or Kenya's forecast deficit (whichever is higher) as stipulated in the Mauritius proposal;
- (d) Decided that the calculation of sugar quotas to be based on brown sugar data submitted by Member States in line with the 41st Council Decision168(c)(4). Mauritius stated that the formula as adopted by 35th Council in 2015 should be used to calculate quotas;
- (e) Decided that the principle of variable geometry be used to allocate quotas for Member States which have submitted statistics on brown sugar if the other Member States do not provide the data before the deadline i.e. the quota will be allocated to Member States which have submitted Statistics on brown sugar; and
- (f) Decided that Kenya be granted a 9-month extension of Sugar Safeguard to allow it to undertake outstanding domestic reform measures.

Trade in Services

Decision

37. Council:

- (a) Urged Member States who have not submitted their initial draft offers for any of the priority sectors to do so expeditiously to comply with previous Council decisions and direct the Secretariat to communicate with Member States with outstanding offers to remind them to submit their initial offers by 31st December, 2022;
- (b) Directed the Committee on Trade in Services to expedite consideration and negotiations on all the draft offers (draft schedules of specific commitments) that have been submitted by Member States and to finalise the negotiations and recommend them for adoption and approval to Council in accordance with the COMESA negotiating mechanism in 2023;
- (c) Established a Sub-Committee of the Committee on Trade in Services on Mutual Recognition Agreements (MRAs) comprising of experts on MRAs to consider the draft Guidelines and make suggestions on pioneer sectors on which MRAs be negotiated under trade in services within COMESA;
- (d) Directed the Secretariat to initiate the development of an implementation monitoring mechanism tool to monitor and track implementation of commitments learning from the experience of other RECs;
- (e) Directed the Secretariat to facilitate the review of the Gazetted Schedules which have errors by Member States;
- (f) Urged Eswatini to consider implementing one of the options provided in the legal opinion on the available and recommended options for amendment, modification or withdrawal of the approved schedule of commitments and to inform the Member States accordingly;
- (g) Directed the Trade in Services Committee to develop procedures for amendment, modification, and withdrawal of schedules of specific commitments in accordance with Article 25 of the Trade in Services Regulation;
- (h) The finalised study report on energy and energy related services and its recommendations be adopted and validated, and the Secretariat be directed to circulate the study report to Member States in all official languages;
- (i) Directed the Secretariat, in collaboration with the cooperation partners, to continue providing technical assistance and capacity building to the Member States to facilitate the preparation of the draft offers and to facilitate regulatory reforms necessary for implementation of agreed commitments, upon request;
- (j) Directed the Secretariat, in collaboration with Afreximbank, to finalise the development of the Online Platform and train Member States on its use and functionalities; and
- (k) Urged Member States to provide all laws and regulations affecting trade in services and other relevant information for uploading in the online platform to make its use more meaningful.

COMESA Coordinated Border Management Guidelines and Implementation Strategy

Decision

38. The Council adopted the Revised CBM Guidelines attached hereto and marked Annex IV) and Implementation Strategy attached hereto and marked Annex V.

COMESA Regional AEO Standard Operating (SOPs) Procedures manual and COMESA Regional AEO Implementation Guidelines

Decision

39. Council adopted the revised COMESA Regional AEO Implementation Guidelines with proposed amendments, attached hereto and marked Annex VI and the COMESA Regional AEO SOPs Manual, attached hereto and marked Annex VII.

Rules of Origin

Decisions

- 40. Council:
 - (a) Adopted amendments to the COMESA Protocol on Rules of Origin attached hereto and markedAnnex VIII; and
 - (b) adopted Appendix VIX of the Protocol on Rules of Origin aligned to the 2022 version of the HS, attached hereto and marked Annex X.

COMESA e-CO

Decisions

- 41. Council:
 - (a) Directed the Secretariat to finalize the modifications on the COMESA eCO system based on the inputs received from the Member States and start interfacing and piloting by 31 January 2023;
 - (b) Directed the Secretariat to share a brief eCO project management document (Template) that indicates the key activities, deliverables, timelines, responsibilities of the Member States and the Secretariat by 30th December 2022; and
 - (c) Urged Member States in collaboration with the Secretariat to prepare country specific action plan to interface and pilot the system and conduct necessary training and support by 31 January 2023.

Administration of COMESA Rules of Origin

Decisions

- 42. Council:
 - (a) Encouraged Member States to develop a database of registered and approved exporters under the COMESA trade regime which will be helpful in providing quick

- responses to verification requests from Customs Authorities in the importing Member States:
- (b) Urged Member States to share their national laws and procedures that are applicable to the exporter registration and rules of origin; and
- (c) Directed that the standard template of COMESA certificate of origin attached hereto and marked Annex XI should be referred to Heads of Customs Sub-Committee for comparison purposes with best practices.

Customs Capacity Building

Decisions

43. Council:

- (a) Adopted the training manuals on Coordinated Border Management, attached asAnnex XII, One Stop Border Post, attached hereto and marked Annex XIII and Time Release Study, attached hereto as Annex XIV;
- (b) Directed the Secretariat to finalise the Customs Capacity Building Strategy and present it to the TWG-CCB together with developed eLearning materials by 31st March 2023:
- (c) Directed the Secretariat to recruit an expert who can oversee the Customs Capacity Building portfolio; and
- (d) Decided that a Customs Union Sub-Committee under the Trade and Customs Committee be established to undertake the following tasks:
 - i. Identify and implement measures for full implementation of the COMESA FTA;
 - Review the COMESA CTN and CET rates in line with developments since 2007 and propose amendments as envisaged under the COMESA Customs Union Regulations;
 - iii. Support Member States in addressing adjustment challenges related to implementation of the Customs Union including issues related to exclusions and sensitive products as per Council Decisions;
 - iv. Develop a regional plan and establish modalities for national action plans for implementation of the Customs Union; and
 - v. Mobilize financial and technical assistance to support Member States for the implementation of National plans on the Customs Union.

Customs Automation

Decisions

44. Council:

- (a) Directed Secretariat to mobilize technical assistance for Member States to implement TIPs or upgrade existing ones to the level of the UN Model;
- (b) Directed the Secretariat to ensure availability of required resources to implement the CARSC/RTIP Work Plan for the year 2023;

- (c) Directed the Secretariat to consider additional demands from Member States in the capacity building and technical support which include requirement in development of national TIPs and upgrading ASYCUDA World;
- (d) Directed the Secretariat to ensure that capacity building on Customs Automation covered all COMESA Member States including non-ASYCUDA users;
- (e) Urged Member States to coordinate with the Secretariat in resource mobilization activities that support trade facilitation initiatives;
- (f) Directed the Secretariat to upgrade the customs automated systems and related software to the latest versions of the server operating systems and databases
- (g) Directed the Secretariat to adopt similar code repositories such as SVN (Subversion) or Gitlabs to facilitating maintenance of the Customs automated systems and Trade Information Portals; and
- (h) Directed the Secretariat to support training initiatives and the fellowship programme aimed at building capacity in their teams which are administering their Customs automated systems and Trade Information Portals.

COMESA CTN and CET to HS 2022 Version

Decision

45. Council adopted the Revised COMESA CTN/CET aligned to HS 2022 version, attached hereto as Annex XV.

Customs Enforcement of Intellectual Property Rights (IPR)

Decision

Council established an IPR Technical Working Group under the COMESA IPR Committee to develop a regional implementation strategy and work programme for the COMESA IPR Policy.

COMESA Customs Work Programme

Decisions

- 46. Council directed the Secretariat to:
 - (a) Develop a model law and bilateral MoU for IPR enforcement to be used by Member States in developing or revising or updating their legal frameworks in line with the international agreements and best practices such as the TRIPS and the WCO Instruments by February 2023;
 - (b) Conduct a comprehensive study on emerging trends on IPR infringement including counterfeits and illicit trade in the region to guide development of a regional Customs;
 - (c) Enforcement Strategy and development of training materials. establishment of Customs recording system for IPRs and the provision of implementation of Anti-Counterfeiting Intelligence Support Tools and enable tracking and tracing of illicit trade;
 - (c) Develop a regional database for exchange of data on registered IPRs at national level and for exchange of IPR enforcement information/intelligence;
 - (d) Conduct, with the support of Member States, regional capacity building and

- sensitization workshops on IPR matters for all Customs officers and other stakeholders dealing with Patents and Trademarks, and other IPR related disciplines;
- (e) Mobilize required resources, with support of Member States, to support implementation of the COMESA Customs and Trade Facilitation Work Programme (2021-2025); and
- (f) Implement the previous Council Decisions to develop and implement monitoring and evaluation framework for the CTFWP by 31 May 2023.

COMESA Annual Research Forum

Decisions

- 47. Council directed the Secretariat to:
 - (a) Undertake comprehensive research on pharmaceuticals production and trade flows in COMESA to determine trade and competitiveness opportunities in the pharmaceutical industry;
 - (b) Enhance, with the support of participating universities, the MRI programme by: advertising its through diplomatic channels; encouraging governments to sponsor students, including its employees for the MRI programme; re-engineering the programme to incorporate multiple exits, making provisions for programme delivery in all official COMESA languages; and establishing a fund for the programme and related activities;
 - (c) Develop a data bank and data portal for SPS and TBT to facilitate information exchange on these issues within the COMESA region; and
 - (d) Strengthen cooperation with research and education institutions, with the support of Member States.
- 48. Council further urged Member States to consider establishing a fund to finance scientific research within the framework of the Secretariat Technical Committees (the Committee for Administrative and Budget Affairs).

COMESA infrastructure Programmes

Decisions

49. Council:

- (a) Directed the Secretariat to mobilize for resources through marketing the project to financing institutions and development partners; and
- (b) Urged Riparian countries to participate in upcoming studies and date collection.

Shipping Line for COMESA Island States

Decision

50. The Council urged concerned Member States to review and provide comments to the draft Final Report and also participate in the validation workshop.

Air Transport Sector Development (SATSD) Programme

Decisions

- 50. Council urged Member States to:
 - (a) Cooperate with consultants in terms of providing requested information and data to facilitate studies; and
 - (b) Participate in the validation workshops and review of consultancy reports.

Tripartite Transport and Transit Facilitation Programme (TTTFP)

Decisions

- 51. Council urged:
 - (a) Member States to allocate dedicated resources (both personal, financial for hiring of conference facilities, internet services) in order to complete NIAPs before the selection of dedicated corridors for implementation; and
 - (b) Ministries of Transport to incorporate or provisionally include into the Legislative Programme for 2023 work related to the ratification of the Vehicle Load Management Agreements (VLMA) and Multilateral Cross Border Road Transport Agreement (MCBRTA) as well as domestication of the customised model laws that can be accommodated in Parliamentary Calendar.

Regional Infrastructure Finance Facility (RIFF) Project

Decision

52. Council urged Member States to make use of the technical assistance available for capacity building and review of their energy policies, regulations, and standards.

Enhancement of Governance and Enabling Environment for the ICT Sector (EGEE-ICT) In EA-SA-IO Region

Decision

53. Council urged Member States to fully participate in the implementation process to ensure successful realization of the programme benefits.

Digital free trade area (FTA)

Council decided to provide necessary support in implementing the planned Information Technology programmes.

Gender Equality and Empowerment of Women

Decisions

- 54. Council directed Secretariat to:
 - (a) Continue engaging potential partners to support the second phase of the 50MAWS Project in order to enhance its features, reinforce content development and

- management, and strengthen marketing/outreach interventions to encourage users to register and access the benefits of the platform;
- (b) Continue engaging EAC and ECOWAS to contribute to the sustainability of the platform; and
- (c) Engage COMESA Institutions such as TDB, Yellow card, ZEP-RE to consider supporting the platform.

Social Development

Decisions

- 55. Council directed the Secretariat to:
 - (a) Develop a programme on health in cross border trade; and
 - (b) Engage with other stakeholders to develop and promote the cultural sector.

Youth Engagement and Empowerment

Decision

56. Council directed the Secretariat to continue engaging the Swiss Development Cooperation (SDC) to support the second phase of the project.

COMESA Industrial Development Programme

Decisions

57. Council directed Secretariat to:

- (a) Engage development partners to mobilise resources for the implementation of activities and projects to drive the industrialisation agenda;
- (b) Engage Member States to domesticate the regional Local Content Framework and the COMESA Framework for Managing Special Economic Zones (SEZs) and Industrial Parks;
- (c) Engage Member States to ratify and subsequently domesticate the CCIA; and
- (d) Coordinate with COMESA RIA and Member States to prepare a concept note on annual COMESA investment fora to showcase investment opportunities for cross border and foreign investment attraction.
- 58. Council urged Member States to:
 - (a) Share best practices on Local Content Strategies and share experiences on Special Economic Zones and Industrial Parks;
 - (b) Form similar joint industrial cooperation programmes based on comparative advantages to promote industrialisation and regional integration; and
 - (c) Support operationalisation at national level of the proposed COMESA Regional Metrology Matrix Cluster.

Decisions

59. Council:

- (a) Noted that through being involved in meetings taking place regionally or nationally to deepen their knowledge of regional integration, communication coordinators become better communicators on the subject; and
- (b) Directed the Secretariat to explore the possibility of establishing a standing technical committee on communications and publicity, similar to other statutory technical committees, to deepen the involvement of communication experts in regional integration activities.
- 60. The Council adopted the COMESA Communication Strategy.

COMESA Media Awards

Decision

Council decided that the identified winners be appropriately recognized and awarded.

ANNEXES

CHARTER REGULATING THE COUNCIL OF BUREAUX

PREAMBLE

RECALLING that the Council of Bureaux is a COMESA Institution, recognized under Article 174(2) (f) of the COMESA Treaty and has been in operation since 1987 under the PTA Treaty;

RECALLING FURTHER that the Council of Bureaux is established as the highest decision-making body by Article 15 of the e Protocol on the Establishment of the Yellow Card Scheme (Annex II to the COMESA Treaty) and exercises its functions under Article 18;

CONSIDERING that the Inter-Bureaux Agreement was entered into for the Implementation of the Third-Party Motor Vehicle Insurance Scheme so as to facilitate the implementation of the Protocol:

CONSIDERING further that the Constitution of the COMESA Yellow Card Scheme Reinsurance Pool, which aims at improving efficiency in the operations of the Scheme through reinsurance and the COMESA Yellow Card Reinsurance Pool Management Agreement for the management of the business ceded to the Yellow CARD Reinsurance Pool, establishes the Management Committee as a Board of the Pool and the yellow card scheme;

AWARE of the need to strengthen the Yellow Card institution and governance in accordance with the Yellow Card Scheme Strategic Plan 2018-2022;

TAKING ACCOUNT of the decision of the Thirty-Third Meeting of the Council of the Bureaux to develop its own Administrative and Legal instruments to ensure adherence and full implementation of the yellow card scheme strategic objectives;

DETERMINED to establish its own Charter to regulate the activities of the Council of Bureaux of the Yellow Card Scheme:

THE PARTIES HEREBY AGREE AS FOLLOWS:

ARTICLE 1

DEFINITIONS

In this Charter, unless the context otherwise requires:

"Charter" means the Charter Regulating the Council of Bureaux of the Yellow Card Scheme;

"COMESA Secretariat" means the Secretariat of COMESA provided for in Article 7 of the COMESA Treaty;

"COMESA" means the Common Market for Eastern and Southern Africa;

"Council of Bureaux" means the Assembly of National Bureaux established under Article 15 of the Protocol;

"Court" means the Court of Justice of the Common Market established by Article 7 of the COMESA Treaty;

"Director" means the Director of the Secretariat provided for by Article 12 of this Charter;

"Gender mainstreaming" means that consideration of the experiences, aspiration, knowledge, needs and concerns of both men and women are integrated in the formulation of policies and decision making; the planning, programming and budgeting; the monitoring and evaluation of progress achieved and obstacles encountered in the implementation of this Charter;

"Management Committee" means a body of a Council of Bureaux established pursuant to Article 5 of the Constitution of COMESA Yellow Card Scheme Reinsurance Pool;

"Member Country" means a State that is a member of the Yellow Card Scheme;

"Member State" means a Member State of the Common Market for Eastern and Southern Africa, whose predecessor was the Preferential Trade Area for Eastern and Southern African States;

"National Bureaux" means a government designated agency in each Member State that shall be responsible for the management and control of the COMESA Yellow Card;

"Pool" means the COMESA Yellow Card Reinsurance Pool established by Article 2 of the Constitution;

"Pool Manager" means a legal or natural person appointed by the Council of Bureaux to manage the Reinsurance Pool on the Yellow Card Scheme

"Protocol" means the Protocol on the Establishment of the Third-Party Motor Vehicle Insurance Scheme;

"Reinsurance Pool on the Yellow Card Scheme" means a Reinsurance Pool arrangement established by Council of Bureaux to provide, among other things, reinsurance cover for Yellow Card risks underwritten by Issuing Bureaux and Clearing House Services for reimbursement of claims payment transaction between Handling and Issuing Bureaux;

"Secretariat" means the Secretariat of the Council of Bureaux provided for in Article 12 of this Charter:

"Secretary General" means the Secretary General of COMESA provided for in Article 17 of the COMESA Treaty;

"Treaty" means the Treaty Establishing the Common Market for Eastern and Southern Africa; and

"Yellow Card Scheme" means the third-party motor vehicle insurance scheme established under the Protocol.

ARTICLE 2

GOVERNANCE OF COUNCIL OF BUREAUX

Subject to article 174 of the Treaty and Articles 3(5) and 18 of the Protocol, the governance of the Council of Bureaux as an institution of the COMESA shall vest in the Council of Bureaux regulated under the framework of agreements, constitutions and regulatory instruments as may be adopted by the Council of Bureaux or between its members.

ARTICLE 3

AIMS ANDOBJECTIVES OF COUNCIL OF BUREAUX

- 1. Pursuant to Article 174 (2)(f) of the Treaty and Article 2 of the Protocol, the objectives of the Council of Bureaux shall be to provide a compulsory third party motor vehicle insurance scheme providing at least minimum guarantees as those required by the laws in force in the territories of the parties to this Protocol when the vehicles insured are transiting the territories of other contracting parties.
- 2. In order to achieve this, the Council of Bureaux shall -
 - (a) facilitate cross-border road traffic with regard to compulsory third party motor vehicle liability insurance on entry into other COMESA and non-COMESA member countries which are party to the Yellow Card Scheme;
 - (b) act for the protection of cross-border road traffic victims;
 - (c) improve the functioning of the Yellow Card Scheme;
 - (d) harmonise the systems of compensation for damages occasioned by road traffic accident; and
 - (e) improve accident prevention.
- 3. The Council of Bureaux aims at coordinating and overseeing over the whole of the COMESA Yellow Card Scheme operations in the region.

ARTICLE 4

FUNDAMENTAL PRINCIPLES

The Council of Bureaux, in pursuit of the objectives stated in Article 2 of the Protocol, shall -

- (a) uphold laws in force on the compulsory third party motor vehicle insurance in the territories of the parties to the Yellow Card Scheme when the vehicles insured are transiting the territories of other member countries;
- (b) ensure transparency and accountability in all its organs;
- (c) ensure efficiency and effectiveness of the Yellow Card Scheme operations;
- (d) ensure efficient, effective and economical allocation of resources; and
- (e) in all policies, structures, systems, programs and activities of the Council of Bureaux and its organs incorporate gender mainstreaming principles.

ARTICLE 5

POWERS AND FUNCTIONS OF THE COUNCIL OF BUREAUX

Subject to the Treaty, Protocol and this Charter, the Council of Bureaux shall-

(a) admit new members to the Yellow Card Scheme;

- (b) suspend or terminate membership to the Yellow Card Scheme;
- (c) appoint members of the Management Committee;
- (d) make Staff Rules, Financial Rules, Procurement Rules and other rules and regulations as it may consider necessary;
- (e) appoint, on such terms and conditions as it may determine, the Director and such staff of the Secretariat as it considers necessary for the performance of its functions;
- (f) determine the location of the Headquarters of the Council of Bureaux of the Yellow Card Scheme; and
- (g) exercise such other powers and perform such other duties as are conferred or imposed on it by this Charter.

ARTICLE 6

ORGANS OF THE COUNCIL OF BUREAUX

- 1. There shall be organs of the Council of Bureaux which shall manage the Yellow Card Scheme operations -
 - (a) the Management Committee;
 - (b) Information Technology Sub-Committee;
 - (c) the Secretariat;
 - (d) Reinsurance Pool on the Yellow Card Scheme; and
 - (e) the National Bureaux.
- 2. The organs of the Council of Bureaux shall act within the powers conferred upon them by or under the provisions of this Charter, the Protocol and the Yellow Card Instruments.

ARTICLE 7

THE MANAGEMENT COMMITTEE

- 1. The Management Committee shall, for purposes of the COMESA Yellow Card Scheme, be composed of
 - (a) five members representing National Bureaux who shall be elected on rotational basis for a term of two years by the Council of Bureaux;
 - (b) the Chairperson of the Council of Bureaux, who shall be the Chairperson of the Management Committee;
 - (c) the Vice Chairperson of the Council of Bureaux, who shall serve as the Vice-Chairperson of the Management Committee; and
 - (d) one official of the Secretariat, who shall be an ex-officio member.

2. The Management Committee may establish such sub-committees as it may consider necessary.

ARTICLE 8

MANAGEMENT COMMITTEE MEETINGS

- 1. The Management Committee shall meet at least twice a year, for the proper discharge of its functions.
- 2. One of the meetings of the Management Committee shall immediately precede the annual meeting of the Council of Bureaux.

ARTICLE 9

FUNCTIONS OF THE MANAGEMENT COMMITTEE

- 1. The Management Committee shall be responsible for overseeing the management of the operations of the Yellow Card Scheme.
- 2. The functions of the Management Committee shall be to-
 - (a) monitor and keep under constant review the work of the Yellow Card Scheme, and ensure the Yellow Card Scheme discharges its functions efficiently and effectively;
 - (b) monitor the performance of the National Bureaux and Reinsurance Pool of the Yellow Card Scheme and give direction;
 - (c) allocate funds, to activities that facilitate growth of the Yellow Card Scheme;
 - (d) make recommendations to the Council of Bureaux on matters of management policy aimed at efficient and smooth functioning of the Yellow Card scheme;
 - (e) make recommendations on the appointment and promotion of staff of the Secretariat, other than the Director;
 - (f) recommend to the Council of Bureaux, the appointment of external auditors who shall have demonstrated a high degree of professional skills and are persons of outstanding repute and integrity;
 - (g) determine general underwriting and claims policies and practices;
 - (h) approve reinsurance arrangements;
 - examine the annual accounts and fund management of the Pool and determine its banking and investment policies and recommend to the Council of Bureaux for approval;
 - recommend to the Council of Bureaux for approval of operational instruments including the Staff Rules, Financial Rules and Procurement Rules of the Yellow Card Scheme;

- (k) consider and submit, for approval to the Council of Bureaux, the budget of the Secretariat:
- (I) examine the annual accounts of the Secretariat and recommend to the Council of Bureaux for approval;
- (m) submit reports and recommendations to the Council of Bureaux on the activities of the Yellow Card Scheme on the initiative of the Director, on its own initiative, or through the directives of the Council of Bureaux;
- (n) exercise such other powers and functions as are conferred on it by this Charter and other Yellow Card Instruments or duly delegated to it by the Council of Bureaux; and
- (o) determine, subject to this Charter, its own Rules of Procedure.

ARTICLE 10

DECISION MAKING OF THE MANAGEMENT COMMITTEE

- 1. The Management Committee shall, by a simple majority of the members present and voting, make recommendations to the Council of Bureaux and in the event of equality of votes, the Chairperson shall have a casting vote.
- 2. Each Member shall have one vote.
- 3. Observers shall not have the right to vote.

ARTICLE 11

INFORMATION TECHNOLOGY SUB-COMMITTEE

- 1. The Sub Committee comprises of Information Technology Directors and Experts from the National Bureaux of Member Countries.
- 2. The Sub-Committee shall be responsible for the design, development, implementation, operation and security of the Yellow Card Scheme platform and the digital administrative, financial and procurement operations of the Council of Bureaux and its organs.
- 3. The Information Technology Sub-Committee shall determine its own Rules of Procedure.

ARTICLE 12

THE SECRETARIAT

- 1. The Director shall be the Chief Executive Officer of the Secretariat of the Council of Bureaux.
- 2. The Director shall be appointed by the Council of Bureaux to serve in such office for a term of five years and shall be eligible for reappointment for a further term of five years.
- The Director shall-
 - (a) represent the Council of Bureaux in the exercise of its legal personality;

- (b) be accountable to the Council of Bureaux;
- (c) be assisted by such other staff as the Council of Bureaux may determine; and
- (d) be the Secretary to the Council of Bureaux and the Management Committee.
- 4. The staff shall be recruited and appointed in accordance with Staff Rules and Financial Rules of the Council of Bureaux.

ARTICLE 13

FUNCTIONS OF THE COUNCIL OF BUREAUX SECRETARIAT

- 1. The Director shall be responsible for the implementation of all the programmes of the Yellow Card Scheme.
- 2. Without prejudice to paragraph 1 of this Article, the Director shall, in particular-
 - (a) be in charge of the day-to-day operations of the Yellow Card Scheme under the general supervision of the Management Committee;
 - (b) keep under constant review the operations of the Yellow Card Scheme, taking into account the strategies adopted and policy directives of the Council of Bureaux and from time to time make proposals to the Management Committee, aimed at promoting the achievements of the objectives of this Charter;
 - (c) ensure the sound management of the administration and finance of the Yellow Card Scheme;
 - (d) mobilize financial resources for the programmes of the Yellow Card Scheme;
 - (e) establish gender management systems in the Secretariat and ensure gender equality in the staffing of the Secretariat;
 - (f) submit to the Council of Bureaux, through the Management Committee, implementation plans and timetables for each sub-programme;
 - (g) submit to the Management Committee audited accounts of the Council of Bureaux;
 - (h) report to the Council of Bureaux through the Management Committee paid and unpaid subscriptions, subventions, technical assistance, grants and other financial support received on behalf of the Yellow Card Scheme; and
 - (i) respond to the opinions of the Council provided pursuant to Article 175(3) of the Treaty; and
 - (j) on his or her own initiative or as may be assigned to him or her by the Council of Bureaux or the Management Committee, undertake such work and studies and perform such services; which relate to the objectives of the Yellow Card Scheme.
- 3. In the performance of their duties, the Director and the staff of the Secretariat shall not seek or receive instructions from any member, bodies or authority external to the Yellow Card

Scheme.

- 4. The Director and the staff of the Secretariat shall refrain from actions, which may undermine their positions as international officials responsible only to the Yellow Card Scheme.
- Each member shall undertake to respect the international character and responsibilities
 of the Director and the staff of the Secretariat and shall not seek to influence them in the
 discharge of their responsibilities.
- 6. The Council of Bureaux and the Management Committee may authorize the Director to seek the assistance of Member States, other States and organizations, to co-operate with the Yellow Card Scheme in the execution of the projects for which the Yellow Card Scheme has obtained assistance.
- 7. The terms and conditions of service of the Director and other staff shall be determined by the Council of Bureaux.
- 8. In appointing staff to the Secretariat, subject to the paramount importance of securing the highest standards of integrity, efficiency and technical competence, regard shall be had to the desirability of maintaining the principle of equal opportunities and an equitable distribution of appointments to such offices among citizens of all the Member States.

ARTICLE 14

CO-OPERATION WITH OTHER ORGANISATIONS

The Council of Bureaux of the Yellow Card Scheme may enter into agreements with other organizations or insurance companies or firms in furtherance of its objectives.

ARTICLE 15

RELATIONSHIP BETWEEN THE COUNCIL OF BUREAUX OF THE YELLOW CARD SCHEME AND COMESA

- 1. The Council of Bureaux of the Yellow Card Scheme shall enter into co-operation agreements with the COMESA Secretariat and COMESA institutions for the purpose of establishing close working relationships as provided under Article 175(2) of the Treaty.
- 2. The Council of Bureaux of the Yellow Card Scheme shall maintain a close working relationship with COMESA to ensure that the provisions of the Treaty, the Protocol, this Charter and other Yellow Card instruments are implemented.

ARTICLE 16

FINANCIAL RESOURCES

1. Financial resources of the Council of Bureaux of the Yellow Card Scheme shall be derived from annual contributions of the members of the Council of Bureaux, funds allocated from the Yellow Card Reinsurance Pool and cooperating partners.

2. Gifts, legacies and donations shall be accepted subject to consultations with the Chairperson of the Council of Bureaux, who shall report to the next meeting of the Council of Bureaux

ARTICLE 17

BUDGET OF THE COUNCIL OF BUREAUX

- 1. The Council of Bureaux shall have a budget for each financial year.
- 2. The Council of Bureaux shall consider the draft budget prepared and submitted by the Director for each financial year for approval.
- 3. The contributions to the budget of the Council of Bureaux by each member of the Council shall be equal.
- 4. The financial year of the Council of Bureaux shall start from the first day of January and end on the last day of December.
- 5. There may be a supplementary budget approved by Management Committee, subject to approval by the Council of Bureaux, to meet supplementary expenditure of the Council of Bureaux.

ARTICLE 18 REPORTS OF ACCOUNTS

- 1. The Director shall keep proper accounts and records of all activities of the Council of Bureaux.
- 2. External Auditors appointed by the Council of Bureaux shall audit such accounts, in respect of each financial year.
- 3. The Director shall prepare and submit to the Council of Bureaux an annual report containing an audited statement of accounts.

ARTICLE 19 FINANCIAL RULES

The Council of Bureaux shall be governed by Financial Rules approved by the Council of Bureaux.

ARTICLE 20

AUDITING OF ACCOUNTS

- The accounts of the Secretariat relating to each financial year shall be prepared in accordance with international standards and reports and shall be audited in the following financial year by the external auditors.
- 2. Such external auditors shall be based in the COMESA region and be qualified to practice in

- accordance with the national laws of the Member States.
- 3. The external auditors shall be of outstanding repute and integrity and shall have demonstrated a high degree of professional skills.
- 4. the Management Committee shall provide general guidance to the external auditors.
- 5. The external auditors shall submit their report to the Director no later than six months from the expiry of the financial year to which the accounts audited relate.
- 6. Upon receipt of the report of the external auditors, the Director shall circulate copies thereof to every National Bureaux and convene a meeting of the Management Committee to examine the report and submit it to the Council of Bureaux for adoption.

ARTICLE 21

STATUS

- 1. The Council of Bureaux, as an institution of COMESA recognized under Article 174(2)(f) of the Treaty, shall have international legal personality and corporate body status.
- 2. The Director shall negotiate a Host Agreement with a Member State in whose territory the Headquarters of the Council of Bureaux of the Yellow Card Scheme shall be situated.

ARTICLE 22

IMMUNITIES AND PRIVILEGES

- Member Countries shall grant, in their respective territories, such privileges and immunities
 to the officials and property of the Council of Bureaux as are granted to the officials and
 property of the COMESA as provided for in the legal instrument on privileges and immunities
 of COMESA and the Treaty.
- 2. Member Countries and National Bureaux undertake to respect the international character of the responsibilities of the Director and the staff of the organs of the Council of Bureaux and shall not seek to unduly influence them in the discharge of their responsibilities.
- 3. Subject to the other provisions of this Charter, in the performance of their duties, the Director, and the staff of the Council of Bureaux shall refrain from any actions which might adversely reflect on their position as international officials responsible only to the Council of Bureaux.

ARTICLE 23

WITHDRAWAL FROM THE COUNCIL OF BUREAUX OF THE YELLOW CARD SCHEME

 Any member wishing to withdraw from the Council of Bureaux shall give to the Director at least six months written notice of its intention to withdraw and at the end of such period, if such notice is not withdrawn, cease to be a member of the Council of Bureaux of the Yellow Card Scheme.

- 2. During the period referred to in paragraph 1 of this Article, a member wishing to withdraw from the Council of Bureaux shall nevertheless observe the provisions of this Charter and the Protocol.
- 3. A Member Country shall remain liable for the discharge of its obligations under this Charter and the Protocol.
- 4. The obligations assumed by Member Countries under this Charter and the Protocol shall, to the extent necessary, survive the termination of membership of any Member Country.
- 5. A withdrawing Member Country shall be entitled to claim any property, assets or rights over any of the property and assets of the Council of Bureaux only upon the termination of the Council of Bureaux of the Yellow Card Scheme.

Any property and assets of the Council of Bureaux situated in the territory of a Member Country and under the control of a Member Country who has withdrawn from membership shall continue to be the property of the Council of Bureaux and be available to the Council of Bureaux.

ARTICLE 24

SETTLEMENT OF DISPUTES

- 1. Any dispute arising from the interpretation or application of this Charter shall be settled amicably by the parties concerned.
- 2. Upon failure to amicably settle such dispute, any aggrieved partys may submit it to the Court for arbitration.
- 3. The decision of the Court shall be final and binding on the parties.

ARTICLE 25

DISSOLUTION OF THE COUNCIL OF BUREAUX OF THE YELLOW CARD SCHEME

As an institution of COMESA, the Council of Bureaux may only be dissolved by the COMESA Council of Ministers.

ARTICLE 26

ACCESSION TO THE CHARTER

Any prospective signatory of this Charter desiring to join the Council of Bureaux after the entry into force of this Charter shall accede to this Charter by depositing an Instrument of Accession with the Secretary General who is the official depository.

ARTICLE 27

DEPOSITORY

1. The text of the Charter shall be deposited with the Secretary General, who shall notify Member Countries of the Council of Bureaux of the date of entry into force of the Charter and send certified copies of the Charter to Member Countries.

2. The Secretary General shall advise Member Countries of the Council of Bureaux of dates of receipt of the Instrument of Accession.

ARTICLE 28

AMENDMENT CLAUSE

- 1. Any Member Country may submit proposals for the amendment of this Charter.
- 2. Any proposals for the amendment of this Charter shall be submitted to the Director in writing who shall, within thirty days of its receipt, communicate it to the Member Countries.
- 3. The Member Countries who wish to comment on the proposals shall do so within ninety days from the date of the dispatch of the proposal by the Director.
- 4. After the expiration of the period prescribed under paragraph 3 of this Article, the Director shall submit the proposals and any comments thereon received from the Member Countries of the Council of Bureaux through the Management Committee.
- 5. Any amendment to this Charter shall be adopted by the Council of Bureaux and shall enter into force when ratified by two-thirds of the Member Countries.

ARTICLE 29

ENTRY INTO FORCE OF THE CHARTER

The Charter shall enter into force when adopted by the Council of Ministers

By Order of Council

Dated 1st December 2022

COMESA COURT OF JUSTICE PROCUREMENT RULES, 2021

COMESA COURT OF JUSTICE PROCUREMENT RULES, 2021

PREAMBLE

HAVING REGARD to Article 38 of the Common Market for Eastern and Southern Africa ('COMESA') Treaty empowering the COMESA Court of Justice ('the Court') to make rules to regulate the detailed conduct of business of the Court;

RECOGNISING the need to ensure the proper procurement of goods, works or services, by the Court;

CONSIDERING the importance of effective procurement of goods, works or services;

and

NOW, THEREFORE, the COMESA Council of Ministers hereby adopts these Procurement Rules, in the Arabic, English and French languages, all languages being authentic.

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CHAPTER I

GENERAL PROVISIONS

Rule 1

Title

These Rules may be cited as the COMESA Court of Justice Procurement Rules (hereinafter referred to as the "Rules").

Rule 2

Definitions

In these Rules, unless the context otherwise requires-

"administrative review panel" means an ad hoc body constituted to independently review and determine potential or actual complaints by tenderers about a breach of duty by the Court;

"agreement" means a specific contract with terms and conditions that are legally enforceable;

"application for review" means an application made to the Administrative Review Panel by a supplier who is dissatisfied by a decision of the Registrar on a complaint;

"audit trail" means a set of records that provide documentary evidence of the sequence of activities that have resulted in a specific procurement decision;

"award of contract" means the notification by the Court to a qualified bidder that is determined to be substantially responsive to the solicitation package and is of the lowest evaluated cost;

"bid" means a tender, an offer, a proposal, or price quotation given in response to a bidding or solicitation document:

"bidder" means a natural or legal person submitting or seeking to submit a bid;

"bidding or solicitation documents" means the documents issued to invite offers from prospective suppliers to submit bids or proposals to provide the required goods, services or works;

"bid security" means a financial security provided by a bidder to guarantee that the bidder will not withdraw his bid prior to award of contract;

"Bureau" means a subcommittee of the COMESA Council of Ministers, comprising the current Chairperson, the Deputy Chairperson and the Rapporteur;

"coercive practice" means a practice impairing or harming, or threatening to impair or harm, directly or indirectly, any participant in the tendering process to influence improperly its activities, or affect the execution of a contract:

"collusive practice" means an undisclosed arrangement between two or more bidders designed to artificially alter the results of the tendering procedure to obtain a financial gain or other benefit;

"COMESA" means the Common Market for Eastern and Southern Africa:

"COMESA dollar" means the Unit of Account for the COMESA Court of Justice as determined by the COMESA Council under Article 74 of the Treaty; The COMESA dollar is equivalent to One United States Dollar;

"competitive method" means a procedure by means of which different alternatives for the procurement of goods, services or works are compared, to identify the option that is most favourable to the organization;

"complaint" means any objection or other manifestation of disagreement presented in writing by a supplier during any phase of the procurement process;

"consulting services" refer to services of a professional nature provided by consultants using their skills to study, design, organize, and manage projects, advise clients, and when required build their capacity;

"contract" means all types of agreements, regardless of what they may be called for the procurement of supplies, services, consultants and works;

"Contracts Committee" means the committee established under Rule 64 of the Financial Rules;

"corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value for personal gain to influence the action of the Court in the procurement process or in contract execution;

"Council" means the COMESA Council of Ministers;

"Court" means the COMESA Court of Justice established under Article 7 of the Treaty;

"donor" means an Institution providing external funding to the Court;

"disposal" means the sale of stores whether excess, surplus, obsolete or salvage property by the Court or under the authority of the Court and includes the transfer by way of donation, abandonment or destruction of such stores or property;

"dispute" means a disagreement concerning the legal rights and obligations of contracting parties which, if not settled by mutual agreement, must be referred to a neutral third party for resolution;

"eligible bidder" means a bidder from eligible source countries who are entitled to bid following an established criterion stated in the bidding documents;

"Evaluation Committee" means a committee established from time to time to open, examine, and evaluate bids received within the deadline for submission of tenders;

"Financial Rules" means the Financial Rules and Regulations of the Court;

"Framework Agreement or Contract" means a contract between a procuring entity and a supplier that is established for a defined period of time for specific goods or services at prescribed prices or pricing provisions and with no legal obligation to order any minimum or maximum quantity;

"fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, the Court in the procurement process or the execution of a contract, to obtain a financial gain or other benefit to avoid prejudice to the Court;

"goods" means equipment, machinery, parts, supplies, and other materials which a supplier is required to supply to the Court under contract, including installation, transport, maintenance, or similar obligations related to the supply of the goods if their value does not exceed that of the goods themselves;

"invitation to Bid" means all documents, whether attached or incorporated by reference, utilized for soliciting bids;

"judge" means a judge of the Court appointed under Article 20 of the Treaty;

"lowest evaluated bid" means a bid which is substantially responsive to commercial and technical aspects in the solicitation package and determined to be lowest in the cost comparison based on evaluation factors;

"member state" means a Member State of COMESA;

"non-consulting services" means any services other than consultancy services or services incidental to the supply of goods or the execution of works;

"open tendering" means the tendering process whereby any interested bidder may bid;

"President" means the Judge President of the Court designated under Article 20 of the Treaty;

"procurement" means the formal process of acquisition of goods, works or services;

"Procurement Committee" means the Committee established under Rule 63 of the Financial Rules;

"Prohibited Practices" means corrupt, fraudulent, collusive or coercive practices including theft;

"proposal or offer" means a written response by a bidder to a request for proposal for consulting services;

"purchase description" means the words used in a solicitation to describe the goods, services, consultants or works to be purchased and includes specifications attached to, or made part of, the solicitation:

"pre-qualification procedure" means a procedure by which bidders are invited to demonstrate their qualifications prior to, and as a condition for, being invited to tender or submit proposals;

"procurement process" means the entire procurement cycle starting from identification of need through to the completion of the contract;

"request for quotation" means a written form of selected bidding for an invitation to quote for goods, services or works of relatively small value;

"regional competitive tender" means an invitation to tender advertised in the Member States and to which a supplier domiciled in the Member States is eligible to participate;

"Registrar" means the Registrar of the Court appointed under Article 41 of the Treaty;

"responsive" in respect to a bidder means a person who has submitted a bid which conforms in all respects to the invitation for bids;

"restricted competitive bidding" means competitive bidding by direct invitation without open advertisement:

"restricted tendering" means the tendering process whereby only those invited by the Court may submit a bid;

"services" means any object of procurement or disposal other than goods and includes professional, non-professional and commercial types of services as well as goods which are incidental to but not exceeding the value of those services;

"shopping" means a simplified form of competitive procurement that only require written price quotations;

"standard" means a characteristic or set of characteristics for an item which for reasons of quality level or compatibility with other products is generally accepted by the manufacturers and users of that item as a required characteristic for all items of that type;

"standard bidding documents" means templates that include mandatory requirements, terms and conditions customized to fit the specific requirements for goods, works or services, and the procurement method undertaken;

"standstill period" means the period bidders can initiate a review procedure;

"substantial amount" means large in size, number, or amount;

"**tender**" means a sealed bid or offer document submitted in response to an invitation to tender and containing detailed information on requirements and terms associated with a potential contract;

"tender opening date" means a date and a time designated by the Court for the opening of tenders;

"tenderer" means a person submitting a tender or a bid;

"value for money" means the optimization of total cost of ownership and quality needed to meet the user's requirements, while taking into consideration potential risk factors and resources available:

" supplier" means a person under contract with the Court to supply goods, works or services;

"works" means the construction, repair, renovation or demolition of buildings, roads or other

structures, installation of equipment and materials, decoration, as well as services incidental to works; and

"writing" means any expression consisting of words or figures which can be read, reproduced, and subsequently communicated, and includes information which is transmitted and stored by electronic means.

Rule 3

Authority and Scope of Application

- (1) These Rules shall apply to all transactions for the -
 - (a) procurement of goods, works and services by the Court using resources appropriated to the Court through budgetary processes, except where Council has decided otherwise;
 - (b) procurement of goods, works and services by the Court using resources from a funding agency whose regulations allow use of these Rules; and
 - (c) disposal by the Court of stores and equipment which are unserviceable, obsolete, or surplus.
- (2) The COMESA Secretariat Procurement Rules and Regulations, as amended from time to time, shall apply to all matters not expressly provided for in these Rules with regard to the specific gap identified, in order to achieve the intended result.

Rule 4

Out of Scope

Where a donor may require procurement procedures different from these Rules with respect to programmes funded by the donor, the Procurement Rules of the donor shall prevail.

Rule 5

Purpose of Rules

The purpose of these Rules is to-

- (a) ensure consistency in the administration of procurement processes and purchasing decisions by the Court;
- (b) ensure that the Court obtains value for money in all its procurement activities;
- (c) ensure that procurement is conducted through a process that is open, efficient, and cost-effective; and
- (d) minimize risk exposure while maintaining flexibility in procurement activities:

 Provided that the Court may adopt appropriate e-procurement systems.

Rule 6

Guiding Principles

The Court shall ensure that its procurement processes are in accordance with internationally recognised practices using the following guiding principles-

- (a) economy and efficiency to achieve quality, cost effectiveness and timely delivery in procurement;
- (b) equitable, fair and open competition giving all eligible/qualified bidders an opportunity to participate;
- (c) accountability and cost-effective use of funds;
- (d) transparency of procurement process; and
- (e) giving due consideration to the interest of the Court when exercising the procurement functions of the Court.

CHAPTER II

ORGANISATION OF PROCUREMENT

Rule 7

Institutional Organisation for Procurement

- (1) The following Committees shall control, regulate, advise on, and supervise the procurement of goods, works and services the -
 - (a) Procurement Committee:
 - (b) Contracts Committee;
 - (c) Tender Evaluation Committee; and
 - (d) Administrative Review Panel.
- (2) The composition and role of the Tender Evaluation Committee, the Procurement Committee, the Contracts Committee, and the Administrative Review Panel respectively, shall be as set out in the First Schedule of these Rules as amended from time to time.

Rule 8

Division of Roles and Responsibilities for Procurement Processes

The Registrar shall ensure key roles for preparation of procurement documentation, review and approval, and authorisation shall be performed as far as it is practicable by different members of staff.

CHAPTER III

BASIC PROCUREMENT RULES

Rule 9

Accessibility to the Rules

The Court shall promptly make these Rules accessible free of charge upon request.

Rule 10

General Standards for Supplier Eligibility

- (1) To participate in procurement, suppliers shall meet the following criteria -
 - (a) possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience in the procurement function, reputation, and the personnel, to perform the contract:
 - (b) have the legal capacity to enter into the contract;
 - (c) not be insolvent, in receivership, bankrupt or in the process of being wound up, their business activities have not been suspended, and they are not subject to any other legal proceedings that may affect their eligibility;
 - (d) have fulfilled their obligations to pay taxes and social security contributions, and for that purpose, documentary evidence to be provided by a foreign bidder to demonstrate that it meets the criterion in this sub-rule may consist of a written declaration to that effect by the bidder;
 - (e) not have offered any inducement to an employee of the Court directly or through their employees and agents; and
 - (f) such other criteria as the Court considers appropriate.
- (2) The Court may require suppliers to provide such appropriate documentary evidence or other information as it may deem useful to satisfy itself that the bidders are qualified in accordance with the criteria referred to in sub rule (1).
- (3) Any requirement established under this Rule shall be set forth in the pre-qualification documents, if a pre-qualification procedure is chosen, and otherwise in the tender documents or other documents for solicitation of proposals and shall apply equally to all suppliers.
- (4) The Court shall evaluate the qualifications of suppliers in accordance with the criteria and procedures set forth in the documents referred to in sub rule (3).
- (5) The Court shall disqualify suppliers if it finds at any time that the information submitted concerning the qualifications of the bidder was materially inaccurate or materially incomplete.

Rule 11

Right to Inspect Place of Business

The Court may, as part of due diligence, at reasonable times, inspect the place of business of the supplier to verify the information submitted and to ascertain the supplier's capacity to perform a contract to be awarded by the Court.

Rule 12

Specifications

- (1) Specifications shall be-
 - (a) based on a clear and accurate statement of the relevant quality characteristics and performance requirements; and
 - (b) drafted to permit the widest possible competition and where possible be based on international standards, where such exist, or otherwise recognised national standards.
- (2) The use of brand names or other references that would discriminate among suppliers shall be avoided.
- (3) If use of brand names is necessary to clarify the nature of the product requirements, the tender documents shall state that products of equal or higher quality would be acceptable.
- (4) Where the specification prescribes the use of the latest design improvements or materials, care shall be taken in drafting specifications to ensure that they are not restrictive or exclusive.
- (5) The Court shall, when necessary, seek technical support from external sources in the preparation of specifications.

Rule 13

Availability of funds

The Court shall, before commencing a procurement procedure, ensure that sufficient funds have been set aside in its budget to pay for any amounts due under the resulting contract.

Rule 14

Rejection of Bids

- (1) The Court shall reserve the right to reject a bid or proposal without legal recourse, to request for substantiation or clarification of information received where-
 - (a) the bid or proposal is received past the due date and time as specified in the solicitation document;
 - (b) the bid or proposal received is not responsive to the content of the solicitation; and
 - (c) the solicitation has been cancelled for business reasons by the Court.
- (2) When bids or proposals are rejected, the Court shall provide written notification to the participating bidders or offerors.

(3) The Court shall incur no liability towards bidders solely by virtue of invoking sub-rule (1).

Rule 15

Cancellation of a Solicitation

- (1) The Court shall reserve the right to cancel a solicitation without legal recourse at any time during the solicitation and evaluation process, and prior to contract award under any of the following conditions-
 - (a) the basis for the original solicitation no longer exists;
 - (b) the technically qualified bids exceed cost estimates by a substantial amount;
 - (c) there is a lack of competition;
 - (d) the specification is materially revised;
 - (e) there is a lack of responsive tenders;
 - (f) the procurement requirement can be met by a substantially less expensive goods; and
 - (g) there is evidence of collusion among bidders.
- (2) If the decision to cancel the tender process is taken before the closing date, tenders received shall be returned unopened to the tenderers submitting them.
- (3) The Court shall have the right to cancel an award without liability to the bidder or offeror, except the return of any deposit, guarantee or other security, at any time before a contract has been fully executed by all parties.

Rule 16

Ownership of Tenders

The Court shall retain tenders and proposals received with no obligation to return them to tenderers except in the case of any of the following circumstances-

- (a) cancellation of tender procedure;
- (b) rejection of tenders before the closing date; or
- (c) late submission of a bid.

Rule 17

Acceptance of One Responsive Bid

- (1) Where only one offer is received or where only one responsive offer is received in response to a competitive bid solicitation, the bidding process may be considered valid provided that-
 - (a) the tender was satisfactorily advertised;

- (b) the criteria were not unduly restrictive;
- (c) the award criteria are met including bidder's capability and experience, adherence to specifications or terms of reference, proposed methodology among other specified technical aspects; and
- (d) prices are reasonable in comparison to market value and within budgeted estimates.
- (2) The Court shall cancel and reissue the bid solicitation to attract more bidders where it is satisfied that-
 - (a) the offer does not represent fair value; or
 - (b) the poor response is due to lack of effective competition.

CHAPTER IV

ETHICAL CONDUCT

Rule 18

Prohibited Practices

- Tenderers, suppliers, contractors, and consultants shall observe the highest standard of transparency and integrity during the procurement, execution, and implementation of contracts.
- (2) The Court shall reject a proposal submitted by a bidder or terminate the bidder's contract, if it is established that the bidder has engaged in prohibited practices.

Rule 19

Conflict of Interest

- (1) Staff members shall avoid conflicts of interest and make procurement decisions with integrity and objectivity, free from any personal considerations or benefits.
- (2) Staff members directly responsible for purchasing, and those on the Tender Evaluation Committee, shall declare any personal or family interest, involvement, or financial relationship with a supplier that might impair objectivity or freedom of judgment.
- (3) Committee members shall sign a conflict-of-interest declaration disclosure form at the bid opening, bid evaluation meetings and Procurement Committee meetings.
- (4) Procurement staff and Tender Evaluation Committee members shall not take part in the procurement process if a conflict exists.
- (5) Consultants or other service providers shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultant or service provider.
- (6) A supplier shall be disqualified if it submits more than one bid, either individually or as a joint venture partner in another bid, except

- (a) for permitted alternative bids; or
- (b) where a supplier is a sub-contractor in more than one bid.
- (7) A supplier or consultant hired to provide services for the design and development of a project shall be disqualified from subsequently providing services for the implementation of the same project.
- (8) A bidder found to have an undisclosed conflict of interest with the Court, or with a competing bidder, shall be disqualified from participating in a tender.

Rule 20

Confidentiality and Accuracy of Information

- (1) Throughout the duration of the supplier selection process and until the results of that process are officially announced by the Officer responsible for Procurement, no information about offers or the evaluation process may be divulged by any individual involved in the selection process to any other individual within or outside the Court, not involved in the evaluation or selection process.
- (2) A staff member shall be subject to disciplinary action if they -
 - (a) fail to maintain confidentiality of information gained during the procurement process; or
 - (b) provide misleading information.

Rule 21

Unsolicited Submissions

- (1) The Court shall reject unsolicited submissions for goods, works and services and advise the offeror of the rejection in writing.
- (2) Such unsolicited submissions shall remain unopened and be destroyed or returned to the offeror, at its own cost, if so requested.

Rule 22

Debarment of Suppliers

- (1) A supplier shall be debarred from doing business with the Court where-
 - (a) the supplier is found to have engaged in prohibited practices before or after the award of the contract;
 - (b) there has been failure in the performance of contracts awarded by the Court within the last two years; or
 - (c) the supplier fails to comply with Court procurement guidelines and procedures.
- (2) The period for debarment is three years after which the Court may lift the sanction.

CHAPTER V

CHOICE OF PROCUREMENT PROCEDURE

Rule 23

Procurement Procedure

- (1) Except as otherwise provided in this Chapter, the Court shall use regional competitive bidding as the preferred procedure of procurement.
- (2) The Court shall use competitive bidding or tendering in order to provide all eligible prospective bidders with timely and adequate notification of the Court's requirements and an equal opportunity to bid for the required goods, works, and non-consulting services.
- (3) Where Competitive Bidding is not the most appropriate method of procurement, other methods of procurement may be used pursuant to Rules 24-29.
- (4) The Court shall plan its procurement in a rational manner, and no procurement requirements for a given quantity of goods or services shall be split up with the intention of avoiding a procurement procedure stated in these Rules.

Rule 24

International Competitive Bidding

- (1) International Competitive Bidding shall be used whenever in open regional tendering an effective competition cannot be obtained unless foreign suppliers are invited to tender.
- (2) International Competitive Bidding shall comply with the following requirements-
 - (a) the invitation to tender and the tender documents shall be advertised in the manner provided in Rule 35(1) to ensure sufficient circulation to attract competition;
 - (b) the invitation to tender shall be in the Arabic, English and French Languages;
 - (c) the time allowed for submission of tenders shall be sufficient for the invitation to reach bidders and for enabling them to prepare and submit tenders;
 - (d) technical specifications shall to the extent compatible with regional requirements, be based on international standard or standards widely used in international trade;
 - bidders shall be permitted to express their tenders; and any security documents to be presented by them in a currency widely used in international trade and stated in the tender documents;
 - (f) general and special conditions of contract shall be of a kind generally used in international trade; and
 - (g) bidders from Member States shall be accorded a ten percent preference.

Rule 25

Restricted Competitive Bidding

(1) Restricted Competitive Bidding may be used where-

- (a) there are only a limited number of suppliers; or
- (b) there are other exceptional reasons that justify departure from full competitive bidding procedures.
- (2) Under restricted competitive bidding, the Court shall seek bids from a list of potential suppliers or contractors broad enough to ensure competitive prices; such list shall include all suppliers or contractors when there are only a limited number.
- (3) In all respects other than advertisement, Competitive Bidding procedures shall apply, including the publication of the contract award.
- (4) Restricted competitive tendering procedures shall be the same as those in open tendering, except that the:
 - (a) invitation to tender shall be addressed to a limited number of qualified bidders selected in a non-discriminatory manner, and the number of bidders invited shall be, if possible, sufficient to ensure effective competition and shall not in any event be less than three;
 - (b) tender documents shall include the information provided in Rule 36, giving bidders adequate time to submit bids;
 - (c) time allowed for preparation of tenders shall not be less than the minimum number of days stated in the Second Schedule of these Rules; and
 - (d) Court may decide, depending on the circumstances, if tender security shall have to be submitted or not.

Rule 26

Direct Procurement or Single Sourcing

- (1) The Court may use direct procurement or single sourcing as opposed to a standard competitive process in the following exceptional circumstances where-
 - (a) offers for identical products and services have been obtained competitively within a reasonable period;
 - (b) an extension to an existing contract for additional goods, works, or non-consulting services of a similar nature is required, provided that:
 - (i) the prices and conditions offered remain competitive; and
 - (ii) the value does not exceed 25% of the original contract;
 - (c) the equipment required is proprietary, there is only one source and no alternative exists;
 - (d) there is need to standardise upon existing equipment and to achieve compatibility in spare parts;
 - (e) the contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee;
 - (f) an upgrade of existing software is only available from the producer of the software who sells on a direct basis only;
 - (g) a formal solicitation has not produced satisfactory results within a reasonable prior

period;

- (h) time is of the essence and only one known source can meet the Court's needs within the required timeframe;
- (i) there is no competitive marketplace for the requirement, such as where a monopoly exists, where prices are fixed by legislation or government regulation;
- (j) the proposed procurement contract is for the purchase or lease of real property; or
- (k) urgent delivery is required because of an emergency or disaster.
- (2) When the Court engages in direct procurement, it shall prepare a description of its needs and any special requirements as to quality, quantity, terms and time of delivery.
- (3) The Court shall be free to negotiate with the sole bidder.
- (4) The Court shall after an agreement for procurement is reached issue a contract signed by both parties.
- (5) Single source selection of consultants shall be approved by the Registrar depending on the threshold.
- (6) Single source selection may be appropriate only if it represents a clear advantage over competition-
 - (a) for tasks that represent a natural continuation of previous work carried out by a consultant. This shall be subject to satisfactory performance in the initial assignment which must have been awarded on a competitive basis;
 - (b) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency; or
 - (c) when only one supplier is qualified or has experience of exceptional worth for the assignment.

Rule 27

Request for Quotations or Shopping

- (1) The Court may use Shopping procedures for contracts of a small value for-
 - (a) readily available off-the-shelf items;
 - (b) standard specification goods; and
 - (c) routine and other minor works.
- (2) Shopping shall require written price quotations from at least three suppliers or contractors, including foreign suppliers or contractors wherever possible.
- (3) The request shall contain a clear statement of the requirements of the Court as to quality, quantity, terms and time of delivery as well as other special requirements.
- (4) The bidders shall be given adequate time, as prescribed in the Second Schedule of these Rules, to prepare their quotations.
- (5) A purchase order shall be placed with the bidder who meets the requirements of the Court and who quotes the most competitive price.

Rule 28

Low Value Procurement

- (1) The Court may use the Low Value Procurement method when procuring-
 - (a) low value, off-the shelf items;
 - (b) simple works or services of standard specifications which are not procured on a regular or frequent basis; and
 - (c) simple works or services of standard specifications which are not covered in a Framework Agreement.
- (2) The Court may use the low value procurement method if-
 - (a) the estimated cost of the goods, works or services being procured per item is less than or equal to the prescribed maximum value as set out in the Second Schedule of these Rules;
 - (b) no benefit would accrue to the Court in terms of time or cost implications if it uses requests for quotations or any other procurement method; or
 - (c) the procedure is not being used for the purpose of avoiding competition.
- (3) The procurement unit shall procure the goods, works or services from a reputable outlet or provider through direct shopping using a local purchase order.
- (4) The Officer in charge of Procurement shall obtain an original invoice or receipt showing the item and price paid for the low value procurement.

Rule 29

Framework Agreements

- (1) The Court may enter into Framework Agreements or contracts to procure commonly required, high-volume goods, works or services that are required continuously or repeatedly by the Court over a set period of time if-
 - (a) the required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and
 - (b) the procurement value is within the thresholds prescribed under the Second Schedule in these Rules.
- (2) Framework Contracts shall be used to ensure a reliable source of supply for goods and services at a competitive price, in accordance with pre-defined terms and conditions.
- (3) A Framework Contract shall include fixed prices or a clause for price adjustment.
- (4) Payment shall be made on the basis of the works, services, or goods actually delivered or performed.
- (5) The Procurement Department or Unit in consultation with the User Department or Unit will-
 - (a) identify specific procurements that would benefit from framework contracts by examining annual values and numbers of orders for related procurements;
 - (b) prepare detailed specifications of requirements, a bidding document with objective criteria such as quality, technical capacity, delivery period or periods of completion and price, and draft advertisement;
 - (c) invite a tender for each annual requirement, subdivided into lots as appropriate and subject to an indefinite quantities' clause;
 - (d) follow standard procedures for the opening, evaluation and award of contract; and
 - (e) award the contract to the supplier who has submitted the best bid on the basis of the award criteria established in the tender.

- (6) The duration of the contract shall be determined in the bidding document but shall not exceed two years;
- (7) Subject to performance, the contract may be renewed once for a period not exceeding one year but the total contract duration should not exceed three years after which a new procurement process shall be advertised.
- (8) The Court may enter into a framework agreement with one or more suppliers for the same product or service.

CHAPTER VI

TENDERING AND CONTRACTING PROCEDURES

Rule 30

Preparation of Bidding Documents

- (1) The text of the tender document shall be clear, comprehensive, and well-drafted without ambiguity in order to ensure a successful tendering process.
- (2) The invitation document shall inform potential bidders of the-
 - (a) precise description of the goods, works or services required;
 - (b) rules or instructions for the tendering process;
 - (c) evaluation criteria and methodology that will be applied;
 - (d) qualification criteria that will be applied; and
 - (e) type and conditions of the proposed contract.

Rule 31

Types of Bidding Documents

- (1) The method of procurement used shall determine the type, size, and complexity of bidding document to be used to invite offers from prospective bidders.
- (2) The Court shall use one of the following standard bidding documents when soliciting for offers from suppliers-
 - (a) Request for Quotation Form;
 - (b) Request for Proposals; or
 - (c) Invitation to Bid.

Rule 32

Request for Quotation Form

- (1) A Request for Quotation Form shall be used to seek competitive offers for goods, works or services that are straightforward, readily available, and easily specified.
- (2) The Request for Quotation Form shall provide detailed specifications of what is to be purchased, details of delivery dates and location, the terms and conditions and any other

- (3) The Court shall use a standard Request For Quotations Form for requesting offers from suppliers to ensure that the correct information is provided.
- (4) A request for quotations shall not be confirmation of an order and no contractual obligations shall have been entered into at this stage.

Rule 33

Request for Proposals

- (1) A Request for Proposals shall be the bidding document for consultancy services and shall be used-
 - (a) where requirements for services cannot be expressed quantitatively and qualitatively at the time of solicitation; or
 - (b) for the purchase of complex consultancy services where the requirements may be met in a variety of ways.
- (2) The Court shall use Request For Proposals to procure services requiring external technical and professional expertise beyond the Court's internal capacity such as advisory and review services, feasibility studies, design, construction supervision, management, and related services, and technical or special studies provided by either individuals or suppliers.
- (3) Requests for Proposals for consulting services shall be based on a two-envelope system.

Rule 34

Invitation to Bid

- (1) Invitation to Bid shall be used to invite suppliers and contractors to submit a bid for the provision of goods, works or non-consulting services which-
 - (a) are simple; and can be expressed well quantitatively and qualitatively at the time of solicitation.
- (2) The bids for the provision of goods, works and non-consulting services requested under this Rule, shall be based on a two-envelope system, where the financial and the technical components of a bid are submitted in two documents.
- (3) Invitations to Bids may take the form of one of the following:
 - (a) Standard Bidding Document for gGoods or services; or
 - (b) Standard Bidding Document for Works.

Rule 35

Invitation to Tender

- (1) An Invitation to Tender shall be advertised on the websites of COMESA, the Court, and Member States.
- (2) The Invitation to Tender shall include the following-
 - (a) the name and address of the Court;

- (b) a brief description of the goods, works or services to be obtained, including the desired limit for delivery or completion;
- (c) the means and conditions for obtaining the tender documents and the place from which they may be obtained;
- (d) the place and deadline for the submission of tenders; and
- (e) the place and time for opening of tenders, along with an announcement that tenderers or their authorized representatives are allowed to attend the opening of tenders.

Tender Documents

- (1) Tender documents shall include the following-
 - (a) the name or nature of the contract and the location of the work;
 - (b) the goods, services or works to be supplied or performed;
 - (c) instructions for the preparation and submission of tenders;
 - (d) the place and address to which tenders must be sent, the deadline for tender submission and the date, hour, and place of opening, as well as an announcement that tenderers or their authorised representatives are allowed to attend the opening;
 - (e) forms of tender and, where applicable, required bid tender security and format;
 - (f) the arrangements for any security required for advance payments;
 - (g) the number of copies to be submitted with original tender;
 - (h) conditions of contract, general and special;
 - (i) minimum qualifications that bidders must meet;
 - (j) the period during which the tender must remain valid;
 - (k) the criteria for evaluation of tenders and award of the contract;
 - (I) contact information for obtaining tender documents and for seeking clarifications;
 - (m) the mode, and deadline of requesting clarifications;
 - (n) payment method and terms offered, whether alternative payment methods and terms will be allowed and, if so, how the terms will affect bid evaluation; and
 - (o) a reservation to the effect that the Court may reject all tenders at any time prior to the acceptance of a tender.
- (2) The time allowed for advertisement, preparation, and submission of tenders under each procurement procedure shall be as prescribed in the Second Schedule of these Rules.

Rule 37

Provision of Tender Documents

Tender documents shall be made available to bidders in the manner specified in the invitation to tender, at a price not exceeding the cost of production and delivery to bidders.

Rule 38

Site Visits and Pre-bid Conference

- (1) The Court shall provide reasonable access to project sites for visits by prospective bidders.
- (2) For works or complex supply contracts, particularly for those requiring refurbishing existing

- works or equipment, a pre-bid conference may be arranged whereby potential bidders may meet with representatives of the Court to seek clarifications.
- (3) Minutes of the conference shall be provided to all prospective bidders and posted on the Court's website, with a copy included in the record of the procurement.

Amendment to Tender Documents

- (1) At any time prior to the deadline for submission of tenders, the Court may, on its own initiative or in response to an inquiry by a bidder having purchased the tender documents, amend the tender documents by issuing an addendum.
- (2) The addendum shall become an integral part of the tender documents and any addendum shall be communicated within fourteen working days to all bidders having obtained or purchased the tender documents.
- (3) Where it becomes necessary to amend the tender documents, and less than one-third of the time allowed for preparation of tenders remains until the closing date, the Court shall postpone the closing date by the same number of days, depending on the procurement object.

Rule 40

Tender Security

- (1) The Court may include in the tender documents a condition that tenders shall be accompanied by security in the form of a deposit or tender guarantee to prevent irresponsible and frivolous tenders provided that the security remains within the limits specified in the tender documents.
- (2 When used, the bid security shall be in the amount, form and format specified in the solicitation documents and shall be issued by a reputable bank or financial institution selected by the bidder.
- (3) The bid security shall remain valid for a sufficient time beyond the validity period of the bids, to provide reasonable time for the Court to act if the security is to be called.
- (4) The bid security shall be released to unsuccessful bidders once the contract has been signed with the winning bidder except-
 - (a) where a bidder withdraws its bid during the period of bid validity;
 - (b) where a bidder does not accept certain corrections to its bid;
 - (c) where an otherwise successful bidder fails to sign the contract; or
 - (d) where the successful bidder fails to provide the performance security within the time specified in the bidding documents.

Rule 41

Performance Security

(1) If performance security is required, the supplier or contractor shall provide security for performance of the contract within a specified period of time of contract signature, in specified amount that corresponds with a percentage of the total contract value.

- (2) The proceeds of the security shall become payable to the Court in the event the supplier or contractor fails to perform its obligations under the contract.
- (3) The Court shall return the performance security to the supplier or contractor after certification by Final User of completion of the supplier's performance obligations under the contract, including any warranty obligations, if applicable.

Submission and Receipt of Tenders

- (1) Tenders shall be submitted in writing, signed and in a sealed envelope, to the place, and before the deadline stated in the invitation to tender.
- (2) The Court shall provide in an open and accessible place, a securely tied box which shall be clearly labelled "Tender Box" to which a tenderer may deliver a tender.
- (3) The tender box shall be constructed in such a manner that it shall be capable of having two locks whose keys shall be kept by different officers and the duplicates of such keys shall be kept in a safe deposit by the Registrar or by a person authorized by the Registrar.
- (4) Every tender delivered by hand shall be placed in the tender box by the tenderer or his representative.
- (5) A tender received by post shall be deposited in a tender box immediately upon receipt but in the event of any such tender received by post being opened by mistake, by the Court staff generally authorized to open mail, the fact of such opening shall be recorded on the envelope by such staff before placing it in the tender box.
- (6) Bulky bid documents shall be received by the Procurement Unit staff in exchange for a signed receipt showing the date and time of submission and the name of the officer receiving the bid.
- (7) The receiver will be responsible for storing the bid in a secure room or manner until bid opening and shall place a copy of the receipt in the tender box to ensure that the bid is taken into account during bid opening.
- (8) A tender received after the deadline for submission shall be rejected.

Rule 43

Opening of Tenders

- (1) The place and time for bid opening shall be specified in the invitation to tender.
- (2) The Court shall open all bids at the stipulated time and place.
- (3) The time for the bid opening shall be the same as for the deadline for receipt of bids or within seven days of the deadline.
- (4) Subject to sub-rule (5), all bids shall be opened publicly in a manner that an interested party is able to attend in person.
- (5) Bids received after the time stipulated shall not be considered.
- (6) The name of the bidder and total amount of each bid shall be read aloud and recorded in a tender opening register.

Rule 44

Tender Examination and Evaluation Process

- (1) The examination and tender evaluation process shall be clearly described in the solicitation documents.
- (2) Where information contained in a tender is unclear, the Tender Evaluation Committee may seek clarification of the information from the bidder, but no change in the substance of the tender, including changes in price, shall be sought, offered, or permitted.
- (3) The bid price read aloud at the bid opening shall be adjusted to correct any arithmetical errors and for the purpose of evaluation, adjustments may be made for any quantifiable nonmaterial deviations.
- (4) Bidders shall be notified in writing of any arithmetic corrections made and requested to agree to the corrections in writing.
- (5) A tenderer who rejects the corrections made by the Tender Evaluation Committee pursuant to sub-rule (3) shall withdraw the tender and forfeit the tender security.
- (6) The Tender Evaluation Committee may regard a tender as substantially responsive if it conforms to all the instructions, requirements, terms and conditions of the invitation document without material deviation, reservation or omission.
- (7) The Court shall not accept a tender when-
 - (a) the tenderer does not accept a correction of an arithmetical error made pursuant to sub-rule (3); or
 - (b) the tender is not responsive.
- (8) The Tender Evaluation Committee shall evaluate and compare the tenders that have been held substantially responsive in order to ascertain the successful tender, as defined in subrule (11), and in accordance with the procedures and criteria set forth in the tender documents, but no criterion shall be used that has not been set forth in the tender documents.
- (9) The technical responsiveness factors other than price to be used for determining the lowest evaluated bid shall be given a relative weight in the evaluation provisions in the bidding documents.
- (10) A proposal shall be considered unsuitable and shall be rejected at the technical evaluation stage if it does not respond to the terms of reference or it fails to achieve a minimum technical score of 70% which condition must be stated in all Requests for Proposals.
- (11) The bid with the lowest evaluated price, but not necessarily the lowest submitted price, shall be selected for award.
- (12) The Tender Evaluation Committee shall prepare a detailed report on the evaluation and comparison of bids, setting forth the specific reasons on which the recommendation is based for the award of the contract.
- (13) A member participating in the Tender Evaluation Committee shall not serve as a member of the Procurement Committee or the Contracts Committee.
- (14) The Tender Evaluation Committee members may attend the Procurement Committee and Contract Committee meetings as observers only on invitation by the Chairperson of either Committee.

Notification of Award and Signing of Contract

(1) The Court shall, upon the evaluation of the tender process, notify the successful tenderer in writing that its tender has been accepted, and simultaneously notify the other tenderers of

- the tender result.
- (2) The notification of award to the successful tenderer shall specify the time, not being less than twenty one days, within which the contract shall be signed.
- (3) Where a successful tenderer is unable to accept the award, the Court shall before the expiry of the period of validity or extension thereof, notify the second lowest evaluated tenderer that its tender has been accepted.
- (4) Where the award of contract is subject of a review under the provisions of Rule 56 and the Registrar or the Administrative Review Panel fails to render a decision within the period stipulated under that Rule, the Registrar shall not advise the successful tenderer to proceed with the services, or delivery of the goods until the complaint has been resolved.

Debriefing

- (1) The solicitation documents shall specify that a bidder may request an explanation from the Court to ascertain the grounds on which its bid was not selected.
- (2) The Court shall provide an explanation as to why the bid was not selected, in writing or in a debriefing meeting.
- (3) The requesting bidder shall bear all costs of attending a debriefing meeting.

Rule 47

Standstill Period

- (1) The standstill period shall begin after the unsuccessful bidders are notified of the award decision and shall be at least ten days.
- (2) A contract shall not be signed during the standstill period.
- (3) Where the standstill period is over, and there is a review in progress, the contract shall not be awarded.
- (4) The bid evaluation and approval process shall continue while a complaint is being considered at any level, but the Notification of Award shall not be issued until a final decision on the complaint has been received.
- (5) At the end of the Standstill Period, the Court shall proceed to award the contract in accordance with its decision to award, as communicated through the Notification of Intention to Award, if no complaint has been received from an unsuccessful bidder.

Rule 48

Contract Effectiveness

- (1) Where both parties have signed the contract, the legal effectiveness of the contract may depend on any of the following conditions -
 - (a) receipt of the advance Payment Guarantee, where advance payment is required;
 - (b) provision of Performance Guarantee by the Court, if required; or
 - (c) issuance by the Court of an acceptable Letter of Credit to the supplier, where agreed mode of payment is by Letter of Credit.
- (2) The contract shall not enter into force before the conditions specified in sub-rule (1) are

fulfilled.

(3) The solicitation documents shall specify the conditions for contract effectiveness in the contract conditions.

Rule 49

Publication of the Award of Contract

- (1) The Court shall publish on its website the award of contract, indicating the name of the Supplier, Contractor or Consultant to which the contract was awarded, and the price, duration and scope of the contract.
- (2) The publication may be done quarterly and in the format of a summarised table covering the previous period.

Rule 50

Terms and Methods of Payments

- (1) Payment shall be in accordance with the international commercial practices applicable to the specific Goods, Services and Works.
- (2) Contracts for non-consulting services shall provide for full payment on the satisfactory performance of the deliverables specified in the contract.
- (3) Contracts for the supply of goods shall provide for full payment on the delivery and satisfactory inspection, of the contracted goods except-
 - (a) when there are multiple deliveries, and payments will be made on completion of each delivery; or
 - (b) for contracts involving installation and commissioning, in which case a portion of the payment may be made after the supplier has complied with all its obligations under the contract.
- (4) Contracts for works may provide for-
 - (a) mobilisation advance fee of not more than thirty percent of the contract price after contract signing;
 - (b) regular progress payments against certified invoices based upon the partial completion of work; and
 - (c) reasonable retention amounts to be released upon compliance with the contractor's obligations under contract.
- (5) Progress payments may be made for consulting services contract where payments are tied to specific milestones and deliverables as follows-
 - (a) ten percent upon receiving the inception report;
 - (b) thirty percentupon receiving the draft report;
 - (c) sixty percent upon submission of a final report of a standard and quality acceptable to the Court, provided that where a report is subject to adoption by Council, ten percent of the fee shall be paid upon submission by the consultant of the final report to the Council.
- (6) Bidding documents shall specify the payment method and terms offered, whether alternative payment methods and terms will be allowed, and, if so, how the terms will affect bid evaluation.

Conditions for Advance payment and Progress Payments

- (1) Progress payments or advance payments may be considered if any of the following conditions are met-
 - (a) adequate security for the advance payment is ensured;
 - (b) the Court receives value commensurate with the amount of the payment;
 - (c) there is to be a long duration for contract performance; or
 - (d) there is a tradition or practice of receiving progress payments or advance payments from the purchaser in a particular industry or segment of industry.
- (2) The bidding documents shall specify the arrangements for any security required for advance payments.

Rule 52

Record of Proceedings

- (1) The Court shall create and maintain full and accurate records for each contract documenting all steps in the procurement process and all events that occur during the life of the contract.
- (2) Records and files shall be kept in electronic or paper-based format provided that the information contained within is kept confidential by the Court.
- (3) For each procurement proceeding, the file shall contain-
 - (a) a brief description of the goods, works or services to be procured;
 - (b) the names and addresses of suppliers that submitted tenders, proposals, or quotations;
 - (c) the name and the address of the winning bidder;
 - (d) the evaluation criteria stipulated and applied, and a summary of the evaluation and comparison of tenders, proposals or quotations received;
 - (e) information on any decision to suspend or cancel proceedings after having been initiated; and
 - (f) the grounds for the procurement procedure used.
- (4) The record concerning any proceeding shall, on request and once the proceedings have resulted in a contract or have otherwise been terminated, be made available to bidders who participated in the proceedings at their own cost.
- (5) Unless required by an order of a competent court, the Court shall not disclose information where the disclosure-
 - (a) is contrary to law or would impede law enforcement;
 - (b) is not in the public interest;
 - (c) would prejudice legitimate commercial interests of the parties, or would inhibit fair competition; and
 - (d) relates to the examination and evaluation of tenders, proposals or quotations and the actual content of tenders, proposals, or quotations, other than in the summary form referred to in sub-rule 3(d) of this Rule.

Document Retention Period

The Court shall retain records and documents regarding procurement for a period of seven years from the date of concluding any procurement proceeding, except where they are the subject of a dispute, litigation or an audit.

Rule 54

Procurement of Second-Hand Goods

- (1) The Court may, in exceptional circumstances, procure secondhand goods when they are considered to provide the most economical and efficient means of satisfying the objectives of the project.
- (2) A procurement package for goods shall not mix secondhand goods with new goods.
- (3) The technical requirements or specifications shall describe the minimum characteristics of the goods that may be offered secondhand.
- (4) Where the Court decides to procure secondhand goods, the simplified bidding documents shall set out-
 - (a) clear specifications that provide acceptable standards;
 - (b) performance requirements of the goods to be procured;
 - (c) clear criteria on how bids will be evaluated; and
 - (d) for complex goods, any inspection requirements and requirements for assessment and certification of the residual life of the goods by recognised licensed entities.
- (5) The warranty and defect liability provisions in the contract shall be written or adapted to apply to secondhand goods.

CHAPTER VII

PROTESTS AND CHALLENGES

Rule 55

Administrative Review

- (1) Where the Court is alleged to have breached a duty imposed by these Rules, a bidder who claims to have suffered, or risks suffering loss or damage as a result of the breach, may seek administrative review under the provisions of Rule 57.
- (2) The following shall not be subject to review provided for in sub rule (1)-
 - (a) the choice of a procurement procedure pursuant to Chapter IV; and
 - (b) a decision by the Court under Rule 14 to reject all tenders, proposals or quotations.
- (3) Once the Court has concluded and signed a contract with the successful tenderer, a complaint against an act or omission in the process leading up to that stage shall not be entertained through administrative review.

(4) Where a contract has not been concluded and a complaint is being considered at any level, the bid evaluation and approval process may continue but the Notification of Award shall not be issued until a final decision on the complaint has been received.

Rule 56

Submission of Complaints to the Court

- (1) Following the transmission of the Notification of Intention to Award, a bidder may submit a complaint within ten days of becoming aware of the circumstances giving rise to the complaint.
- (2) The bidder shall submit a complaint to the Registrar who shall-
 - (a) acknowledge, in writing, receipt of the complaint within three days;
 - (b) consider the subject matter of the complaint and decide whether to reject the complaint or to implement any corrective action; and
 - (c) issue a written decision to the bidder within ten days of receipt of the complaint, stating either the reasons for the rejection of the complaint or advising what corrective action has been or will be taken.
- (3) Where the bidder is not satisfied with the decision of the Registrar, the bidder may apply for a review of the decision to the Administrative Review Panel within ten days of receipt of the decision by the Registrar.

Rule 57

Disposal of Review by the Review Panel

- (1) A bidder who having not received any timely decisions or who is not satisfied with the decision of the Registrar under Rule 56 (2) and (3), may apply for a review in a sealed envelope or electronically via email marked "Confidential" and addressed to the Chairperson of the Administrative Review Panel, at the Court's mailing address.
- (2) The application for review shall contain-
 - (a) details of the relevant procurement process;
 - (b) details of the provisions of the procurement regulations or bidding procedures alleged to have been breached:
 - (c) details of the alleged act or omission;
 - (d) documentary evidence; and
 - (e) a registration fee of one percent of the contract price, in the form of a bank cheque in favour of the Court.
- (3) The Administrative Review Panel shall not hear the application for review where it-
 - (a) is not accompanied by the correct fee;
 - (b) has no evidence of a basis in fact;
 - (c) has been filed outside the required time limits;
 - (d) relates to contract implementation, not award; and
 - (e) relates to qualifications of a competing bidder.
- (4) Upon receipt of the application for review, the Administrative Review Panel, shall give notice of the application to the Court, unless it dismisses it on formal grounds.

Procedure after Acceptance of Application for Review

- (1) The Administrative Review Panel shall notify interested bidders of the application for review and forward to the Court, information and arguments received from the bidders.
- (2) Except where the Administrative Review Panel dismisses the application for review, it may grant the following remedies-
 - (a) declare the legal rules or principles that govern the subject matter of the application;
 - require the Court, where it has acted or proceeded in an unlawful manner, or reached an unlawful decision, to act or to proceed in a lawful manner or to reach a lawful decision;
 - (c) annul in whole or in part an unlawful act or decision, other than, where the act or decision resulted in bringing the procurement contract into force;
 - (d) reverse an unlawful decision or substitute the decision with its own decision, other than where the decision resulted in bringing the procurement contract into force; or
 - (e) order that the procurement proceedings be terminated.
- (3) The Administrative Review Panel shall, within twenty one days from the date of the notice prescribed under Rule 57(3) hear the complaint and issue a written decision, stating the reasons for the decision and the remedies, if any.
- (4) The decision of the Administrative Review Panel shall be final.
- (5) The Administrative Review Panel shall communicate its decision to the parties concerned in writing or in person upon their election.

Rule 59

Complaints Register

The Court shall maintain a Complaints Register in which brief information of all complaints and the decisions taken shall be recorded.

CHAPTER VIII

DISPOSAL OF STORES AND EQUIPMENT

Rule 60

Authority to Dispose and Disposal Procedures

Surplus goods shall be disposed of in accordance with Rule 71 to Rule 73 of the COMESA Court of Justice Financial Rules .

CHAPTER IX

AMENDMENT, AUTHENTICITY AND COMMENCEMENT

Rule 61

Amendment of Rules

These Rules may be reviewed or amended by the Council on the recommendation of the Court.

Rule 62

Authenticity of Rules

- (1) These Rules are authentic in the official languages of the Court.
- (2) In the event of conflict, the English version shall prevail.

Rule 63

Entry into Force

These Rules or any amendments shall take effect on the approval of the Council.

FIRST SCHEDULE

COMPOSITION AND ROLE OF THE PROCUREMENT COMMITTEE

The Committee shall be composed of five members as follows:

Chairperson	Officer responsible for Finance or representative
Chairperson	Officer responsible for i mance of representative
Permanent members	Assistant Registrar;
	An officer from Procurement Unit (as Secretary)
Other members	Two other members to be appointed by the Registrar, one of whom shall possess the necessary technical expertise on an adhoc basis
Quorum	Four members including Chairperson

Voting:

The Secretary shall not vote. Decisions shall be taken by simple majority. In case of a tie, the Chairperson shall have a second or casting vote.

Role and Responsibility:

The role and responsibility of the Procurement Committee shall be to -

- (a) make recommendations to the Registrar on award of contracts through open regional tender, Restricted Competitive Bidding or direct procurement where the contract value exceeds COMESA Dollar 30,000 but not more than COMESA Dollar 150,000;
- (b) consider any amendment, modification, or renewal of a contract previously reviewed by the Procurement Committee, where the modification increases the originally approved contract value by not more than twenty percent or the delegation of authority of the Registrar, whichever amount is lower; and
- (c) consider the cases falling outside the thresholds for direct contracting provided in the Second Schedule and on an exceptional basis, the Procurement Committee will consider exceptions and recommend for subsequent approval by the Registrar, if so required.

COMPOSITION AND ROLE OF THE CONTRACTS COMMITTEE

The Committee shall be composed of seven members as follows:

Chairperson	A technical Officer nominated by the Member State
	that is the Chair of the Bureau of the Council.
Permanent members	Assistant Registrar (as Secretary), the Officer responsible for Finance and the Officer responsible for Administration and Human Resources
Other members	Two technical Officers nominated by the Member States that are the Vice Chair and Rapporteur of the Bureau of the Council, respectively. One technical Officer nominated by the Host Country of the Court.
Quorum	Five members including Chairperson

Voting:

The Secretary shall not vote; decisions shall be taken by simple majority. In case of a tie, the Chairperson shall have a second or casting vote.

Role and Responsibility:

The role and responsibility of the Contracts Committee shall be to:

- (a) approve award of contracts that exceed a value of COMESA Dollar 150,000 during the term of the contract including any optional extension periods; and
- (b) approve any amendment, modification, or renewal of a contract previously awarded by the Contracts Committee where the modification increases the originally approved contract value by not more than twenty percent or the delegation of authority of the Registrar, whichever amount is lower.

COMPOSITION AND ROLE OF THE TENDER EVALUATION COMMITTEE

Membership Structure:

Shall be constituted on an ad hoc basis and composed of five members comprising of a chairperson, a secretary and an odd number of voting members appointed by the Registrar.

Chairperson	An Officer who possesses the technical capacitynecessary to give an informed opinion on the subjectmatter
Permanent members	An Officer from Finance Unit; Officer from the Procurement Unit (as Secretary)
Other members	Representative of the relevant technical unit and representative of user groups
Quorum	Four members including Chairperson

Voting:

The Secretary shall not vote; decisions shall be taken by simple majority. In case of a tie, the Chairperson shall have a second or casting vote.

Role and Responsibility of Committee:

The role and responsibility of the

Committee shall be to-

- (a) open the tenders in public at the place and time fixed in the tender document;
- (b) verify that suppliers and their offers satisfy the requirements of the solicitation documents:
- (c) evaluate offers according to the evaluation criteria predefined in the solicitation document:
- (d) co-ordinate the obtaining of additional information or clarifications; and
- (e) prepare an evaluation report of tenders received describing the score of the competing Submissions and ranking the Submissions from best to worst, in order to establish a competitive range of most responsive Submissions.

COMPOSITION AND ROLE OF THE ADMINISTRATIVE REVIEW PANEL

Membership Structure:

Shall be constituted on an ad hoc basis and composed of three members appointed by the Registrar, one of whom shall be nominated Chairperson.

The Panel shall be made up of one member from each of the following groups-

- (a) well-reputed specialist in legal matters, preferably experienced in procurement related legal issues;
- (b) well-reputed specialist having relevant technical expertise and experience in public procurement issues relating to goods, works or intellectual and professional services; and
- (c) well-reputed expert in procurement and contract management practices having experience in handling complaints and disputes.

The Registrar shall nominate a Secretary to the Administrative Review Panel.

Voting:	-	Decisions shall be taken by	y simple majo	ority.
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SECOND SCHEDULE

DELEGATION OF FINANCIAL AUTHORITY

- (a) Contracts or purchases up to COMESA Dollar 7,500 may be authorised by the Officer responsible for Finance;
- (b) Contracts or purchases up to COMESA Dollar 30,000 shall be authorised by the Registrar;
- (c) Contracts or purchases of a value exceeding COMESA Dollar 30,000 but not exceeding COMESA Dollar 150,000 shall be authorized by the Registrar on recommendation of the Procurement Committee; and
- (d) Contracts or purchases of a value exceeding COMESA Dollar 150,000 shall be authorised by the Registrar upon the approval of the Contracts Committee.

PROCUREMENT PROCEDURE

(1) The following procedures will apply to procurement of goods, non-consulting services and works:

Procurement Levels (COMESA Dollar)	Requirement
(a) Under 501	Low value procurement
(b) 501 to 15,000	Request for quotations
	Direct procurement
(c) 15,001 to 20,000	Restricted Competitive Bidding
	Framework Contract
	Direct procurement
(d) 20,001 to 70,000	Open Regional Tender
	Restricted Competitive Tender
	Framework Contract
(e) 70,001 to 500,000	Open Regional Tender
	Restricted Competitive Tender
(f) Over 500,000	Open International Tender

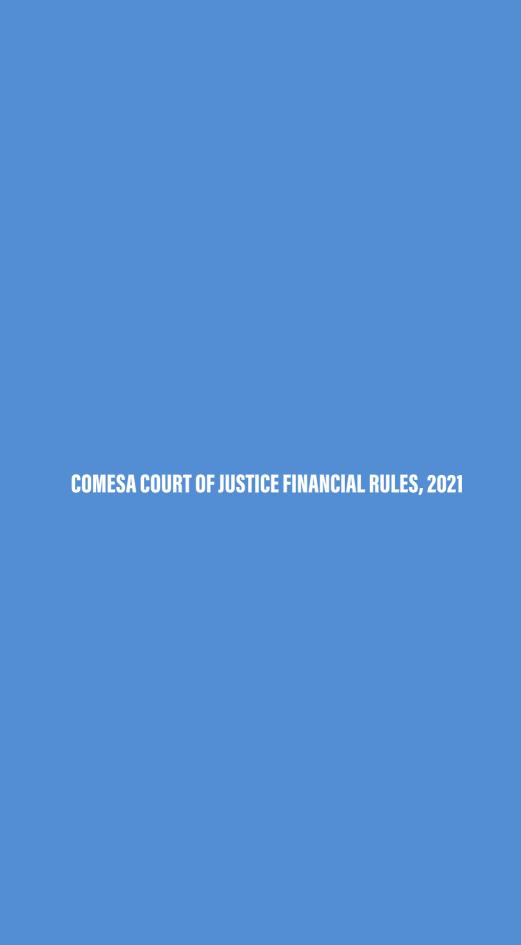
(2) The following procedures will apply to procurement of consultancy services using Request for Proposals:

Procurement Levels (COMESA Dollar)		Requirement
a)	Up to 10,000	Request for Quotations
		Direct procurement
		Framework Contract
b)	10,001 to 30,000	Restricted Competitive Bidding
		Framework Contract
		Direct Procurement
c)	30,001 to 70,000	Open Regional Tender
		Restricted Competitive Bidding
d)	70,001 to 500,000	Open Regional Tender
e)	Over 500,000	Open International Tender

^{*} Low-value services of short duration of one - ten days (translation, interpretation, short studies, training, etc) may not require Request For Proposals and can use a minimum of three quotations.

MINIMUM TIMESCALES TO IMPLEMENT PROCUREMENT PROCEDURES

Advertisements	Days
Open Regional Tender	28
International competitive tenders	
Expression of interest	
Time Limits	
Restricted Competitive Bidding	21
Request for quotations	7
Direct Procurement	7



PREAMBLE

HAVING REGARD to Article 38 of the Common Market for Eastern and Southern Africa ('COMESA') Treaty empowering the COMESA Court of Justice ('the Court') to make rules to regulate the detailed conduct of business of the Court.

RECOGNISING the need to ensure the proper administration of the funds of the COMESA Court of Justice.

CONSIDERING the importance of financial and management controls in ensuring sound financial administration of these funds.

NOW, THEREFORE, the COMESA Council of Ministers hereby adopts these Financial Rules in the Arabic, English and French languages, English language being the original.

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CHAPTER I

GENERAL PROVISIONS

Rule 1

Citation

These Rules may be cited as the COMESA Court of Justice Financial Rules (hereinafter referred to as the "Rules").

Rule 2

Definitions

For the purpose of these Rules, unless the context otherwise requires-

"Advance" means cash payment given to a staff member to enable the staff member to discharge an approved obligation;

"Administrative Meeting" means an Administrative Meeting of the Court chaired by the President and attended by the Judges of the Court;

"Agreement" means a specific contract with terms and conditions that are legally enforceable;

"arrears" means the outstanding amount after the due date for payment of such amount;

"Bureau of the Council" means the Chairman, Vice Chairman and Rapporteur elected in accordance with the Rules of Procedure of the Meetings of the Council;

"COMESA" means the Common Market for Eastern and Southern Africa;

"COMESA dollar" means the Unit of Account for the Court as determined by the Council under Article 74 of the Treaty-;

"Committee" means the Committee on Administrative and Budgetary Matters;

"Council" means the COMESA Council of Ministers;

"Court" means the COMESA Court of Justice established under Article 7 of the Treaty;

"Department" means a Department or Unit of the Court Registry;

"Excessive expenditure" means expenditure incurred without the authority provided for in these Rules;

"Fund" means a reserve of money set aside for a specific purpose;

"Imprest" means a sum of money given to a staff member to make authorised disbursements or to discharge an approved obligation;

"Intergovernmental Committee" means the Intergovernmental Committee of Experts established under Article 7 of the Treaty;

"Judge" means a judge of the Court appointed under Article 20 of the Treaty;

"Member State" means a Member State of COMESA;

"President" means the Judge President of the Court designated under Article 20 of the Treaty;

"Private Bank Account" means an account that has not been opened and is not operated by the Court:

"Registrar" means the Registrar of the Court appointed under Article 41 of the Treaty;

"Reserve Account" means an account approved by the Council under Rule 40 of these Rules;

"scrap value" means the amount that an asset is estimated to be worth at the end of its useful life;

"Staff Rules and Regulations" means the Staff Rules of the Court made under Article 41 of the Treaty;

"Sub-Committee" means the Sub Committee on Audit and Budgetary Matters;

"Tender Evaluation Committee" means an Evaluation Committee selected for the specific procurement transaction being evaluated on the basis of the members' competency, skills and knowledge; and

"Treaty" means the Treaty establishing the Common Market for Eastern and Southern Africa.

Rule 3

Applicability

- (1) These Rules together with the financial and administrative policies contained in the Financial Manual shall govern all financial administration and management of the Court.
- (2) The COMESA Secretariat Financial Rules and Regulations shall apply to all matters not expressly provided for in these Rules in order to achieve the intended result.

Responsibility and Accountability

- (1) Staff members of the Court shall comply with these Rules and with administrative instructions issued in connection with these Rules.
- (2) A staff member who contravenes these Rules or corresponding administrative instructions shall be held personally accountable and liable for their actions.

Rule 5

Financial Principles and Responsibility of the Registrar

Subject to the provisions of the Treaty, the Registrar shall -

- (a) apply generally accepted financial principles, and financial and management controls to ensure that the financial transactions of the Court are carried out in a consistent and acceptable basis, and are properly accounted for; and
- (b) be responsible to the Court for the proper administration of the funds of the Court.

Rule 6

Financial Year

The Financial Year of the Court shall start on the 1st day of January, and end on the 31st day of December of each year.

CHAPTER II

BUDGET

Rule 7

Preparation of the Draft Budget of the Court

- (1) The budget period shall comprise one calendar year that starts on the 1st day of January and ends on the 31st day of December of each year.
- (2) The Officer responsible for Finance shall prepare the initial draft budget on the basis of the estimated costs submitted by Heads of Departments.
- (3) The draft budget shall be examined at a meeting of the Heads of Departments under the chairmanship of the Registrar.
- (4) The final draft budget of the Court shall be prepared by the Registrar and forwarded to the President.
- (5) The President shall submit the draft budget to the Administrative Meeting for approval.

Contents of the Budget

The draft budget of the Court shall show the amount of money to be spent on each individual recurrent or capital item, and income for the financial period to which it relates and be expressed in COMESA Dollar.

Rule 9

Basis of the Budget

The Officer responsible for Finance shall-

- (a) annually issue a memo to heads of department and units, requesting for estimates of expenditure and setting out the dates by which the estimates should be submitted and the conditions governing their preparation; and
- (b) prepare the draft budget, including recurrent and capital expenditure, on the basis of the estimated costs.

Rule 10

Responsibility for Draft Estimates

- (1) Departmental Heads shall submit to the Officer responsible for Finance draft estimates for their respective Departments for the following financial year in accordance with Rule 9.
- (2) The Officer responsible for Finance shall prepare estimates of staff costs and operational costs.

Rule 11

Submission of Draft Budget to the Sub-Committee

The Registrar shall submit the draft budget to members of the Sub-Committee for consideration and recommendation to the Committee, following approval by the Administrative Meeting, at least four weeks before the meeting of the Sub-Committee.

Rule 12

Submission of Draft Budget to the Committee

The Chairperson of the Sub Committee shall submit the draft budget to the Committee for consideration and recommendation to the Intergovernmental Committee.

Presentation and Approval of Draft Budget

- (1) The President shall present the draft budget to the Council as provided under Article 42(3) of the Treaty during its ordinary session.
- (2) The Council shall examine the draft budget and approve a final budget for the following financial year.

Rule 14

Divisions of Draft Budget

- (1) The Officer responsible for Finance shall divide the draft budget into Revenue, Recurrent Expenditure and Capital Expenditure.
- (2) The Revenue Budget, the Recurrent Expenditure Budget and the Capital Expenditure Budget shall be divided into heads, subheads, and items.

Rule 15

Explanatory Statement to Accompany Draft Budget

The draft budget shall be accompanied by-

- (a) a detailed statement of estimated expenditure provided under each budget item, and for purposes of comparison, the appropriations for the current financial year shall be indicated alongside the estimates for the next financial year;
- (b) a statement of estimated income presented under the appropriate headings; and
- (c) an explanatory statement for new expenditure or for extension of activities already undertaken.

Rule 16

Supplementary Budget

- (1) The President shall submit supplementary budget proposals to the Bureau of the Council where-
 - (a) voting of additional money is so urgent that the provision cannot be delayed until the next annual budget is approved; or
 - (b) monies required cannot be found by the budget reallocation process.
- (2) The Supplementary Budget shall be in the same form as the annual budget.
- (3) The Supplementary Budget shall be presented to the Bureau of the Council for approval and subsequently be submitted to the Council for ratification through the Committee and the Intergovernmental Committee.
- (4) In a year where the Council is not able to call a meeting to approve the supplementary budget, the Registrar shall be allowed to incur operational expenditure for a period of three

months subject to the submission of a supplementary budget to be approved by the Bureau of the Council.

Rule 17

Reallocation of Funds

A reallocation of funds from one budget item to another may be done as a result of circumstances which may not have been foreseen when the budget was prepared and approved.

Rule 18

Limits of Reallocations

- (1) In a financial year, the Registrar may, upon the recommendation of the Officer responsible for Finance, reallocate funds from one budget item to another up to a maximum of COMESA Dollar 20,000 or Forty Percent of the original estimate of the item receiving the reallocation, whichever is higher.
- (2) A reallocation of funds beyond the amount provided in sub-rule (1) shall be authorised by the President.
- (3) The President shall report all reallocations to the Council through the Intergovernmental Committee.
- (4) A reallocation shall be effected prior to incurring the expenditure in order to avoid excess expenditure.

Rule 19

Prohibition on Reallocation of Funds

A reallocation of funds shall not be done to-

- (a) create a new budget item;
- (b) create a new post; or
- (c) alter any salary scale.

Rule 20

Decisions with Budget Implications

- (1) The Court shall not take a decision involving -
 - (a) a change in the budget approved by the Council or the Bureau of the Council; or
 - (b) the possible requirement of expenditure,

unless it has received and taken account of a report of the Council or the Bureau of the Council on the budget implications of the proposal.

(2) Where, in the opinion of the President, a proposed expenditure cannot be made from existing appropriation, it shall not be incurred until the Council has made the necessary appropriation; unless the President certifies that the expenditure can be made under the provisions of the Council resolution relating to unforeseen and extraordinary expenses.

Rule 21

Unforeseen and Extraordinary Expenses

- (1) Authorisation to incur a commitment in accordance with a Council resolution relating to unforeseen and extraordinary expenses shall be issued by the President.
- (2) The President shall report to the Council on the status of all commitments relating to unforeseen and extraordinary expenses in the performance reports on the budget.

Rule 22

Excessive Expenditure

A staff member shall not incur Excessive expenditure.

CHAPTER III

DISBURSEMENT OF APPROPRIATIONS

Rule 23

Limits on Obligations and Payments

- (1) The Registrar may incur obligations and make payments for the purpose for which the funds were voted and up to the amounts so voted within the limits of the approved appropriations.
- (2) Appropriations shall be available for obligations during the financial year for which they have been approved.

Rule 24

Availability of Appropriations

Appropriations shall remain available for three months following the end of the financial year to which they relate in so far as they are required to-

(a) discharge obligations in respect of goods supplied and services rendered during the financial year; and

(b) settle other obligations of the financial year which have not yet been settled.

Rule 25

Surrender of Balance of Appropriations

- (1) Upon expiration of the three months period referred to in Rule 24, the balance of any appropriation shall be surrendered to the Reserve Account.
- (2) Any unliquidated obligations of the financial year in question shall be transferred as an obligation against current appropriations of the Reserve Account.

Rule 26

Outstanding Obligations

- (1) An outstanding obligation relating to a Financial Year shall be -
 - (a) based on a contract, purchase order, or agreement; or
 - (b) based on any other form of undertaking by the Court; and
 - (c) supported by the appropriate documents.
- (2) Unless it has been previously liquidated, the obligation shall be carried as unliquidated during the period referred to in Rule 24.

Rule 27

Responsibility for Proper Expenditure

The Officer responsible for Finance shall be responsible to the Registrar for-

- (a) the management of the resources of the Court in accordance with these Rules; and
- (b) ensuring that the expenditure of the Court remains within the appropriation as voted, and is incurred only for the purpose approved.

Rule 28

Approval of Expenditure by the Registrar

Subject to Rule 43 (1) (a), proposals for incurring expenditure shall require certification as to the availability of funds by the Officer responsible for Finance before approval by the Registrar.

Rule 29

Approval of Imprest

(1) Heads of Departments shall make requests for imprest including cost estimates of activities to be financed to meet normal expenditure expected during the running of workshops,

- meetings and for any other approved activity.
- (2) The Registrar, on the advice of the Officer responsible for Finance and upon certification as to the availability of funds, may approve the imprest.

Responsibility of the Imprest Holder

- (1) The imprest holder shall within ten working days after the conclusion of the workshop, meeting or other approved activity, retire the imprest with the accompanying accountability documents to the Department of Finance.
- (2) Any shortfall of funds not accounted for shall be refunded by the imprest holder.

CHAPTER IV

CONTRIBUTIONS

Rule 31

Member States Contributions

Appropriations to the annual budget of the Court shall be financed by contributions from Member States.

Rule 32

Calculations of Member States Contributions

- (1) Contributions payable by Member States shall be fixed in accordance with the formula of assessment as determined by the Council.
- (2) Contributions from Member States shall be calculated in COMESA Dollar and shall be paid in convertible currencies.
- (3) In the event of any convertible losses, such loses shall be borne by the concerned Member State.

Rule 33

Invoicing of Member States

After the Council has approved the final budget and determined the contributions from Member States, the Registrar, the Officer responsible for Finance or their authorised representative shall invoice the Member States for payment.

Due Date of Member States' Contributions

The due date for payment of Member States' contributions shall be as provided under Article 166 of the Treaty.

Rule 35

Penalty for Arrears

Member States in arrears with their contributions shall be treated in accordance with Article 171 of the Treaty.

Rule 36

Contributions by New Member States

New Member States shall pay their contributions on a prorata basis for the year in which they become members.

Rule 37

Liability for Withdrawing

Subject to Article 191 of the Treaty, a withdrawing Member State shall remain liable for the payment of its contributions in the year of withdrawal, and for the payment of any outstanding obligations including arrears in contributions.

Rule 38

Presentation of Statement of Contributions

The President shall present to the Council a statement of contributions received and outstanding from Member States.

CHAPTER V

BANK ACCOUNTS, FUNDS ANDMISCELLANEOUS INCOME

Rule 39

Bank Accounts

The Registrar shall open accounts with banks of international repute into which funds of the Court shall be deposited.

Rule 40

Operation of Bank Accounts

- (1) The Officer responsible for Finance shall obtain monthly statements of the accounts which shall specify details of withdrawal orders, debits and credits.
- (2) Two signatures, or their electronic equivalent, shall be required on all modes of payment.
- (3) The Registrar shall recommend, from among the senior staff of the Court, bank signatories for the operation of the bank accounts.
- (4) Funds not belonging to the Court shall not be paid into the Court's bank accounts.
- (5) Funds belonging to the Court shall not be paid into a private bank account.

Rule 41

Authority of Bank Signatories

A member of staff recommended by the Registrar as a Bank signatory shall-

- (a) ensure that the authority and responsibility is not delegated;
- (b) ensure that there are sufficient funds in the bank account when cheques and other payment instructions are presented for payment;
- (c) verify that all cheques and other payment instructions are made to the order of the payee approved by an approving officer designated in accordance with Rule 44 and prepared in accordance with these Rules; and
- (d) ensure that cheques and other banking instruments are properly safeguarded and that when obsolete, they are destroyed in accordance with Rule 79.

Rule 42

Reconciliation of Bank Accounts

- (1) Every month, all financial transactions, including bank charges and commissions, shall be reconciled with the information submitted by banks in accordance with Rule 41.
- (2) The reconciliation, shall be performed by a member of staff who does not disburse or receive funds:

Provided that in the absence of such staff, any other member of staff designated by the Registrar may carry out the reconciliation.

Rule 43

Approving Officers

- (1) Approving officers shall be members of staff designated by the Registrar to
 - (a) approve the entry into the accounts of commitments, disbursements and expenses relating to contracts, agreements, purchase orders and other forms of undertaking after verifying that they are in order and have been certified by a duly designated certifying officer.
 - (b) approve the making of payments once they have ensured that they are properly due, confirming that the necessary goods and services have been received in accordance with the contract, agreement, purchase order or other form of undertaking by which they were ordered and, in accordance with the provisions of Rule 59.
 - (c) maintain detailed records and must be prepared to submit any supporting documents, explanations and justifications requested by the Registrar.
- (2) Approving authority and responsibility shall be assigned on a personal basis and shall not be delegated.
- (3) An approving officer shall exercise the certifying functions assigned in accordance with Rule 66.
- (4) In cases where the goods or services received and the invoices received are consistent with the details of the commitment, the approval may be deemed to have taken place at commitment.

Rule 44

Handling of Funds on Receipt

- (1) An official receipt shall be issued on the date of receipt for all monies received.
- (2) The amounts received shall be-
 - (a) entered into the accounts on the date of receipt; and
 - (b) deposited in full in an approved bank account on the first working day following the date of payment.
- (3) Only officials duly designated by the Officer responsible for Finance shall be authorised to issue receipts.
- (4) The Officer responsible for Finance shall-
 - (a) be responsible for checking the received amounts against the accounting books and the daily receipts; and
 - (b) at frequent intervals and at the close of each month, compare, the entries in the bank statement with those in their cash books.
- (5) All monies not yet deposited in approved bank accounts shall be kept in the official safe.
- (6) The Court shall issue cheques or other payment instructions for goods and services received.
- (7) A petty cash expenditure system with a float of COMESA Dollar 100 shall be maintained on a replenishment basis to facilitate small day to day payments for the Court.

Reserve Account

The Council shall approve the opening of an account known as a Reserve Account.

Rule 46

Receipts into the Reserve Account

The Account shall be credited with-

- (a) receipt of arrears in contributions from Member States;
- (b) excess contributions of Member States over the total expenditure of the Court;
- (c) monetary donations;
- (d) proceeds from disposal of assets; and
- (e) proceeds from services rendered by the Court.

Rule 47

Use of the Reserve Account

- (1) The Reserve Account shall be used for the following specific purposes -
 - (a) payment of recurrent expenditure, pending receipt of contributions from Member States;
 - (b) unbudgeted for but urgent and unforeseen expenditure, which cannot be deferred to the following financial year without adversely affecting the operations of the Court;
 - (c) incurrence of capital expenditure which has been previously approved by the Council;
 - (d) payment of expenditure on approved supplementary budget; or
 - (e) investment.
- (2) The Council or the Bureau of the Council shall approve the use of the Reserve Account.

Rule 48

Description of Miscellaneous Income

Miscellaneous Income shall include proceeds from -

- (a) rent of Court property;
- (b) interest earned from the investment of funds from the Reserve Account;
- (c) interest on loans to personnel;
- (d) court fees; or
- (d) other services rendered by the Court.

Use of Miscellaneous Income

Miscellaneous Income shall be aggregated at the end of each financial year and transferred to the Reserve Account.

Rule 50

Refunds of Expenditure

- (1) Refund of expenditures for the current financial year may be carried over to the credit of these respective expenditure accounts.
- (2) The refund of expenditure relating to the previous financial year shall be carried over into the miscellaneous income account.

Rule 51

Donations

- (1) Subject to sub rule (2), the Court may accept donations.
- (2) Where an offer of a donation is made, the Registrar shall undertake due diligence and submit a report to the Administrative Meeting providing the following information-
 - (a) the full name and address of the donor;
 - (b) the source, the nature and purpose of the donation;
 - (c) mode of payment;
 - (d) whether there are any conditions attached to the donation;
 - (e) whether there is any risk, including conflict of interest; and
 - (f) a recommendation on whether to accept or reject the donation.
- (3) The Administrative Meeting may accept or reject the donation, provided that, where there are conditions attached, the President shall seek the approval of the Bureau of the Council before accepting the donation.
- (4) Where the donation has no conditions attached and is accepted, the President shall make a report to the Council through the Inter-Governmental Committee.

CHAPTER VI

INVESTMENT OF FUNDS

Rule 52

Short-Term and Long-Term Investment

- (1) The Registrar may invest funds not required for the immediate needs of the Court in short-term investments not exceeding six months, or, subject to approval of the Administrative Meeting, make long-term investments exceeding six months.
- (2) In case of long-term investments exceeding six months, the Registrar shall engage the services of a technical investment expert.
- (3) The Investments shall be limited to-
 - (a) Term Deposits in approved financial institutions;
 - (b) Treasury Bills and Treasury Bonds issued by Member States; and
 - (c) other investments approved by the Council.
- (4) The authority contained in this Rule shall include the authority to exchange, sell, or purchase investment securities.

Rule 53

Securities

All securities shall be deposited either in the custody of bankers or in safe deposit vaults maintained by a recognised financial institution duly appointed by the Court.

Rule 54

Authorisation for Withdrawal and Access to Assets

The President shall authorise the withdrawal and access to assets deposited in banks or financial institutions and the Registrar and one other officer designated by the President shall sign for the withdrawal or access.

Rule 55

Investment Ledger

Investments shall be registered in an Investment Ledger, which shall show relevant details for each investment including the face value, cost, date of deposit, proceeds of sale and income earned.

Loss

- (1) Any loss of cash or negotiable instruments shall be immediately brought to the attention of the Registrar by any member of staff who becomes aware of the loss.
- (2) The Registrar, upon receipt of the report shall initiate an investigation and where necessary report the matter to the police.
- (3) The staff responsible for the loss shall be subject to disciplinary action as specified in the Staff Rules and Regulations. In the event that these monies are recovered, the recovered amount or asset shall be written-back as part of the assets of the Court upon authorisation by the Registrar.
- (4) Any money owed to the Court shall not be written off without the authorisation of the Council.

CHAPTER VII

INTERNAL CONTROL

Rule 57

Financial Administration and Budgetary Control

The Registrar shall-

- (a) establish detailed implementation procedures in order to ensure effective financial administration and budgetary control;
- (b) ensure that payments are made on the basis of supporting vouchers and other documents, which ensure that the services or goods have been received and that payments have not been made previously;
- (c) designate members of staff authorised to receive monies, or to incur obligations, or make payments in the name of the Court; and
- (d) maintain an effective internal system of financial and information technology controls to ensure -
 - (i) the regularity of the receipts, custody and disposal of all funds and other financial resources of the Court;
 - (ii) the conformity of obligations and expenditure with the approved budget;
 - (iii) the economical use and safeguarding the resources of the Court;
 - (iv) adherence to policies;
 - (v) completeness and accuracy of records; and
 - (vi) adequate precautions are taken to safeguard physical and electronic important records.

CHAPTER VIII

CONTRACTS AND PURCHASES

Rule 58

Officers Authorised May Incur Obligations

Subject to Rule 44, the Registrar, and the Officer responsible for Finance may enter into commitments relating to the purchase, the rent, or the sale of services, supplies, material or other necessary articles in the name of the Court.

Rule 59

Limitations on Contracts and Purchases

- (1) The Officer responsible for Finance may authorise contracts or purchases up to COMESA Dollar 7,500.
- (2) The Registrar may authorise contracts or purchases of a value up to COMESA Dollar 30,000.
- (3) The Registrar upon recommendation of the Procurement Committee under the Chairmanship of the officer responsible for Finance shall authorise contracts or purchases of a value exceeding COMESA Dollar 30,000, but not more than COMESA Dollar 150,000.
- (4) The Contracts Committee shall consider and recommend to the Registrar offers relating to contracts or purchases in excess of COMESA Dollar-
 - (a) 150,000, but not exceeding 500,000 which shall be made through open tender within the COMESA region; and
 - (b) 500,000 which shall be made through open international tender, provided that tenders from within the COMESA region shall be accorded a 10 per cent preference.

Rule 60

Establishment of Procurement Committee

- (1) The Procurement Committee of the Court is hereby established.
- (2) The Committee shall comprise members as prescribed in the First Schedule of the Procurement Rules.

Rule 61

Establishment of Contracts Committee

- (1) The Contracts Committee of the Court is hereby established.
- (2) The Contracts Committee shall comprise of members as prescribed in the First Schedule of the Procurement Rules.

APPROVAL OF OBLIGATIONS AND PAYMENTS

Rule 62

Approval of Obligations and Payments by Designated Officers

- (1) Approving officers designated by the Registrar shall approve obligations and payments.
- (2) The Officer responsible for Finance shall register commitments of payments in the accounts when obligations of payments have been approved by a designated officer.
- (3) A commitment shall remain open until such point as it is liquidated, cancelled, or recommitted in accordance with Rule 23.

Rule 63

Payments

- (1) Payments shall be made by cheque, electronic transfer, credit card or from petty cash.
- (2) Payments shall be made on the basis of duly certified vouchers and such supporting documents indicating that goods have been received or services have been rendered in accordance to specifications.
- (3) Payments shall be made in the appropriate currencies of the respective transaction.
- (4) In the event that advance payment is required, payment shall only be made upon production of a written request of such advance payment by the supplier.
- (5) For payments by cheque, only "Cheques paid to Order" shall be used and shall be crossed "A/C Payee only".
- (6) Payments shall be recorded into accounts on the date the payment is made.

Rule 64

Receipts

Official receipts shall be obtained for transactions and handed over to the Officer responsible for Finance for record and custody.

CHAPTER X

RECEIPT OF SUPPLIES AND EQUIPMENT

Rule 65

Inspection of Supplies and Equipment

- (1) The Officer responsible for Stores shall ensure that supplies, equipment, and other property received are immediately inspected and their condition confirmed as satisfactory and in accordance with the terms of the related purchase contract.
- (2) The Officer responsible for Stores shall prepare a 'Goods Received Note' and immediately enter all items in the appropriate bin card, store ledger and property records.
- (3) Serialised asset tags shall be attached to each movable asset for ease of recording and tracking.

Rule 66

Allocation of Supplies and Equipment

- (1) The Officer responsible for Stores shall issue supplies, equipment, and other property only to authorised members of staff.
- (2) Supplies and equipment shall be issued on the basis of a Requisition Order Form and Issue Voucher Form.
- (3) The members of staff to whom such supplies and equipment are issued shall acknowledge receipt thereof by signing the Issue Voucher Form.
- (4) A copy of the signed Requisition Order Form and Issue Voucher Form shall be retained by the Officer responsible for Stores and the original kept by the recipient.

Rule 67

Procedure for Return of Supplies and Equipment

- (1) All supplies and equipment to be returned to the store shall be delivered by the recipient accompanied by their original Requisition Order Form and Issue Voucher Form.
- (2) The Officer responsible for Stores shall-
 - (a) examine all supplies and equipment returned;
 - (b) prepare a report indicating in particular all flaws or damage that are not due to normal wear and tear; and
 - (c) furnish a copy of the report to the employee returning the and retain the original.

Rule 68

Requisition of Goods or Services

(1) The Officer responsible for Stores shall deliver supplies, equipment or other goods and

- general services on Requisition Order Form and Issue Voucher Form.
- (2) The Requisition Order Form and Issue Voucher Form shall be signed by Heads of Departments.

CHAPTER XI

PROPERTY RECORDS

Rule 69

Maintenance of Records

The Officer responsible for Finance shall maintain a complete and accurate record of supplies, equipment and other property purchased, received, delivered, sold, or otherwise disposed of and remaining on hand.

Rule 70

Board of Survey

- (1) The Registrar shall appoint a Board of Survey to carry out, at least once a year, an annual stock taking and a physical verification of assets.
- (2) The Board of Survey shall comprise of one officer from Administration, one officer from Finance Department and one from the Audit Unit.
- (3) The Board of Survey shall submit its report to the Registrar who may -
 - (a) undertake an in-depth investigation, where any shortage appears, to determine those responsible and take disciplinary action if necessary;
 - (b) authorise that the losses be written-off if those responsible for the shortage are not identified, or are found not responsible; or
 - (c) approve the write-off and disposal of property that is either damaged or which cannot be put to use.

Rule 71

Report of Board of Survey

The Board of Survey Report shall provide information on each item of stock and property surveyed, to include-

- (a) stock or asset number;
- (b) description of stock or asset;
- (c) serial number where applicable;
- (d) quantity;
- (e) total value and the value of each item in COMESA Dollar;

- (f) state of stock or assets;
- (g) schedule of leased or 'right of use' assets; and
- (h) recommendations thereon.

Disposal of Property

- (1) The sale of supplies, equipment, or other property declared obsolete or unserviceable shall be made by the Finance Department following a recommendation by the Board of Survey after competitive bidding.
- (2) Competitive bidding shall not be necessary where-
 - (a) it is preferable, in the interest of the Court to sell the items at a fixed unit price; and
 - (b) the destruction of such supplies, equipment or other property is more economical, or is required by law or by the nature of the property concerned.
- (3) Property referred to in this Rule shall be paid for in full upon or before delivery.
- (4) The price governing the sale shall not be below the scrap value of the property at the time of the sale.
- (5) Any sale below the scrap value shall only be possible with the approval of the Registrar.
- (6) The proceeds from the sale of such property shall be deposited in the Reserve Account.

CHAPTER XII

ACCOUNTS AND FINANCIAL STATEMENTS

Rule 73

Maintenance of Accurate and Proper Accounts

- (1) The Registrar shall maintain correct, accurate, and complete documents and records for the recording of all the financial transactions of the Court.
- (2) The records shall include:
 - (a) cash books;
 - (b) journals and ledgers;
 - (c) cheque books and cheque registers;
 - (d) assets register;
 - (e) schedule of 'right of use' assets;
 - (f) payroll records;
 - (g) chart of accounts;
 - (h) inventory reports; and
 - (i) store ledgers.

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International Accounting Standards

- (1) The accounts of the Court shall be maintained and presented in COMESA Dollar according to International Accounting Standards, or other generally accepted accounting practices.
- (2) Projects shall comply with the accounting requirements of their respective Cooperating Partners.

Rule 75

Financial Statements

- (1) Draft audited financial statements shall be submitted once every year, or at other such intervals as the Council may direct as follows:
 - (a) by the Registrar to the Sub-Committee; and
 - (b) by the President to the Council through the Intergovernmental Committee.
- (2) the Registrar shall, as soon as possible after the approval of the financial statements by the Council, circulate them among Member States.
- (3) the financial statements shall include-
 - (a) the original budget appropriation clearly explaining the details of each item in the budget;
 - (b) Statement of Comprehensive Income;
 - (c) Statement of Financial Position showing assets and liabilities of the Court provided that the assets shall include both the Non-current and Current Assets whilst the liabilities shall include both the Non-current and Current Liabilities;
 - (d) Statement of Cash Flow;
 - (e) notes to the accounts:
 - (f) tables supporting the statement;
 - (g) summary of the accounts;
 - (h) status of contributions by Member States;
 - (i) a summary of investments;
 - (j) statement of changes in accumulated fund;
 - (k) a summary of miscellaneous income; and
 - (I) other statements and schedules as may be required.

Rule 76

Exchange of Currencies

- (1) The Registrar shall adopt the exchange rates between the COMESA Dollar and other currencies at the ruling rate on the date of respective transactions.
- (2) When the COMESA Dollar is exchanged into any other currency, the amount taken into account shall be the amount actually obtained.
- (3) When any currency is disbursed from a local currency account in the name of the Court, the cost in COMESA Dollar shall be debited at the rate of exchange adopted in sub-Rule (1).
- (4) When payment is made from an account maintained by the Court in COMESA Dollar, the

- actual cost in COMESA Dollar shall be debited to the account in the books of the Court.
- (5) At the closing of the accounts for the financial period, any gain or loss on exchange shall be carried into the statement of Comprehensive Income.

External Auditors

Subject to Article 169 of the Treaty, the-

- (a) Registrar shall submit the financial statements to the External Auditors appointed by the Council for each financial year;
- (b) External Auditors shall conduct the audit in conformity with generally accepted International Auditing Standards and subject to the directions of the Council, shall-
 - (i) determine their own procedure; and
 - (ii) submit the report of the audit to the Registrar;
- (c) Registrar shall submit the report of the External Auditors together with audited financial statements to the Sub-Committee; and
- (d) President shall submit the report of the External Auditors and the audited financial statements to the Council through the Intergovernmental Committee once every year or at such other intervals as the Council may direct.

Rule 78

Other Statements

The Court shall provide External Auditors with-

- (a) a summary statement of supplies, equipment and other property;
- (b) details of losses of cash, stores and other assets written off; and
- (c) such other statements as they may require.

Rule 79

Retention and Destruction of Records

Accounting and all financial records shall be retained for such period as may be determined by the Council in consultation with the Internal or External Auditors.

CHAPTER XIII

INTERNAL AUDIT

Rule 80

Duties of Internal Audit Service

- (1) The Internal Audit Service shall review and make comments and recommendations on activities, transactions, projects and programmes having financial implications on the-
 - (a) regularity of the receipts, custody, disposal, accounting and reporting of all funds and other financial resources of the Court and the effectiveness of internal controls;
 - (b) conformity of obligations and expenditures;
 - (c) economical use of the resources of the Court; or
 - (d) conformity of all activities and transactions with the Rules.
- (2) The Internal Audit Service shall perform its functions in accordance with its Audit Charter, Policy and Practice contained in the Internal Audit Manual.

CHAPTER XIV

MISCELLANEOUS PROVISIONS

Rule 81

Employment of Temporary Personnel or Consultants

- (1) The Registrar may employ temporary personnel or engage consultants within the limits of the approved budget.
- (2) Terms of employment of temporary personnel or consultants shall conform to the policy on employment of temporary personnel and consultants and the Procurement Rules.

Rule 82

Ex-gratia Payments

- (1) The Registrar may on the advice of the Officer responsible for Finance make ex-gratia payments to an employee, Judge or the dependants of a deceased employee or Judge as deemed necessary:
 - Provided that each amount shall not exceed twenty percent of the annual basic salary or annual emoluments of the employee or Judge in any one year.
- (2) The Registrar shall include a report on such payments in the financial statements to be submitted to the Council.

Official Travel of Staff

- (1) Subject to the Staff Rules, before each travel, the Officer responsible for Administration shall fill in a Travel Authorisation Form, which shall be approved by the Registrar.
- (2) The purpose of the mission together with the mode of funding shall be clearly specified in the Travel Authorisation Form.
- (3) The ticket for the travel shall be procured by the Officer responsible for Administration through the normal procurement procedure.
- (4) Mission reports shall be prepared after each travel on official mission.
- (5) An official returning from mission and having to refund to the Court any excess allowance or imprest shall make such refund within ten days from return of the mission.
- (6) Imprest for the purpose of making authorised disbursement during official travel may be made to officials who shall make use of such imprest only for the purpose for which the imprests were authorised; and shall be held personally responsible and financially liable for the proper management and safekeeping of the imprest.
- (7) The official to whom imprest is issued shall render accounts supported by the necessary documentation as required by these Rules.
- (8) In addition to advances specified in these Rules, the Registrar may make such other cash advances as may be permitted by the Staff Rules and Regulations.

Rule 84

Official Travel of Judges

- (1) The Court shall pay for official travel undertaken by Judges within the limit of the funds in the approved budget.
- (2) the Court shall procure tickets for all official travel by Judges through the normal procurement procedure.
- (3) On completion of official travel, the Officer responsible for Administration shall -
 - (a) retire the Judges travel allowance by filling a Daily Subsistence Allowance Retirement Form.
 - (b) attach ticket stubs to the Daily Subsistence Allowance retirement form as evidence that the travel has been made for the purpose it was made evidence that the travel has been made for the purpose for which it was intended.
- (4) Any excess or shortfall of allowance, accompanied by documentary evidence, shall be stated on the Voucher for Reimbursement of Expenses which shall be acted upon by the Registrar as appropriate.

Rule 85

Fleet Management

- (1) Court vehicles shall be used for official business only unless assigned to Judges, the Registrar and the Assistant Registrar.
- (2) Unauthorised persons shall not be allowed to use Court vehicles.

- (3) When a Court vehicle is involved in an accident, the officer managing the vehicles shall-
 - (a) inform the insurance company;
 - (b) complete a Motor Vehicle Accident Report, not later than the day following the accident;
 - (c) obtain copies of the Police Report on the accident;
 - (d) advise the Disciplinary Committee whether or not disciplinary action shall be imposed on the driver; and
 - (e) arrange for the assessment of the damage.
- (4) A driver of a Court vehicle or any other officer shall not accept liability or come into agreement with a third party in case of an accident without the approval of the Registrar.

Amplification of Rules

These Rules may be amplified by implementation procedures and administrative instructions issued by the Registrar provided that in the event of conflict between the Rules and any other procedures and instruction, the Rules shall prevail.

Rule 87

Liability

- (1) Every member of staff shall be responsible to the Registrar for the propriety of actions taken by the official in the course of their respective official duties.
- (2) Any member of staff who acts contrary to these Rules, the Financial Manual, implementation procedures or administrative instructions issued pursuant thereto, shall be held personally responsible for financial or other losses incurred as a consequence of their actions.

Rule 88

Amendment of Rules

These Rules may be reviewed or amended by the Council on the recommendation of the Court.

Rule 89

Authenticity of the Rules

- (1) These Rules are authentic in the official languages of the Court.
- (2) In the event of conflict, the English version shall prevail.

Rule 90

Entry into Force

These Financial Rules or any amendments shall take effect on approval of the Council.





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