



EAST AFRICAN COMMUNITY

**REPORT OF THE SECTORAL COUNCIL ON TRADE, INDUSTRY,
FINANCE AND INVESTMENT (SCTIFI)**

(EAC/SCTIFI 41)

2ND DECEMBER, 2022

REPORT OF THE MEETING

ARUSHA, TANZANIA

EAC SECRETARIAT

Arusha, Tanzania

December, 2022

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MARY ARECH

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1. OPENING OF THE MEETING

The Secretariat convened the meeting of the Sectoral Council on Trade, Industry, Finance and Investment in accordance with the EAC Calendar of activities for the period of June - December 2022. The meeting was attended by Ministers / Cabinet Secretary, Permanent / Principal / Under Secretaries, Senior Officials from the Partner States, Private Sector Representatives and Staff of EAC Secretariat. A list of delegates is attached hereto as **Annex I**.

1.1. Constitution of the Bureau

Hon. Amb. Ezéchiel Nibigira, Minister of East African Community Affairs, Republic of Burundi chaired the meeting while Mr. Tor Samuel Kuir Tor from the Republic of South Sudan was the Rapporteur.

1.2. Adoption of the Agenda

The agenda was adopted and is hereto attached as **Annex II**.

1.3. Remarks by the Chairperson

The Chair, Hon. Amb. Ezéchiel Nibigira, who is also the Chairperson, EAC Council of Ministers, Minister of East African Community Affairs, Youth, Sports and Culture, Republic of Burundi, welcomed the Ministers and their respective delegations to the meeting and appreciated their participation in this important meeting. He thanked the United Republic of Tanzania for the hospitality extended to the Partner States delegations since they arrived in Arusha. He observed that it is important to focus on the milestones reached in the pursuit of EAC regional integration including the Single Customs Territory (SCT), the Common External Tariff (CET) among others. He noted that notwithstanding the incidences of Non-Tariff Barriers (NTBs) there was still room for improvement. He applauded the strides made in integrating the EAC countries and facilitating trade and stressed that there was no turning back.

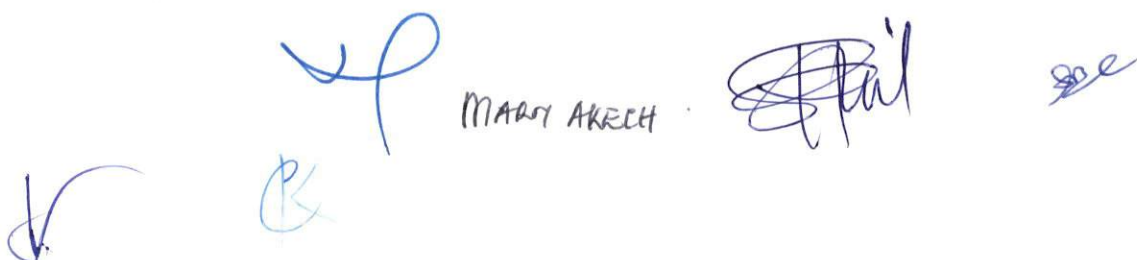
He called upon the Ministers to consider the Report of the Permanent Secretaries / Under-Secretaries which will be presented to the EAC Council of Ministers for consideration.

He finally appreciated the Ministers present and invited them to make some remarks. He wished the meeting fruitful deliberations.

1.4. Remarks by the EAC Secretariat

The Secretary General, East African Community, Hon. (Dr.) Peter Mutuku Mathuki, welcomed the Ministers and their respective delegations to the 41st Sectoral Council for Trade, Industry, Finance and Investment noting that the presence of the Ministers and the items on the agenda gives impetus necessary for implementation of the regional integration programmes. He noted that the meeting was very important as it provides an opportunity to give policy direction, review and approve policy measures and activities that EAC has been implementing or plan to implement. He highlighted that among the agenda items that meeting was to consider, included the decisions of the Ministers for Finance in respect to the budget which has implications on the Partner States budget making process and mobilization of resources to implement the regional integration programmes. He said that other items for consideration included Reports on Customs matters, Intra and Extra Regional Trade, Investment, and Competition matters.

He informed the meeting that a lot of strides had been made including the Single Customs Territory (SCT), implementation of the revised EAC Common External Tariff, publication of EAC tariff offer for AfCFTA, Rules of Origin as well as the finalization of the Special Economic Zones Policy and Trade in

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Services Strategy. He further told the meeting that commendable progress had been made with regard to implementation of decisions, and directives made in the previous SCTIFI meetings.

He observed that while a lot of efforts are directed towards increasing intra-Regional Trade, Non-Tariff Barriers particularly denial of market access and other institutional administrative measures remains a major factor impeding the free movement of goods across the region. He expressed his conviction that the SCTIF has the mandate to adequately address these bottlenecks and challenges that undermine the efforts in improving the quality of life of citizens and attaining sustainable development objectives. Stressing that the importance of the SCTIFI could not be overemphasized, he called upon the meeting to provide the support needed to increase the pace in the implementation of EAC programmes.

He finally commended the Permanent/Principal Secretaries and Senior Officials, who had met from the beginning of the week, deliberated and made recommendations aimed at facilitating the work of the Ministers in providing decisions, direction and guidance.

He concluded by thanking the staff of EAC Secretariat for facilitating the meeting where delegates had the opportunity to interact and share experiences in a cordial environment including celebration of the EAC Day.

We wished the meeting fruitful deliberations.

2. STATUS OF IMPLEMENTATION OF THE PREVIOUS DECISIONS OF SCTIFI

The Secretariat compiled a report on the status of implementation of the 40th ordinary SCTIFI directives and decisions. A detailed matrix on the status of the previous directives / decisions is hereto attached as **Annex III**.

There were **72 (100%)** decisions / directives of the 40th ordinary SCTIFI. Regarding implementation, **41 (57%)** directives and decisions were fully implemented. **2 (3%)** were continuous, while implementation of **20 (27%)** were ongoing and **9 (13%)** were not implemented. Among the **9** decisions / directives not implemented, **4 (44%)** were to be implemented by the Partner States and **5 (56%)** by the Secretariat.

The Sectoral Council on Trade, Industry, Finance and Investment directed Partner States and the Secretariat to implement the outstanding directives (EAC/SCTIFI 41/ Directive 01)

3. REPORT ON CUSTOMS ACTIVITIES

3.1. REPORT OF THE SECTORAL COMMITTEE ON CUSTOMS

The meeting was informed that the Sectoral Committee on Customs was held from 14th to 18th November, 2022 in Arusha and considered the following agenda item:

3.1.1. MATTERS REFERRED TO THE SECTORAL COMMITTEE ON CUSTOMS BY PRE - BUDGET MEETING OF MINISTERS / CABINET SECRETARY OF FINANCE

The Pre-Budget consultations meeting of the Ministers / Cabinet Secretary of Finance held on 13th May 2022 in Mombasa, Kenya considered among others proposals to collapse the regional splits for inputs to manufacture dry cell batteries since they enjoy regional remission at a duty rate of 0%. They further considered the proposal to collapse the regional split on heading 15.11 (palm oil) and match the six-digit code of the WCO nomenclature. The Ministers / Cabinet Secretary directed that the two proposals be referred to tariff experts for analysis and report back to the next meeting of the Sectoral Committee on Customs.

The meeting further observed that Customs Administrations classify three wheelers in different headings of 87.03, 87.04 and 87.11. The Ministers / Cabinet Secretary urged the Republic of Uganda to seek classification guidance from the World Customs Organization on three wheelers by 30th May, 2022 and report back to the next meeting of the Sectoral Committee of Customs.

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The meeting was informed that the EAC Secretariat convened a meeting of Tariff Experts from 07th - 11th November, 2022 which among others considered matters referred to the Sectoral Committee on Customs by Pre-Budget consultations meeting of the Ministers/Cabinet Secretary of Finance. The experts in the meeting considered among others, the following:

3.1.1.1. PROPOSALS TO DELETE THE REGIONAL SPLITS FOR INPUTS TO MANUFACTURE DRY CELLS BATTERIES TARIFF LINES

During the 40th SCTIFI meeting, the Ministers / Cabinet Secretary considered the proposal to collapse tariff lines for inputs to manufacture dry cell batteries. The inputs enjoy regional duty remission at a duty rate 0% and therefore such specifically mentioned tariff lines are redundant. They further considered a proposal to increase a duty rate for parts of batteries from 0% to 25%. The Sectoral Council on Trade Industry Finance and Investment referred to the Sectoral Committee on Customs to analyze the proposals to delete the regional splits for inputs to manufacture dry cell batteries (EAC/SCTIFI 40/Directive 02).

The Tariff experts considered the proposals as highlighted in the table below;

TABLE 1						
No	HS Code	Item description	Import Duty Rate	Justification	Discussions	Recommendations
1.	4821.10.10	Paper Board Labels for Dry cell Batteries	10%	Approved manufacturers import the product at 0% Import Duty under the EAC Duty Remission scheme	<p>The split was done to cater for paper board labels used in the manufacture of dry batteries. However, it was observed that there are inputs for other sectors which have not been singled out in the CET i.e., specific tariff lines.</p> <p>The duty rate of 10% is not applicable / redundant since manufacturers will import the items at the duty rate of 0%</p> <p>The meeting considered the proposal and adopted the recommendation</p>	<p>(a) Collapse the tariff line and revert to the WCO nomenclature;</p> <p>(b) Manufacturers who import printed paper and paper for labeling dry batteries will classify them under tariff line 4821.10.00 and enjoy Regional Duty Remission at 0%, while those who import unprinted will classify them under tariff line 4821.90.00 and enjoy regional remission at 0%; and</p> <p>(c) The structure of Heading 48.21 will change as follows: 4821.10.00 – Printed 35% 4821.90.00 – Other 10%</p>
2.	4804.19.10	Dry battery Kraftliner	0%	Approved manufacturers import the product at 0% Import Duty under the EAC Duty Remission scheme	<p>The split was done to cater for paper boards used in the manufacture of dry batteries. However, it was observed that there are inputs for other sectors which have not been singled out in the CET i.e., specific tariff lines.</p> <p>The duty rate of 10% is not applicable / redundant since manufacturers will import the items at the duty rate of 0%</p> <p>The meeting considered the proposal and adopted the recommendation</p>	<p>(a) Collapse the tariff line and revert to the WCO nomenclature;</p> <p>(b) Manufacturers who import dry battery kraftliner will classify them under tariff line 4804.19.00 and enjoy Regional Duty Remission at 0%; and</p> <p>(c) The structure of Heading 48.04 will change as follows: 4804.11.00 - 25% 4804.19.00 - 10%</p>
3.	4811.59.10	For labeling dry cells and	0%	Approved manufacturers import the	The split was done to cater for paper boards used in the manufacture of dry batteries.	(a) Collapse the tariff line and revert to the WCO

TABLE 1						
No	HS Code	Item description	Import Duty Rate	Justification	Discussions	Recommendations
		dry batteries		product at 0% Import Duty under the EAC Duty Remission scheme	<p>However, it was observed that there are inputs for other sectors which have not been singled out in the CET i.e., specific tariff lines.</p> <p>The duty rate of 10% is not applicable / redundant since manufacturers will import the items at the duty rate of 0%</p> <p>The meeting considered the proposal and adopted the recommendation</p>	<p>nomenclature;</p> <p>(b) The new tariff line 4811.59.00 will attract a duty rate of 10%;</p> <p>(c) Manufacturers who import paper and paper board coated or impregnated or covered with plastics (excluding adhesives) for labeling dry cells and dry batteries will classify them under tariff line 4811.59.00 and enjoy Regional Duty Remission at 0%; and</p> <p>(d) The structure of Heading 48.04 will change as follows: 4811.59.00 -- Other 10%</p>
4.	8506.90.00	Parts	0%	Increase the duty rate to 25%	<p>Parts are intermediate products and should not be treated as finished items and assign them a duty rate of 10%</p> <p>The region does not have manufacturers of these parts to warrant an increase of duty to 25%</p> <p>Some of the parts can be sold as after sales products e.g., terminals</p> <p>The meeting considered the proposal and adopted the recommendation</p>	Increase the duty rate to 10%
5.	8507.90.00	Parts	0%	Increase the duty rate to 25%	<p>Parts are intermediate products and should not be treated as finished items and assign them a duty rate of 10%</p> <p>The region does not have manufacturers of these parts to warrant an increase of duty to 25%.</p> <p>Some of the parts can be sold as after sales products e.g., terminals</p> <p>Currently, manufacturers of Deep Cycle batteries enjoy a regional remission at 0% on inputs they use in the manufacturing of the batteries vide Legal Notice no. EAC/33/2016.</p> <p>The remission is not extended to inputs to manufacture other types of batteries classified under Heading 85.07.</p> <p>Grant regional remission at</p>	<p>(a) Increase the duty rate to 10%; and</p> <p>(b) Grant regional remission on inputs to manufacture other batteries that are not deep cycle at a duty rate of 0%.</p>

TABLE 1						
No	HS Code	Item description	Import Duty Rate	Justification	Discussions	Recommendations
					0% on inputs to manufacture other batteries that are not deep cycle. The meeting considered the proposal and adopted the recommendation	

The Commissioners considered and adopted the proposals contained in the table above. They further noted the need of notifying the public of the changes made to enable preparedness prior to implementation. The meeting therefore guided that the Secretariat should gazette the proposals as soon as they are adopted by SCTIFI for implementation on 1st July, 2023.

The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:

- (a) adopt the recommendations contained in Table 1 above;
- (b) direct the Secretariat to gazette the measures by December, 2022; and
- (c) direct Partner States to implement the measures in (a) above from 1st July 2023.

The meeting considered and adopted the recommendations by the Sectoral Committee on Customs.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) adopted the recommendations contained in Table 1 above (EAC/SCTIFI 41/ Decision 01);
- (b) directed the Secretariat to gazette the measures by 15th December, 2022 (EAC/SCTIFI 41/ Directive 02); and
- (c) directed Partner States to implement the measures in (a) above from 1st July 2023 (EAC/SCTIFI 41/ Directive 03)

3.1.1.2. PROPOSALS TO DELETE THE REGIONAL SPLITS FOR INPUTS TO MANUFACTURE PALM OIL AND ITS FRACTIONS WHETHER OR NOT REFINED BUT NOT CHEMICALLY MODIFIED TARIFF LINES

The 40th SCTIFI meeting considered the proposal to return to the regional split on heading 15.11 to match the six-digit code of the Harmonized System (HS) nomenclature as highlighted in the table below.

TABLE 2					
No	HS Code	Item description	Dashes	Rate	Comments
1	1511.10.00	Crude oil	-	0%	This is at the WCO single Dash
2	1511.90.10	Palm olein, fractions	---	10%	This is a regional Submission

It was reported that there is potential for revenue loss due to the regional splits which can be addressed by reverting to the WCO nomenclature Tariff Lines 1511.10.00 and 1511.90.00 with rates of 10% and 25% respectively. The proposal is justified because of the complex structure of the heading 15.11 of the EAC CET which is not supported by the legal notes to guide implementation.

8/3/23

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The Ministers / Cabinet Secretary considered the two proposals and referred the matter to the Sectoral Committee on Customs for analysis (**EAC/SCTIFI 40/Directive 02**).

The Tariff experts considered the proposal to return to the regional split on heading 15.11 to match the six-digit code of the Harmonized System (HS) nomenclature.

From the Analysis of the trade data extracted from Partner States revenue systems on imports and exports for HS Codes 1511.10.00, 1511.90.10, 1511.90.20, 1511.90.30, 1511.90.40 and 1511.90.90, the experts established that the trade volume for the said tariff lines proposed to be collapsed to 1511.90.00 were of significant value and of statistical importance for the EAC to warrant collapse.

It was further established that the value of imports amounts to a total USD 3.284 Billion for the period July 2018 – June 2022 under HS Code 1511.10.00 dominating in imports value and accounting for a 65.5% share of trade value. The remaining tariff lines account for 34.5% of trade.

Trade values of exports over the same period, amounted to USD 445.05 Million with HS Code 1511.10.00 (proposed to be retained) accounting for less than half of the HS Codes recommended to be collapsed. Analyzed data submitted by Partner States is attached hereto as **Annex IV**.

Taking into consideration the findings on value of trade and statistical importance, the experts recommend that the current structure of heading 15.11 of the EAC CET be maintained.

The Sectoral Committee on Customs took note and adopted the recommendation to maintain the status quo of the current structure of heading 15.11.

The Sectoral Council on Trade, Industry, Finance and Investment maintained the current structure of heading 15.11 (EAC/SCTIFI 41/ Decision 02).

3.1.1.3. CLASSIFICATION OF THREE WHEELERS

The 40th SCTIFI meeting observed that Partner States classify three wheelers in different headings of 87.03, 87.04 and 87.11 which limits uniform treatment of assemblers under duty remission. This was mainly because duty remission is granted on motorcycle CKDs kits with the understanding that the wheelers are motorcycles while in other jurisdictions the same are treated as motor vehicles for carrying persons (87.03) or goods (87.04).

Noting the difference in implementation and considering the World Customs Organization (WCO) explanatory notes on classification of three wheelers, the meeting agreed that the Republic of Uganda will request the WCO for classification guidance on the difference between three-wheeler motorcycles provided in the headings 87.11, 87.03 and 87.04.

The Sectoral Council on Trade Industry Finance and Investment urged the Republic of Uganda to seek classification guidance from the World Customs Organization on three wheelers by 30th May, 2022 and report back to the next meeting of the Sectoral Committee of Customs (**EAC/SCTIFI 40/Directive 03**).

The Republic of Uganda implemented the directive by writing to the WCO vide a letter Ref: CUST/T/3/41 dated 16th August, 2022. WCO responded on 7th October, 2022 vide a letter Ref.22NL 121-1A giving their classification opinion.

The experts deliberated on the matter and observed the following:



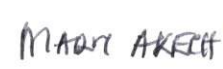


- (i) the distinction between headings 87.11, 87.03 and 87.04 is provided in the Explanatory Notes (EN) to those headings;
- (ii) Heading 87.11: Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars.;

EN to heading 87.11 (5 paragraph, page XVII-8711-1):

"Three-wheeled vehicles (e.g., the "delivery tricycle" type) are also classified here provided they do not have the characteristics of motor vehicles of heading 87.03 or heading 87.04 (see the Explanatory Notes to headings 87.03 and 87.04)."

- (iii) Heading 87.03: Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars;

EN to heading 87.03 (page XVII-8703-2):

The heading also covers lightweight three - wheeled vehicles such as:

- those fitted with motorcycle engine and wheels, etc. which, by virtue of their mechanical structure, possess the characteristics of conventional motor cars, that is motor car type steering system or both reverse gear and differential;
- those mounted on a T-shaped chassis, whose two rear wheels are independently driven by separate electric accumulator-powered electric motors. These vehicles are normally operated by means of a single central control stick with which the driver can start, accelerate, brake, stop and reverse the vehicle, as well as steer it to the right or to the left by applying a differential torque to the drive wheels or by turning the front wheel.

(iv) Heading 87.04: Motor vehicles for the transport of goods

EN to heading 87.04 (page XVII-8704-1):

The heading also covers lightweight three-wheeled vehicles such as:

- those fitted with motorcycle engine and wheels, etc. which, by virtue of their mechanical structure, possess the characteristics of conventional motor cars, that is motor car type steering system or both reverse gear and differential;
 - those mounted on a T-shaped chassis, whose two rear wheels are independently driven by separate electric accumulator-powered electric motors. These vehicles are normally operated by means of a single central control stick with which the driver can start, accelerate, brake, stop and reverse the vehicle, as well as steer it to the right or to the left by applying a differential torque to the drive wheels or by turning the front wheel;
- (v) If a three-wheeled vehicle has all the characteristics of a vehicle of heading 87.03 or 87.04, for example, it is equipped with an engine, wheels, steering etc., of a kind normally used in vehicles of headings 87.03 or 87.04, then it is not considered a motorcycle;
- (vi) If a three-wheeled vehicle has some of the characteristics of a motorcycle of heading 87.11, for example, it is equipped with "a motorcycle engine, wheels and etc. but, by virtue of their mechanical structure, possess the characteristics of conventional motor cars, that is motor car type steering system or both reverse gear and differential", then that vehicle would also be classified in heading 87.03 or 87.04;
- (vii) Thus, a three-wheeled vehicle having a motorcycle engine, wheels and etc. and lacking the characteristics of conventional motor cars, such as a motor car type steering system or both reverse gear and differential, is classified in heading 87.11 as a motorcycle;
- (viii) Key features are;
- o Type of steering system (motor car type or motorcycle type)
 - o Mechanical structure (e.g., T type chassis)
 - o Availability/ unavailability of reverse gear
 - o Availability/ unavailability of differential system
 - o Type and size of Engine
 - o Wheel and tyre type (round or flat)
- (ix) **Engine:** Motorcycle engines are typically two-stroke or four-stroke internal combustion engines, but other engine types, such as Wankels and electric motors can be used. They are often compact (have transmission, and gear system inbuilt in them);
- (x) **Tyre Type:** The main difference between motorcycle wheels and car wheels is that motorcycle wheels are usually narrower than those used on four-wheeled cars. The fundamental difference between a motorcycle tyre and a car tyre is the shape that forms the working surface. A motorcycle tyre is not just narrow, it is round. Car tyres are flat because they have no sides to work on. A motorcycle enters a corner not so much by turning the handlebars as by tilting the body, so motorcycle tyres are rounded to provide a wider point of contact with the road when the wheel is tilted;

IMAGE 1



- (xi) Differential System: The differential is a system of gears that allows different drive wheels (the wheels to which power is delivered from the engine) on the same axle to rotate at different speeds, such as when the car is turning. A differential is also the component through which a rotating driveshaft can change direction; for example, in a rear-wheel-drive car whose driveshaft runs the length of the car, it joins and transfers its power to an axle that runs perpendicular to the car to drive the left and right wheels. Differentials are low-maintenance, sealed components that are expected to last the life of the vehicle but may have a recommended service interval to check and/or replace the oil. Note that a car with four-wheel drive can have two or more differentials. A failing differential can cause vibration, binding during turns and/or sounds ranging from clunking to howling.
- (xii) Wanhoo WH200ZH-5B Cargo moto three-wheeler" should be classified in heading 87.04, as it is designed for transport of cargo;
- (xiii) TVS King 4s Three-Wheeler", "BAJAJ 3-WHEELER RE 250 AUTO RICKSHAW" and "PIAGGIO APE 3-WHEELER MODEL APE CITY NXT" which use a motorcycle engine and wheels are to be classified under heading 87.03 because they are designed for transport of person;
- (xiv) Bashan BS 200 ZH-3A and SIMBA SUMO 200 which have reverse gear and differential should be classified under headings 87.04 or 87.03

Partner States submitted the challenges on the treatment of three wheelers particularly in regard to granting duty remission to those classified under headings 87.03 and 87.04 classified as motor vehicles.

The meeting considered the observations by experts and guided that where a three-wheeler has characteristics of a motorcycle, Partner States can treat them as such and thus grant remission.

It was observed that the challenges associated with assembling of three wheelers classified under headings 87.03 and 87.04 will be addressed by the Assembly Scheme Regulations which are in the final stages of development. In this regard, the meeting recommended that Partner States continue with current interim measures.

The Sectoral Committee on Customs recommended to the Sectoral Council on Trade, Industry, Finance and Investments to adopt the guidance that:

- (a) three-wheeled vehicles (e.g., the "delivery tricycle" type) are also classified under heading 87.11 provided they do not have the characteristics of motor vehicles of heading 87.03 or heading 87.04 as provided by the Explanatory Notes to headings 87.03 and 87.04;
- (b) if a three-wheeled vehicle has all the characteristics of a vehicle of heading 87.03 or 87.04, for example, it is equipped with an engine, wheels, steering etc., of a kind normally used in vehicles of headings 87.03 or 87.04, shall not be considered a motorcycle and thus classified under 87.03 or 87.04; and
- (c) if a three-wheeled vehicle has some of the characteristics of a motorcycle of heading 87.11, for example, it is equipped with "a motorcycle engine, wheels and etc. but, by virtue of their mechanical structure, possess the characteristics of conventional motor cars, that is motor car type steering system or both reverse gear and differential", it would also be classified in heading 87.03 or 87.04.

The meeting considered the recommendations by the Committee on Customs and the Senior Officials recommended to the Permanent / Principal / Under Secretaries to recommend to SCTIFI to adopt the guidance provided.

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The Sectoral Council on Trade, Industry, Finance and Investment adopted that;

- (a) three-wheeled vehicles (e.g., the “delivery tricycle” type) are also classified under heading 87.11 provided they do not have the characteristics of motor vehicles of heading 87.03 or heading 87.04 as provided by the Explanatory Notes to headings 87.03 and 87.04 (EAC/SCTIFI 41/ Decision 03);
- (b) if a three-wheeled vehicle has all the characteristics of a vehicle of heading 87.03 or 87.04, for example, it is equipped with an engine, wheels, steering etc., of a kind normally used in vehicles of headings 87.03 or 87.04, shall not be considered a motorcycle and thus classified under 87.03 or 87.04 (EAC/SCTIFI 41/Decision 04); and
- (c) if a three-wheeled vehicle has some of the characteristics of a motorcycle of heading 87.11, for example, it is equipped with “a motorcycle engine, wheels and etc. but, by virtue of their mechanical structure, possess the characteristics of conventional motor cars, that is motor car type steering system or both reverse gear and differential”, it would also be classified in heading 87.03 or 87.04 (EAC/SCTIFI 41/ Decision 05).

3.2. PROGRESS REPORT ON THE IMPLEMENTATION OF THE SINGLE CUSTOMS TERRITORY

3.2.1. Publication of the SCT Procedure Manual

The SCT Procedure manual is the principal operational guide on SCT clearance which contains guidelines and processes that guide SCT operations. The first version of the SCT Procedure Manual was developed and released in 2014.

Since the initial release of the manual, there have been a lot of changes to SCT processes including implementation of the SCT Centralized Platform. To accommodate these changes, Partner States updated the manual in 2021, and the new release was adopted by the 39th Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI) held on 12th November 2021. It was published in August 2022 and the electronic version can be downloaded from <https://bit.ly/3V1O3dJ>.

The meeting took note of the revised SCT procedures manual and its publication.

3.2.2. Enhancements to the EAC SCT Centralized Platform

The Committee on Customs was briefed on the progress on implementation of SCT Centralized platform that facilitates exchange of Customs data.

Partner States, through the Secretariat, have been operating the Single Customs Territory (SCT) Centralized Platform since 2017. The platform is being enhanced to version 2.0 that will, among others, support data exchange for imports, Clearing and Forwarding Agents, the Regional Customs Bond and management of the Regional AEO Programme. Details of the enhancements are presented in table 3 below.

TABLE 3	
AREA	KEY TARGETS
System Administration, Management and Security	To provide enhanced confidentiality and integrity of data during transmission and storage.
Imports	Currently, exchange of SCT data for imports is through direct transmissions between Customs systems. The enhancement targets to exchange electronic messages through the centralized platform including, but not limited to manifests, manifest amendments and supplementary manifests, Bill of lading utilization notifications, exit notes/T1, arrival notifications, and customs releases.
General (for all regimes)	Enhancements to cater for notifications of change of means of conveyance and support for Ex-Warehouse / temporary imports/exports regimes.
Regional AEO	Automation of the Regional AEO procedures including the application and accreditation/de-

TABLE 3	
AREA	KEY TARGETS
	accreditation workflows and disciplinary procedures. The aim is to have a central database of Regional AEOs.
CFA Management	Central database of CFAs. it will provide the status/change notifications among Partner States (will require integration points with Customs systems).
Integration with Regional Customs Bond	The enhancement will provide a common integration point between Customs Systems and all Regional Customs Bond System
ECTS Systems	Provide a common integration point between Customs Systems and all electronic cargo tracking systems

The completed enhancements are undergoing peer-review to ensure they conform to end-user requirements. This will pave the way for User Acceptance Testing (UAT) during which key system users such as SCT Liaison officers, National AEO Project Managers and SCT ICT Developers will undergo training, conduct testing and sign-off the modules. The Secretariat will conduct training and undertake testing by 16th December 2022.

The Sectoral Committee on Customs emphasized the need for sensitization and capacity building to facilitate smooth implementation and directed that subject to the outcome of the User Acceptance Testing (UAT), the enhancements should be rolled out progressively from 1st January 2023.

3.2.3. STATUS OF ROLLOUT OF REGIMES UNDER SCT

The meeting of the Committee on Customs took stock of the status of rollout of regimes under SCT. The regimes are categorized into export, intra-region transfers, imports and transits. The current status described below:

3.2.3.1. The Export Regime

Out of the six (6) documented export SCT processes, only one (1); (direct maritime exports); has been fully rolled out under SCT. The status of the remaining five is explained below:

3.2.3.1.1. Exports via Land Borders

During the meeting of the Committee on Customs, it was noted that despite the fact that Revenue Authorities are able to transmit electronic messages for exports through the SCT Centralized Platform, exports through land borders were still not cleared under SCT procedures. The Committee noted that between January and October 2022, RRA transmitted 2,284 declarations for exports destined to DR Congo, Zambia, Zimbabwe and South Africa. During the same period, URA transmitted 2,237 declarations. KRA transmitted 1795 declarations. TRA notified the meeting that they had transmission of SCT data for exports through land borders commenced from 4th November 2022.

It was however reported that declarations for exports from Kenya do not contain the COMESA RCTG Bond information and therefore the exports cannot be cleared under SCT due to integration challenges between iCMS and COMESA IDES. KRA however informed the meeting that integration with the COMESA RCTG had been resolved and was undergoing that user-acceptance testing.

The Committee on Customs therefore agreed that clearance of land exports under SCT can commence on 1st January 2022.

The United Republic of Tanzania noted that the trading community is facing delays at border crossings and emphasized that the Revenue Authorities should utilize the available technologies to facilitate faster clearance of goods.

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The Sectoral Council on Trade, Industry, Finance and Investment directed the Revenue Authorities to process all exports via land borders under SCT procedures from 1st January, 2023 (EAC/SCTIFI 41/ Directive 04).

3.2.3.1.2. Indirect Tea Exports

The meeting of the Committee on Customs was informed that not much has been done to facilitate clearance of tea under SCT in spite of numerous directives from SCTIFI. The meeting agreed that due to the complexity of this process, the rollout should take a phased approach in which the following will be rolled out progressively;

(i) Temporary transfers to a warehouse in the Partner State of exit by 31st Dec 2022.

The step will entail sharing of temporary transfer declarations (IM7) and T1s/Exit notes by the Partner State of exit while the Partner State of export will convert the IM7 received from the Partner State of exit into an export declaration. Successful achievement will remove the need for multiple declarations at each border.

(ii) Rollout of the blend matrix

The blend matrix will provide Partner States with the data necessary for compilation of statistics on quantities of tea exports to different destinations through the auction in Mombasa.

KRA reported that the Customs tea blending process has been fully automated in the iCMS system. However, it will take time for the platform to provide realistic data for the blend matrix since most of the tea stocks that are still being auctioned were brought into the warehouses under the old Simba system. Some stocks may take more than a year before they are auctioned. It was therefore agreed that the blend matrix can be delivered within the following timelines;

- i. Development of the message specification for the tea consolidation/blending matrix by the KRA ICT and the EAC Secretariat – by 15th November 2022.
- ii. Validation of the message specification for the consolidation/blending matrix by Partner States ICT Teams – 15th December 2022
- iii. Development of interfaces for electronic sharing of the consolidation/blending matrix with other Partner States – by 15th April 2023
- iv. Testing and rollout of the blend matrix – 30th April 2023
- v. Enhancement of the systems of the Partner State of export to utilize the blend matrix and produce relevant reports - 30th April 2023.

(iii) Re-Export processes

These are processes that take place after tea has been auctioned and blended then re-exported. The meeting agreed that the required enhancement to allow sharing of re-export declaration with the Partner States of export shall be completed by 31st Dec 2022.

It was noted that there is already an existing electronic notification to the Port Authority for purposes of export full pre-advice/gate entry processes which is sufficient to support the tea re-exports.

(iv) Departure Processes

The meeting was informed that the vessel loading and departure message to notify Partner States when the goods leave the Port was fully developed by KPA and tested with SCT CP. However, generation of the message is not yet fully realized because concerned KPA officers do not complete the process. KPA committed to explore alternative electronic means to ensure the message is generated and shared with Partner States by 31st December 2022.

3.2.3.1.3. Indirect Maritime Exports

The Committee on Customs directed that this process be implemented simultaneously with the indirect tea export since both are based on the same concept and follow the same logic.

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3.2.3.1.4. Multi-Modal Exports

The Committee on Customs noted that despite goods being cleared under SCT for this process, notification for change in means of conveyance is not yet implemented (from truck to wagon, inland waterways to truck etc.). Partner States undertook to finalize the implementation of the transshipment message by 30th November 2022 (URA, RRA and TRA) and 31st December 2022 (KRA).

3.2.3.1.5. Temporary Exports (and Re-Importation)

The Committee on Customs agreed that temporary exports/re-importation via land should be cleared using timelines set for exports via land borders. For temporary exports/re-importation via sea, it was observed that the re-importation declarations need to consume both the sea manifest and preceding (temporary exportation) document, a feature that is not available in Partner State Systems. It was agreed that these enhancements should be developed, tested and rolled out by 31st March 2023.

3.2.3.2. Intra - Region Transfers

Two (2) out of the six (6) documented SCT Intra-Regional Transfer processes, have been rolled out under SCT. The rolled-out processes are Direct transfers and ex-Warehouse transfers.

The ex-warehouse process was already implemented by URA, RRA, OBR and TRA, but KRA had not yet finalized system enhancements to support ex-warehouse transfers for transfers from Kenya warehouses. During the meeting of the Committee on Customs, KRA confirmed they were engaging other Partner States to undertake testing and were confident this will be concluded by 30th November 2022.

During the meeting of SCTIFI, Senior officials recalled that in the 40th Meeting of SCTIFI of May 2022, it had been reported that there were data transmission challenges that were affecting clearance of transfers from Tanzania to Kenya under SCT Procedures. The meeting was informed that the problem had now been resolved since 3rd November 2022 and that piloting has been going on since with three. So far, the pilot has been smooth and TRA and KRA were planning for commence full rollout from 1st December 2022.

The status of the other intra-region processes is as follows:

3.2.3.2.1. Transfer under Drawback

The meeting was informed that the main requirement for this process is enhancement of Customs systems to provide a repackaging bill / preceding document that is generated after approval of the transfer by the Commissioner of Customs. The repackaging bill / preceding document is shared with the Partner State of destination and is referenced as a "manifest" for the transfer declaration. The repackaging bill / preceding document will contain at least:

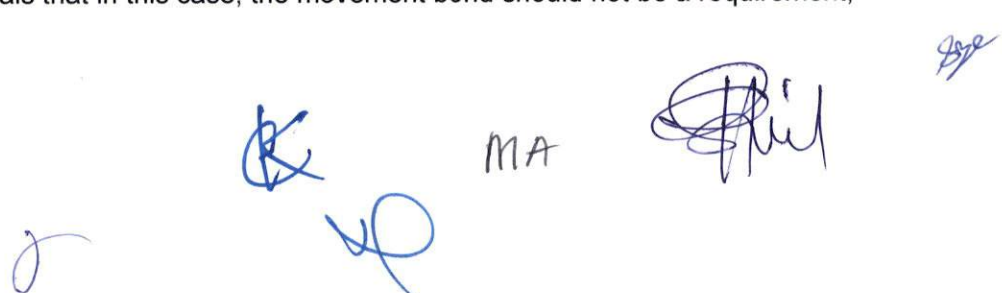
- The reference number of the original importation declaration including the item number
- HS Code, Quantities and weights to be transferred to the new destination Partner State
- The new destination Partner State.

It was agreed that due to the many other initiatives, Partner States will finalize the process by June 30th 2023.

3.2.3.2.2. Temporary Transfers (Including Temporary Transfer of Packaging / Containers and Motor-Vehicles / Personal Vehicles (C32))

The Committee on Customs was informed about the following concerns raised by the SCT TWGs regarding the temporary transfers process as contained in the SCT Procedure manual:

- The process provides that after the end of temporary stay, the declaration to return the goods to the original Partner State will be done in the Partner State of temporary stay. This will pose a valuation problem if there is value addition on the goods in the Partner State of temporary stay
- The manual provides that goods should be transported under a movement bond. However, the goods are already duty paid and they will be covered under CB10 at destination. There are proposals that in this case, the movement bond should not be a requirement;

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- If the goods move from one Partner State of temporary stay to another Partner State for another temporary stay, a re-export declaration will be done in the current Partner State as per the manual. However, a temporary importation declaration needs to be done in the new Partner State of temporary stay for purposes of bond coverage (CB10) which defeats the SCT principle of once declaration.

Given the above, the Committee on Customs directed that this process should be reviewed by 31st March 2023. This review will cover Temporary Transfer of Packaging / Containers and Temporary Transfer of Motor-Vehicles / Personal Vehicles (C32) processes as well.

The Committee on Customs however noted that the majority of temporary transfers are those that move directly between two Partner States without need to temporarily stay in another Partner State or moving to a third country. In the interim, it was decided that clearance of temporary transfers can be done as follows for goods that fall in this category:

- Declaration for temporary transfer to be done in the Partner State of destination
- Declaration for “re-transfer” to be done in the Partner State of transfer

During the meeting of the Committee on Customs, TRA informed the meeting that the enhancements to resolve the problem of intra-region transfers with KRA were deployed on 3rd November, 2022. Technical teams are monitoring the transmission to ensure the issue is completely resolved.

3.2.3.3. Imports

The Committee on Customs noted that the import processes are fully implemented under SCT. However, the following was also discussed:

- Need for notification of utilization of a Bill of Lading to be transmitted to the Partner State of entry – action by Partner states of destination.
- Need for notification of manifest amendments. This is especially important when there is need for change in the destination of the goods where the original and new destinations need to receive the amendment notifications – action by Partner states of entry. Currently, the original Partner State of destination is never notified of the change in destination and is left with unutilized BLs, which raises audit queries.
- The KRA still does not consume manifest from TRA. KRA committed to resolve the issues by 31st December 2022.

3.2.3.4. Transits

The Committee on Customs was informed that all enhancements and testing to support the transit processes were completed and deployed by URA, RRA and TRA. This means that it is possible for transit goods whose Partner State of first entry into EAC is either Uganda, Rwanda or Tanzania can be cleared under SCT procedures. However, due to the pending integration of KRA's iCMS with COMESA RCTG, transits whose first point of entry is Kenya cannot be cleared under the SCT. It was reported that KRA can complete the integration with COMESA RCTG by 15th November 2022. KRA can however, support transits whose first point of entry into EAC is other Partner states since the system can receive declarations and T1s for transit. The KPA system is also fully compliant and will support transit outwards. TPA is in the process of enhancing the Terminal Operating System and it is expected the functionality to support the SCT transit processes will be completed by 30th June 2023.

The Committee on Customs also observed that sensitization of stakeholders on the transit regime had not been finalized in the Central Corridor for borders of Rwanda and Burundi. It was agreed that this should be finalized by February 2023.

The Committee on Customs directed that transmission of Transit declarations and T1s to SCT CP for all transits should commence by 1st December 2022 for URA, RRA and TRA and 31st December 2022 for KRA. It was also agreed that by 31st March 2023, all Revenue Authorities should operationalize border exit confirmations and commence its transmission to other Partner States to facilitate bond acquittal. TPA should target 30th June 2023 for transmission of gate entry and vessel loading/departure notifications. In the meantime, it was agreed that the remaining sensitization should be undertaken only

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when the transmission has been achieved and has been operational for some time and it was agreed that this should be finalized by 28th February 2023.

3.2.3.5. Summary of Action Points on Rollout of Regimes

Senior officials considered the above commitments by the Committee on Customs and recommended to SCTIFI to direct the Revenue and Port Authorities to actualize the commitments within the agreed timelines as indicated in the table below.

TABLE 4			
Area	Action Point	Responsible	Timeline
Exports via Land borders	Complete Integration of ICMS with COMESA RCTG Platform to facilitate utilization of RCTG Bonds in ICMS	KRA	25th November 2022
	Commence transmission of declarations for exports through land borders	TRA	Done
Indirect Tea Exports	Commence Transmission of IM7 to facilitate transfer of Tea from other Partner State to a tea Transit Godown	KRA	31st December 2022
	Finalize enhancements in the systems of the Partner State of export to convert the IM7 received from the Partner State of exit into an export declaration	TRA, URA, RRA	31st December 2022
	Enhancement to allow sharing of re-export declaration with the Partner States of export should be completed	KRA	31st December 2022
	Sharing of vessel loading message with Partner States	KPA	31st December 2022
	Development of the message specification for the tea consolidation/blending matrix	KRA, EAC Secretariat	Done
	Validation of the message specification for the consolidation/blending matrix by Partner States ICT Teams	All Revenue Authorities, EAC Secretariat	15th December 2022
	Development of interfaces for electronic sharing of the consolidation/blending matrix with other Partner States	KRA	15th April 2023
	Testing and rollout of the blend matrix	All Revenue Authorities, EAC Secretariat	30th April 2023
	Enhancement of the systems of the Partner State of export to utilize the blend matrix and produce relevant reports	All Revenue Authorities, EAC Secretariat	30th April 2023
Temporary exports / re-	Enhancement of systems so that re-importation declarations can consume both the sea	All Revenue	31st March 2023

TABLE 4			
Area	Action Point	Responsible	Timeline
importation via sea,	manifest and preceding (temporary exportation) document	Authorities	
Direct Intra-Region Transfers	Deployment of the fix to resolve the remaining intra-trade issue between KRA and TRA (non-transmission of exit notes from KRA to TRA - caused by length of KRA declaration reference number)	TRA	Done
Transfer under drawback	Enhancements to support Transfers under drawback	All Revenue Authorities	30th June 2023
Temporary Transfers	Review of the Temporary Transfers process in the SCT Procedure Manual	All Revenue Authorities, EAC Secretariat	31st March 2023
Ex-Warehouse Transfers	Finalize testing of ex-warehouse transfers with other Partner States	KRA	30th November 2022
Imports	Finalize development work and testing to be able to consume manifests from TRA	KRA	30th November 2022
Transits	Commence transmission of Transit declarations and T1 to SCT CP for all transits	URA, TRA, RRA	1st December 2022
		KRA	31st December 2022
	Commence transmission of Port Gate Entry and Vessel Loading for transit outwards to SCT CP	TPA	30th June 2023
	Commence transmission of Border Exit Confirmations for transit inwards and inland transits to SCT CP	KRA, URA, TRA, RRA	31st March 2023

The Sectoral Council on Trade, Industry, Finance and Investment directed the Revenue and Port Authorities to roll out the above customs regimes under SCT within the agreed timelines as indicated Table 4 in 3.2.3.5 above (EAC/SCTIFI 41/ Directive 05).

3.2.4. Proposals for Harmonization of Customs Procedure and Regime Codes and Sharing of TINs / PINs

In pursuance of directives of the Committee on Customs held in April 2022, SCT and Tariff experts meeting held from 15th to 20th August 2022 in Kampala, Republic of Uganda developed proposals for harmonization of Customs Procedure and Regime Codes and sharing of TINs / PINs for intra-trade transfers. The proposals were validated by SCT Coordinators in their meeting held in October 2022.

When considering the proposals, The Committee on Customs noted that intra-trade declarations are done in the Partner State of destination which does not have access to TINs / PINs of exporters in the Partner State of export. This leads to transmission of a declaration without exporter/consignor TIN/PIN, which creates challenges in compilation of trade statistics and processing of refunds for domestic taxes among others.

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- The Committee on Customs therefore noted that sharing of TINS is long overdue for the following reasons;
- - It will resolve the missing trader problem: currently, the intra declarations do not contain the TIN / PIN of the consignor. Sharing of TINs will resolve the problem;
 - Due to lack of exporter TINs in the intra-transfer declarations, refund of domestic taxes that may be due after evidence of transfer to another Partner State is very difficult e.g., VAT refunds
 - It will allow Partner States to improve compilation of trader-based trade statistics

From the foregoing, The Committee on Customs agreed that Customs Systems should be enhanced to allow for validation of consignor TINs / PINs at the time of preparing the intra-region goods transfer declarations in the destination Partner State. The consignor TINs / PINs details will be exchanged between Partner States Customs Systems to facilitate the validation process. It was also proposed that to accommodate small traders who buy goods from many suppliers and declare them in one entry, a dummy TIN / PIN should be used.

The Committee on Customs further noted the challenges experienced in interpreting Customs declarations received from other Partner States due to variances in Customs regimes and procedure codes. *The Sectoral Committee on Customs:*

- adopted the proposal to share TIN / PIN details through the Customs Systems to facilitate their validation for intra-region transfer declarations and directed the technical teams to finalize the TIN / PIN exchange implementation by 31st March, 2023;*
- adopted the harmonized Customs regime and procedure codes shared under SCT for purposes of reconciliation as contained in Annex IV and directed the technical teams to finalize their implementation by 31st March 2023; and*
- adopted the proposed conversion guidelines for declarations received from other Partner States as contained in Annex V and directed the Revenue Authorities to enhance the Customs Systems by 30th June 2023.*

The Sectoral Council on Trade, Industry, Finance and Investments took note that Revenue Authorities will implement the agreed initiatives in order to harmonize Customs Procedure and Regime Codes and Sharing of TINs / PINs.

3.2.5. Other Long Standing SCT Issues

The Committee on Customs considered some long standing SCT issues on access rights to Customs Systems, rollout of the EAC electronic Certificate of Origin, implementation of the Regional AEO Identifier and electronic transshipment messages for change in the means of conveyance of goods cleared under SCT.

3.2.5.1. Granting of Access Rights to Customs Systems to Clearing and Forwarding Agents from Other Partner States

The Committee was informed that the KRA System had initially been designed to require PINs for all users or companies that would be granted access. This posed a challenge to the assigning of access rights to agents from other Partner States. KRA however confirmed that the requirement had now been bypassed for agents from other Partner States. The KRA therefore confirmed that granting access to ICMS is now possible subject to provision of relevant CFA details by the respective Commissioners of Customs and training of the agents. The meeting was also informed that the KRA had already engaged URA and TRA on modalities of conducting training for agents.

The following timelines were agreed for joint KRA/KPA training of agents

- Republic of Tanzania – November / December 2022.
- Republic of Rwanda - January 2023

TRA confirmed that it is possible to grant access to other agents and that it had already been done for agents from the Republic of Kenya and Republic of Rwanda. However, the meeting was informed that the system is designed in such a way that a user who does not use it for long is locked out. It was

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- agreed that RRA will write to the TRA Commissioner to request for training and granting access of agents from the Republic of Rwanda and re-activation of the expired TANCIS passwords of the RRA agents. The meeting also observed, given the long time that has lapsed since some of the agents were trained, there was a need for Revenue and Port Authorities to conduct fresh training for the agents who had been trained before.

The Republic of Kenya informed the meeting that progress has been made in addressing the issues of access rights for clearing agents. The Republic of Kenya further committed to undertake training within the agreed timelines and urged Partner States concerned to cooperate in submitting the lists of agents for training.

3.2.5.2. Rollout of The EAC Certificate of Origin

One of the key interventions under the Single Customs Territory (SCT) is the automation of the EAC Certificate of Origin. Partner States agreed to electronically exchange the EAC Certificate of Origin with the aim of ultimately completely removing the paper certificate.

The Committee on Customs was informed that to achieve this goal, the SCT Technical Working Groups agreed on a two-step process.

Step 1: Exchange of electronic data

The first step involves exchange of electronic data to allow for quick confirmation of the authenticity of the certificates presented in the destination Partner States.

The Committee recalled that Rwanda and Uganda Revenue Authorities commenced exchange of the electronic certificates of origin in 2018. The KRA and TRA can receive the certificates of origin but have not yet commenced transmission to other Partner States.

The KRA confirmed to the meeting that the necessary system developments to facilitate the transmissions were finalized earlier in the year. However, the end users are not yet using the module and requested to be given up to 31. Dec.2022 for change management processes to be undertaken.

The TRA reported that the delay is because the certificates of origin in the URT are issued by the Chamber of Commerce. The exchange therefore entails TRA receiving the Certificates of Origin from the chamber then transmitting to other RAs. TRA is not yet receiving from the Chamber and is therefore unable to transmit to other RAs. TRA committed to finalize engagements by 31st March 2023.

Step 2: Electronic Signing of Certificates of Origin

The second and final step will involve enhancements of the systems to allow for digital signing of certificates by appointed officers and exchange of the digitally signed certificates of origin. The step will remove the need for paper certificates or existing practice of exchanging manual specimen signatures.

3.2.5.3. Implementation of The Regional Authorized Economic Operators Identifier in SCT Consignments

The Committee on Customs noted that the ability of Revenue Authorities and other Cross Border Agencies to grant benefits to Authorized Economic Operators (AEOs) from other Partner States under the Regional AEO Programme is fully dependent on the following:

- (i) Transmission of AEO Identifier details in Customs declaration and exit notes / T1s shared under SCT**

The Committee was informed that RRA, URA and OBR are already transmitting the identifiers with the SCT data. The TRA committed to enforce by 31st March 2023 while the KRA committed to have it done by 31st December 2022.

- (ii) Marking of the AEO consignments with the Regional AEO Logo in user interfaces and printouts of Customs declaration and C2**

The Committee was informed that none of the Revenue Authorities are displaying the logo as required to ease identification of the declarations for purposes of granting benefits to the AEO. Revenue Authorities committed to undertake the enhancements to support visibility of the logo by 31st March 2023.

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In addition, it was agreed that there is a need for engagements to allow the Ports to receive AEO IDs via the customs release and exit note messages. This will allow the Port Authorities to accord privileges such as priority in queues for sealing and gate out / gate in. The secretariat was urged to facilitate this by 31st March 2023.

3.2.5.4. Transshipment Messages (for Change of Means of Conveyance)

The Committee on Customs was informed that Partner States had not yet implemented the transshipment message. This message notifies the other Partner states about any changes in the means of conveyance or container that takes place within its territory. It was reported that Lack of this notification delays cargo at borders and ports because the officers there have different sets of data from the actual and drivers have to provide evidence of approvals for transshipment e.g., payment slips etc.

It was also noted that Revenue Authorities have functionalities in their systems for capturing details of change in means of conveyance. However, the functionality is either not used by the officers or the notification to other Partner States is not transmitted. Partner States committed to fast-track implementation of this transmission as follows:

- URA, RRA and TRA – 30th November 2022
- KRA – 31st December 2022

3.2.5.5. Summary of Action Points on Long outstanding SCT issues

TABLE 5			
Area	Action Point	Responsible	Timeline
Granting System Access to CFAs	Conduct training of Clearing and Forwarding Agents in Tanzania	KRA, KPA	November / December 2022
	Conduct training of Clearing and Forwarding Agents in Rwanda	KRA, KPA	January 2023
EAC Certificate of Origin	Finalize internal processes to ensure transmission of electronic EAC Certificate of Origin to other Partner States	KRA	31st December 2022
	Finalize development of enhancements and other arrangements to ensure transmission of electronic EAC Certificate of Origin to other Partner States	TRA	31st March 2023
Implementation of The Regional Authorized Economic Operators Identifier in SCT Consignments	Transmission of AEO Identifier details in Customs declaration and exit notes/T1s shared under SCT	TRA	31st March 2023
		KRA	31st December 2022
	Marking of the AEO consignments with the Regional AEO Logo in user interfaces and printouts of Customs declaration and C2	All Revenue Authorities	31st March 2023
	Engagements to allow the Ports to receive AEO IDs via the customs release and exit note messages	EAC Secretariat, Port Authorities, Revenue Authorities	31st March 2023
Transshipment	Enhancement of systems to facilitate	URA, RRA and TRA	30th November 2022

TABLE 5			
Area	Action Point	Responsible	Timeline
Messages (for Change of Means of Conveyance)	transmission of notifications of change of means of conveyance to support all SCT Regimes	KRA	31st December 2022

Senior officials considered the above commitments by the Committee on Customs and noted that some of the action points above originate from directives of SCTIFI that have taken very long to achieve.

The Sectoral Council on Trade, Industry, Finance and Investment directed Revenue Authorities to implement the long outstanding SCTIFI SCT directives within the agreed timelines indicated in Table 5 of 3.2.5.5 above (EAC/SCTIFI 41/ Directive 06).

3.2.6. SCT Compliance and Enforcement

The meeting considered action points on mitigation measures on risks identified during the previous compliance and enforcement meeting and provided status as follows:

TABLE 6			
NO.	RISK	MITIGATION MEASURES	STATUS
1	Transit diversion	(a) Bilateral engagement between EAC and other non EAC bordering Countries	<ul style="list-style-type: none"> • URA, DRC and SS usually engage on a quarterly basis, especially on diversion. • RRA holds regular border management committee with DRC on a monthly basis • TRA – there are regular engagements with DRC, Zambia and Malawi • The EAC Partner States also engage on quarterly through the Joint Border Committees <p>The meeting noted that the outcome of these engagements should be shared with other Partner States to mitigate risks that may be associated with the frequency of diversions.</p>
		(b) Strengthen e-monitoring of transit;	There are regular engagements between URA/KRA/RRR. Have increased stock of eSeals. Smart Gates installed at Eldoret.
		(c) Facilitate RRUs along the route with the necessary enforcement tools;	RRUs are facilitated by improving and increasing their tools of work, increasing staff in both North and Central Corridors.
		3.0 A single transit declaration and bond guarantee for transit through the Partner States.	Systems have been enhanced and this will be rolled out with the SCT Transit regime as per the dates contained in the Transit regime rollout plan as contained in section 3.4 of this report.
		(d) The use of a single seal for EAC Partner States.	<p>Already in place in the Northern Corridor with an increase in the stock of eSeals. A seal armed at point of entry/departure is removed only at destination/exit.</p> <p>Interfacing of the North and Central Corridor ECTSs is at an advanced stage. Development and developer tests</p>

TABLE 6			
NO.	RISK	MITIGATION MEASURES	STATUS
			have been undertaken and now remains to undertake User Acceptance Testing.
2	Concealment	(a) Scanning and sharing findings (image analysis reports)	<p>KRA has a centralized scanning command center in Nairobi. There is already a dedicated TWG that is working toward sharing cargo scanner images and reports is ongoing between KRA and URA. This will be extended to other Partner States in due time.</p> <p>TRA has installed scanners at the Port (Dar, Mtwara and Tanga) and at Tunduma OSBP and is in the process of installing them at other key borders. Once the installation process is complete, engagements with other RAs will commence on sharing of images and reports.</p> <p>RRA is planning to acquire and install scanners.</p> <p>The meeting proposed that the Partner States that are ready can still share the images and relevant reports even as the rest work toward achieving this.</p>
		(b) Building strong intelligence network	<p>There is already a work arrangement between URA and KRA with a TWG responsible for enforcement including intelligence sharing. TRA conducts joint patrols and intelligence sharing with neighboring countries.</p> <p>The meeting noted that the outcome of bilateral intelligence engagements should be shared to feed into the regional SCT Compliance and Enforcement framework. This will minimize duplication of effort and investment in enforcement technologies by Partner States.</p>
		(c) Conducting controlled deliveries	This is already happening at the National level where contraband goods are monitored with a view of gathering as much intelligence as possible. This assists in breaking up criminal rackets. But there is a need to have a regional mechanism for this.
		(d) Develop an information exchange platform with source and destination countries.	Although there is sharing of customs and logistics information in form customs declarations, exit notes/T1 and arrival confirmations, there is no regional mechanism for sharing intelligence info electronically. Partner States should consider automating recording and sharing of intelligence information that touch on goods that move across.
		(e) Training on Strategic Goods Control	<p>Strategic goods are the dual-use goods, technology and software that can be used for both civilian and military applications, and/or contribute to the proliferation of Weapons of Mass Destruction.</p> <p>There is need to build capacity among Customs enforcement officers in the region</p>
		(f) Introduce K9 units in EAC	All Partner States reported that they have K9 units operated by the Police and deployed in key locations. KRA

TABLE 6			
NO.	RISK	MITIGATION MEASURES	STATUS
			has a K9 unit managed by Customs and has deployed some of these at the Airports in Nairobi.
4	Theft of goods in transit	(a) Working with security agencies (police and military) in the transit route	Customs Partners with police on surveillance, response and undertaking investigation when necessary.
		(b) Joint prosecution of offenders	

The meeting noted that the outcome of the respective engagements was not shared with other relevant Partner States and guided that it would be useful if such information is shared amongst relevant stakeholders for purposes appreciating the risks involved in cross-border transactions and mitigating risks that may be associated with the frequency of diversions.

The experts provided details of additional threats and interventions as follows:

TABLE 7		
Issues	Narrative	Existing Proposed Interventions
Dumping / Diversion of SCT Cargo	SCT transit cargo diverted into local market, and consignment arrive half full than they left the port	NII scanner system integration URA & KRA to facilitate image sharing. Regular Bilateral & TWGs engagements to discuss and resolve merging issues Integration with weighbridge with customs to enable customs receive weighbridge information Coordination regional RRUs and intelligence sharing
Theft of Exports of coffee, cocoa etc.	Coffee, Cocoa and Tea that are otherwise not risk in Ug are stolen while in transit to KE	Use of single transit document Harmonized list of risky items to guide regional risk targeting Compulsory electronic tracking for listed items
Managing Incidents e.g., transshipments	In case of accidents, and transshipment has been done notification of transit is done manually	Interfaces to enable the sharing notification of transshipment information
Partial Transshipment	When the goods are partially transshipped to another means of conveyance due to overweight problems after have exited the port, amendment to reflect the reality (goods carried by two trucks) not possible, we have to handle the situation administratively (effect manual amendments and require them to move under convoy or escort as a means to control the new introduced conveyance. The system does not allow the split of already created / processed documents. This causes a very big inconvenience to both customers and the Customs Administration.	Customs Systems should be enhanced to provide for partial transshipments
Recovery Of Taxes / Duties on Goods Declared Under IM4	The goods under IM4 regime destined to SCT member state are not guaranteed under RCTG modality, thus when dumping is confirmed,	The Partner State where the accident took place has the obligation to share with the Partner State of destination the incident reports for purposes of ensuring

TABLE 7		
Issues	Narrative	Existing Proposed Interventions
Regime	recovery of the government revenue is made through the Importer/CFA 's representative, not either directly to the importer or an insurance company, therefore it becomes very difficult and takes long time to complete recovery.	transparency and avoiding delays
Lack of Coordination Among RRUs	It is difficult to pass on any sensitive information noted in certain consignments destined to SCT partner member states that requires special attention	Among URA, KRA and RRA the RECTS RRU mobile application was updated with a functionality of alert transfer, which can be used to pass information to another RRU.
Bond In Force	In the event the cargo under warehousing regime is stolen the whole tax amount cannot be recovered due to insufficiency of BIF caused by non-harmonized valuation and variances in domestic tax rates	There is a need for uniform computation of BIF through harmonization of valuation and domestic tax rates.

The meeting commended the efforts by Partner States to engage bilaterally on matters of intelligence sharing and noted the need for the Secretariat to develop a framework that will enhance the regional approach on dealing with enforcement and risk management matters.

The Sectoral Council on Trade, Industry, Finance and Investment directed the Secretariat to develop a regional risk framework that will improve collection and collation of quality data for risk management and provide a structured process that integrates information and risk management activities by 30th June, 2023 (EAC/SCTIFI 41/ Directive 07).

3.3. TARIFF AND VALUATION

3.3.1. MEETING OF TARIFF EXPERTS

The meeting was informed that tariff experts met from 7th to 11th November, 2022 in Arusha, Tanzania. The experts considered among other proposals to delete the regional splits for inputs to manufacture dry cells batteries and palm oil tariff lines proposed to be collapsed, classification of three wheelers. The meeting further considered other tariff issues presented by the Republic of Uganda vide letters 222/226/01 of 9th August, 2022 and ADM 233/01 of 28th September, 2022 respectively on wire products of HS7213.91.10 and 7213.91.90.

The meeting was further informed that proposals to delete the regional splits for inputs to manufacture dry cells batteries and palm oil tariff lines proposed to be collapsed, classification of three wheelers have been presented in 2.0 above as matters referred by the Pre-Budget consultations meeting of the Ministers / Cabinet Secretary of Finance.

Other matters considered by the tariff experts are addressed hereunder.

3.3.1.1. CONSIDERATION OF TARIFF ISSUES PRESENTED BY THE REPUBLIC OF UGANDA VIDE LETTERS 222/226/01 OF 9TH AUGUST, 2022 AND ADM 233/01 OF 28TH SEPTEMBER, 2022 RESPECTIVELY ON WIRE PRODUCTS OF HS 7213.91.10 AND 7213.91.90

The Republic of Uganda vide the two above letters, wrote to the Chairperson of the Council of Ministers and the Secretary General EAC Secretariat requesting for policy review on wire rods classified under Hs Code 7213.91.10 and 7213.91.90.

According to the said letters, the Republic of Uganda is proposing that the duty rate for wire rods classified under HS Code 7213.91.10 be rescinded to 0% instead of 25% or US\$ 200 / MT whichever is higher. The proposal is premised on the fact that the item is a raw material to manufacture wire products and the region does not have sufficient quantity to meet the local demand.

The letters by the Republic of Uganda are hereto attached for ease of reference. The meeting considered the proposal by the Republic of Uganda and observed the following:

- (i) There is high potential risk of revenue loss by having a lower rate for tariff 7213.91.10 and 7213.91.90;
- (ii) The duty rate on the two tariff lines was made in order to address issues of misclassification that could arise if the two tariff lines had different rates;
- (iii) It is difficult for customs to verify measurements / diameter of imported consignments thus will mostly rely on importation documents submitted by importers;
- (iv) Analysis of importation data has revealed that there are importations of the two tariff lines by people who are not manufacturers;
- (v) The two tariff lines covers a wide range of products other than wire rods which can be sold as finished products i.e., without undergoing any process a good example being iron bars which are used in concrete reinforcement;
- (vi) Manufacturers enjoy regional remission on tariff line 7213.91.10 at a duty rate of 0% with effect from 1st July, 2022;
- (vii) Manufacturers also use products classified under tariff line 7213.91.90 as a raw material to manufacture wire products;
- (viii) The duty rate for the two tariff lines be maintained; and
- (ix) There is a need to grant regional remission on tariff line 7213.91.90 at a duty rate of 0% to manufacture wire products.

The meeting considered the proposals to maintain rates of 7213.91.10 and 7213.91.90 and noted that given the risk to revenue, the rate be maintained at 25% or US\$ 200 / MT whichever is higher. The meeting agreed that duty remission be granted on tariff line 7213.91.90 to manufacturers of wire products since it is an input in the manufacturing process.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) maintained the duty rate of 25% or US\$ 200 / MT whichever is higher for tariff lines 7213.91.10 and 7213.91.90 (EAC/SCTIFI 41/ Decision 06); and**
- (b) granted a regional remission at a duty rate of 0% on tariff line 7213.91.90 to manufacturers of wire products effective from the 15th December, 2022 (EAC/SCTIFI 41/ Decision 07).**

3.3.1.2. CONSIDERATION OF OTHER TARIFF RELATED MATTERS

During the implementation of the EAC CET 2022 version, Partner States have identified misalignment / errors on the Regional Split which need to be addressed as highlighted in the table below:

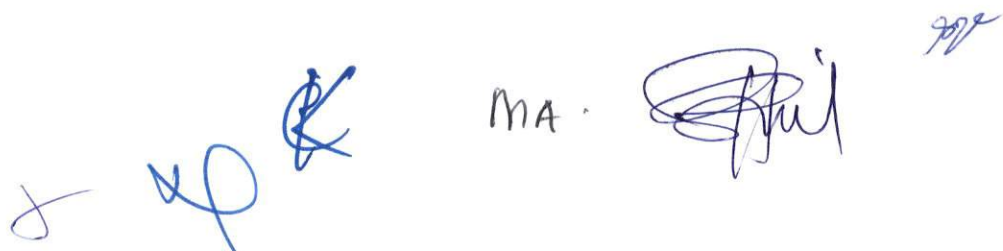


TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
1.	25.01 - Salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqueous solution or containing added anti-caking or free-flowing agents; seawater.	Provide the regional split for sea water - Salt and pure sodium chloride; seawater 2501.00.10 --- Raw Salt 2501.00.20 --- Sea water 2501.00.90 --- Other	Alignment with the Nomenclature	There is a need to provide a regional split for sea water since it is provided at heading level. Sea water is a raw material to manufacture salt It is proposed that the item be assigned a duty rate of 25% The meeting considered the recommendation to add a tariff line sea water in order to align to the WCO Nomenclature. However, it was noted that the region has an abundance of sea water and thus recommended that the applicable rate be at 25%.	Split Heading 25.01 as follows: - Salt and pure sodium chloride; seawater 2501.00.10 --- Raw Salt - 25% 2501.00.20 --- Sea water - 25% 2501.00.90 --- Other - 35%
2.	21.06 - Food preparations not elsewhere specified or included	Correct the regional split as follows: 2106.10.00 - Protein concentrates and textured protein substances - Other: 2106.90.10 --- Specially prepared for infants 2106.90.20 --- Preparations of a kind used in manufacturing of beverages and food 2106.90.30 ---	Alignment with the Nomenclature	Need to clean up the regional split Delete --- Other The meeting considered the proposal and adopted the recommendation	(a) Delete --- Other (b) Correct the regional split as follows: 2106.90.10 --- Specially prepared for infants 2106.90.20 --- Preparations of a kind used in manufacturing of beverages and food 2106.90.30 --- Food supplements 2106.90.40 --- Mineral premix used in fortification 2106.90.90 --- Other

TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
		Food supplements 2106.90.40 --- Mineral premix used in fortification 2106.90.90 --- Other			
3.	Matching sub-divisions of Heading 76.12 (Aluminium casks, drums, cans, boxes and similar containers) and 73.10 (Tanks, casks, drums, cans, boxes and similar containers)	Split Tariff Heading 76.12 to similar articles of Tariff Heading 73.10 7612.90.10 --- Aerosol cans 7612.90.20 --- Cans and ends for beverages and food 7612.90.90 --- Other	Harmonizing duty rates of similar articles of base metal i.e., Aerosol cans Harmonizing duty rates of similar articles of base metal i.e., Aerosol cans Aerosol cans are intermediate products attracting two different rates depending on the material content. Those made of base metal are classified under tariff line 7310.29.10 attracting 10% while for similar items made up of aluminum are classified under 7612.90.90 attracting 25%. The Explanatory Note to heading 7612 states that the provisions of the Explanatory Note to heading 7310 also apply, <i>mutatis mutandis</i> , to this heading.	There is a need to align the duty rate for similar items i.e., aerosol cans made of aluminum with those of base metals at 10%. These are input in the manufacturing of insecticides, perfumes, air fresheners etc. Assigning different rates on similar items creates implementation challenges and add cost to manufacturers who are using aluminum aerosol cans as they are currently paying 25% The meeting considered the proposal and adopted the recommendation	Align the structure of Heading 76.12 with 73.10 as follows: 7612.90.10 --- Aerosol cans – 10% 7612.90.20 --- Cans and ends for beverages and food – 0% 7612.90.90 --- Other – 25%
4.	8423.89.90 --- Other	Delete the subheading	It is a regional split and thus a need to provide clarity on products classified under the tariff line	The meeting observed the following: Tariff line 8423.89.90 is redundant as it is not clear on products are to be classified therein. The collapsing of tariff line 8423.89.90 will necessitate reverting back to the WCO nomenclature since there will be no need of maintaining 8423.89.10. Analysis on importation data from the Customs	(a) Revert to WCO nomenclature by collapsing tariff lines 8423.89.10 and 8423.89.90; (b) have the products classified under – Other 8423.89.00; and (c) Assign a duty rate of 0% for tariff line 8423.89.00

TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
				<p>Administration system has revealed that there are few declarations cleared under the tariff line. Further analysis has established that the few entries were misclassified since the products imported were having a maximum weight not more than 30 kgs which are properly classified under 8423.81.00 attracting the same duty rate of 10%.</p> <p>There is need to collapse the two tariff lines under – Other and revert back to WCO nomenclature (8423.89.10 and 8423.89.90)</p> <p>The products will be classified under – Other attracting a duty rate of 0%.</p> <p>The meeting considered the proposal and adopted the recommendation</p>	
5.	4421.20.00 - Coffins	Increase the duty rate to 35%	<p>The subheading was introduced by the HS 2022 version</p> <p>The product meets the criteria for classifying goods under the 4th band adopted by Partner States i.e., Strategic in terms of revenue collection, need to protect the existing industries wood and timber. The product is sufficiently available, and Partner States do not import them from the rest of the world.</p>	<p>The products are sufficiently available in the region.</p> <p>There is need to protect local manufacturers of coffins</p> <p>The meeting considered the proposal and adopted the recommendation noting the need to protect artisanal workers in the region which were capable to make coffins locally</p>	Increase the duty rate to 35%
6.	1701.99.10 Sugar for Industrial Use	Amend the description to read White refined sugar (For industrial use)	<p>There is implementation challenge where by both raw sugar and white refined sugar (sugar for industrial use) are declared under tariff line 1701.99.10 and enjoy a remission of duty at 10% on a claim that they will be used in the manufacturing process</p>	<p>The Council decided that manufacturers will import sugar for industrial use classified under tariff line 1701.99.10 under duty remission at a duty rate of 10% refer to decision EAC/CME/07/Decision 26</p> <p>We have manufacturers importing brown and white refined sugar and classify them under tariff line 1701.99.10. They argue that they are right to classify the brown/raw sugar under the tariff line as it is going to be used in the manufacturing process e.g., beer, confectionaries. This poses a big challenge considering the fact there are no regional notes to guide</p>	Amend the description of tariff line 1701.99.10 to read <i>White refined sugar (for industrial use) "</i>

TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
				<p>implementation. Furthermore, the description presupposes that the item to be classified based on its usage.</p> <p>There is need to provide clarity on the description of tariff line 1701.99.10 "<i>White refined sugar (for industrial use)</i> " This will address the problem of classifying sugar based on the usage.</p> <p>The meeting considered the proposal and adopted the recommendation.</p>	
7.	6402.19.00 6403.19.00 6403.51.00 6404.19.00 6404.20.00 6405.20.00 6405.90.00 Footwear	Increase the duty rate to 35%	<p>From 1st July, 2022 when the region started implementing revised EAC CET 2022 version, Customs has experienced shift in declarations to the mentioned tariff lines since they have a lower rate of 25% compared with other tariff lines falling under the 4th band (35%)</p>	<p>The shift is motivated by the fact that low duty rates are assigned to similar products with different material composition</p> <p>Customs can only confirm accuracy of the declaration through physical verification which is contrary to the initiative of fast-tracking clearance through application of Risk Management measures.</p> <p>Need to safeguard government revenues</p> <p>The meeting considered the proposal and adopted the recommendation.</p>	<p>Increase a duty rate to 35% on tariff lines :</p> <p>6402.19.00 6403.19.00 6403.51.00 6404.19.00 6404.20.00 6405.20.00 6405.90.00</p>
8.	72.17 Wire of iron or non-alloy steel	Increase the rate to 25%	<p>These are produced from hot-rolled bars and rods of heading 72.13 which attract a duty rate of 25% or USD 200/MT whichever is higher</p>	<p>Need to correct the inconsistency of having final products attracting a lower rate compared to its raw material.</p> <p>Explanatory Notes of heading 72.17 states that wire is produced from bars and rods classified under heading 72.13 by drawing them through a die but may also be obtained by any other cold-forming process (e.g., cold-rolling)</p> <p>Those used as input by:</p> <p>Manufacturers of tyres tariff line 7217.30.10 to be granted regional duty remission at a duty rate of 0%</p> <p>Manufacturers of wire products, needles, springs, rope, pins, nails, electric cables tariff lines 7217.10.00, 7217.20.00, 7217.30.90 and 7217.90.00 to be granted</p>	<p>(a) Increase the duty rate to 25%;</p> <p>(b) Grant regional remission to tariff line 7217.30.10 to manufacturers of tyres at a duty rate of 0%; and</p> <p>(c) Grant regional remission on tariff lines 7217.10.00, 7217.20.00, 7217.30.90 and 7217.90.00 to manufacturers of wire products, needles, springs, rope, pins, nails, electric cables a duty rate of 10%.</p>

TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
				remission at a duty rate of 10%. The meeting considered the proposal and adopted the recommendation	
9.	2106.90.10 Specially prepared for infants	Increase the duty rate to 25% Amend the description to add the words "and young children" after the word infants	Harmonizing duty rates of similar products classified under 1901.10.00. There is potential risk of revenue loss since there are similar items under 1901.10.00 which have a higher rate of 25%	The Explanatory Notes of heading 19.01 provides for preparations in powder or liquid form used as foods suitable for infants or young children for dietetic purposes. There have been implementation challenges in terms of misclassification of goods falling under Headings 21.06 and 19.01 largely due to lack of regional notes to guide implementation. Many importers have been classifying preparations of infants under tariff line 2106.90.10 and pay a lower rate of 10% instead of 1901.10.00 which attracts 25% even though the Explanatory Notes are clear that such items are to be classified under Heading 19.01. Need to align the duty rate on similar products to avoid misclassification There is need to amend the description to include the and young children in line with the description provided by the terms of Sub - Heading 1901.10.00 The meeting considered the proposal and adopted the recommendation	(a) Increase the duty rate to 25%; and (b) Amend the description to read " <i>Specially prepared for infants and young children</i> "
10.	3820.00.00 Anti-freezing preparations and prepared de-icing fluids.	Increase the duty rate to 25%	Harmonizing duty rates of similar products classified under Heading 27.10 which attract a duty rate of 25%	It was observed that: There are implementation challenges because of different tax rates on similar products classified under tariff line 2710.19.56 attracting 25% while those under 3820.00.00 attract 10%. A good example is anti-freezing coolants. De - icing fluids which are imported by airline companies are eligible for exemption under the 5th Schedule of the EACCMA, 2004 therefore the increase will have no impact on airline operators. Customs Administrations classify anti freezing coolants	Increase the duty rate to 25%

TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
				in different Headings i.e., 27.10 and 38.20 which have different duty rates. The meeting considered the proposal and adopted the recommendation	
11.	7317.00.00 Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading 83.05) and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper.	Increase the duty rate to 35%	The raw materials classified under Heading 72.13 attract 25% or USD 200/MT whichever is higher Address inconsistency	The following were observed: There is need to address misalignment of the duty rates Currently, raw materials are attracting the same rate with finished products There is a need to incentivize local production of the products by having a different rate between raw materials and the finished products. Five Partner States who are implementing the CET have requested for a stay of application of the EAC CET rate and apply a higher rate suggesting that the current rate is not adequate enough to protect the local industries. (ref. Legal Notice EAC/118/2022 of 30 th June, 2022 item 169) Need to safeguard government revenues The meeting considered the proposal and adopted the recommendation	Increase the duty rate to 35%
12.	3921.90.10 Unprinted	Reduce the rate to 10%	Correct the error The regional split was done in order to differentiate the duty rate for unprinted and printed	It was observed the structure of heading 39.21 provides for the two forms other and unprinted It was agreed to split the tariff split to provide for printed at 25% and unprinted at 10% The meeting considered the proposal and adopted the recommendation	Reduce the rate to 10%
13.	7613.00.00 Aluminum containers for compressed or	Harmonize the duty rate for the two tariff lines	These are similar items made of different materials but attract different duty rate	Tariff line 7613.00.00 attracts 10% while 7311.00.00 attracts 0%. In the current Financial Year Kenya and Uganda were granted stay of application of the EAC CET rate of 0% on Liquefied Petroleum Gas Cylinders and apply a duty	direct the EAC Secretariat to undertake a study on the regional needs of the products under tariff lines 7613.00.00 and 7311.00.00 on availability, import and local production to inform policy organs on appropriate measures to be considered.

TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
	liquefied gas 7311.00.00 Containers for compressed or liquefied gas, of iron or steel			<p>rate of 35% for one year.</p> <p>The region promotes the use of LPG to reduce deforestation</p> <p>For tariff line 7613.00.00 all Partner States are applying the CET rate of 10%</p> <p>There is a need to seek guidance on what should be the harmonized rate for the two tariff lines which attract 0% and 10%.</p> <p>The United Republic of Tanzania noted the importance of safeguarding the environment, whereas per studies conducted there were unable to recommend a rate increase for the noted products.</p> <p>The Republic of Kenya noted that there is investment in Kenya on production of the product and pleaded for other Partner States to join Kenya and Uganda to protect the local investors in the EAC.</p> <p>Partner States recommended that the matter be referred back to experts for a regional study to be done on the EAC needs of the product and availability thereof prior to any new measures being considered.</p> <p>The meeting considered the proposal and recommended that further analysis be undertaken on the regional needs of the product and availability thereof prior to any new measures considered.</p>	
14.	8703.80.00 Other vehicles, with only electric motor for propulsion	Split in order to provide tariff line unassembled at 0% and others at 25%	There are assembling operations of electric motor vehicles within the region	<p>The structure of Chapter 87 provides for unassembled motor vehicles at 0% and others at 25%</p> <p>There is need to provide for a tariff line for unassembled in order to promote assembly operations of such vehicles within the region</p> <p>The meeting considered the proposal and adopted the recommendation. The meeting further recommended that Tariff Experts Consider other possible categories and provide splits where they also are electrically propelled.</p>	<p>Split 8703.80.00 as follows:</p> <p>- Other vehicles, with only electric motor for propulsion</p> <p>8703.80.10 --- Unassembled – 0%</p> <p>8703.80.90 --- Other - 25%</p>

TABLE 8

SN	HS Code	Proposal	Justification	Discussions	The Sectoral Committee on Customs recommends to the Sectoral Council on Trade, Industry, Finance and Investments to:
15.	0802.11.00 Almonds in shell	Increase the rate to 35%	Align the duty rate with 0802.12.00	The rate for shelled and in shell for this Chapter is uniform 35% Need to correct inconsistencies appearing in some tariff lines The meeting considered the proposal and adopted the recommendation.	Increase the rate to 35%
16.	0802.22.00 Hazelnuts or filberts (Corylus spp.) Shelled	Increase the rate to 35%	Align the duty rate with 0802.21.00	The rate for shelled and in shell for this Chapter is uniform 35% Need to correct inconsistencies appearing in some tariff lines The meeting considered the proposal and adopted the recommendation.	Increase the rate to 35%
17.	0802.61.00 Macadamia nuts in shell	Increase the rate to 35%	Align the duty rate with 0802.61.00	The rate for shelled and in shell for this Chapter is uniform 35% Need to correct inconsistencies appearing in some tariff lines The meeting considered the proposal and adopted the recommendation.	Increase the rate to 35%
18.	2001.10.00 Cucumbers and gherkins	Increase the rate to 35%	Align the duty rate with similar vegetables in the heading These are vegetables which are available in the region in sufficient quantity	There is need to increase the rate to align with similar products of this heading e.g., tomatoes, potatoes, mushrooms, peas, beans etc. The meeting considered the proposal and adopted the recommendation.	Increase the rate to 35%

The Senior Officials considered the recommendations by the Sectoral Committee on Customs and guided that the proposals to increase the duty rate to 35% for specified items in table 8, be presented to the Ministers / Cabinet Secretary for Finance during the Pre Budget Consultations for consideration and adoption prior to gazettment and implementation.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) adopted the proposed splits on the tariff lines in Table 8 above (*EAC/SCTIFI 41/ Decision 08*);
- (b) directed that proposals to increase the duty rate to 35% as per Table 8 be presented to the Ministers / Cabinet Secretary for Finance (*EAC/SCTIFI 41/ Directive 08*);
- (c) directed that the changes in description of tariff lines in Table 8 above take effect from 1st July, 2023 (*EAC/SCTIFI 41/ Directive 09*);
- (d) directed the EAC Secretariat to gazette the proposals for tariff splits for headings 87.03, 84.23 and 76.12 by 15th December 2022 (*EAC/SCTIFI 41/ Directive 10*); and
- (e) directed the EAC Secretariat to undertake a study on the regional needs of the products under tariff lines 7613.00.00 and 7311.00.00 on availability, import and local production (*EAC/SCTIFI 41/ Directive 11*).

3.3.1.3. IDENTIFICATION AND CORRECTION OF ALL TYPOGRAPHICAL ERRORS IN THE EAC CET 2022 VERSION

The experts proofread the EAC CET 2022 version with the aim of removing typographical errors and omissions. The errors were identified and corrections made in the EAC CET 2022 version. They further, refined and addressed layout issues contained therein. The updated EAC CET is hereto attached as *Annex V*.

The meeting was informed that the exercise of identifying errors in the revised EAC CET 2022 is still ongoing and publication in hard copies will be undertaken by January 2023 after which the Secretariat will distribute hard copies to Partner States.

3.3.1.4. CONSIDERATION OF PRODUCTS THAT CAN BE MOVED TO THE MAXIMUM CET RATE (35%)

The experts observed that the region is implementing the EAC CET 2022 version from 1st of July, 2022 which has introduced the 4th band of 35%. The meeting noted that there are products which can be considered by Partner States to be moved to the maximum CET rate. This includes live animals - cows, goats, sheep, fish, cassava, natural honey. It was agreed that Partner States need to undertake consultations and identify additional products to be categorized under the maximum CET rate. The list of the proposed products is herewith below;

TABLE 9			
SN	HS CODE	DESCRIPTION	PROPOSAL
1	Chapter 3	Fish and crustaceans, molluscs and other aquatic invertebrates (225 Tariff Lines all at 25% import duty rate)	The whole chapter to be moved into 4 th band due to capacity in the Region
2	0102.29.00	Other	Move to 4 th band due to capacity in the Region
3	0102.39.00	Other	
4	0102.90.90	Other	

3.3.2.1.1. Analysis of bulletins for motorcycle tyres, powdered milk, photocopy paper and smart cards

3.3.2.1.1.1. Table 10: Motorcycle Tyres of HS Code 4011.40.00

TABLE 10						
SN	PERIOD	AVERAGE FOB - USD / PC		START DATE	END DATE	% CHANGE
		DECLARED VALUE	ASSESSED VALUE			
1	Pre validation	5.79	6.28	01.01.2019	30.06.2019	8.5%
2	Post validation	6.96	7.26	01.07.2019	01.12.2019	4.3%

The following are the findings:

- In the period under review, as per the bulletin developed on 28th June, 2019 on motorcycle tyres, the minimum unit FOB value was USD 3.15 per piece whereas the maximum was USD 11.5 per piece. These represented an average of USD 6.25 per piece.
- The average declared value has risen from FOB USD 5.79 to USD 6.96 per piece. The assessed average value has also increased from FOB USD 6.28 to USD 7.26 per piece which is within the values as recommended in the developed bulletin.
- The percentage increase in adjustments made has fallen from 8.5% before development of the bulletin to 4.3 % after its implementation implying improved compliance by declarants. It was observed that there is an increase in intra trade on the products as Partner States source mainly from Uganda as compared to the past.
- Developed bulletin has a positive impact in terms of revenue collection among Partner States.

3.3.2.1.1.2. Table 11: Powder Milk of HS Code 0402.10.00

TABLE 11						
SN	PERIOD	AVERAGE FOB – USD / KG		START DATE	END DATE	% CHANGE
		DECLARED VALUE	ASSESSED VALUE			
1	Pre validation	3.82	4.68	01.09.2020	28.02.2021	22.5%
2	Post validation	3.69	5.86	01.03.2021	31.08.2021	58.7%

The following are the findings:

- In the period under review, as per the bulletin developed on 23rd February, 2021 on powder milk, the minimum unit FOB value was USD 2.03 per kilogram while USD 6.39 per kilogram was the maximum. These represented an average of USD 5.16 per kilogram.
- During the period under review, the average declared value has remained within the same level of FOB USD 3.69 to USD 3.82 per kilogram. However, the assessed average value has increased from FOB USD 4.68 to 5.86 USD per kilogram which is within the values recommended in the bulletin.

- (c) It was observed that the item falls under the sensitive list with a duty rate of 60% which may be the cause of under declaration; and
- (d) The bulletin has a positive impact on revenue collection.

3.3.2.1.1.3. Table 12: Photocopy Paper of HS Code 4802.56.00

TABLE 12						
SN	PERIOD	AVERAGE FOB – USD / KG		START DATE	END DATE	% CHANGE
		DECLARED VALUE	ASSESSED VALUE			
1	Pre validation	0.87	0.91	01.09.2020	28.02.2021	4.6%
2	Post validation	0.86	1.00	01.03.2021	31.08.2021	16.5%

The following are the findings:

- (a) In the period under review, as per the bulletin developed on 23rd February, 2021 on photocopy paper, the minimum unit FOB value was USD 0.69 per kilogram whereas USD 1.5 per kilogram was the maximum. These represented an average of USD 0.81 per kilogram.
- (b) The average declared value has remained at FOB value of USD 0.86 to USD 0.87 per kilogram. However, the assessed average value has increased from FOB USD 0.91 to 1 USD per kilogram. It was noted that the value recommended in the bulletin is within 15% of the highest value currently assessed, which is deemed acceptable within the limits of valuation principles.
- (c) The percentage increase on adjustments made has risen from 4.6% before the bulletin was developed to 16.5% after its implementation.
- (d) The bulletin has a positive impact on revenue.

3.3.2.1.1.4. Table 13: Smart Cards of HS Code 8523.52.00

TABLE 13						
SN	PERIOD	AVERAGE FOB - USD / PC		START DATE	END DATE	% CHANGE
		DECLARED VALUE	ASSESSED VALUE			
1	Pre validation	0.50	0.53	01.09.2021	28.02.2022	6.9%
2	Post validation	0.70	0.70	01.03.2022	31.08.2022	-0.7%

The following are the findings:

- (a) In the period under review, as per the bulletin developed on 22nd February, 2022 on smart cards, the minimum unit FOB value was USD 0.35 per piece whereas the maximum value was USD 3.03 per piece. The average value stood at USD 1.48 per piece.
- (b) The average declared value has increased from FOB USD 0.50 to USD 0.70 per piece. The assessed average values have also increased from FOB USD 0.53 to 0.70 USD per piece. It is noted that the range of values recommended in the bulletin are within the average assessed values. Smart Cards are complex items to value as are affected significantly by technological advancements, whose value depends on among others; capacity, size, personalization.

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- (c) The percentage decrease in adjustments does not mean undervaluation as average values have risen, however complexities of the product may indicate negative trend in value or percentage changes when averaged due to the complex nature of the Smart Cards.
- (d) The values assessed are within the range of the bulletin and have indicated positive impact in the value declared.

The meeting established that Bulletins have a positive effect on revenue collection, that there is an increase on assessed average values especially on powder milk which falls under the sensitive list; and there is percentage increase on the adjusted values across the board.

3.3.2.2. Development of Product Identification Bulletins

The experts validated Product Identification Bulletins for beer, roofing sheets and automotive batteries. The adopted bulletins have been uploaded in the EAC website and can be accessed on <http://www.eac.int/documents/category/product-identification-bulletin>.

The meeting further submitted and agreed to research on three new products namely; Welding electrodes of HS Code 8311.10.00, 8311.20.00, 8311.30.00 and 8311.90.00; Padlocks and locks of HS Code 8301.10.00, 8301.30.00 and 8301.40.00 and Synthetic oils of HS Code 3403.19.00 and 3403.99.00. The meeting further agreed to research and update values for MDF, Plywood & Blockboards of HS Code 4411.12.00, 4411.13.00 and 4411.14.00

The meeting further agreed on the following timelines:

- (a) Secretariat to share the template for data submission by 23rd October, 2022;
- (b) Partner States to submit research findings by 15th December, 2022;
- (c) Secretariat to consolidate and share the consolidated findings by 21st January, 2023; and
- (d) Validation of the research findings by the 28th February, 2023.

The meeting reiterated the need for Partner States to observe the following when submitting their research findings:

- (a) The currency in research findings should be in United States Dollars;
- (b) The unit of measure (UOM) in research findings should be as provided in The EAC CET (as far as it is practicable);
- (c) The incoterm in research findings should be FOB; and
- (d) The data to be submitted in the adopted format.

3.3.2.3. Criteria to Determine Used Motor Vehicles

The meeting discussed the need for the region to have uniform treatment on used motor vehicles. The experts agreed on the criteria which should be considered when determining used vehicles imported into the region for Customs valuation purposes. It was observed that the criteria will complement what is currently in practice. The meeting agreed on the following criteria:

- (a) Motor vehicles models imported within 12 months from the date of manufacture are deemed brand new and shall be valued as such.
- (b) For new motor vehicles which have overstayed in the bonded warehouses in the Partner State are considered brand new and valuation will be based on the value assessed at the time of warehousing.
- (c) For new motor vehicles which have overstayed in the bonded warehouses and are transferred to any of the Partner States, they are considered brand new and valuation will be based on valuation as guided by Section 122 of the EACCMA 2004.
- (d) Motor vehicles that have been registered and deregistered for export will be considered as used.
- (e) Motor vehicles inspected for road worthiness at the country of export or require inspection at the destination will be considered as used.

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The experts agreed that for all used motor vehicles, the harmonized EAC depreciation schedule should apply.

3.3.2.4. Update On the Regional Database of Used Motor Vehicles

The Secretariat provided an update on the Regional Database of used motor vehicles noting that the Regional Database of used motor vehicles is a key element towards implementation of the valuation methodology of used motor vehicles which was adopted by SCTIFI in May, 2015.

The Region has not been able to implement the adopted methodology due to the absence of the database of the FOB value of motor vehicles when new. Attempts to secure data from vendors were not successful. The Secretariat further approached Japan Customs who indicated there is a need for the region to conclude the Mutual Administrative Agreement (MoU). Once the MoU is concluded, then Japan Customs will start sharing transaction values for export destined to the region including motor vehicles. It was observed that the Republic of Rwanda is implementing the methodology from April, 2016 and has been updating her data base on an annual basis. The experts were of the view that Partner States could pilot the system using data developed by the Republic of Rwanda. It was further agreed that, since there are more assemblers / car dealers in Kenya than in other Partner States, the Republic of Kenya (Kenya Revenue Authority) engages the assemblers / car dealers with a view of obtaining FOB values of motor vehicles when new.

The experts agreed that in developing a regional database for used motor vehicles, the following should be the parameters:

- (i) Make (Brand descriptions such as Toyota Allex);
- (ii) Chassis model / Frame;
- (iii) Engine Capacity (CC / HP);
- (iv) Traction (e.g., 2WD, 4WD, AWD, 4 x 2, 6 x 2 and so on);
- (v) Vehicle Trim (GX, GX-R, VX, VX-R, TX, TXL, VXL, AX etc.);
- (vi) Year of Manufacture;
- (vii) Body type and Number of Doors;
- (viii) Fuel Type;
- (ix) Transmission (Automatic / Manual / Continuous Variable Transmission
- (x) Gross Motor Vehicles Weight;
- (xi) Number of Passengers / seats; and
- (xii) FOB Price when new.

The meeting considered the update and agreed that the Republic of Rwanda is to share with the Secretariat the data of the FOB values of used motor vehicles when new by 30th October, 2022 and the Secretariat is to circulate them to Partner States by 15th November, 2022; and that the Republic of Kenya engages car dealers / assemblers operating in Kenya and requests for values of the respective models when new by 30th October, 2022.

The Experts recommend to the Sectoral Committee on Customs to;

- (i) take note of the findings on the effectiveness of the developed bulletins and direct experts to undertake analysis of the remaining bulletins to assess their effectiveness;
- (ii) take note of the progress made in developing Products Identification Bulletins, direct Partner States and the Secretariat to adhere to the agreed timelines for data submission, consolidation and validation of bulletins;
- (iii) adopt criteria to determine used vehicles;
- (iv) urge the Republic of Rwanda to share with the Secretariat the data of the FOB values of used motor vehicles when new by 30th October, 2022;
- (v) progress and direct the Secretariat to share with Partner States by 15th November, 2022; and

- (vi) urge the Republic of Kenya to engage car dealers / assemblers' requests for values of the respective models when new by 30th October, 2022.

The Sectoral Committee on Customs took note of the findings on the effectiveness of bulletins and urged experts to undertake analysis of the other bulletins developed to assess their effectiveness.

It was reported that the Republic of Rwanda submitted to the Secretariat the data of the FOB values of used motor vehicles when new. The Secretariat is analyzing the data and will share with Partner States by 21st November, 2022.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) directed Partner States and the Secretariat to adhere to the agreed timelines for data submission, consolidation and validation of bulletins (*EAC/SCTIFI 41/ Directive 13*);
- (b) adopted criteria to determine used vehicles (*EAC/SCTIFI 41/ Decision 09*);
- (c) directed the Secretariat to share with Partner States data of the FOB values of used motor vehicles when new submitted by the Republic of Rwanda by 15th December, 2022 (*EAC/SCTIFI 41/ Directive 14*); and
- (d) urged the Republic of Kenya to engage car dealers / assemblers' and request for values of the respective models when new by 31st December, 2022 and submit feedback to the Secretariat by 30th December, 2022 (*EAC/SCTIFI 41/ Directive 15*).

3.3.3. JOINT ON THE SPOT INVESTIGATION FOR EDIBLE OILS, STEEL PRODUCTS, WOODEN BOARDS AND TEXTILE ARTICLES MANUFACTURED IN THE UNITED REPUBLIC OF TANZANIA

The Committee was informed that Kenya and Tanzania Revenue Authorities conducted a Joint On-the-Spot Investigation for edible oils, steel products, textile articles, tomato fruit-based products and artificial human hair produced in the United Republic of Tanzania from 5th to 17th September, 2022. The joint investigation was conducted by a team of Experts from the Republic of Kenya, United Republic of Tanzania and the EAC Secretariat.

The objective of the Joint On-the-Spot Investigation mission was to determine the origin of edible oils, steel products and textiles articles manufactured in the United Republic of Tanzania and transferred to the Republic of Kenya. The team also investigated additional products produced in the United Republic of Tanzania namely tomato-fruit based products and artificial human hair to establish the extent of transformation and ascertain if they qualify for preferential tariff treatment in accordance with the provisions of the EAC Rules of Origin, 2015. In addition, the team visited two whole sellers of steel products in Arusha.

The specific process followed is as stated hereunder:

- (a) Visiting the premises of the manufacturers, walking through the manufacturing processes, holding discussions and interviews with the relevant officials;
- (b) Analyzing the information presented by the manufacturers as evidence to justify originating status;
- (c) Establishing whether the finished product(s) met the origin criterion/criteria;

The report and findings thereof are attached as *Annex VI*.

3.3.3.1. Conclusions

The team drew the following conclusions:

- (a) Textiles articles manufactured in Tanzania qualify for preferential tariff treatment under Rule 4(1)(a) and (b) of the EAC Rules of Origin, 2015;
- (b) Aluzinc coils and sheets manufactured using imported hot rolled coils qualify for preferential tariff treatment under Rule 4(1)(b) of the EAC Rules of Origin, 2015;
- (c) Rebars manufactured from locally produced billets qualify for preferential tariff treatment under Rule 4(1)(a) of the EAC Rules of Origin, 2015;

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- (d) Rebars manufactured using imported billets qualify for preferential tariff treatment under Rule 4(1)(b);
- (e) Steel pipes/sections and angles manufactured using imported hot rolled coils qualify for preferential tariff treatment under Rule 4(1)(b) of the EAC Rules of Origin, 2015;
- (f) tomato based products manufactured in Tanzania from locally grown tomatoes qualify for preferential tariff treatment under Rule 4(1) (a) and (b) of the EAC Rules of Origin, 2015;
- (g) sunflower oil manufactured in Tanzania qualifies for preferential tariff treatment under Rule 4(1)(a) and (b) of the EAC Rules of Origin, 2015;
- (h) Human hair manufactured in Tanzania qualifies for preferential tariff treatment under Rule 4(1)(b) of the EAC Rules of Origin, 2015;
- (i) The Bulk Distributors and Steel Depot who are distributors, sell steel products manufactured locally; and
- (j) There is delay of clearance of goods transferred to Kenya since processes are not done under Single Customs Territory (SCT) Framework. This is largely attributed to the fact that Kenya has not deployed officers in other Partner States.

The Sectoral Committee on Customs took note of the findings, observations and conclusions in the Joint On-the-Spot Investigation Report.

It was further observed that manufacturers submitted to the team their concerns on the delay associated with clearance of originating goods transferred into the Republic of Kenya. This was largely caused by the fact that transferred goods have to wait for the buyer in Kenya to make a declaration and pay taxes while goods are at the border which prolong the clearance time. The team noted that the delay was attributed to the fact that goods transferred into Kenya are not cleared under SCT Framework. It was therefore agreed that the Republic of Kenya to fast-track implementation of the long overdue directive of deploying officers in other Partner States to allow seamless clearance of goods under Single Customs Territory (SCT) Framework.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the findings and conclusions in the report; and

- (a) urged Partner States to continue facilitating transfers and the clearance of originating goods (EAC/SCTIFI 41/ Directive 16);**
- (b) urged the Republic of Kenya to fast-track implementation of the long overdue directive of deploying officers in other Partner States to allow seamless clearance of goods under Single Customs Territory (SCT) Framework (EAC/SCTIFI 41/ Directive 17);**
- (c) adopted that tomato-based products manufactured from locally grown tomatoes by Darsh Industries Ltd (Red gold) qualify for preferential tariff treatment under Rule 4(1)(a) and (b) of the EAC Rules of Origin, 2015 (EAC/SCTIFI 41/ Decision 10);**
- (d) adopted that textile articles manufactured from locally grown cotton by Nida Textile Mills, 21st Century Textiles Ltd, Basra Textile Mills Ltd, Sunflag Tanzania Ltd qualify for preferential tariff treatment under Rule 4(1)(a) of the EAC Rules of Origin, 2015 (EAC/SCTIFI 41/ Decision 11);**
- (e) adopted that textile articles manufactured from imported synthetic fiber by Basra Textile Mills Ltd qualify for preferential tariff treatment under Rule 4(1)(b) of the EAC Rules of Origin, 2015 (EAC/SCTIFI 41/ Decision 12);**
- (f) adopted that sunflower oil manufactured from locally grown sunflower by Pyxus Agriculture Tanzania qualify for preferential tariff treatment under Rule 4(1)(a) and (b) of the EAC Rules of Origin, 2015 (EAC/SCTIFI 41/ Decision 13);**
- (g) adopted that artificial human hair manufactured by S. H. Afriq Tanzania Ltd qualify for preferential tariff treatment under Rule 4(1)(b) of the EAC Rules of Origin, 2015 (EAC/SCTIFI 41/ Decision 14); and**

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- (h) adopted that steel products manufactured by Bansal Steel Rolling Mill Ltd, Tanzania Steel Pipes Ltd, Alaf Ltd, Steel Masters Ltd and Kamal Steel Ltd qualify for preferential tariff treatment under Rule 4(1)(a) and (b) of the EAC Rules of Origin, 2015 (*EAC/SCTIFI 41/ Decision 15*).

3.4. COMPLIANCE AND ENFORCEMENT

3.4.1. EAC ASSEMBLY SCHEME REGULATIONS, 2022

During the 40th SCTIFI meeting, the Ministers/Cabinet Secretary considered the Assembly Scheme Regulations which were adopted in principle by the Sectoral Council of Finance and Economic Affairs (SCFEA). The meeting directed the Republic of Rwanda to submit the comprehensive comments on the Assembly Scheme Regulations by 30th June, 2022 (*EAC/SCTIFI 40/Directive 20*)

The Sectoral Committee was informed that a meeting of experts to consider comments on the EAC Assembly Scheme Regulations, 2022 by the Republic of Rwanda was held on 31st August, 2022. The experts considered, deliberated on comments made by the Republic of Rwanda and validated the Regulations which are hereto attached as *Annex VII*.

The meeting considered the validated EAC Assembly Scheme Regulations and recommended for adoption by SCTIFI.

The Sectoral Council on Trade, Industry, Finance and Investment adopted the EAC Assembly Scheme Regulations, 2022 (*EAC/SCTIFI 41/ Decision 16*).

3.4.2. PROGRESS REPORT ON ELECTRONIC CARGO TRACKING SYSTEM IMPLEMENTATION

3.4.2.1. Interfacing of North and Central Corridor ECTS

The Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI) directed the EAC Secretariat to coordinate the interfacing of the electronic cargo tracking systems on the northern and central corridors. The purpose of interfacing is to provide full visibility of movement of cargo across the region along the two transport corridors.

The existing cargo tracking systems include, RECTS operated on the Northern Corridor by KRA, URA and RRA on one side and the Tanzania ECTS operated by TRA on the Central Corridor. OBR is

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operating a transit monitoring system. However, it is in the process of acquiring a new system. The RSS has expressed interest in joining one of the existing cargo tracking systems.



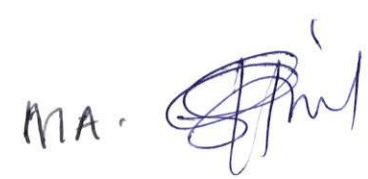

In pursuance of this directive, technical teams from North and Central corridors developed system interfaces and carried out successful developer tests on end-to-end data transmission between the two ECTSs.

The teams further developed a roadmap for finalization of the interfacing as below:

TABLE 14			
No	Activity	Status	Timelines
1	API development	Done	August 2022
2	Factory testing and Data transmission end to end	Done	September 2022
3	API and User Interface (UI) enhancements	Partially done	October 2022
4	Carry out infrastructure reviews based on the proposed enhancements	Not yet	December 2022
5	Developing of Standard Operating Procedures (SoPs) and Test Case Scenarios	Not yet	December 2022
6	Non-functional testing- Security and performance testing	Not yet	December 2022
7	User Acceptance Testing and Quality Assurance	Not yet	December 2022
8	Change management and Training	Not yet	January 2023
9	Migration to Live environment	Not yet	February 2023
10	Piloting and roll out of the integrated cargo tracking system	Not yet	February 2023

3.4.2.2. Assessment Of Office Burundais Des Recettes Readiness to Implement ECTS

A joint team from all Revenue Authorities visited OBR to assess the readiness of OBR to implement an electronic cargo tracking system. The joint team developed infrastructure and operational requirements for setting up of the ECTS in Burundi as a follow up of the Memorandum of Understanding (MoU)

between OBR and Trademark East Africa. The assessment team was guided by the criteria for Admission of Partner Revenue Authorities into ECTS as below;

TABLE 15		
Checklist Criteria	Current Status	Recommendations
(a) Establishing an ECTS operational structure and a functioning Centralized Monitoring Centre (CMC) to monitor and analyze the transit cargo performance.	<ul style="list-style-type: none"> ● 3 staff operating 2 shifts (1 staff per shift) ● One Monitoring Screen (42") ● There is an existing cargo tracking system developed by COTECNA ● Transit information is manually captured from ASYCUDA Declaration ● Telephones without capability of making international calls ● Uninterrupted Power Supply is in place 	<ul style="list-style-type: none"> ● 3 staff per shift (24/7) ● 3 Monitoring Screen (80") and 6 small Screens ● New cargo tracking system that can be integrated with Customs Management System (ASYCUDA World) ● Telephones should be enabled to make international calls to manage/or report incidences to their counterparts in other Revenue Authorities across borders. ● Sufficient power supply available
(b) Acquisition / procurement of a minimum stock of on boarding eSeals commensurate with their cargo volumes.	<ul style="list-style-type: none"> ● 100 active e-seals 	Minimum of 500 seals required compatible with the new cargo tracking system.
(c) Must have a functioning seals maintenance office (SMO) operated either by officers of Revenue Authority or is an operational contracted service.	<ul style="list-style-type: none"> ● 2 OBR technicians maintaining the 100 active e-seals 	<ul style="list-style-type: none"> ● 2 technicians who will be trained in maintenance of the new seals. ● Acquisition of maintenance equipment ● To procure adequate eSeals storage cabinets, transportation cases and charging stations
(d) Must have a functioning Rapid Response Units (RRUs) with adequate staffing deployed 24/7.	<ul style="list-style-type: none"> ● OBR has a Rapid Response Unit in charge of compliance and enforcement ● Mobile phones are used 	<ul style="list-style-type: none"> ● OBR to set up a Rapid Response Unit dedicated to ECTS operations. ● OBR to assess risk areas/ routes to determine the resources required. ● 4 vehicles dedicated for ECTS Rapid Response. ● Navigation equipment should be installed in the vehicles ● Radio communication devices, phones and iPad/tablets should be procured

On conclusion of the joint mission, it was agreed that OBR should undertake the following:

- Communicate to Trademark East Africa the recommended minimum requirements by the assessment team to guide the acquisition process of the new ECTS.
- Develop a roadmap and commence implementation of the ECTS.
- Capacity building should be incorporated in the implementation plan.

During the meeting of the Committee on Customs, The Republic of Burundi informed the meeting that OBR communicated to TMEA the requirements for acquisition of the ECTS which were proposed by

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the assessment team to guide the acquisition process of the new ECTS and they are still waiting for a response from TMEA.

3.4.2.3. Request by Republic of South Sudan to Join the ECTS

The meeting was informed that the EAC Secretariat received a letter from the Republic of South Sudan (RSS) dated 7th September 2022 requesting to join the ECTS. The RSS is further requesting for technical and financial support to build capacity for establishing an ECTS operational structure, a Centralized Monitoring Centre (CMC) and fully functioning Rapid Response Units (RRUs).

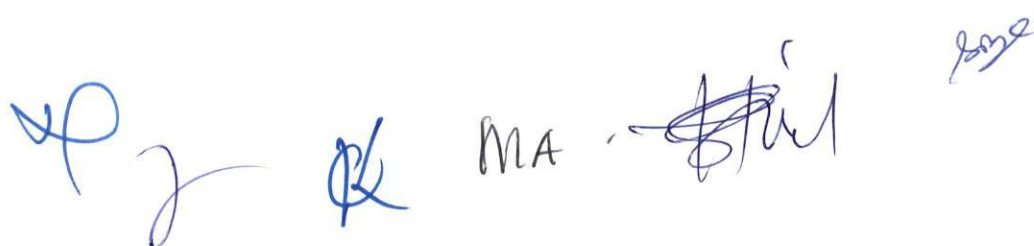
The meeting deliberated on the request and inquired on the status of automation of customs processes noting that the transit information fed into the cargo tracking system is derived from the customs management systems. The RSS team reported that there is a system used to process customs transactions but it is not managed by customs. The meeting resolved as follows:

- (a) National Revenue Authority fastrack full automation of customs processes as it's a prerequisite for operating a fully functioning ECTS.
- (b) A team of experts from Revenue Authorities visit the Republic of South Sudan (RSS) National Revenue Authority to assess the existing customs systems and requirements for setting up of the ECTS;

The EAC Secretariat in collaboration with the South Sudan National Revenue Authority identifies and engages potential development partners who can provide financial assistance in acquiring customs systems and setting up of the ECTS.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress made in the interfacing of Central and Northern Corridor Electronic Cargo Tracking Systems and:

- (a) urged the Republic of Burundi to continue engaging TMEA and other potential partners on funding for acquisition and implementation of the ECTS (EAC/SCTIFI 41/ Directive 18).**
- (b) urged the National Revenue Authority of Republic of South Sudan to Fastrack full automation of customs processes as it is a prerequisite for operating a fully functioning ECTS (EAC/SCTIFI 41/ Directive 19);**
- (c) directed the EAC Secretariat and Partner States to undertake missions of experts from Revenue Authorities to the National Revenue Authority of Republic of South Sudan to assess the infrastructure and operational requirements for setting up of the ECTS by end of March 2023 (EAC/SCTIFI 41/ Directive 20); and**
- (d) directed the EAC Secretariat in collaboration with the National Revenue Authority of the Republic of South Sudan to identify and engage potential development partners who can provide financial assistance to support the National Revenue Authority establish an ECTS by the end of June 2023 (EAC/SCTIFI 41/ Directive 21).**



3.4.3. PROGRESS ON THE IMPLEMENTATION OF THE AUTHORIZED ECONOMIC OPERATOR PROGRAM

3.4.3.1. Program Implementation Status

The meeting was informed that despite some challenges faced during the Covid-19 period, the program has progressed from 135 companies on the program in December 2020 to 184. out of this number, 7 companies had their AEO status revoked due to observed cases of non-compliance.

3.4.3.2. Sustainability Plan

The meeting was further informed that the mainstreaming of the AEO program into EAC Secretariat planning and operations is being progressively done and a sustainability plan was presented by the Secretariat outlining the strategy for final project exit. The Plan highlighted the following;

1. Exit Approach
2. Training of Experts
3. Formation of AEO Association
4. Roll Out of The Training Curriculum
5. Incorporation of Other Government Agencies into The AEO Program
6. Mutual Recognition Agreements
7. Completion of Automation Process
8. Program Management Structure
9. Readiness of the EAC Secretariat

The project exit strategy / sustainability is hereto, attached as **Annex VIII**. The meeting deliberated on the proposal and agreed;

- (a) to amend the program management structure to include RSS
- (b) that the secretariat should continue with the preparation for complete roll out of the project as planned.

3.4.3.3. Formation of the Regional AEO Mutual Recognition Arrangements Technical Working Group.

The meeting heard that in order to streamline the process of negotiating AEO Mutual Recognition Arrangements, the Secretariat convened a meeting of Customs AEO experts and representatives of AEOs and established a Technical Working Group to undertake AEO MRA negotiations on behalf of the region. The Terms of Reference for the Technical Working Group is, attached as **Annex IX**

The meeting also noted that the TWG developed AEO MRA guidelines, attached as **Annex X**.

The main outlines of guidelines included;

1. Conditions for Negotiation and Establishment of MRA
2. MRA Negotiation Party
3. Administration of MRA

Members considered the guideline and agreed that the role of monitoring and coordination to be played by the Secretariat be included in the guidelines.

3.4.3.4. Development of guidelines for interagency Cooperation

The meeting was also informed that the Secretariat convened a meeting of cross border regulatory government agencies in line with SCTIFI 40 Directives 21 and 22, The meeting of Cross Border

regulatory Agencies (CBRAs) developed guidelines for inter-agency cooperation on AEO matters, attached as **Annex XI**.

The guidelines provide the following action plan;

Action Plan

TABLE 16			
SN	Initiative / Action point	Responsibility	Timeline
1	Circulate these guidelines to other Government agencies for inputs	RPM	30 th November 2022
2	Self-assessment form be reviewed to include the requirements of other Government agencies	All regulatory agencies	31 st March 2023
3	Review of the EAC AEO Procedure Manual and SOPs to incorporate changes brought by the guidelines	RPM	30 th June 2023
4	Review of OGAs processes to capture the benefits contained in the guidelines	All regulatory agencies	30 th June 2023
5	Monitoring the level of implementation of the AEO program by the OGAs	RPM	30 th November 2023

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress made in the development of the AEO Interagency Cooperation guidelines and:

- (a) urged Partner States to operationalize the AEO Mutual Recognition Agreement (EAC/SCTIFI 41/ Directive 22) ; and
- (b) took note of the Regional Authorized Economic Operator (AEO) program sustainability plan and Regional AEO Mutual Recognition Agreement Technical Working Group (EAC/SCTIFI 41/ Decision 17).

3.4.4. IMPLEMENTATION BY REPUBLIC OF SOUTH SUDAN (RSS) OF EAC CUSTOMS UNION INSTRUMENTS

3.4.4.1. OVERVIEW OF RSS STATUS OF IMPLEMENTATION OF EAC CUSTOMS UNION INSTRUMENTS

The EAC mission to Juba – South Sudan was held from 17th to 19th October 2022 to assess the status of implementation of the Community instruments following the accession process to the East African Community on 15th April 2016. During the mission, the Secretariat met with key stakeholders from South Sudan and provided them with highlights of the EAC Institutional and legal Framework, EAC Vision 2050, the 6th EAC Development Strategy and shared the experience of Rwanda and Burundi on the Implementation of EAC Customs Union.

It was noted during the meeting that the Republic of South Sudan has not yet domesticated the Customs instruments which affects its implementation of Customs Union Protocol.

During the discussions the meeting made a number of observations that require urgent interventions to allow Republic of South Sudan commence the application of the Community instruments, among which include;

- (a) Communication and coordination among the various Institutions;
- (b) Lack of awareness regarding the EAC programs, activities and benefits;

- (c) The National Revenue Authority is in process of upgrading the e-Customs system to facilitate electronic processing of Customs operations. There is need to ensure that the e-Customs system is robust and able to support Customs operations in the Customs Territory and interoperable with other Customs systems in the EAC;
- (d) Limited human and technical capacity in customs and trade matters; and
- (e) Issues relating to security.

3.4.4.2. ROADMAP FOR IMPLEMENTATION OF THE EAC CUSTOMS INSTRUMENTS

The meeting developed a targeted roadmap with clear steps, responsibilities and timelines to guide the Republic of South Sudan to implement the EAC Customs Union Instruments which is herewith below;

TABLE 17			
No	Action	Responsibility	Timeline
1	Domestication of the Treaty for the Customs Union Protocol by Republic of South Sudan		
(a)	Instructions to draft Bill for the Transitional National Legislative Assembly to give the Customs Union Protocol force of Law in South Sudan	<ul style="list-style-type: none"> Ministry of EAC Affairs 	<p>Friday 28th October, 2022.</p> <p>the meeting was informed that the Ministry submitted a letter of instructions to the Ministry of Justice to commence the process of implementation of the Customs Union Protocol</p>
(b)	Drafting of Bill to domesticate Treaty	<ul style="list-style-type: none"> Ministry of Justice supported by the EAC Secretariat 	30th November, 2022
(c)	Presentation of Draft Bill in Council of Ministers	<ul style="list-style-type: none"> Ministry of East African Community Affairs will take the lead supported by the Ministry of Trade and Industry, Ministry of Finance and Planning and other stakeholders 	Within one week (by 7th December, 2022)
(d)	Presentation of Bill in the Transitional National Legislative Assembly	<ul style="list-style-type: none"> Ministry of EAC Affairs Stakeholders 	Upon approval of the draft Bill by the Council of Ministers. This will depend on the agenda of the Council of Ministers
(e)	Consideration of Bill by Relevant Committee	<ul style="list-style-type: none"> Transitional National Legislative Assembly 	By 28th February, 2023
(f)	Passing of Bill by the Transitional National Legislative Assembly	<ul style="list-style-type: none"> Transitional National Legislative Assembly 	By 31st March, 2023
(g)	Assent by the President	<ul style="list-style-type: none"> Office of the President 	By 30th April, 2023
2	Sensitisation of Members of the Transitional National Legislative Assembly		
	Members of the Committee on Transitional National Legislative Assembly	<p>Ministry of EAC Affairs supported by:</p> <ul style="list-style-type: none"> Ministry of Finance and Planning Ministry of Trade and Industry 	By first reading of the Bill (1st – 30th March, 2023)

TABLE 17			
No	Action	Responsibility	Timeline
		<ul style="list-style-type: none"> Ministry of Investment National Revenue Authority – Customs Division EAC Secretariat Members of EALA – South Sudan Chapter 	
3	Training of Customs Officers		
(a)	Identification of Customs Officers and officers from other agencies to be trained <ul style="list-style-type: none"> National Revenue Authority – Customs Division Ministry of Trade Ministry of Finance & Planning Ministry of Investment National Bureau of Standards Clearing Agents 	<ul style="list-style-type: none"> National Revenue Authority – Customs Division EAC Secretariat Ministry of EAC Affairs Ministry of Finance and Planning Ministry of Investment National Bureau of Standards Ministry of Trade Clearing Agents 	October 2022 - Continuous
(b)	Identification of responsibility centers and roles		
(c)	Equipping Customs Officers on requirements of the EAC Customs Instruments		
4	Applying for stay of application / asymmetrical application of the EAC CET		
(a)	Identification of products requiring specific measures by the EAC Council of Ministers	Ministry of Trade and Industry supported by: <ul style="list-style-type: none"> National Revenue Authority - Customs Division Ministry of Finance and Planning Other Stakeholders 	Immediately from 19 th October, 2022
(b)	Presentation of identified products to EAC Pre-Budget Meeting of Ministers of Finance and Planning	<ul style="list-style-type: none"> Ministry of Finance and Planning Ministry of Trade and Industry National Revenue Authority - Customs Division EAC Secretariat 	April / May 2023

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TABLE 17			
No	Action	Responsibility	Timeline
5	Application of EAC Customs Instruments		
(a)	Customs Union Protocol	<ul style="list-style-type: none">Ministry of Finance and PlanningNational Revenue Authority – Customs DivisionMinistry of Trade and IndustryNational Bureau of StandardsOther Stakeholders	1st July, 2023
(b)	EAC Customs Management Act		
(c)	EAC Rules of Origin		
(d)	Common External Tariff		
(e)	One Stop Border Posts Act		
(f)	Elimination of Non-Tariff barriers Act		
(g)	Competition Act		
(h)	All Regulations relating to customs and trade		
6	Application of centralized customs system		
(a)	Upgrading centralized customs system	<ul style="list-style-type: none">National Revenue Authority – Customs Division	30 th November, 2022
(b)	Dynamic system tested and capable of minimum functionality and interacting / interfacing with EAC Partner States Customs Systems with minimum inputs and compatible with the customs systems of the Community (SCT and EAC Centralized Platform)	<ul style="list-style-type: none">National Revenue Authority – Customs DivisionMinistry of Finance and PlanningEAC Secretariat – Directorate of Customs	31st January, 2023
(c)	Adopting and validating of customs system	<ul style="list-style-type: none">National Revenue Authority – Customs DivisionEAC Secretariat	31st January, 2023

TABLE 17			
No	Action	Responsibility	Timeline
(d)	Rolling out of customs system	<ul style="list-style-type: none"> National Revenue Authority – Customs Division 	31st January, 2023
(e)	Extending the Regional Cargo Tracking System to Republic of South Sudan	<ul style="list-style-type: none"> National Revenue Authority – Customs Division EAC Secretariat 	By June 2023
7	Memberships of International Organizations and ratification of International Commitments		
(a)	World Customs Organisation (WCO) – inactive member <ul style="list-style-type: none"> Payment of membership fee 	<ul style="list-style-type: none"> Ministry of Finance and Planning National Revenue Authority – Customs Division 	December, 2022
(b)	World Trade Organisation (WTO) – observer status <ul style="list-style-type: none"> Expedite negotiations to accede to become members of the WTO 	<ul style="list-style-type: none"> Ministry of Trade and Industry 	December, 2023
(c)	Ratification of AfCFTA <ul style="list-style-type: none"> Follow up with Cabinet on submission made on ratification of the AfCFTA Submission to be presented to Transitional National Legislative Assembly Deposit instruments with the AfCFTA Secretariat on ratification of AfCFTA Agreement 	<ul style="list-style-type: none"> Ministry of Trade and Industry 	March, 2023
(d)	Initiate Ratification of Tripartite Agreement (COMESA - EAC - SADC) <ul style="list-style-type: none"> Submit to Cabinet ratification of the Tripartite 	<ul style="list-style-type: none"> Ministry of Trade and Industry 	March, 2023

TABLE 17			
No	Action	Responsibility	Timeline
	Agreement <ul style="list-style-type: none"> ○ Submit ratification of the Tripartite Agreement to Transitional National Legislative Assembly ○ Deposit instruments of the ratification of the Tripartite Agreement 		
8	Monitoring of implementation of Customs Union Protocol		
(a)	Tracking domestication of EAC Treaty	<ul style="list-style-type: none"> ▪ Ministry of EAC Affairs ▪ EAC Secretariat 	Continuous from 20 th October, 2022 until domestication of EAC Treaty is finalized.
(b)	Tracking implementation of Customs Instruments	<ul style="list-style-type: none"> ▪ Ministry of EAC Affairs ▪ EAC Secretariat 	Continuous from 20 th October, 2022 until the Republic of South Sudan implements the EAC Customs Instruments

The meeting was informed that the Republic of South Sudan agreed to expedite and prioritize the tasks in the developed roadmap, which will enable South Sudan to participate fully in EAC and derive benefits from her implementation of the EAC Customs Union Instruments.

The meeting took note of the commitments made by the Republic of South Sudan to adhere to the agreed timelines and actions therein.

The Sectoral Council on Trade, Industry, Finance and Investment urged the Republic of South Sudan to expedite and prioritize the tasks required to participate fully in the EAC and derive benefits from implementation of the EAC Customs Union (EAC/SCTIFI 41/ Directive 23).

3.5. PROCEDURES AND FACILITATION

3.5.1. PILOTING OF THE DIGITALIZED One Stop Border Post (OSBP) PERFORMANCE MEASUREMENT TOOL

The EAC OSBP Performance Measurement Tool was developed by Experts from the Partner States and adopted by the 36th Sectoral Council on Trade, Investment, Finance and Industry. Further, the Experts developed modalities for implementing the OSBP Performance Measurement Tool (OSBP PMT), which includes its digitalization to enhance the data collection and analysis. Its digitalization requires establishing a data-sharing framework with the data providers, developing a dashboard for all the tool indicators, and integrating with existing systems.

The EAC Secretariat with the support of Trademark East Africa has embarked on the process of digitizing the OSBP Performance Measurement Tool and procured the services of BRISK SOLUTIONS LTD to undertake the task. As part of the development of the tool and in preparation for rollout, EAC Secretariat, carried out a pilot run at four OSBPs namely, Namanga / Namanga, Malaba / Malaba, Rusumo / Rusumo and Kabanga / Kobero.

The purpose of the pilot was: -

- (i) To create awareness of the tool;
- (ii) To undertake training to the end users in the selected OSBPs;

- (iii) To assess the readiness of the tool for full rollout to all OSBPs;
- (iv) To collect views from end users, that will inform the strategy for rollout to other OSBPs and will be used to improve the tool further.

End users who attended the session included representatives of the main agencies at the OSBPs including Customs, Immigration, Security Agencies, Port Health, Bureaus of Standards and Agriculture/SPS.

3.5.1.1. General Observations

At the end of the piloting, it was agreed that a lot still needs to be done by the developers to incorporate the inputs and suggestions from the piloting exercise. The Secretariat together with the developers should undertake a final review of the tool functionality to certify its readiness for use and roll out.

It was also observed that officers at Rusumo and Kobero/Kabanga are not aware of the OSBP Act, Regulations and the OSBP Manual. There is a need for continuous sensitization to create awareness.

The Secretariat also observed a knowledge gap on OSBP legal instruments among officers deployed at OSBPs because of transfers of Trained officers. Some OSBPs turned into multiple Stops by regulatory agencies inspecting the cargo on the side of its Partner State. This is against the OSBPs concept.

The Sectoral Council took note of the progress and that the roll out of the digitalized OSBP Performance Measurement Tool will commence after incorporation of the piloting inputs and enhancements. It was further noted that continuous training of new staff before deployment at OSBPs on the OSBP Act, Procedure Manual and regulations should be undertaken by Revenue Authority Training Institutes.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) directed all regulatory Agencies operating at OSBPs to adhere to the OSBP procedures as per EAC OSBP Act, OSBP manual and regulations to improve on service delivery (EAC/SCTIFI 41/ Directive 24); and
- (b) directed Partner States and the EAC Secretariat to undertake regular training for the officials deployed at the different Border posts (EAC/SCTIFI 41/ Directive 25).

3.5.2. REGIONAL TIME RELEASE STUDY

The East African Community (EAC) in conjunction with the World Customs Organization (WCO), AfDB and Partner States has embarked on the process of conducting a Regional Time Release Study (TRS) to cover the Northern Corridor: Mombasa Port to Bujumbura via Kampala and Mpondwe or Bunagana (DRC Border (for DRC Transit) and Nimule/Elegu via Uganda Inbound and Outbound; and The Central Corridor: Dar es Salaam Port to Kigali and Bujumbura and the border of Rubavu and Gatumba with DRC (inbound and Outbound). The final routing shall be determined in consideration with available resources.

The Terms of Reference for the study have been drafted and discussed with the TRS Technical Working Group (TWG) which is composed of members who were nominated by Partner States. Since September 2022, weekly online training sessions facilitated by WCO Experts have been conducted to provide in-depth understanding on the TRS, Terms of Reference, coverage, roles and functions of the TRS-TWG

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and the WCO-TRS software tool. The TRS project lifecycle is estimated to be 180 days from commencement to release of the final TRS report.

3.5.2.1. Project phases and workplan

TABLE 18			
TRS Phase	Activities	Status	Time lines
Phase 1 Preparation of the Study	Nomination of the TRS-TWG by Partner States	Done	September 2022
	Refining the ToR in accordance with the WCO TRS methodology	Done	October 2022
	Capacity Building by WCO TRS technical staff and accredited TRS experts for the TRS-TWG and in-depth understanding of the contents with special attention to the roles and functions of the TRS-TWG.	Ongoing	October - November 2022
	Draft required notices, pamphlets and other material required to inform stakeholders about the TRS and circulate the same.	Not Yet	December 2022
	Scanning of the routes and review of available cargo clearance process map, route mapping and update the process map and identify other stops on the Corridor (weigh bridges, Police stops, Customs Checks points etc.). If a process map is not available, gather required information from the relevant corridors and draft the clearance process map. Discuss and finalize the process map in consultation with staff from the relevant border post.	Not Yet	January 2023
	Test the TRS survey questionnaire with a selected sample data	Not Yet	January 2023
Phase 2 Collection and recording of data	Select the required number of enumerators/data collectors and familiarize enumerators on using the survey questionnaires to collect data.	Not Yet	January 2023
	Closely supervise work of enumerators and ensure that all survey sheets are duly completed/filled in, on each day.	Not Yet	February 2023
Phase 3 Analysis of the data and conclusions	Ensure that data collected is input to the WCO-TRS software by the enumerators or any other selected tool (such as MS Excel)	Not Yet	March 2023
	Review data fed into the WCO-TRS software tool/other tool and assess the accuracy of the data.	Not Yet	April 2023
	Analyze the data and produce preliminary reports	Not Yet	April 2023
	Share preliminary reports with WCO technical staff for review, Discuss results/indicators/findings with relevant stakeholders and feedback.	Not Yet	April 2023

TABLE 18			
TRS Phase	Activities	Status	Time lines
	Compile draft TRS report and in consultation with Secretariat, review report and make necessary edits if needed.	Not Yet	May 2023
	Validation workshop and presentation of report to all stakeholders.	Not Yet	June 2023

The Ministers took note of the progress made in the preparation for undertaking of the Regional Time Release Study and approved the Time Release Study to be undertaken and the work plan.

The Sectoral Council on Trade, Industry, Finance and Investment approved the Time Release Study and directed all Partner States' agencies involved in clearance of goods to actively participate in the planned Time Release Study (EAC/SCTIFI 41/ Directive 26).

3.5.3. CUSTOMS INTERCONNECTIVITY PROJECT PROGRESS

In 2019, the EAC Secretariat secured funding under the 11th European Development Fund (EDF) to fund the European Union (EU) - East African Community (EAC) Common Objectives in Regional Economic Integration) – EU-EAC CORE programme aimed at supporting the deepening of the EAC regional economic integration, through advancing implementation of the Customs Union and the Common Market Protocols. As a precursor to the implementation of the programme, the Secretariat conducted a Customs interconnectivity study in 2020 which recommended enhanced centralized data exchange protocols for the clearing of goods as well as integration of related regional customs functions and systems (namely Regional Electronic Cargo Tracking System, SCT Centralized Platform, One Stop Border Post systems, Custom Transit Bonds, Single Window systems etc.). The study was validated by Partner States in February 2021. Based on the study recommendations, the EAC Secretariat invited interested firms to develop the Interconnectivity Integration System funded by the European Union (EU). The EU completed review of the shortlist and the project is going to the next phase of requesting for detailed proposals.

The Sectoral Council on Trade, Industry, Finance and Investments took note of the progress made in the implementation of the Customs Interconnectivity Project.

3.6. CAPACITY BUILDING

3.6.1. Lifestyle Audit training

The EAC developed training and sensitization materials on lifestyle audit (LSA) as part of the Integrity Action Plan and conducted training at Busia/Busia on 27th to 28th June and at Kobero/ Kabanga on 30th to 1st July 2022. The broad objective of the lifestyle audit capacity building program is to equip staff of the border agencies with the knowledge and skills to conduct lifestyle audits and enhance accountability in Revenue Administration. This is expected to reduce the risks of corruption within EAC and its borders by equipping Partner States with the requisite capacity to detect and respond to corrupt conduct. A total of 77 border officials attended the training on LSA. The EAC Secretariat is planning to conduct sessions of lifestyle audit on selected borders in the 1st quarter of 2023.

3.6.2. Sharing of experiences between ECOWAS and EAC.

In July 2022, a delegation of 35 officials from 5 ECOWAS member countries, AU and GIZ / AUBP visited EAC headquarters and the Namanga OSBP to share experiences on One Stop Border Posts, Single Tourist Visa and the Axle Load. The Study tour was funded by GIZ / AUBP. The delegates appreciated the way EAC has undertaken the implementation of the Coordinated Border Management concept specifically with regard to having an OSBP Act, regulations, procedures, capacity building programme and the actualization of joint border control processes.

3.6.3. One Stop Border Posts Training and Sensitization at Katuna / Gatuna and Rusizi II

The construction of the Katuna / Gatuna OSBP has been completed and to prepare the government agencies and stakeholders to commence operations under OSBP procedures, training was undertaken at Katuna / Gatuna from 12th to 15th July 2022. A total of 30 participants attended the training. In view of the plans to construct an OSBP at Rusizi II on the border between Rwanda and the Democratic Republic of Congo, stakeholders were sensitized on the concept of One Stop Border Posts and the implication to the operating environment. A total 30 participants attended the sensitization. The OSBP training and sensitization was supported by TMEA/ IOM. Overall, 60 participants attended the training and the sensitization on OSBP at the two venues.

3.6.4. AfCFTA training for Customs officers

To build a critical mass of Customs officers to support the implementation of the AfCFTA, EAC conducted two training sessions on AfCFTA for Customs officers, one in Kigali from 26th to 30th September 2022 and the second was carried out in Mombasa from 24th to 28th October 2022. A total of 57 participants from all Partner States with the exception of DRC attended. The training covered the background to the establishment of the AfCFTA, the Protocols on AfCFTA Trade in Goods and ROO, Trade in Services and implications to EAC economies and traders.

3.6.5. One Stop Border Posts Training of Trainers Course

On the onset of the implementation of the One Stop Border Posts concept in the EAC, a training of trainers' course was conducted in August 2018. Since then, the number of the OSBP trained trainers has been depleted due to normal human resource attrition. In this regard, the EAC conducted an OSBP TOT to beef up the trainer capacity on OSBP. A total of 35 participants were trained as OSBP trainers. It is expected that these trainers shall conduct OSBP training both at the national level and at the regional level. The TOT was supported by TMEA.

3.6.6. Sensitization on Revised EAC CET

The EAC completed the revision of the EAC CET and the Transposition of the HS 2022. To enable Partner States to apply the Revised EAC CET, sensitization on the new version has so far been conducted in Uganda and Burundi. The planned sensitization session in Rwanda could not be carried out due to logistical hitches. The sensitization on the revised CET for the remaining Partner States will be carried out in the first quarter of 2023. A total of 83 stakeholders were sensitized.

3.6.7. Accreditation of EAC Customs Trainers

To operationalize the EAC Customs Trainer Accreditation process, a meeting was held in Zanzibar from 12th to 16th September 2022 where Guidelines for implementation of the Accreditation process were developed. To progress the trainer accreditation process, the EAC has invited 2 applicants from each Partner State to apply for an accreditation as Risk Management Expert / Trainer. The applicants will be subjected to an evaluation exercise planned for the month of December 2022.

3.6.8. Issuance of Certificates

A total of 432 certificates for participants who participated in the AfCFTA Rules of Origin Course, EAC Multi-Agency Training of Trainers Course and Authorized Economic Operator Validation Workshop have been issued and released to Partner States. The certificates released were for courses conducted between October 2021 to June 2022. We are processing certificates for courses conducted between July 2022 to November 2022.

The meeting noted that the EAC Secretariat develops training materials which are utilized for conducting regional training initiatives. However, these training materials are not shared out to Partner States. Noting that such materials would be very useful to Partner States in terms of adapting and adopting them for national training programmes, it was recommended that the EAC Secretariat ensures that any training materials developed by the EAC Secretariat are transmitted to Partner States. The office of the Commissioner of Customs will provide a contact person who will be responsible for receiving the training materials from the Secretariat.



SUMMARY

TABLE 19		
NO.	Activity	Output
1	Lifestyle Audit Training	77
2	OSBP Training Katuna / Katuna	30
3	OSBP Sensitization Rusizi	30
4	OSBP TOT	35
6	Sensitization on Revised EAC CET 2022	83
7	AfCFTA Customs Officers Training	57
Total		306

The Sectoral Council on Trade, Industry, Finance and Investment took note of the capacity building interventions undertaken to support implementation of key Customs projects and programmes.

3.7. SUBMISSIONS FROM THE REPUBLIC OF UGANDA FOR FINANCIAL YEAR 2022 / 2023

During the meeting, the Republic of Uganda submitted the following requests for consideration by the meeting:

- (i) Amendment of the rates to be applied under a stay of application on textiles fabrics and garments which were gazetted vide Legal Notices No. 119 and No. 120 of 30th June, 2022;
- (ii) Amendment of the Fifth Schedule of the EAC CMA, 2004 and remove the application of the exemption of Item No. 33 - Part B (Examination gloves for laboratory and medical use);
- (iii) Stay of application of the EAC CET and apply a duty rate of 36% for various products: and
- (iv) Remission of duty of the EAC CET to apply a duty rate of 0% up to 30th June, 2023 on inputs for the manufacture of Energy Saving Stoves.

The meeting considered and deliberated on the submissions by the Republic of Uganda as highlighted in the table below:



TABLE 20

No.	HS Codes	Item Description	EAC Gazette Decision of June 30, 2022	Uganda's submission and justification for FY 2022 / 2023	The Senior officials recommend to the Permanent / Principal / Under Secretaries to recommend to SCTIFI to:
1.	Various tariff lines on textiles Various tariff lines across all Garments	Textile Fabrics as specified in Legal Notice No. EAC/119/20 22 Garments as specified in Legal Notice No. EAC/120/20 22	Uganda to stay application of EAC CET rate of 0%, 10%, 25% and 35% and apply a duty rate of 35% or USD 3.0/kg whichever is higher for one year Uganda to stay application of EAC CET rate of 0%, 10%, 25% and 35% and apply a duty rate of 35% or USD 3.5/kg whichever is higher for one year	<p>To make an amendment to the EAC Gazette Decision of June 30, 2022, given that it was inadvertently omitted from Uganda's submission for the EAC Budget for FY 2022/23, as follows:</p> <p>(i) For the 47 textile products (tariff lines) that fall in the category of products that are locally produced and thus warrant protection (as per Annex XII attached), we shall apply the duty rate of "35% or USD 3.0/kg whichever is higher" - for textile fabrics, and "35% or USD 3.5/kg whichever is higher" - for garments; and</p> <p>(ii) The other textile fabrics and garments (525 products tariff lines), which are not locally produced and cannot be adequately sourced locally shall benefit from a stay of application of the specific duty and would therefore attract 35% import duty (as per Annex XIII and Annex XIV attached).</p> <p>The above guidance on the tax treatment for fabrics and garments expired at the end of last financial year (FY 201/22) and it was inadvertently omitted from our submission to Uganda's submission for the EAC Budget for FY 2022/23, which would have been an opportunity to streamline it under the EAC budget framework.</p> <p>This will promote the optimal development of the textile sector in Uganda, and provide the appropriate tax treatment for the textile sector.</p>	to grant Uganda amendments as requested per Annex XII, XIII and XIV effective from the date of publication of the decision in the EAC Gazette.

TABLE 20

No.	HS Codes	Item Description	EAC Gazette Decision of June 30, 2022	Uganda's submission and justification for FY 2022 / 2023	The Senior officials recommend to the Permanent / Principal / Under Secretaries to recommend to SCTIFI to:
2.	4015.12.00 4015.19.00 4015.90.00	Surgical gloves -- Other	Uganda to stay application of EAC CET rate on surgical and examination gloves and apply a duty rate of 10% for one year	<p>This was on account of the fact that a number of local companies in Uganda have invested in the manufacture of surgical and examination gloves and have sufficient capacity in that regard. It was also in light of the Government's policy to support local production and promote import replacement, in addition to discouraging importation of substandard surgical and medical examination gloves into the country.</p> <p>However, our attention has been drawn to the fact that under Item No. 33 of Part B of the Fifth Schedule of the EAC CMA 2004, Examination gloves for laboratory and medical use are exempt from taxes. This does not support the imposition of a duty rate of 10% reflected in the EAC Gazette Vol. AT 1 – No.14 of June 30, 2022.</p> <p>Therefore, the intention of Legal Notice No. EAC/118/2022 needs to be given legal effect by amending Item No. 33 of Part B of the Fifth Schedule of the EAC CMA, 2004 to remove Examination gloves for laboratory and medical use from the list of exempted items for Uganda.</p> <p>Uganda requests for amendment of the Fifth Schedule of the EAC CMA, 2004 and remove the application of the exemption of Item No. 33 - Part B (Examination gloves for laboratory and medical use).</p> <p>Uganda therefore requests for a stay of the provisions of Part B of the Fifth Schedule, Item No. 33 of the EAC CMA, in the interim, as the amendment of the provision is undertaken This will promote import substitution and BUBU Policy.</p>	<p>● refer the matter to the Sectoral Committee on Customs for analysis and report back in the next SCTIFI meeting.</p>
3.	Various product tariff lines	Various product tariff lines	New proposal	The list of products (Annex XV) to be assigned as sensitive for Uganda and grant a stay of application of EAC CET to apply a duty rate of 36% pending finalization of the sensitive list under the EAC CET 2022.	<p>assign the items as sensitive for Uganda;</p> <p>grant Uganda a stay of application of EAC CET to apply a duty rate of 36% for products listed in Annex XV up to 30th June 2023;</p> <p>the decision takes effect from 15th December, 2022.</p>

TABLE 20					
No.	HS Codes	Item Description	EAC Gazette Decision of June 30, 2022	Uganda's submission and justification for FY 2022 / 2023	The Senior officials recommend to the Permanent / Principal / Under Secretaries to recommend to SCTIFI to:
4.	8539.52.00 (25%) 8536.50.00 (10%) 7326.90.90 (25%) 8414.59.00 (25%) 7320.90.00 (35%)	Inputs and Raw Materials for use in the manufacture of Energy Saving Stoves	New proposal Grant Uganda a remission of duty of the EAC CET to apply a duty rate of 0% for one year on inputs for the manufacture of Energy Saving Stoves.	Uganda notes that the items indicated are critical inputs and Raw Materials for use in the manufacture of Energy Saving Stoves. This will promote industrialization. Grant Uganda a remission of duty of the EAC CET rate to apply a duty rate of 0% for one year on inputs for the manufacture of Energy Saving Stoves.	grant country specific duty remission at 0% for the additional Inputs and Raw Materials listed for use in the manufacture of Energy Saving Stoves

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) approved the requested amendment on the rates to be applied under a stay of application of the EAC CET on fabrics and garments with effect from 15th December, 2022 (*EAC/SCTIFI 41/ Decision 18*);
- (b) assigned as Sensitive to the Republic of Uganda and granted a stay of application of the EAC CET and apply a rate of 36% up to 30th June, 2023 with effect from 15th December, 2022 (*EAC/SCTIFI 41/ Decision 19*);
- (c) granted a remission of duty at a rate of 0% on inputs to manufacture energy saving stoves up to 30th June, 2023 with effect from 15th December, 2022 (*EAC/SCTIFI 41/ Decision 20*); and
- (d) referred the proposal to amend the Fifth Schedule of the EAC CMA, 2004 to the Sectoral Committee on Customs (*EAC/SCTIFI 41/ Directive 27*).

4.0 REPORT ON TRADE MATTERS

4.1 ACTIVITIES RELATING TO ELIMINATION OF NON - TARIFF BARRIERS (NTBs) IN THE REGION

4.1.1 Report of the 33rd Regional Monitoring Committee (RMC) on NTBs

The sectoral Committee on trade considered the report of the 33rd Regional Monitoring Committee (RMC) on the Elimination of NTBs was held from 7th - 11th November, 2022 in Dar Es Salaam, Tanzania and considered among others the outstanding NTBs as per the EAC Time Bound Programme.

The updated EAC Time Bound Programme as at 2nd December, 2022, shows that:

- (a) 7 (Seven) NTBs remained outstanding at different levels of resolution;
- (b) 2 (Two) New NTBs were reported;
- (c) 6 (Six) NTBs were resolved
- (d) 257 (Two Hundred and Fifty-Seven) NTBs were resolved cumulatively since 2007

4.1.1.1 Outstanding NTBs in EAC TBP:

Partner States deliberated on the NTBs outstanding NTBs with the view to resolve them. The current update on the NTBs is as follows:

TABLE 21				
NTB No	Complaint	Imposer	Reporter	Progress note / Status
NTB-000-657	Numerous monetary charges required by various agencies in the United Republic of Tanzania on exports of dairy products.	Tanzania	EAC	<p>5. An online meeting of the Regional Task Force was held in March 2022 and recommended that the Secretariat mobilize resources to facilitate sector working groups as well as the RTF meetings.</p> <p>The Sector Working Groups met from 25th July -9th August 2022 and compiled the list of National Levies in all Partner States which was validated by the Regional Task Force on 13th – 17th September, 2022.</p> <p>The Report of RTF was considered by the Trade Committee and its recommendations were submitted to the 41st SCTIFI in November 2022.</p>
NTB-000-769	Despite Kenya Tobacco raw material being fully sourced in Kenya, the manufacturers are required to pay 80 per cent higher excise for cigarettes exports into Tanzania.	Tanzania	Kenya	<p>12. On 14 June 2022, the EAC Secretariat reported that the bilateral meetings took place and agreed that a meeting of relevant stakeholders is convened in May 2022 by the Republic of Kenya to deliberate on the possibility of BAT being granted fair market treatment.</p> <p>The Bilateral meeting is yet to be convened as Kenya Government was in a transitional period.</p>
NTB-000-864	Discriminatory treatment of Kenyan manufactured products among others Juices products Kenya reported that the Juices are still charged 13% excise duty.	Uganda	Kenya	<p>10. On 14 June 2022, the EAC Secretariat reported that Uganda recognizes the Initial Bill under discussion may not address the current NTB raised by Kenya and the Government is taking steps to ensure that bill will address the concern, also in the same spirit, Uganda reviewed the initial bills of Kenya, and noticed the bills are not addressing the Uganda NTBs. Uganda would recommend that the issue be forwarded to the SCTIFI to urge the 2 Partner states to ensure that the current bills under discussion in the respective Partner States should address the NTBs as agreed in Bilateral Meetings between the two Partner States in April and December 2021.</p> <p>The Bill has been passed by the Parliament, pending gazettelement. Amendment includes a change on local content to mean EAC and remove the discriminative part.</p> <p>During the meeting of the Sectoral Committee on Trade requested the Republic of Uganda to fast-track the process of gazettelement.</p> <p>At the 41st SCTIFI meeting the Republic of Uganda observed that Parliament had already passed the bill. The Republic of Kenya requested Uganda that once the bill is assented to, Uganda should fast-track the process of gazettelement.</p> <p>The Republic of Uganda provided the new text as it is drafted in the bill to demonstrate that it is not discriminatory on juices transferred from the Republic of Kenya. The text states that "Fruit juice and vegetable juice, except juice made from at least 30% pulp or at least 30% juice by weight or volume of the total composition of the drink from the fruits and vegetables locally grown."</p>
NTB-000-947	Uganda rejection of tissue paper manufactured in Kenya by Africa Cotton Industries. Uganda does not allow group packaging of tissue paper as provided for under the EAC harmonized standard.	Uganda	Kenya	<p>On 14 June 2022, the EAC Secretariat reported that, the 24th EASC held a meeting from 27th to 29th April 2022 rejected the withdrawal of EAS 355:2017 Tissue Paper – Specification and directed the SMC to review the Standard with the recommendation that more options be considered in the wrapping clause. Specific consideration be given to the optimum number of Tissue papers to be group wrapped without compromising the safety of users.</p> <p>SMC was also directed to conclude and report back to the 25th</p>

TABLE 21				
NTB No	Complaint	Imposer	Reporter	Progress note / Status
				<p>EASC meeting which is planned to be held in April 2023.</p> <p>Partner States were requested to share their study with stakeholders and generate their inputs on the preferred mechanism of wrapping.</p> <p>SMC is planning to hold a physical harmonization meeting in February 2023 to deliberate on the matter.</p> <p>Uganda does not allow group packaging of tissue paper as provided for under the EAC harmonized standard. Uganda has not yet adopted the East African Standard for toilet paper on technical grounds and the matter is before the EAC Technical Committee, therefore Uganda insists that imports of toilet paper into Uganda to be subjected to the Uganda Standard for toilet paper i.e. US 126, Toilet paper – Specification.</p> <p>This issue was sent to the EAC Standards Committee (EASC) for review. The East African Standards Committee/Technical Committee 065 on Paper and paper products failed to reach a consensus on one clause in the standards that relate to wrapping and therefore they recommended to cancel the project and subsequently withdraw the Standard. However, the EASC held a meeting from 27th to 29th April 2022 and rejected the withdrawal of EAS 355:2017 Tissue Paper – Specification and directed the SMC to review the Standard.</p> <p>The Republic of Uganda informed the 41st SCTIFI meeting that Kenyan firms producing tissue papers access the Ugandan market, with the exception of only one firm called Africa Cotton Industries which wraps its tissue papers in group packages, and fails to comply with the Ugandan requirement that doesn't allow group packing of tissue paper.</p> <p>The 41st SCTIFI meeting agreed that EASC should report on this matter to the 42nd SCTIFI meeting.</p>
NTB-000-906	Uganda does not recognize the Calibration Certificate issued by the Weights and Measures Agency (WMA) for oil tank from URT	Uganda	Tanzania	<p>10. On 14 June 2022, the EAC Secretariat reported that:</p> <p>Peer assessment was conducted in October and November, 2021 agreed to harmonize the calibration certificates. The NTB will be addressed when the two Partner States harmonize and implement the harmonized calibration procedures on road tankers as recommended by the EAMET Report of April 2022.</p> <p>The meeting urged the Republic of Uganda to consider mutual recognition of the calibration certificate as the two Partner States await the harmonization.</p> <p>At the Trade Committee, the meeting was informed that Peer assessment was done, gaps identified and action plan for implementation agreed and approved by Standards Committee</p> <p>The meeting urged the EACS to Fasttrack the harmonization of administrative procedures to resolve the matter.</p> <p>During the 41st SCTIFI the Secretariat informed the meeting that it had convened a meeting in February 2023 to harmonize calibration procedures for road tankers.</p>
NTB-001-040	Tanzania denial of preferential market access for Apple Juice and Strawberry manufactured in Kenya while citing reasons that the products are not originating from Kenya.	Tanzania	Kenya	<p>2. On 14 June 2022, EAC Secretariat reported that:</p> <p>URT cited reasons that the products are not originating from Kenya.</p> <p>A verification was undertaken in 2019 but the two parties did not agree on the application of Rule 6 of the EAC Rules of Origin.</p> <p>At the RMC meeting the NTB was referred to the Committee on Customs of November, 2022.</p>

TABLE 21				
NTB No	Complaint	Imposer	Reporter	Progress note / Status
				The Committee on Customs considered the matter and agreed that the two Partner States include it among the list of items to be verified in the planned bilateral verification scheduled on 15th December, 2022.
NTB-001-070	<p>URT discriminatory charges of import TSh.700 and unfounded charges of Tsh.1000 to Kenya confectionary, sugar and sugar products.</p> <p>The same excise duty is not applicable to the same or like products produced in URT hence creating unfair competition between the Partners States Originating products.</p>	Tanzania	Kenya	<p>URT informed the meeting that the complaint is not an NTB but a charge of equivalent effect which is like what is in the Kenya's Finance Act of 2022. This is a result of non-harmonization of domestic taxes in the Region.</p> <p>The Republic of Kenya informed the meeting that the Kenya Finance Act is not discriminatory and hence the Charge on Confectionary Sugar by URT is an NTB and should be resolved by abolishing the discriminative fees.</p> <p>The Trade Committee meeting recommends that the process of harmonizing the fees, levies and charges should be fast tracked.</p> <p>During the 41st SCTIFI meeting Kenya observed that confectionary products from Kenya should not be treated differently from confectionery products produced in Tanzania.</p> <p>At the 41st SCTIFI meeting, the Republic of Kenya observed that NTB-001-070: "URT discriminatory charges of import TSh.700 and unfounded charges of Tsh.1000 to Kenya confectionary, sugar and sugar products." The EAC TBP submissions has referred to the excise duty as fees and subsequently recommended the process of harmonizing the Fees, levies and charges should be fast tracked.</p> <p>Kenya's submission is that the description of the charges as fees is erroneous. The charge is an excise duty as contained in the United Republic of Tanzania Finance Act of 2022 and the custom entry presented as evidence. This measure is therefore disciplined under Article 15 of the Protocol establishing the EAC Custom Union and not subject to the process of harmonization of fees, levies and charges.</p> <p>The excise duty discriminates transfers of confectionary, sugar and sugar products from Kenya which are levied Tshs 700 per kilogram against locally produced like-products which are levied Tshs 500 per kilogram. This measure is a violation of Article 15 on National Treatment which prohibits Partner States from imposing, directly or indirectly, on the products of other Partner States any internal taxation of any kind in excess of that imposed, directly or indirectly, on similar domestic products</p> <p>In addition, in the custom entry presented as evidence, the Kenya exporter has been charged an excise duty of Tshs 1,000 per kilogram which is not justified by the existing Tanzania excise law (Tshs 700).</p> <p>Kenya therefore requested the United Republic of Tanzania to accord Kenyan transfers of confectionaries and sugar products the same treatment as accorded to similar domestic products at Tshs. 500.</p>

4.1.1.2 Resolved NTBs

TABLE 22				
NTB No	Complaint	Imposer	Reporter	Progress note / Status
NTB-	The process of obtaining	Democrati	Tanzania	At the 18th SADC Sub Committee on Trade Facilitation meeting held

TABLE 22

NTB No	Complaint	Imposer	Reporter	Progress note / Status
000-358	DRC Ogeframe certificate delays cargo at the port and increases costs. Procedure is too long as it involves exporter paying fees at Tanzania Revenue Authority in Dar Es Salaam Office and then take the document for endorsement by DRC. This is applicable only to transit goods to DRC.	c Republic of the Congo		<p>in Gaborone, Tanzania informed the meeting that it was the DRC companies that experienced the NTB, however, DRC responded that they had not received any complaint from the companies. The two countries would undertake bilateral consultations between the Ministries of Transport and Ministries of Trade and report back.</p> <p>The Complaint was reported by the system admin, and none of the responsible Partner States claims responsibility.</p> <p>The meeting recommended that the NTB should be removed from the Time Bound Programme.</p>
NTB-000-857	Tanzania charging of Business Visa of USD 250 to EAC business persons entering URT charged as Certificate of Temporary Assignment (CTA) at all borders	Tanzania	EAC	<p>8.The EAC Common Market Regulation 12 Restrictions on the Free Movement of Services has been submitted to the Sectoral Council on Legal and Judicial Affairs scheduled for October 2021 for legal input.</p> <p>The regulations went through the legal draftspersons. They decided to do away with having Regulations as this was not provided for under the CMP.</p> <p>However, some of the provisions that were in the Regulations were included in the revised EAC Schedule on Progressive Liberalization of Services. This includes the provision on Removal of Barriers to Trade in Services.</p> <p>With this, all barriers under Trade in Services will be progressively removed as per the EAC Schedule.</p> <p>Hence the meeting agreed to resolve this NTB as it has been taken care of in the Schedule.</p>
NTB-000-836	<p>Milk exported to Tanzania attracts numerous charges collected by different institutions including Tanzania Bureau of Standards, Tanzania Foods and Drugs Authority and Tanzania Dairy Board.</p> <p>Also, to import a Kilograms of milk in Tanzania, under the newly signed Animal Diseases and Animal Products Movement Control Regulations published on 31st August 2018 (Government Notice No 476) and which entered into force on 1st October 2018, Tanzania now requires to pay Tsh 2,000 on milk imported from outside the country from Tsh150. This is a 1,233% increase (https://allafrica.com/stories/201810030671.html). This is a total ban since milk imported cannot compete with the local one.</p>	Tanzania	Rwanda	<p>During the bilateral meeting it was noted that the Republic of Rwanda will report it as a new NTB with new evidence if any.</p> <p>The Sectoral Committee on Trade had agreed that the NTB was resolved.</p> <p>However, during the Senior Officials Session, the Republic of Rwanda insisted that the NTB should be maintained in the TBP. The Republic of Rwanda further elaborated that the NTB was reported to show numerous charges that are being charged by different institutions from Tanzania including those mentioned in the reported NTB. In addition, Tanzania Revenue Authority taxes and duties at Glance of July 2018 page 16 charges import duties and states that:</p> <p>"Some sensitive items are charged at a higher rate than 25% with the intention of protecting local industries. (e.g., Yogurt milk and Cream containing sweetening matter, Cane or beet sugar and chemically pure sucrose in solid form, Sacks and bags of a kind used for the packing of goods, Worn clothing and other worn articles (mitumba)."</p> <p>And Animal Diseases (Animal and Animal Products Movement Control) (AMENDMENT) REGULATIONS, 2020 GOVERNMENT NOTICE NO 489A published on 29/6/2020 (page 3) impose 2000 Tsh import fees per liter. The SCTIFI meeting agreed that the two Partner States resolve the matter bilaterally.</p> <p>URT reminded the meeting that TFDA does not exist, TBS and TMDA do not charge. Hence the issue of numerous charges is resolved.</p> <p>The Tanzania Dairy Board Charges have been revised from 2,000 to 1,000 through a Government Notice number 478 of July 2022.</p> <p>The remaining charge is part of the ongoing process of harmonization of fees, levies and charges.</p> <p>Hence the meeting agreed that the NTB is resolved.</p>

TABLE 22				
NTB No	Complaint	Imposer	Reporter	Progress note / Status
NTB-000-924	Discriminatory treatment (Excise duty) (verification charges) of Kenyan manufactured products among others pharmaceutical products.	Uganda	Kenya	8. On 14 June 2022, the EAC Secretariat reported that the SCTIFI of May 2022 noted that Clearance is in the final stages at the Solicitor General's Office. By 1st July 2022, the NTB will be resolved. The meeting noted that the NTB has been resolved.
NTB-001-067	Non recognition of Truck specifications approved and registered in Uganda.	Kenya	Uganda	The meeting was informed that Kenya is implementing the East African Community Vehicle Load Control (Vehicle Dimensions and Axle Configurations) Regulations (EAC-VLC) Act and its subsequent regulations of 2018. The trucks affected were found to be in violation of the Law. The Act provides a maximum of 4 axles (2 steering and 2 rear) on a rigid chassis vehicle which must not exceed 12 meters. Impounded vehicles had 5 axles on a rigid chassis vehicle which is not allowed by law. The meeting agreed that the Partner States need to abide by the EAC Laws. Hence the complaint is not an NTB.
NTB-001-068	Denial of Market access for Happy sausage Ltd into Kenya.	Kenya	Tanzania	The meeting was informed that the DVS of Kenya looked at the risk assessment questionnaire submitted by Happy sausage Ltd and approved their import permit. The issue was administrative and was resolved.

4.1.1.3 New NTBs

TABLE 23				
NTB No	Complaint	Imposer	Reporter	Progress note / Status
	UNBS request for re-labeling of the cosmetics and food products pertaining to specific UNBS new requirements and not EAC Harmonized standard. Seizure No. UNBS/SZ/0000742 dated 10th October 2022.	Uganda	Kenya	Uganda will consult on the provided evidence and revert. At the 41st SCTIFI the Republic of Uganda observed that it will provide an update during the same meeting after consultations with the relevant institution.
NTB-001-078	The Republic of Kenya is delaying in responding to the Request by the Republic of South Sudan on reverting to clearing RSS Cargo at Mombasa Port other than Nairobi.	Kenya	RSS	The Republic of South Sudan informed the meeting that, on 25th February 2022, the Republic of South Sudan requested the Republic of Kenya to clear cargo at Nairobi but then realized that the costs were higher in Nairobi than Mombasa by USD 500 - USD 780; the containers are supposed to be dropped back to Mombasa after clearance and drive back an empty truck to pick the cargo. It increases the cost of doing business. It also caused delay as the RSS felt that SGR doesn't give priority to RSS cargo. Hence, on 23rd of May, and 28th of July 2022 respectively the RSS requested the Republic of Kenya to revert to the original clearance plan of clearing in Mombasa. Kenya has since not responded to the letters from RSS. The Republic of South Sudan submitted evidence of the letters to the Republic of Kenya. The Republic of Kenya informed the meeting that the letters had not been received and hence could not take any action.

TABLE 23

				<p>The Republic of Kenya received the copies of the letters as evidence during the RMC meeting.</p> <p>The meeting agreed that the Republic of Kenya consults and revert clearance of RSS cargo from Nairobi to Mombasa.</p> <p>During the 41st SCTIFI the Republic of Kenya agreed to address the matter by 30th December 2022</p>
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4.1.1.4 Complaints referred to Committee on Customs

TABLE 24

NTB No	Complaint	Date	Imposer	Reporter	Progress / Status note
NTB-001-040	Tanzania denial of preferential market access for Apple Juice and Strawberry manufactured in Kenya while citing reasons that the products are not originating from Kenya.	2021.10.14	Tanzania	Kenya	<p>On 14 June 2022, EAC Secretariat reported that: URT cited reasons that the products are not originating from Kenya.</p> <p>A verification was undertaken in 2019 but the two parties did not agree on the application of Rule 6 of the EAC Rules of Origin.</p> <p>The NTB will be considered by the Committee on Customs scheduled to take place from 14th - 18th November, 2022</p> <p>The Sectoral Committee considered the matter and agreed that the two Partner States include the two items in the list of items to be verified in the planned bilateral verification by 15th December, 2022.</p>
	Uganda discriminatory excise duty of 2.5% to Kenya mattresses from Jumbo Kenya, whereas mattresses from Uganda manufacturers are not charged excise duty. Also, Uganda classifies the mattresses as plastic mattresses.		Uganda	Kenya	<p>The meeting recommended that the complaint be referred to the Committee on Customs to resolve the issue of Classification.</p> <p>The Sectoral Committee considered the matter and the Republic of Uganda submitted that there is a provision that exempts payment of Excise duty for mattresses not made of plastic. Uganda requested that the matter be handled bilaterally.</p> <p>The two Partner States agreed to resolve the matter through a bilateral meeting of Tariff Experts by 15th December 2022.</p> <p>The Republic of Kenya through Kenya Revenue Authority will initiate the process and convene the planned activity.</p>

TABLE 24					
NTB No	Complaint	Date	Imposer	Reporter	Progress / Status note
	Kenya is not implementing Single Customs Territory (SCT) on goods originating from the United Republic of Tanzania as a result the business community in Tanzania does not enjoy the benefit of SCT, beside the fact that the Republic of Kenya committed to implement SCT by September, 2019.		Kenya	Tanzania	<p>The Republic of Kenya informed the meeting that the matter is not an NTB due to the following facts:</p> <p>The issue is being addressed by the Technical Working Group on SCT implementation that met on 24th – 28th October 2022 in Kigali, Rwanda.</p> <p>Among the action points is direct Intra Regional Transfers which seeks to fix the ICT issue of KRA – TRA Customs Systems Integration.</p> <p>The implementation of ICT is in the pilot / testing stage.</p> <p>For SCT to be fully implemented, it requires the collaboration of the two Partner States especially on the issues of ICT Integration.</p> <p>The issue is being addressed bilaterally by both Partner States</p>
	During SCTIFI held May, 2022 Ministers directed the Republic of Kenya to communicate to Partner States requesting them to forward to KRA and the KPA the names of CFAs to be trained on the ICMS and KWATOS (Port) Systems by 10th June, 2022 (EAC/SCTIFI 40/Directive 11).				<p>The meeting noted that the issue is long outstanding and has been discussed several times in the Customs Committee and in the SCTIFI and directives had been given.</p> <p>Therefore, the Republic of Kenya was urged to implement the SCTIFI Directive (EAC/SCTIFI 40/Directive 11) to fully implement the SCT.</p> <p>The Republic of Kenya informed the meeting that progress has been made in addressing the issues of access rights for clearing agents. The Republic of Kenya further committed to undertake training within the agreed timelines and urged Partner States concerned to cooperate in submitting the lists of agents for training.</p>
NTB-000-917	Requirement by Tanzania Revenue Authority to Rwandan transporters to use two customs bonds on the Northern - Central Corridor (Kigali - Rusumo - Mombasa via Holili - Taveta border post) costing US \$ 150 on departure and US \$ 80 on return.	2019-10-02	Tanzania	Rwanda	<p>During the 38th SCTIFI of May 2021, SCTIFI was informed that the challenge of requiring a local bond was due to the non - transmission of data between TRA and RRA systems.</p> <p>SCTIFI further noted that non - transmission of data between RRA and TRA on goods transported through the Holili / Taveta border was due to non-geofencing of Taveta / Holili – Himo.</p> <p>The Senior officials recalled the SCTIFI directive of May 2021 directing TRA to spearhead geo-fencing and geo-mapping of the route from Taveta / Holili to Himo by October 2021.</p> <p>In May 2022, Senior Officials further recalled that during the 39th SCTIFI URT informed the meeting that work on geofencing is still ongoing.</p> <p>The Committee on Customs of November 2022 noted that transmission issues are operational in nature and will require the technical experts to dedicate efforts on addressing the matter. The meeting therefore directed the ICT experts from RRA and TRA to ensure the matter is dealt with and reported to the next meeting of the Committee on Customs.</p> <p>In the meantime, TRA shall revert to the use of fallback procedures to avoid extra costs and delays.</p> <p>The meeting also noted that non-transmission of data should not attract an additional bond.</p> <p>It was therefore agreed to remove the issue from</p>

TABLE 24					
NTB No	Complaint	Date	Imposer	Reporter	Progress / Status note
					the unresolved NTBs

The Sectoral Council on Trade, Industry, Finance and Investment took note of the status of resolution of NTBs in the EAC Time Bound Programme (*EAC/SCTIFI 41/ Decision 21*).

4.2 Consideration of the Consolidated Matrix of Levies, Fees and Charges for Harmonization and or Removal

At its 38th meeting held on 28th May 2021, the Sectoral Council of Trade, Industry, Finance and Investment among others, established a **Regional Taskforce** to compile a comprehensive list of levies, fees and charges for harmonization and/or removal; (*EAC/SCTIFI 38/Decision 19*).

All Partner States submitted the names of experts to form a Regional Task Force as per the SCTIFI Directive above. The 1st Regional Task Force meeting was held virtually on 22nd March, 2022 and formed Sector Working Groups (SWG) based on identified sectors. The SWG meetings were held in July/August 2022 and developed a Matrix of Levies, Fees and Charges imposed by their respective Partner States.

The 2nd Regional Task Force meeting was held from 13th -17th September, 2022, in Dar Es Salaam, United Republic of Tanzania.

The Sector Working Group (SWG) meetings developed a Matrix of Levies, Fees and Charges imposed by their respective Partner States. Further, whereby the Regional Task Force developed the Consolidated Matrix of Levies, Fees and Charges to be referred to the 41st SCTIFI for harmonization and/ or removal as per the approved Terms of Reference.

4.2.1 Summary of the Consolidated Levies, Fees and Charges

The Regional Taskforce identified five (5) sectors that mostly impose levies, fees and charges in Partner States, these sectors are: trade, customs and finance, agriculture, transport and energy. The matrix reveals that the agriculture sector has the highest number of levies, fees and charges which currently is eighty (80). This discloses that the agriculture sector is the most protected sector in the Region and the current situation prohibits trade in agricultural products and may pose a threat to food security because food stuffs can't move freely within the Region. In second position we have the trade sector imposing fifteen (15), as well as customs and finance imposing (15) levies, fees and charges. Whereas the number of levies, fees and charges imposed by the transport sector are six (6). The environment sector imposes few levies, fees and charges, which are two (2). The identified total number of levies, fees and charges imposed by all sectors in the Community are one hundred and eighteen (118).

The Regional Taskforce doesn't have the mandate to effect harmonization or removal of levies, fees and charges but will submit them to relevant EAC policy organs through SCTIFI.

The Consolidated Matrix of Levies, Fees and Charges is hereto attached as **Annex XVI**

4.2.2 Observations made during the Regional Taskforce Meeting

- (i) the matrix contained levies, fees and charges that apply at National Level with no effect on cross-

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- border trade and hence agreed to remove them from the matrix;
- (ii) the matrix contained domestic taxes which were outside the scope of the RTF's ToRs and hence agreed to remove them from the matrix.
- (iii) some specific fees, charges and levies were under consideration by various regional sectors and hence agreed that they be considered there; and
- (iv) the matrix did not capture all Partner States' levies, fees and charges.

4.2.3 Regional Taskforce recommended to the Sectoral Committee on Trade to:

- (i) consider the recommendations contained in the matrix of fees, charges and levies;
- (ii) direct the Secretariat to include the reporting of new levies, fees and charges imposed in the Region as an agenda item of the NMC and RMC meetings; and
- (iii) refer the matrix containing domestic taxes to the Sectoral Council on Finance and Economic Affairs for consideration.

However, at the meeting of the Sectoral Committee on Trade the recommendations from the Regional Taskforce were replaced by the recommendations of the Sectoral Committee on Trade.

4.2.4 Observations of the Sectoral Committee on Trade

- (i) Commended the Regional Taskforce for the well work done as per the Terms of Reference approved by SCTIFI;
- (ii) There is need to transition the terminology used from a template to a consolidated matrix on the levies, fees and charges;
- (iii) The Consolidated Matrix of levies, fees and charges is very long, and Ministers cannot get enough time to go through it;
- (iv) The need for further analysis of fees, levies and charges in order to come up with two lists one for harmonization and one list proposed for removal;
- (v) The recommendations from the Consolidated Matrix of levies, fees and charges are directed towards different EAC policy organs such Customs Committee, Sectoral Councils on Agriculture, Health, environment and Transport hence the SCTIFI should refer these levies, fees and charges to those relevant EAC policy organs for harmonization or removal;
- (vi) Some fees, charges and levies have already been harmonized hence the need to remove them from the matrix e.g., road user charges;
- (vii) The Regional Taskforce doesn't have the mandate to effect harmonization or removal of levies, fees and charges but rather to submit the identified levies, fees and charges to relevant EAC policy organs; and
- (viii) The Regional Taskforce had been given a six (6) month duration which has expired.

4.2.5 Observations made during the 41st SCTIFI

- (i) The levies, fees and charges are imposed by Partner States in order to address the economic development needs in Partner States; and
- (ii) The matrix did not capture all Partner States' levies, fees and charges.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress and:

- (a) referred the list of levies, fees and charges to relevant EAC Committees and Policy Organs for harmonization or removal (EAC/SCTIFI 41/ Directive 28); and**
- (b) directed the Secretariat to include the reporting of levies, fees, and charges which were not captured in the matrix and any other that may be imposed in the Region as an agenda item of the NMC and RMC meetings (EAC/SCTIFI 41/ Directive 29).**

4.3 UPDATES ON THE PREPARATIONS FOR 22ND EAC MSMEs TRADE FAIR

The meeting was informed that, in preparation for the 22nd EAC MSMEs Trade Fair, the EAC Secretariat (EACS) convened three meetings of the Regional Steering Committee. The first meeting

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was held virtually on 19th July, 2022, the 2nd meeting took place from 4th – 6th October, 2022 in Kampala, Uganda, and the 3rd meeting was held virtually on 24th November 2022

The meeting deliberated on several agenda items and resolved as follows:

4.3.1 Venue

The meeting was informed that the 1st EAC Steering Committee meeting that took place virtually on 19th July 2022 noted that the Republic of Uganda had identified three potential grounds in Kampala that would be assessed by the Regional Steering Committee. These grounds were as follows: Kololo Independence Grounds, Old Kampala Secondary School and Lugogo Sports Grounds

The Regional Steering Committee deliberated on all the criteria and decided that the 22nd EAC MSMEs Trade Fair will be held at Kololo Independence Grounds in Kampala, Uganda.

4.3.2 Theme

The Steering Committee agreed on the theme for the 22nd EAC MSMEs Trade Fair to be, **“Buy East African to Build East Africa for Resilience and Sustainable Development”**

4.3.3 Shared Responsibilities

The responsibilities will be shared among the EACS, the Host Partner State and CMSEO EA as stipulated in the Trade Fair Manual.

4.3.4 Symposium Topics

The topics for the symposium plus the expected presenters are as follows:

TABLE 25		
SN	Topic	Presenter
1	Benefits of the EAC Common Market to MSMEs	URT
2	Preparing MSMEs to take up opportunities under the AfCFTA	Kenya
3	Overview of the EAC Simplified Trade Regime, EAC RoO and the EAC CET 2022 version	Rwanda
4	Cross Border Trade and dealing with NTBs.	Burundi
5	Standards, Quality Assurance, Metrology and Testing (SQMT)	South Sudan
6	MSMEs opportunities in the Republic of Uganda	Uganda
7	EAC Online Buyer Seller Platform	EAC Secretariat

4.3.5 Judgment of the best exhibitors

The judging of best exhibitors shall be as per the EAC MSMEs Exhibition Manual.

4.3.6 PARTNER STATES UPDATES ON THE PREPARATIONS FOR THE 22nd EAC MSMEs TRADE FAIR

Partner States gave updates on the preparations for the 22nd EAC MSMEs Trade Fair as follows;

TABLE 26						
Partner State	Formation of National Organizing Committee	Official Launch	Sourcing of the Symposium presenter	Mobilizing exhibitors and exhibits		Borders to be used by both exhibitors and exhibits
Burundi	Yes	Done 20 th October	Yes	100	120	Akanyaru / Gatuna
Kenya	Yes	done for 21 st October	Yes	361	350	Busia/ Malaba

TABLE 26						
Partner State	Formation of National Organizing Committee	Official Launch	Sourcing of the Symposium presenter	Mobilizing exhibitors and exhibits		Borders to be used by both exhibitors and exhibits
Rwanda	Yes	15 – 20 th October	Yes	77	150	Gatuna/Katuna
RSS	Yes	Planned for 17 th October	Yes	35	100	Elegu/ Nimule
URT	Yes	Done	Yes	210	300	Mutukula/ Namanga
Uganda	Yes	Done	Yes	250	500	N/A
Total Expected exhibitors				637	1,520	

4.3.7 UPDATES FROM THE REPUBLIC OF UGANDA ON THE PREPAREDNESS TO HOST THE TRADE FAIR

The meeting was informed that 10 Sub Committees were formed to cover the 22nd Trade Fair. The sub-committees are as follows: Resource Mobilization, Finance, Exhibition, Publicity and mobilization, Welfare and hospitality, Health, Transport, Protocol, Security and Programme and Technical. Generally, preparations for 22nd EAC MSMEs Trade Fair are in high gear in the Republic of Uganda

During the Sectoral Committee on Trade, the Republic of Uganda informed the meeting that Uganda is ready and set to receive exhibitors from all Partner States and the final preparations are ongoing well.

During the SCTIFI meeting, the Republic of Uganda reiterated her readiness to host the 22nd EAC MSMEs Trade Fair. Uganda further informed the meeting that the customs border officials will facilitate crossing of exhibitors and exhibits.

4.3.8 HOSTING OF THE 23RD EAC MSMEs TRADE FAIR

As per the rotational basis of the Trade Fair in the Community, the Republic of Burundi shall host the 23rd EAC MSMEs Trade Fair.

During the Sectoral Committee on Trade, the Republic of Burundi, informed the meeting that she was ready to host the 23rd EAC MSMEs Trade Fair. The meeting commended the Republic of Burundi for her readiness and urged the Republic of Burundi to officially notify the EAC Secretariat on the same.

The meeting also noted that the Republic of South Sudan has not hosted the EAC MSMEs Trade Fair since accession to the EAC, hence the need for South Sudan to consult and consider hosting the Trade Fair in the near future.

Furthermore, the meeting noted the need for border officials on the ground to facilitate MSMEs to cross borders as they travel to Uganda for the Trade Fair.

The Republic of Uganda further assured the meeting that Uganda is safe and the health related challenges are under control and that further updates shall be provided at the Ministerial session.

The Ministers noted the need for a high level representation during the trade fair to be hosted by the Republic of Uganda.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress made in the preparations for the 22nd EAC MSMEs Trade Fair and;

- agreed that the 23rd EAC MSMEs Trade Fair shall be held in the Republic of Burundi (EAC/SCTIFI 41/ Decision 22);**
- urged all Partner States to support the host Partner State in ensuring high level representation during the EAC MSME Trade Fairs (EAC/SCTIFI 41/ Directive 30); and**
- urged the Republic of South Sudan to notify the EAC Secretariat on her readiness to host the 24th EAC MSMEs Trade Fair (EAC/SCTIFI 41/ Directive 31).**

4.4 UPDATE ON TRADE FACILITATION

The EAC Regional Sub-Committee on Trade Facilitation met from 22nd to 26th August 2022 in Kampala, Uganda, and considered: reports of the National Committees on Trade Facilitation 2021/2022; Status of EAC Partner States' notifications on Trade Facilitation measures to the WTO; simplification of trade procedures, implementation of the reform tracker and enquiry points; and, reforms in avocado export procedures in the EAC

4.4.1 Reports of the National Trade Facilitation Committees (NTFC) 2021 / 2022

4.4.1.1 Republic of Burundi

4.4.1.1.1 The achievements of NTFC during 2021 - 2022:

- (i) 45 private sector actors working in the coffee and tea sectors in KAYANZA were trained on the WTO Trade Facilitation Agreement (TFA) from 13th to 14th April 2021, with the support of EABC and ITC;
- (ii) 40 stakeholders in the coffee, tea and horticultural sector were trained on the TFA from 24th to 25th April 2021, with the support of EABC and ITC;
- (iii) Burundi officially launched its Trade Information Portal on 27th July 2021, with the support of ITC;
- (iv) Implementation of the electronic Single Window with the support of UNCTAD. Two departments (Ministry of Health and Ministry of Agriculture) already interconnected with the Burundi Revenue Authority (OBR);
- (v) Implementation of electronic payment. 3 banks are already interconnected with OBR while two others continue the interconnection processes;
- (vi) Electronic submission of customs declarations since 2021;
- (vii) Sensitization of the private sector in Kayanza and Ngozi on the Trade Information Portal and its benefits;
- (viii) Capacity building of OBR staff on Post Clearance Control by JICA. 4 executives have been accredited by the World Customs Organization;
- (ix) Automation of customs assessment: It is already operational from July 2022 with some pilot products.

4.4.1.1.2 The NTFC experienced the following challenges:

- (i) The NTFC members did not have the necessary knowledge of the TFA to implement the provisions of the Agreement.
- (ii) Some NTFC members have been reassigned, which has greatly affected the functioning of the Committee.
- (iii) Lack of resources for the NTFC's operations has handicapped the committee's activities.

4.4.1.1.3 Future prospects:

- (i) Continue the implementation of the TFA;
- (ii) Mobilize funding sources for the sustainability of NTFC activities;
- (iii) Operationalization of the NTFC Permanent Secretariat, with a well-defined working structure and mandates, highlighted as one of the key elements;
- (iv) Updating of a roadmap and strategic plan for the implementation of the NTFC;
- (v) Replacement of unavailable NTFC members.

4.4.1.2 Republic of Kenya

4.4.1.2.1 The following activities were carried out in 2021 / 2022:

- (i) Finalized and published of NTFC 2020-2023 work plan

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- (ii) Updated the TFA needs assessment
- (iii) Commissioned a study report on status of implementation of article 6.1 on fees discipline;
- (iv) Intensive sensitization for private and public sector have been undertaken on AfCFTA with respect to TFA;
- (v) Progress has been made on implementation of article 7.1 on pre arrival processing. There is a multi-agency Committee on Pre-arrival processing that is geared towards the involvement of all the concerned agencies in facilitating Pre-arrival processing
- (vi) Training of NTFC members on the reform tracker;
- (vii) The documentation of export, import and transit procedures from 88 to 101 commodities by 30th June 2022
- (viii) Kenya implemented the Risk management system for various Government Agencies in accordance with article 7.4 has been fully operationalized;
- (ix) Simplification of export procedures for fish and avocado with support from GIZ under the Digitizing Global Trade initiative
- (x) Kenya received donor support from UNCTAD/TMEA/GIZ for programmes on documentation, simplification and reform tracker.

4.4.1.3 Republic of Rwanda

4.4.1.3.1 Key highlights implemented during FY 2021/2022:

- (i) Rwanda Notified the definitive dates for implementation of category C measures on 19th August 2022 that were approved by NTFC held on 14th July 2022;

Provision	Heading/description	Definitive date for implementation
Article 1.3	Enquiry Points	31 August 2026
Article 5.3	Test Procedures	31 August 2026
Article 7.4.3	Risk Management	31 August 2030
Article 7.6	Establishment and Publication of Average Release Times	31 August 2026
Article 8	Border Agency Cooperation	31 August 2030
Article 10.6	Use of Customs Brokers	31 August 2030

- (ii) Rwanda Notified the arrangement and progress in the provision of technical assistance and capacity building support of category c designations;
- (iii) NTFC through Ministry of Trade and Industry held discussion with donors (USAID, UNCTAD & TMEA) to support implementation of Trade Facilitation Agreement;
- (iv) NTFC through Ministry of Trade and Industry presented the need to ITC in relation to MARK UP projects to finance some of the TFA provisions including Risk Management, Enquiry points, Average Time Release Study and support to the functioning of Trade portal to enhance transparency;
- (v) NMC convened a meeting on 19th April 2022 whereby reported 8 NTBs and only 1 qualified to the Regional Monitoring Committee with supporting document;
- (vi) Reform Tracker administrators managed to update the checklist thus implementation of TFA by the checklist reached 79.94% and provided training on usage of reform tracker to the 36 NTFC members;
- (vii) NTFC chair and Hon. Minister of Trade and Industry advocated for Rwanda drivers who were

affected by road toll fees in Tanzania (High level bilateral meeting) by March 18th 2022;

- (viii) NTFC members have contributed the collection of fees, charges and levies for planned harmonization exercise;
- (ix) 25 participants attended the National Stakeholders capacity building workshops on the EAC Simplified Guide for MSMEs on Cross Border Trade for Perishable Goods from 4th to 6th April 2022;
- (x) The Joint Permanent Commission meeting was held between Republic of Tanzania and Republic of Rwanda in Kigali;
- (xi) On 23rd March 2022, participated in Tanzania Rwanda Business Forum and provided an opportunity for reporting of new complaints;
- (xii) Held a Simplification workshop from 2nd to 3rd December 2021 to propose new recommendations on steps, documents and requirements for different products.
- (xiii) The NTFC working groups also met to deliberate on TBT, SPS and NTBs issues; cross-border trade and market access issues.

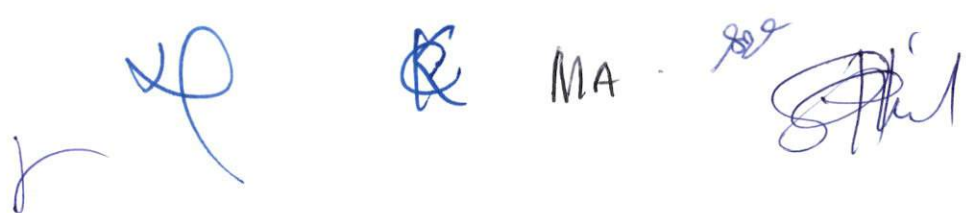
4.4.1.4 United Republic of Tanzania

4.4.1.4.1 The United Republic of Tanzania reported the following activities carried out by NTFCs:

- (i) The NTFC (Technical level) meeting – May 2021 for discussing previously meeting recommendations on trade facilitation issues aimed at reducing cost and time in the cause of doing trade;
- (ii) Workshop on WTO TFA and cross border trade issues to 40 Private and Public Stakeholders at Tunduma OSBP - April 2022;
- (iii) Preparation of three (3) projects proposal on Category C measures. Those Projects are Publication and availability of information (Art 1); Testing Procedures (Art 5.3) and Border Agency Cooperation (Art 8).
- (iv) Added more products information in Tanzania Trade Portal (TTP) from 36 to 40 in 2022 (26 for Export and 14 for import);
- (v) Launched the Tanzania Trade Portal (TTP) <https://trade.tanzania.go.tz>. For providing trade information on export, import and transit - July 2021;
- (vi) Workshop with Coffee stakeholders for analyzing the procedures applicable to the export of coffee which documented on the Tanzania Trade Portal – June 2022; and
- (vii) Participated in online training for Reform Tracker.

4.4.1.5 Republic of Uganda

- (i) Uganda further submitted a notification of Category B and C (Indicative) commitments as per Article 15 and 16 of the WTO TFA on 13 January 2020. Accordingly, 64.3 percent of the measures in Category C and 27% in Category B.
- (ii) Some of the provisions in the Agreement are being implemented, including Article 10.4 of Electronic Single Window, Article 1 on making trade information readily available online for users through information trade information portal.
- (iii) Ongoing work supported by UNCTAD/TMEA to document and simplify work under the Trade Information Portal as per Article 1.1.
- (iv) Held national Consultations for Category C (definitive) and a draft is awaiting validation and
- (v) management approval.
- (vi) A Donor Round Table Preparation under planning to pitch for TFA funding, among others.
- (vii) Training of NTFC Members on the Reform Tracker was undertaken

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- (viii) Draft TORs of the 4 TWG Groups under NTFC were developed to support implementation and tracking progress under the Reform Tracker. The TWGs include: a) Trade and Customs Procedures; b) Rules and Regulatory; c) Information, ICT and Transparency; d) Export Augmentation.
- (ix) Updates on WTO Notification Obligations: a draft Category C Notification Document is ready; a draft Transparency Notification Obligation is ready; and a draft on Technical Assistance and Capacity Building to be finalized after the Donor Meeting.

4.4.1.6 Republic of South Sudan

The Republic of South Sudan reported that it is yet to create a National Trade Facilitation Committee (NTFCs). She committed to explore how the NTFCs can be established. The Republic of South Sudan also reported that the Simplified Trade Regime is being piloted.

4.4.1.7 Observations

The meeting of the Sub-Committee on Trade Facilitation observed:

- (i) That the NTFCs are doing a commendable job to enhance Trade Facilitation. However, there is a challenge of funding;
- (ii) The Republic of South Sudan needs to establish a National Committee on Trade Facilitation;
- (iii) Some members of the NTFCs are no longer active in some Partner States.

The Sectoral Committee on Trade took note of the National Trade Facilitation Committees achievements and challenges including the funding and underscored the need for sustainability of the work of NTFCs.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) urged Partner States to fund the NTFCs through the National Budget for sustainability by the next financial year (EAC/SCTIFI 41/ Directive 32);
- (b) urged the Republic of South Sudan to establish a National Committee on Trade Facilitation by 30th April, 2023 (EAC/SCTIFI 41/ Directive 33); and
- (c) directed the Secretariat and Partner States to mobilize resources for implementation of the category C Trade Facilitation measures (EAC/SCTIFI 41/ Directive 34).
- (d) urged the Secretariat to continue sourcing for funds to support the National Trade Facilitation Committees (EAC/SCTIFI 41/ Directive 35).

4.4.2 Status of EAC Partner States TFA notifications to the WTO as of August 2022

TABLE 28					
Type of Notification	Current status				
	Burundi	Kenya	Rwanda	Tanzania	Uganda
Notified all category ABC designations	✓	✓	✓	✓	✓
Notified indicative dates in Category B	✓	✓	✓	✓	✓
Notified definitive dates in Category B	✓	✓	✓	✓	✓
Notified indicative dates in Category C	✓	✓	✓	✓	✓
Notified definitive dates in Category C	✓	✓	✓	✓	No
Notified Technical Assistance requirements	✓	✓	✓	✓	No

TABLE 28					
Type of Notification	Current status				
	Burundi	Kenya	Rwanda	Tanzania	Uganda
Notified arrangements on the provision of technical assistance support	✓	No	✓	No	No
Notified progress in the provision of technical assistance support	✓	No	✓	No	No
Transparency notifications (Art. 1.4, Art. 10.4.3, Art. 10.6.2 and Art. 12.2.2)	✓ 1.4 not yet	✓	✓	✓	No
Information on Assistance and Capacity Building (Art.22.3)	✓	✓	✓	✓	No
Remarks		Kenya has drafted the notifications and will notify		URT has a drafted notification on definitive date, awaiting approval to be submitted to WTO	Uganda has drafted the notifications and awaits management approval

4.4.2.1 Observations

The meeting commended Partner States for the work well done in complying with WTO obligations and the meeting noted that:

- Uganda did not notify definitive dates in Category C, Technical Assistance requirements, arrangements on the provision of technical assistance support and progress in the provision of technical assistance support;
- Kenya did not yet notify arrangements on the provision of technical assistance support and progress in the provision of technical assistance support;
- Tanzania did not yet notify arrangements on the provision of technical assistance support and the provision of technical assistance support; and
- Burundi did not yet notify Art. 1.4.

The Sectoral Committee on Trade took note of the Status of EAC Partner States TFA notifications to the WTO and commended the NTFCs for good coordination of the implementation of WTO agreement on Trade Facilitation.

The Sectoral Council on Trade, Industry, Finance and Investment reiterated the earlier directive to the Republics of Burundi, Kenya, Uganda and the United Republic of Tanzania to notify the WTO on the remaining notifications.

4.4.3 Simplification of trade procedures and impact in EAC Partner States as of August 2022

The Partner States reported the progress as captured in real time through the respective Simplification Dashboards.

TABLE 29						
Type of simplification / Impact	Kenya	Rwanda	Tanzania	Uganda	Burundi	Leading
Procedures undergoing simplification	51	33	17	30		Kenya
Steps eliminated	46	25	14	10		Kenya

TABLE 29						
Type of simplification / Impact	Kenya	Rwanda	Tanzania	Uganda	Burundi	Leading
Documents eliminated	66	61	25	22		Kenya
Steps now accessible online	21	44	33	31		Rwanda
Administrative burden cost savings on removed procedures (US\$)	1830	178	NA	595		Kenya
Hours saved	92	53	202	31		Tanzania
Fees saved (US\$)	26	66	NA	243		Uganda

4.4.3.1 Observations

The meeting of the Sub-Committee on Trade Facilitation observed the following:

- Partner States equipped with Trade Information Portals (TIPs) made commendable work under the auspices of the NTFCs on the simplification of procedures (article 10 of the TFA) as captured by their respective Simplification Dashboards. The Republic of Burundi, though, has yet to commence the simplification process formally as its TIP was only recently launched;
- The simplification progress is a result of using the TIP's up to date information on procedures showing the administrative reality from the user's perspective. This information has proven the ideal resource to identify streamlining measures, measure their potential impact and monitor their implementation;
- That Partner States now apply a harmonized and methodical approach to organize the simplification work using the TIP and Reform Tracker using tangible and comparable indicators of complexity, monitoring of progress and effective coordination of multiple simplification work streams and agencies;
- The Regional Trade Information Portal's comparison tool is enabling NTFCs to identify best performing trade procedures and good practices in the region that can be replicated domestically for the benefit of harmonized trade practices;
- The progress on simplification so far has largely been on implementing low complexity measures involving few agencies and requiring minimal investment. The more complex measures are being worked on but often need higher level commitment and coordination to materialize and a lot of following up by the various working groups;
- The NTFCs are constrained in expanding and accelerating their simplification work by insufficient human and financial resources needed to conduct the requisite mapping and simplification exercises;
- The duty calculator implemented by Rwanda is an example of a good additional tool added to a TIP that facilitate business to estimate the duties to be paid and urged other partner States to implement;
- The visitors on the portal are continuously increasing but that the level remains insufficient and that more communication activities should be carried out to enable more MSMEs to take advantage of the TIP and the streamlined processes to increase trade; and
- The products that are most traded regionally are to varying extent covered by the TIPs but that they should be publicized on the regional platform to enhance their visibility with a focus on the main trade corridors.

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The Sectoral Council on Trade, Industry, Finance and Investment directed:

- (a) the Republic of Burundi to start the simplification process and report progress in the next SCTIFI meeting (*EAC/SCTIFI 41/ Directive 36*);
- (b) Partner States to finalize the projects proposals of Category C for resources mobilization by end of this financial year (*EAC/SCTIFI 41/ Directive 37*);
- (c) Partner States to add the duties estimation calculator on the Trade Information portal (*EAC/SCTIFI 41/ Directive 38*); and
- (d) Partner States to map more mostly traded products in the EAC including agricultural products, prioritize the ones that are affected by NTBs and expand the number of mapped products traded or to be traded into AfCFTA market (*EAC/SCTIFI 41/ Directive 39*).

4.4.4 Implementation of the reform tracker and enquiry points

4.4.4.1 Implementation of the reform tracker

Trade reform tracker was piloted in Kenya and rolled out in Rwanda and Tanzania. The reform tracker is monitoring the work of NTFCs on simplification exercises. Below is the status of implementation of the Reform Tracker in the EAC Partner States and the level of implementation of the WTO TFA: The Reform Tracker enables generating the following summary allowing for comparison of reform implementation rates in real time.

Uganda, Tanzania and Burundi have not fully updated their respective reform trackers and as a result this summary does not accurately reflect the rate of TFA implementation by the checklist.

TABLE 30		
Partner States	Implementation rate of WTO TFA by the checklist (%)	Rate of Reforms (%)
Kenya	40.43	18.60
Rwanda	79.94	32.43
Tanzania	TBD	TBD
Uganda	TBD	TBD
Burundi	TBD	TBD

4.4.4.1.1 Observations:

The meeting of the Sub-Committee on Trade Facilitation observed that:

- (a) The Reform Tracker is an effective project monitoring tool that supports these simplification and other TF reform programs carried out under the auspices of the NTFC, by facilitating the coordination of the implementation and enabling assigning responsibilities and tracking progress and holdbacks.
- (b) More needs to be done to ensure that the Reform Tracker is systematically used by NTFCs and their working group members to reap the full benefits of enhanced coordination and oversight and enable the fast tracking of the numerous TF reforms in the various national pipelines.
- (c) Burundi and Uganda are yet to fully utilize their reform trackers.

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The Sectoral Council on Trade, Industry, Finance and Investment took note of the rollout of the Reform Tracker and urged the Republics of Burundi and Uganda to utilize the reform tracker (EAC/SCTIFI 41/ Decision 23).

4.4.4.2 Establishment of Enquiry Points

The Partner States reported on the establishments of the enquiry points and challenges or lessons learnt in the implementation of inquiry points as following:

- (i) Republic of Burundi – not yet notified
- (ii) Republic of Kenya – has made notification of the contact information of the enquiry points.
- (iii) Republic of Rwanda – has made notification of the contact information of the enquiry points. The Republic of Rwanda has also officially appointed an Enquiry Point Coordinator who is also the Coordinator of the Trade Information Portal. Rwanda also developed an inquiry points management system process flow chart.
- (iv) United Republic of Tanzania – enquiry points on SPS, TBT and Trade Facilitation, the information of contact points are available in the WTO database.
- (v) Republic of Uganda - has not yet notified
- (vi) The Republic of South Sudan - n/a

4.4.4.2.1 Observations:

The meeting of the Sub-Committee on Trade Facilitation observed that:

- (a) Only few members of the business community take advantage of the various enquiry points (SPS, TBT, Notification authority, etc.) in each Partner State largely because of lack of knowledge of their existence and of their respective roles and responsibilities and a lack of confidence in their ability to provide information solve problems effectively;
- (b) To ensure compliance with the TFA objective of providing easily accessible, precise and complete information in a timely and cost-effective way and that the EP benefits the trading community, there is a need to organize the EPs as a national one shop information center with capacity to coordinate the various national EPs and direct queries to the appropriate institution and focal point;
- (c) An Enquiry Points One Stop Information Centre should not replace the existing enquiry points but will coordinate them to ensure they provide quality answers to traders and stakeholders' queries in a timely manner. Therefore, all communications related to traders' enquiries and notifications from inside and outside a Partner State will be channeled through the One Stop Centre Enquiry Point.
- (d) An Enquiry Point Coordinator should be appointed by the NTFC and would need to have sufficient authority and rely on a communication and case management system to ensure that various requests are dealt with appropriately and in a timely manner.
- (e) The business community is already using the communication system of the TIP to lodge enquiries and the TIP teams are doing a commendable job in providing timely responses. Because the TIP's mandate is to provide and centralize the trade information mandated by the TFA, the EP coordinator and its team will extensively rely on this resource. The TIP is therefore the obvious location for the Enquiry Point One Stop Information Centre.
- (f) The NTFC should receive from the EP Coordinator regular reporting on the nature of queries, resolution times per types of enquiries and set standards for its functioning.
- (g) Rwanda has officially appointed an Enquiry Point Coordinator. Yet more efforts must be directed at ensuring the development of the underpinning technological solution under the auspices of the NTFC and dissemination thereof to carry out the mandate.
- (h) The Republic of Burundi and the Republic Uganda did not yet notify the category for article 1.4.

The sub-committee on Trade Facilitation recommended to Sectoral Committee on Trade to recommend to the Sectoral Council on Trade, Industry, Finance and Investment to direct:



- (a) Partner States and the Secretariat to develop an enquiry points management system in order to provide easily accessible, precise and complete information in a timely and cost-effective way; and
- (b) the Republic of Burundi, Republic of Uganda, United Republic of Tanzania and Republic South Sudan to appoint the enquiry points coordinators.

The Sectoral Committee on Trade discussed the matter and observed that the management system should not interfere with the existing framework of notifications and communication with WTO.

The EAC Secretariat explained that the proposed management system intends to provide easily accessible, precise and complete information in a timely and cost-effective way and that the EP benefits the trading community, there is a need to organize the EPs as a national one shop information center with capacity to coordinate the various national EPs and direct queries to the appropriate institution and focal point and not to replace the existing notification framework.

The Sectoral Council on Trade, Industry, Finance and Investment directed the Secretariat to convene a meeting of enquiry points and Trade Information experts to deliberate on how to organize the enquiry points (EAC/SCTIFI 41/ Directive 40).

4.4.4.3 Simplification and reforms in avocado export procedures in the East African Community

Under the EU-EAC MARKUP Programme, the International Trade Center (ITC) has been enhancing the advocacy capacity in the avocado sector in 2021-22 and has partnered with the East African Business Council (EABC) at the regional level and avocado/horticulture sector business membership organizations (BMOs), Interprofessional des Fruits du Burundi (IPFB); Avocado Society of Kenya (ASOK); Horticultural Exporters Association of Rwanda (HEAR) and Tanzania Horticultural Association (TAHA) at the national level. The support has focused mainly on addressing export-related trade barriers, with an emphasis on incorporating public private dialogue (PPD) and trade facilitation approach at every step of the advocacy process.

The Avocado Obstacles paper was presented to the Sub-Committee on Trade Facilitation which observed that the National Trade Facilitation Committees (NTFCS) were not fully involved.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) directed the Secretariat to submit the avocado obstacles paper at the National Committees on Trade Facilitation (EAC/SCTIFI 41/ Directive 41);
- (b) directed the Secretariat to convene a meeting of the sub-committee to discuss the Avocado Obstacle paper after National meetings of the National Committees on Trade Facilitation, and report to the next SCTIFI (EAC/SCTIFI 41/ Directive 42); and
- (c) urged Partner States that Mark-up programme national windows' activities be mainstreamed in the National Trade Facilitation Committees for consistency (EAC/SCTIFI 41/ Directive 43).

4.5 PROGRESS REPORT ON EAC TRADE IN SERVICES

4.5.1 DRAFT EAC STRATEGY FOR TRADE IN SERVICES

Following the drafting of the EAC Trade in Services Strategy which commenced in 2021, national consultative workshops and a regional meeting were held in October and December 2021 to get further input into the Strategy. In addition, regional sector/ subsector workshops were held on various dates in the months of February and March 2022 through zoom which considered the sector-specific findings and interventions in the following services sectors/subsectors: accounting, engineering, architectural, legal, transport, communication, distribution, financial, tourism and education services. Further, another round of national meetings on Trade in Services was held in the months of June and July 2022. On 1st – 5th August 2022, the Regional Committee on Trade in Services validated the findings of the draft Strategy on Trade in Services, subject to the incorporation of comments made during the meeting.

The draft EAC Trade in Services Strategy has since been revised incorporating the comments provided and is hereto attached as **Annex XVII**

The Vision of the EAC Trade in Services Strategy is to attain a globally competitive services sector for equitable and sustainable economic development of the EAC region while the mission is to facilitate an

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integrated globally competitive, export oriented EAC services sector.

The main objective of the EAC Trade in Services Strategy is to enhance service sector integration in the EAC region and increase intra-EAC trade in services and exports of services to the continent and the world.

The specific objectives are:

- (a) To broaden service sector integration in the EAC region through addressing prevalent restrictions and diverse regulations in priority sectors that restrict cross-border services trade between EAC Partner States;
- (b) To build and strengthen the regulatory and institutional framework for services in the region and in the priority sectors with a view to fostering an enabling business environment for services trade;
- (c) To produce and improve access to, and use of, reliable and user-friendly services-related trade data and intelligence, to inform policy decisions of EAC governments and business decisions of EAC service firms and suppliers;
- (d) To build and strengthen the export readiness and capacities of EAC Partner States' services SMEs to respond to market opportunities, at regional, continental and global level, including enhancing participation in global and regional value chains; and
- (e) Achieve, as a cross-cutting objective, a higher level of sustainable and inclusive participation of EAC service suppliers in the regional and international services economy and in shaping relevant policies and legal frameworks.

The key targets are:

- (a) At least 5 cross-cutting restrictions at the regional level affecting trade in services are addressed during the Strategy period.
- (b) At least 5 sector-specific restrictions are removed annually during the strategy period
- (c) 5 Annual Reports on EAC Trade in Services data and statistics are produced during the Strategy Period
- (d) The share of trade in services value to GDP increases by 5% in each Partner State by 2030, based on 2020 values.
- (e) Conclusion of negotiations for liberalization of the 5 service sectors not covered in the CMP by 2030
- (f) Evidence of strengthened regulatory and institutional frameworks.

The draft EAC Trade in Services Strategy focused on the following sectors – Professional Services, (Accounting, Engineering, Architectural and Legal services); Road transport (freight and air transport (passenger and cargo); Distribution services; Communication services (Telecommunication services and related ICT services), Financial Services (Insurance and insurance-related services and commercial banking), Tourism Services and Education Services.

The draft Strategy also includes cross-cutting interventions such as on trade in services statistics; public and private institutional frameworks; investment regime; taxation regimes.

The Sectoral Council on Trade, Industry, Finance and Investment adopted the EAC Trade in Services Strategy (EAC/SCTIFI 41/ Decision 24).

4.5.2 Operationalization of the EAC Mechanism on the Removal of Restrictions on Trade in Services

The Sectoral Council for Trade, Industry, Finance and Investment (SCTIFI,) during its meeting held in November 2021 directed the Partner States to undertake national consultations on the results/data from the Regulatory Audits which had been captured in the Excel Template of the EAC Mechanism on the Removal of Restrictions on Trade in Services and further directed the Secretariat to organize a meeting of the Regional Committee on Trade in Services to consider the data from the Regulatory Audits.

National and Regional Committee Meetings on Trade in Services were held in the months of September and October 2022.



4.5.3 Meetings of the National Committees on Trade in Services, September – October 2022

Meetings of the National Committees on Trade in Services were held in all the Partner States except the Democratic Republic of Congo from 26th September to 14th October 2022. The meetings were convened to: Sensitize national stakeholders on the EAC Mechanism for the Removal of Restrictions on Trade in Services; validate data in the regulatory audits which have been captured in the Excel Template of the EAC Mechanism on the Removal of Restrictions on Trade in Services; and develop capacity building needs for the National Committees on Trade in Services.

During the national committee meetings, the Partner States discussed and updated the information in the Excel Template for their respective data from the regulatory audits. The Republic of South Sudan developed a roadmap on preparation of **its Schedule of Commitments on Trade in Services for the EAC**.

The National Committees also developed their capacity building needs to ensure that they effectively undertake their functions as outlined in the EAC Mechanism on the Removal of Restrictions on Trade in Services. The respective capacity building needs are as follows:

4.5.3.1 Republic of Burundi

- (i) Training on Trade in Services – state of play (baseline research, situational analysis on Trade in Services)
- (ii) Development of the National Strategy on Trade in Services
- (iii) Capacity building on negotiations on Trade in Services
- (iv) Assist in regulatory development and reforms
- (v) Building a services trade database for Burundi
- (vi) Benchmarking activities on Trade in Services

4.5.3.2 Republic of Kenya

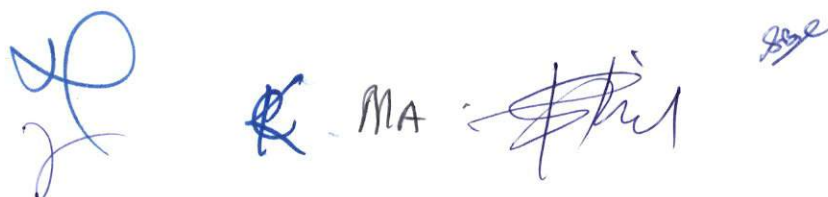
- (i) Sensitization and awareness raising on trade in services and market opportunities under the EAC, for different services sectors and stakeholders
- (ii) Creation of awareness of the technical terms applied in trade in services
- (iii) Understanding the legal aspects of trade in services
- (iv) Build the capacity of the stakeholders on negotiation skills
- (v) Sensitization on the EAC Common Market Protocol and the Commitments made by EAC Partner States in the Schedule of Specific Commitments
- (vi) Understand public policies and regulations that affect regional integration within EAC
- (vii) Understand Non-conforming laws that restrict trade in services
- (viii) Hold peer reviews/exchange programs with stakeholders in the various sectors liberalized towards adoption of best practices to improve services trade
- (ix) Sponsorship of regulators to regional meetings to address existing non-conforming measures as the case may arise.

4.5.3.3 Republic of Rwanda

- (i) Sensitization on the roles and responsibilities of the National Committee on Trade in Services
- (ii) Training on Trade in Services negotiations and negotiations skills
- (iii) Sensitization on the Trade in Services commitments made under the EAC Common Market Protocol, the AfCFTA on Trade in Services, GATS
- (iv) Benchmarking workshops for professional services sub-sectors in the EAC region

4.5.3.4 Republic of South Sudan

- (i) Sensitization and awareness raising on trade in services and opportunities under the EAC, for



different services sectors and stakeholders.

- (ii) Training on Trade Policy in general
- (iii) Training of trainers on Trade in Services
- (iv) Undertake Market research and sectoral analysis in priority sectors
- (v) Support in identifying, analyzing and submitting commitments on Trade in Services for the EAC and the AfCFTA
- (vi) Training on Monitoring and Evaluation
- (vii) Training on the collection, analysis and compilation of Trade in Services data for different sectors
- (viii) Training of the Insurance Regulatory Authority to shift from the traditional way of supervision to risk-based supervision (RBS)
- (ix) Support South Sudan to join the One Network Area (ONA) and develop a legal framework on the same

4.5.3.5 United Republic of Tanzania

- (i) Training of trainers on:
 - a. the basics of Trade in Services
 - b. Trade in services restrictions vis-à-vis domestic regulations (right to regulate)
 - c. Scheduling commitments on services sectors and sub-sectors
- (ii) Awareness and sensitization on:
 - d. the operational aspects of the EAC Mechanism on the Removal of Restrictions
 - e. commitments made in the Common Market Protocol (trade in services and free movement of labour)
 - f. commitments made at the AfCFTA level and opportunities for Tanzania's private sector
- (iii) Analysis of the remaining five sectors to be negotiated under the Common Market Protocol to inform the national commitments in these services sectors.
- (iv) Support to develop/amend laws and regulations to remove restrictions.

4.5.3.6 Republic of Uganda

- (i) Sensitization and awareness raising on trade in services and opportunities under the EAC, for different services sectors and stakeholders.
- (ii) Training on available markets under AfCFTA – awareness of the existing markets
- (iii) Training on trade in services negotiations, involving civil society.
- (iv) Facilitate sectoral national consultations on the harmonization of standards on Trade in Services
- (v) Training on regulatory aspects of trade in services in different sectors
- (vi) Awareness raising on trade aspects of e-commerce
- (vii) Sensitization on best practices on Trade in Services from other regions (benchmarking)
- (viii) Build institutional capacity
- (ix) Support in the amendment of laws/regulations to conform to the commitments made

4.5.4 Meeting of the Regional Committee on Trade in Services, November 2022

The meeting of the EAC Regional Committee on Trade in Services was held on 31st October to 2nd November 2022 in Nairobi, Kenya to: validate the data obtained from the regulatory audits which were captured in the Excel Template of the EAC Mechanism on the Removal of Restrictions on Trade in Service and agree on the way forward; and receive a roadmap from the Republic of South Sudan on the development of its Schedule of Commitments on Trade in Services.

4.5.5 Validation of Data in the Regulatory Audits which have been captured In the Excel Template of the EAC Mechanism on the Removal of Restrictions on Trade in Services

The meeting considered the data from the regulatory audits undertaken on professional services (engineering, architectural, accountancy and legal), insurance services, tourism services, telecommunication services, and distribution services.

The meeting noted that the National Committee Meetings on Trade in Services which were held in the Partner States except DRC from 26th September to 14th October 2022 had updated the data captured in the Excel Template of the EAC Mechanism on the Removal of Restrictions on Trade in Services. Therefore, the Partner States provided further updates on some measures that had not reflected the current laws / regulations.

The meeting subsequently validated the data in the Excel Template and observed as follows:

- (i) Measures that are non-discriminatory should not be included in the Mechanism.
- (ii) The template should contain non-conforming measures in sub-sectors where commitments have been made under the Common Market Protocol and not in sub-sectors where the Partner States have not made any commitments.
- (iii) There is need to provide new timeframe for the removal of identified restrictions
- (iv) To enhance clarity, delete the terminologies 'unbound' and 'bound' and use 'commitment made' or 'no commitment made'.
- (v) The Template should include a column on Complaints.
- (vi) National laws containing non-conforming measures need to be amended in line with the commitments made under the Common Market Protocol. This includes the definition of nationals to include EAC citizens.
- (vii) Need for Mutual Recognition Agreements to be recognized not only by the relevant professional bodies but also by the governments in order to facilitate the movement of professionals.

The revised Excel Template of the EAC Mechanism on the Removal of Restrictions on Trade in Services is hereto attached as **Annex XVIII**.

4.5.6 Roadmap for The Republic of South Sudan on The Development of its Schedule of Commitments on Trade in Services for the EAC

The meeting received a presentation from Republic of South Sudan on the Roadmap for the Development of its Schedule of Commitments on Trade in Services for the EAC, as per table below:

TABLE 31			
No.	ACTIVITIES	TIME FRAME	COMMENT
1	Develop training manual/tools on Trade in Services to facilitate training for the RSS	Early 2023	Training workshop manual/ tools/materials
2	Sectoral studies focusing on the priority sectors	3 months	By each sector
3	National Committee meetings to discuss the findings of the studies	Monthly	The committee will be meeting the consultant to discuss and validate the findings
4	Training for the NCTIS on Scheduling of commitments	1 month	The training will be conducted concurrently with the actual scheduling of commitments
5	Scheduling of commitments (sectoral meetings to be held)	1 month	Every sector would meet for 2 days
6	Internal validation of the draft Schedule of commitments	1 week meeting	A validation workshop for all sectors
7	Submission to the EAC Secretariat	By mid-August 2023	

TABLE 31			
No.	ACTIVITIES	TIME FRAME	COMMENT
8	Feedback from the EAC Secretariat	1 month	Verifying the schedule
9	Submission to the Regional Committee on Trade in Services and to SCTIFI	By end of November 2023	Consideration and adoption of RSS's Schedule of Commitments

The Sectoral Committee on Trade observed that under the EAC Common Market Protocol, Partner States in their respective Schedules of Commitments, had committed to remove the restrictions on the committed services sectors and subsectors by 2015. However, Partner States have not implemented their commitments and some restrictions are still existing in the committed sectors/ subsectors.

The Sectoral Committee on Trade therefore agreed that Partner States should remove the restrictions on trade in services in the committed sectors / sub sectors within a period of 5 years from the time a decision will be made by the Council of Ministers.

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) adopted the revised Excel Template of the EAC Mechanism on the Removal of Restrictions on Trade in Services (EAC/SCTIFI 41/ Decision 25);
- (b) directed Partner States to remove restrictions in committed sub sectors within 5 years (from December 2022 to December 2027) (EAC/SCTIFI 41/ Directive 44);
- (c) approved the roadmap for the development of South Sudan's Schedule of Commitments on Trade in Services for the EAC (EAC/SCTIFI 41/ Decision 26);
- (d) directed the Secretariat to mobilize resources to support the Republic of South Sudan to implement the roadmap for the development of its Schedule of Commitments on Trade in Services for the EAC (EAC/SCTIFI 41/ Directive 45);
- (e) directed the Secretariat to undertake capacity building for the National Committees on Trade in Services in accordance with their needs identified during the National Committee Meetings (EAC/SCTIFI 41/ Directive 46); and
- (f) directed the Secretariat to mobilize resources to support Partner States that are yet to develop their National Strategies on Trade in Services (EAC/SCTIFI 41/ Directive 47).

4.5.7 East African Business Council Barometer on Trade in Services in the EAC

The Secretariat informed the Meeting that it was in receipt of communication from the EABC that it developed a Barometer on trade in services in the EAC. The Barometer assesses the regulatory environment on the seven services sectors committed under the EAC Common Market Protocol. The Barometer also identifies the challenges restricting the movement of services and services suppliers, growth, and competitiveness of trade in services in the EAC region.

The Barometer recommends the removal of current restrictions in the seven liberalized sectors and requests the Partner States to agree on a timetable for the negotiation of the 5 service sectors not covered under the CMP, in order to broaden service integration. The Barometer also makes sector specific recommendations under professional services, telecommunication services, air transport services, tourism services and financial services.

The EABC Barometer on Trade in Services in the EAC is attached hereto as **Annex XIX**

The meeting took note of the EABC Barometer and observed that the Barometer should be presented and considered by the Regional Committee on Trade in Services.

The Sectoral Council on Trade, Industry, Finance and Investment directed the Secretariat to submit the EABC Barometer on Trade in Services in the EAC to the next meeting of the Regional Committee on Trade in Services for consideration (EAC/SCTIFI 41/ Directive 48).

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4.6 PROGRESS REPORT ON THE IMPLEMENTATION OF THE EAC EXPORT PROMOTION STRATEGY 2020 – 2025

The EAC Secretariat convened an EAC Experts meeting from 15th to 19th August 2022 to assess the progress made on the implementation of the EAC Export Promotion Strategy (EPS) 2020- 2025, and agree on key priority activities for FY 2022/23.

The EAC Secretariat made a presentation on the overview of the EAC Export Promotion Strategy 2020-2025 highlighting the key aspects of the strategy as follows:

- (a) Introduction and Background to the Strategy
- (b) Strategic Objectives
- (c) Challenges facing Exporters in the region
- (d) Strategic Interventions
- (e) Risks and Assumptions
- (f) Role of Partner States and EAC Secretariat
- (g) Conclusion and way forward

The meeting also received presentations from the Partner States on their export promotion activities, prepared progress reports for implementation of the EAC EPS including priorities for implementation in the financial year 2021/2022, and prepared the work plan for the financial year 2022/2023. The EAC Secretariat requested Partner States to incorporate the proposed activities in their national work plans and budgets for the financial year 2022/23.

The EAC Secretariat presented the EPS Monitoring and Evaluation Framework. The presentation covered the following areas: Objectives, Institutional structure; Steps for monitoring implementation of the EPS plan and Proposed M&E framework.

The following observations were made:

- (a) Partner States national work plans should be aligned to the EAC EPS work plan.
- (b) Partner States were already implementing some of the activities in the proposed work plan. However, due to lack of resources, it was important to review the proposed work plan to fit in the available resource envelope.
- (c) The EAC Secretariat to coordinate Partner States' participation at select international trade fairs
- (d) The EAC Secretariat should support RSS to establish a National Trade Portal since all the other Partner states already had Trade Portals
- (e) EAC to support in leveraging international Finance to Partner States through the dedicated financial institutions like East African Development Bank (EADB); COMESA Development Bank and African Export Import Bank (Afrexim Bank) to support private sector projects.
- (f) The membership of the National Exports subcommittee should include: Ministries responsible for Trade and Export Promotion related functions; Export Promotion Agencies; Agencies responsible for SEZs; National Bureaus of Standards; MEACAs, Revenue Authorities and Private Sector Business Organizations.
- (g) The National Exports Subcommittees should be coordinated by Ministries/agencies responsible for Trade and Export Promotion
- (h) Meetings of the Regional Exports Sub-committee should be held bi-annually at the beginning and end of each financial year while the National Exports Promotion Sub-committee meetings should be held quarterly.
- (i) The EAC Secretariat and the Partner States should mobilize resources to facilitate the meetings of the bi-annual Regional Export Promotion Sub-committees and online meetings should be the last option.
- (j) National Export Promotion Sub-committees should submit their quarterly reports to the EAC Secretariat for consolidation and circulation to all Partner-states to promote information sharing
- (k) The proposed annual yearly retreat on Export Promotion should involve both technical and high-

level participation

The Republic of South Sudan informed the meeting that it was in the process of finalizing its Export and Investment Strategy.

The Sectoral Council on Trade, Industry, Finance and Investment to directed:

- (a) **Partner States to align their national work plans to the EAC EPS work plan (EAC/SCTIFI 41/ Directive 49);**
- (b) **the EAC Secretariat to identify important international trade promotion events and coordinate the joint participation of Partner States at the events (EAC/SCTIFI 41/ Directive 50);**
- (c) **the EAC Secretariat to support RSS and DRC to establish their National Trade Portals (EAC/SCTIFI 41/ Directive 51);**
- (d) **the EAC Secretariat to develop ToRs to guide Partner States in the establishment of the National Exports Sub-Committees to coordinate implementation of the EAC Export Promotion Strategy at national level (EAC/SCTIFI 41/ Directive 52);**
- (e) **the EAC Secretariat to convene bi-annual meetings of the Regional Export Promotion Subcommittee, at the beginning and end of each financial year (EAC/SCTIFI 41/ Directive 53); and**
- (f) **Partner States to engage Development Finance Institutions like the East African Development Bank (EADB); COMESA Development Bank and African Export Import Bank (Afrexim Bank) to support private sector projects (EAC/SCTIFI 41/ Directive 54).**

4.7 CONSIDERATION OF THE REVISED DRAFT EAC SPECIAL ECONOMIC ZONES (SEZ) POLICY

The EAC Secretariat convened an EAC Experts meeting on the revised draft EAC Special Economic Zones (SEZ) Policy from 3rd to 7th October 2022 as directed by the 40th SCTIFI meeting held on 27th May 2022.

The EAC Secretariat presented the revised draft Policy with inputs from the experts meeting held from 25th to 28th January 2022, inputs made from the EAC Secretariat and responses generated from the questionnaires filled in by stakeholders from the Partner States.

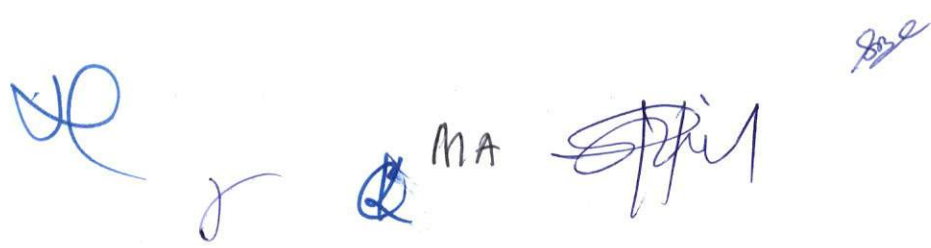
The overall Policy objective of the SEZ Policy is to provide for establishment and development of competitive SEZs. While the Specific objectives are to:

- (a) provide guidance to Partner States on development and harmonization of legal, regulatory, and institutional frameworks for SEZs in EAC;
- (b) provide a common SEZ concept with standardized definitions and terms across EAC to enable Partner States to implement broad-based and flexible SEZ programs for economic development;
- (c) provide guidance on establishment of harmonized fiscal incentives provided under each SEZ Scheme within EAC Partner States;
- (d) To promote domestic and foreign direct investment;
- (e) To provide guidance on conditions for domestic market access for SEZ goods

The EAC Secretariat also presented the draft SEZ implementation plan and the meeting revised it in line with the following observations made during the meeting:

- (a) Review the implementation work plan as per revisions made in the draft policy
- (b) Provide for the following milestones in the work plan:
 - (i) Finalization of the policy,
 - (ii) Development of TORs for the standing committees on SEZs,
 - (iii) Development of the legal framework at regional and national level

The EAC SEZ Policy provides for a wide variety of economic zones schemes. The size and scope of



these schemes in the Policy vary greatly as do the specific economic activities that take place in them. The schemes include but not limited to the following: Export Processing Zones; Free Zones; Free Trade Zone (FTZ); Freeport; Industrial Park; Agricultural Zone; Educational Zone; Financial Services Zone; ICT Park; Regional Headquarters Zone; Science and Technology Zone; Tourism and Recreational Zone; Business Service Park; Convention and Conference Zone and Livestock Zones.

It will be noted that under the CU Protocol, Article 32-Other Arrangements, the Council may, from time to time, approve the establishment of other special economic arrangements for purposes of the development of the economies of the Partner States. It is by virtue of Article 32 that the Council will proceed to expand the scope of Economic arrangements for purposes of the development of the economies of the Partner States.

Additionally, it will be necessary to develop regulations for the proposed additional Special Economic arrangements. The existing regulations for Free Ports and Export Processing Zones will be maintained and implemented as is already provided for in the respective Annexes for the Protocol on the Establishment of the Customs Union.

The Secretariat informed the meeting that the EAC Customs Management Act is being amended to provide for additional schemes in Part XIV Sections 167 to 170.

Observations

The Senior Officials observed that the SEZ Policy is anchored under Part G of the Customs Union Protocol, and specifically on Article 32 which provides for possibility of establishment of other special economic arrangements for development of our economies; and reviewed the following definitions in the draft Policy in order to align the Policy with the Protocol and other customs laws of the community:-

- a) **Customs Controlled Area**, which in some Partner States is referred to as an SEZ duty free area means a geographically delimited, fenced-in, physically-secured, and restricted access area comprising SEZ land, appointed by the Commissioner by notice in writing by his or her hand, where customs duties are exempted and subject to the control and supervision of the Customs Authority in accordance with Customs Laws
- b) **Special Economic Zone (SEZ)**, means a designated part of a Partner State territory which may include both Customs Controlled Area and non-Customs Controlled Area with liberal fiscal regimes; provided with on-site administrative and regulatory management; and where goods introduced in customs controlled area are exempted customs duties in accordance with customs laws
- c) **Freeport Zone** means an SEZ Area where goods introduced therein are generally regarded, in so far as customs duties are concerned, as being outside the customs territory; excluding manufacturing and processing.

The Senior Officials also observed that for purposes of the SEZ policy the existing regulations on EPZs (Annex VII to the CUP) and Free Port Regulations (Annex VIII to the CUP) and Regulations for other Customs controlled areas covered under the EAC Customs Management Regulations 2010 be recognised and will continue to suffice. The meeting agreed that a disclaimer be included in the SEZ Policy on the existing legal frameworks for EPZ.

The revised draft Special Economic Zones policy and its implementation plan are hereto attached as **Annex XX**

The Sectoral Council on Trade, Industry, Finance and Investment:

(a) adopted the revised draft Special Economic Zones Policy (EAC/SCTIFI 41/ Decision 27);



- (b) recommended to Council to approve establishment of other economic schemes as provided for in the Special Economic Zones Policy and in accordance with the provisions of Article 32 of the EAC Customs Union Protocol (EAC/SCTIFI 41/ Directive 55);
- (c) directed the EAC Secretariat to develop draft regulations for the additional schemes provided for in the SEZ Policy by 30th April, 2023 (EAC/SCTIFI 41/ Directive 56); and
- (d) directed the EAC Secretariat to convene Experts meetings to consider the draft regulations for the implementation of the SEZ Policy by 31st May, 2023 (EAC/SCTIFI 41/ Directive 57).

4.8 PROGRESS REPORT ON THE COMESA-EAC-SADC TRIPARTITE FTA (TFTA)

4.8.1 Ratification of Tripartite Free Trade Area (TFTA) Agreement

To date, a total of 22 countries have signed the TFTA Agreement and 7 countries, namely, Ethiopia, Eritrea, Lesotho, Mozambique, South Sudan, Tunisia and Somalia are yet to sign it. Eleven (11) countries have ratified the TFTA Agreement, namely, Egypt, Eswatini, Kenya, South Africa, Rwanda, Burundi, Uganda, Botswana, Namibia, Zambia and Zimbabwe. Three (3) more ratifications are required for the TFTA Agreement to enter into force.

The 39th Meeting of the Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI) held on 12 November 2021 urged the United Republic of Tanzania to ratify the TFTA Agreement and report to the 40th SCTIFI. The 39th Meeting of the SCTIFI also urged the Republic of South Sudan to sign and ratify the COMESA - EAC - SADC Tripartite FTA Agreement. The United Republic of Tanzania had committed to ratify the COMESA - EAC - SADC Tripartite Agreement by the 40th SCTIFI meeting.

The United Republic of Tanzania informed the 40th SCTIFI that they expected to have ratified the TFTA Agreement by October 2022.

4.8.2 Status of negotiations

4.8.2.1 Meeting of the 16th Tripartite Committee of Senior Officials (TCSO)

The Tripartite Task Force (TTF) convened the 16th Meeting of the Tripartite Committee of Senior Officials (TCSO) held on 10 – 11 February 2022 which was preceded by the 20th Meeting of the Tripartite Trade Negotiation Forum (TTNF). The TCSO considered the following issues and decided as follows:

4.8.2.2 Exchange of Tariff Offers

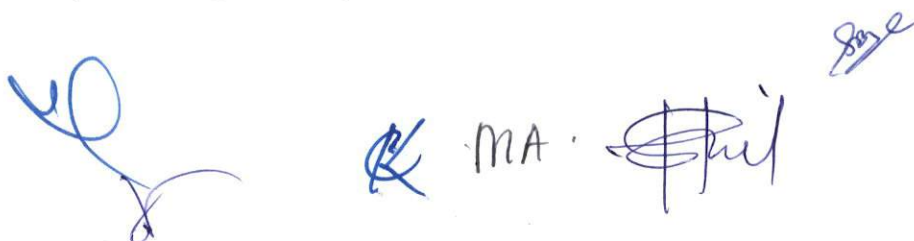
The 16th Meeting of the TCSO urged Member / Partner States that have not exchanged their tariff offers to do so by 30th April, 2022 and directed the Tripartite Task Force (TTF) to follow up the submissions. Further, the TCSO urged Member/Partner States that have concluded their bilateral tariff negotiations to submit their tariff offers to the TTF for verification to ensure that the submitted offers comply with the agreed tariff negotiation modalities. The TCSO also directed the TTF to circulate the verified offers to other Member/Partner States.

With regard to the EAC (URT) and Egypt tariff offer, the United Republic of Tanzania will propose an appropriate date for a bilateral meeting with Egypt to finalize its tariff offer, and requested the Secretariat to organize the meeting.

Bilateral meetings on the EAC (Burundi, Kenya, Rwanda and Uganda) and SACU outstanding matters have so far not been held due to lack of response from SACU on EAC's invitation for a meeting. The outstanding issues include: improvement of the SACU tariff offer to match that of the EAC at 90%, the transposition of the tariff offers, finalization of the EAC - SACU Automobile Strategy, development of a Mechanism for implementation of the already agreed Tariff Rate Quotas, and convening of an EAC - SACU trade and legal team to consider the possibility for implementation of the TFTA between SACU and the EAC.

4.8.2.3 Establishment of the Tripartite Simplified Trade Regime

The 16th TCSO directed the TTF to finalize the revised Tripartite Simplified Trade Regime (STR) concept note and the study on data collection and Monitoring and Evaluation (M&E) framework, Tripartite STR capacity building programme and an appropriate approach to standards compliance (technical regulations and SPS) by 31 March 2022. The process to recruit a consultant to undertake the study is currently underway.

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4.8.2.4 Trade in Services

The TCSO noted that the 19th Meeting of the Tripartite Trade Negotiation Forum (TTNF) agreed that an analysis/assessment on how to progress the Trade in Services (TiS) negotiations in light of and in line with the developments at the AfCFTA be done to inform the way forward on the Trade in Services negotiations. The assessment should also consider how duplication of effort between the two levels can be avoided.

The TCSO was informed that the TTF had through the collaboration between the AfDB-funded Tripartite Capacity Building Programme – Phase II (TCBP-II) and the EU funded COMESA TradeCOM commissioned an assessment study aimed at guiding negotiations on Trade in Services under the TFTA in line with the directive of the 19th TTNF. The procurement of the consultant to undertake the study has reached advanced stages. It is expected that the study would be discussed by the 5th Meeting of the TWG on Trade in Services and subsequently by the 21st TTNF and 17th TCSO meetings, respectively to be held during the 4th Quarter of 2022.

4.8.2.5 Instruments to implement Annexes to the TFTA Agreement

The TCSO adopted the following instruments and recommended them to the 9th Meeting of the Tripartite Sectoral Ministerial Committee (TSMC) on Trade, Finance, Customs, Economic Matters and Home/Internal Affairs for consideration and adoption: Working Procedures for the Implementation of Annex III on NTBs; Time Bound Matrix for the Elimination of NTBs; Rules of Procedure for the Implementation of Annexes III on NTBs; updated Annex IV on Rules of Origin; Manual on the application of the TFTA Rules of Origin; Rules of Procedure for the SPS Sub-Committee on Implementation of Annex IX on SPS; Rules of Procedure for the TBT Sub-Committee on the Implementation of Annex VIII on TBT. The TSMC is expected to be held during the 4th Quarter of 2022.

4.8.2.6 Meetings of Tripartite Technical Working Groups

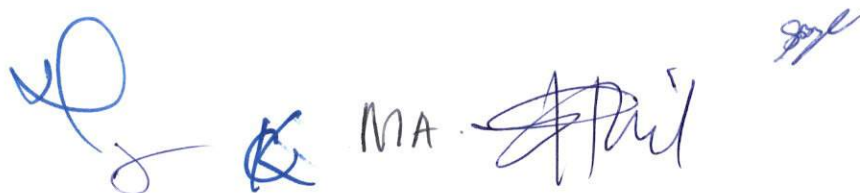
The TTF convened two meetings of the Tripartite Technical Working Groups to continue with work on the development of instruments to implement the Annexes to the TFTA Agreement and to consider other outstanding issues. The following Technical Working Group (TWG) meetings were held virtually on 28 – 31 March 2022 and 22 -24 August 2022, respectively:

4.8.2.7 5th and 6th Meetings of the TWG on Competition Policy

- (a) considered the comments from South Africa regarding Article 28 on Signature, Ratification and Entry into Force and Mauritius's comments regarding Articles 9 (4), 10, 11(1), 11(6) and Part V of the draft Tripartite Competition Protocol.
- (b) finalized the Draft Tripartite Protocol on Competition Policy and agreed to submit it to the 21st Meeting of the TTNF for consideration.
- (c) considered the need to develop the modalities for implementing the Tripartite Protocol and agreed that the TTF develops a zero draft implementation framework based on international best practice and what is relevant to the Tripartite Member/Partner States for consideration in the next TWG meeting.

4.8.2.8 29th and 30th Meetings of the TWG on Rules of Origin

- (i) finalized the Special and Differential (S & D) treatment provisions on fisheries for Island States with regard to Article 6(2) on the definition of "their vessels" and "their factory ships" and agreed to submit them to the 21st Meeting of the TTNF for consideration.
- (ii) finalized the revised draft Regulations on TFTA Rules of Origin and agreed to submit them to the 21st Meeting of the TTNF for consideration.
- (iii) directed the TTF to align the measurements of the Tripartite Certificate of Origin in the Rules of origin Manual with the ones in the revised draft Regulations.
- (iv) considered the TTF Paper on the issue of TFTA Member/Partner States cumulation with AfCFTA Member States that are not party to the TFTA Agreement and requested the TTF to revise the paper based on comments from Member/Partner States.
- (v) considered the TTF Technical Paper on rules of origin for outstanding textiles and textile products

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but did not reach a consensus and agreed to escalate the matter to the 21st Meeting of the TTNF for consideration.

- (vi) considered the TTF Technical Paper on rules of origin for outstanding products of the automotive sector but did not reach a consensus and agreed to escalate the matter to the 21st Meeting of the TTNF for consideration.
- (vii) considered a proposed review mechanism to be applied where there is a transitional period and a review of the applicable list rules of origin is required. There was no agreement reached and the matter will be considered by the 31st Meeting of the TWG.
- (viii) considered the proposed S&D provisions on fisheries for Island Tripartite Member/Partner States to be included in the Manual on application of TFTA Rules of Origin. The matter will be considered by the 21st Meeting of the TTNF.

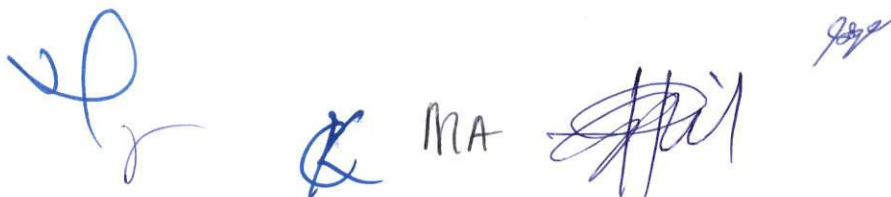
4.8.2.9 13th and 14th Meetings of the TWG on Customs Cooperation, Documentation, Procedures and Transit Instruments

- (a) considered and finalized the draft Specific Guidelines on perishables.
- (b) considered and identified areas requiring specific guidelines, namely, Guidelines on Advance Rulings, Risk Management, Post Clearance Audit, Authorized Economic Operators, Coordinated Border Management, and Single Window and agreed to consult Member/Partner States to submit their prioritized areas for developing specific guidelines during the next TWG meeting.
- (c) agreed on the need to develop the Tripartite Transit Document.

4.8.2.10 1st Meeting of the Tripartite National Monitoring Committees & NTBs Focal Points

The TTF convened the above meeting virtually on 27 – 28 June 2022.

- (a) On the Establishment of Institutional Arrangements for the management of the online system the meeting agreed that Member/Partner States to submit their updated lists of Focal Points by 31st July 2022 and that the REC Secretariats to share contacts for REC Administrators with Member/Partner States by 15 July 2022
- (b) On utilization of the online system by Member/Partner States, the meeting agreed that REC NTB units and National Focal Points should undertake stakeholder sensitization to promote utilization of the online reporting and monitoring mechanism and Member/Partner States to sensitize traders to ensure the timely reporting of SPS related NTBs.
- (c) On online processing of NTBs by NTBs Focal Points the meeting agreed that REC NTB units to undertake capacity building and training for Focal Points on the utilization of the online system and T- REC Secretariats to come up with a training schedule to ensure uniform implementation of the system by the Member/Partner States.
- (d) On establishment of SMS Reporting tools, the meeting recommended that the improvements should take into account the following: Linking the SMS tool to existing national online/SMS tools; Include automatic transfer of complaints from SMS to the Tripartite online system; and T- REC Secretariats to support Member/Partner States in the pilot programmes to re-launch their SMS tools.
- (e) On proposed improvements and upgrades to the online system which was developed in 2010, the meeting recommended the following: COMESA to consider supporting translation of the website www.tradebarriers.org into the Arabic official language; Webmaster to incorporate the proposed improvements into the system; and Focal Points to submit to REC NTB units any additional improvements /suggestion they may come up with by 31st July 2022.
- (f) On institutional arrangements for the management and administration of the online NTBS/NTMS systems in the RECs, the meeting agreed that: Member/Partner States should appoint more than one National NTBs Focal Point for continuity, in the event that one is reassigned; Member/Partner States to submit names of additional NFPs to REC-NTB Units by 31st August 2022 and Member/Partner States to appoint NTM Administrators from the Regulatory authorities.
- (g) On handover-takeover of the online system by T- RECs by Feb 2023, the meeting recommended that: the TTF to draw up a programme containing activities building up to the handover of the Online



System to be undertaken after completion of the technical upgrades to the system; The TTF to develop a technical concept note on the hand-over of the online system to the RECs for consideration by the 2nd meeting of the Tripartite NMC and NTBs Focal Points; and T-RECs to undertake training workshops conducted physically for Member/Partner states in preparation for handover of the System.

4.8.2.11 Industrial Development Pillar

The 16th Meeting of the TCSO received a presentation on development of agro-processing value chains noting that the immediate areas of implementation of the pillar include:

- (i) Establishment of Tripartite Industrial Development Coordination Unit (TIDCU) in each REC and how it is to be funded;
- (ii) Import replacement and export development strategy to harness opportunities arising from the negative trade balances in agro-industrial sector and ACFTA;
- (iii) Identification of existing institutions to serve as Centers of Excellence, for Tripartite Agro-processing; SADC and EAC already have some Centers of excellence that can be extended to the tripartite; and
- (iv) Investment in Tripartite Agro-processing and Trade Logistics Hubs to address the challenge of post-harvest losses and availability of agro raw materials.

The TCSO directed the pillar to convene a meeting to discuss the roadmap to Enhance Industrial Statistics Capacity of T-REC and Member / Partner States staff.

The TCSO received an update on Resources Mobilization from the pillar noting that industrial development needs to work jointly with the resources mobilization team to raise resources for activities of the pillar and also requested that RECs set aside funds from their resources to finance the activities of the pillar.

The TCSO was informed that the next steps are to roll out the implementation of the Work Plan and Modalities of Cooperation.

The TCSO requested TTF to prepare a comprehensive brief to inform Member Partner States on the developments under the pillar.

4.8.2.12 Infrastructure Development Pillar

The 16th Meeting of the TCSO recalled that the Tripartite Sectoral Ministerial Committee on Legal Affairs held in September 2020 had recommended that the following legal instruments be submitted to the 5th Meeting of the Tripartite Council of Ministers for adoption:

4.8.2.13 Tripartite Road Transport and Transit Facilitation (TTTFP) Instruments

- (i) Draft COMESA-EAC-SADC Vehicle Load Management Agreement;
- (ii) Draft COMESA-EAC-SADC Multilateral Cross Border Road Transport Agreement;
- (iii) Draft COMESA-EAC-SADC Vehicle Load Management Model Law;
- (iv) Draft COMESA-EAC-SADC Cross Border Road Transport Model Law;
- (v) Draft COMESA-EAC-SADC Road Traffic Model Law;
- (vi) Draft COMESA-EAC-SADC Road Traffic and Transport Transgressions Model Law; and
- (vii) Draft COMESA-EAC-SADC Transportation of Dangerous Goods by Road Model Law.

The TCSO directed the TTF to provide comprehensive progress reports on the Infrastructure Development Pillar.

4.8.2.14 Upcoming Meetings on TFTA

The TTF is planning to hold the 9th Tripartite Sectoral Ministerial Committee on Trade and 5th Meetings during the 4th Quarter of 2022 to adopt instruments to implement Annexes to the Tripartite FTA Agreement, adopt completed legal instruments and provide necessary guidance where required.

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During the Sectoral Committee on Trade, the United Republic of Tanzania reported that the Tripartite Agreement ratification process was progressing well and that the Instrument of ratification would be submitted to the EAC Secretariat by February, 2023. The URT requested the EAC Secretariat to convene a bilateral meeting with Egypt as soon as possible in order to finalize the exchange of tariff offers between the two countries.

Furthermore, the Republic of South Sudan informed the meeting that it participated in the launch of the TFTA in 2015 but did not sign the Agreement. However, South Sudan became part of the TFTA by default after joining the EAC in 2016. Presently, the Minister has submitted a Cabinet Memo to the Economic Cluster Committee for consultations and ratification of both the TFTA and AfCFTA Agreement

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress made in the Tripartite Negotiations, and directed:

- (a) the United Republic of Tanzania to ratify the Tripartite Agreement and submit the instrument of ratification by end of April, 2023 (EAC/SCTIFI 41/ Directive 58);**
- (b) Republic of South Sudan to ratify the TFTA Agreement and submit the instrument of ratification by end of April, 2023 (EAC/SCTIFI 41/ Directive 59); and**
- (c) the EAC Secretariat to convene a meeting between the United Republic of Tanzania and Egypt to finalize tariff offers by the end of April, 2023 (EAC/SCTIFI 41/ Directive 60).**

4.9 CONSIDERATION OF THE PROGRESS REPORT ON THE AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA)

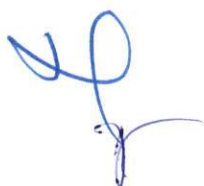
4.9.1 Status of ratification of the AfCFTA Agreement

As at 31st October 2022, 44 of the 54 signatories (82%) have deposited their instruments of AfCFTA ratification (ordered by date): Ghana, Kenya, Rwanda, Niger, Chad, Eswatini, Guinea, Cote d'Ivoire, Mali, Namibia, South Africa, Congo, Rep., Djibouti, Mauritania, Uganda, Senegal, Togo, Egypt, Ethiopia, Gambia, Sahrawi Arab Democratic Rep., Sierra Leone, Zimbabwe, Burkina Faso, Sao Tome & Principe, Equatorial Guinea, Gabon, Mauritius, Central African Rep., Angola, Lesotho, Tunisia, Cameroon, Nigeria, Malawi, Zambia, Algeria, Burundi, Seychelles, Tanzania, Cabo Verde and Guinea Bissau.

4.9.2 Status of AfCFTA Negotiations

4.9.2.1 Trade in Goods:

- 43 countries submitted their tariff offers, including 4 Customs Unions: CEMAC; EAC; ECOWAS and SACU, of which 29 offers have been technically verified as compliant with the modalities of tariff liberalization.
- Trading Documents have also been developed for the start of commercially meaningful trade, including Origin Declaration Form; Certificate of Origin; Supplier's Declaration; Certified Declaration Form for Examination of Contents of Means of Transport; and Transit Plate.
- In February 2022, the AU Assembly of Heads of State and Government adopted a Ministerial Directive on the Application of Provisional Schedules of Tariff Concessions. This Ministerial Directive established a legal basis for countries that had submitted tariff schedules in accordance with the agreed-upon modalities to trade preferentially among themselves, pending the conclusion of all outstanding issues on the Schedules of Tariff Concessions.
- 87.7% of the tariff lines have been agreed under the Rules of Origin negotiations, with a decision by the AU Assembly to apply rules of origin regimes in existing RECs or national levels, pending the adoption of all outstanding issues in line with Article 2(3) of Annex 2 on Rules of Origin of the Protocol on Trade in Goods. Negotiations are ongoing on outstanding Rules of Origin, including sugar, edible oils, textiles and apparel, and automotive sectors. In addition, negotiations are ongoing on the completion of the AfCFTA Rules of Origin Manual and the development of regulations on Special Economic Zones (SEZs).



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- In view of the delay in the start of trading under the AfCFTA, which was to have begun on 1st January 2021, the AfCFTA Council of Ministers launched the Guided Trade Initiative in October 2022 to facilitate commercially meaningful trading, among interested State Parties that have met the minimum requirements for trade. This is being done through matchmaking businesses and products for export and import between interested State Parties. Thus far, Ghana, Kenya, Rwanda, Tanzania, Egypt, Mauritius and Cameroon, are the State Parties that are participating in this initiative, and some of them have begun trading under AfCFTA preferences.
- The EAC Partner States revised the EAC Tariff Offer for Category A products in order to align it to the revised EAC Common External Tariff as directed by the 41st Meeting of the EAC Council of Ministers on 12th July 2022. The revised EAC Tariff Offer comprises 90% of total tariff lines to be liberalized over a 10-year time frame starting 1st January 2021, has since been gazetted for implementation. Subsequently, the revised EAC Tariff Offer was gazetted for implementation.

Kenya and Rwanda briefed the meeting on their experiences on the Guided Trade Initiative and encouraged all the other EAC Partner States to join.

4.9.2.2 Trade in Services:

- 46 State and non-State Parties have so far submitted their draft Schedules of Commitments on Trade in Services. Technical verifications have been undertaken to ensure that the offers are in line with the adopted modalities and the Guidelines for Negotiating Trade in Services under the AfCFTA.
- 25 Schedules of Commitments, including the EAC Schedule of Specific Commitments on Trade in Services have so far been adopted by the AfCFTA Council of Ministers, which also adopted the draft Ministerial Directive on the implementation of State Parties Schedules of Specific Commitments.
- The AfCFTA Secretariat is developing draft regulatory frameworks in priority services sectors for discussion in the Committee on Trade in Services.

4.9.2.3 Dispute Settlement:

- The Dispute Settlement Body (DSB) agreed on its Rules of Procedure. Nominations to the Indicative List of Panelists have been received from State Parties. State Parties are required to submit 2 nominees to the Indicative List of Panelists, from which persons would be chosen to serve on Dispute Settlement Panels.
- The DSB has established an Appellate Body as a standing tribunal to hear appeals from cases adjudicated by Panels, and have agreed on the modalities on the selection of persons to serve on the Appellate Body. The Selection Committee is composed of:
 - Two representatives from each of the five regions of the African Union (Central, Eastern, Northern, Southern, and Western) were appointed after regional consultations and notified to the DSB; and
 - The Secretary General of the AfCFTA as the Head of the Secretariat to assist the States Parties in the implementation, administration, facilitation, monitoring, and evaluation of the AfCFTA

4.9.2.4 Phase II issues:

- The Protocols on Investment, Competition Policy, and Intellectual Property Rights (IPR) were adopted by the 1st Extraordinary Session of the AfCFTA Council of Ministers responsible for Trade held on 27th – 28th October 2022.
- On Women and Youth in Trade, the AfCFTA Secretariat convened Regional Stakeholder Consultations virtually on 5th to 7th April 2022, as well as a Conference on 12th to 14th September 2022 to discuss, with stakeholders, key elements to be included in the Women in Trade Chapter of the AfCFTA Protocol on Women and Youth in Trade.
- Consultative workshops have also been held on Digital Trade.

4.9.2.5 Coordination Meetings of the Heads of Regional Economic Communities (RECs) on the Implementation of the AfCFTA:

- Two meetings between RECs and the AfCFTA Secretariat have so far been held to strengthen collaboration on the implementation of the AfCFTA. Discussions centered on the steps towards the start of commercially meaningful trade under the AfCFTA, methodology for collaboration between the AfCFTA Secretariat and the RECs Secretariat in the implementation of the AfCFTA, engagement of private sector towards the implementation of the AfCFTA and the development of innovative frameworks for resource mobilization towards the effective implementation of the AfCFTA.
- A draft Action Plan has been developed and will serve as the basis for continued discussions between the AfCFTA Secretariat and the RECs in the implementation of the AfCFTA.
- The EAC Secretariat is the current Chair of the AfCFTA RECs Coordination mechanism and the subsequent engagement on this initiative is planned before the end of 2022

4.9.2.6 Africa Organization for Standardization (ARSO-Pilot Mutual Recognition Agreement)

The meeting was informed that there is an ongoing Pilot Mutual Recognition Agreement spearheaded by the Africa Organization for Standardization (ARSO) to support the AfCFTA based on standardization and certification systems. The pilot countries are Kenya, Rwanda, South Africa, Zimbabwe, Ghana and Nigeria. The MRA was meant to facilitate smooth flow of goods across the AfCFTA Countries.

The EAC Partner States through their NSB were urged to consider joining the MRA by getting in touch with ARSO Central Secretariat.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress made in the AfCFTA Negotiations and urged other Partner States to join the Guided Trade Initiative and the ARSO Pilot Mutual Recognition Agreement through their NSBs (EAC/SCTIFI 41/ Directive 61).

4.10 CONSIDERATION OF THE DRAFT EAC POLICY PAPER ON FREE TRADE AREA NEGOTIATIONS WITH THIRD PARTIES

Pursuant to the directives of the 40th Meeting of the Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI), an EAC Experts' meeting was held on 18th – 22nd October 2022 in Nairobi, Kenya to consider the revised draft EAC policy paper on Free Trade Area (FTA) Negotiations with Third Parties and to discuss the recent requests for trade arrangements with third parties.

4.10.1 Consideration of the Revised Draft Policy Paper on EAC Free Trade Area Negotiations with third parties

The meeting received a presentation on the revised draft EAC Policy Paper and how comments made in the previous Experts' Meeting had been addressed. The Experts deliberated on the revised draft Policy Paper and provided additional inputs. However, the Experts' Meeting was not able to finalize the revised draft, Policy Paper, and recommended that another meeting be convened in early November 2022 to finalize the draft Policy Paper.

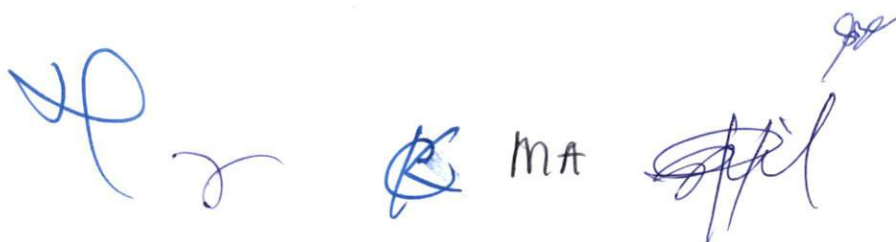
4.10.2 Requests for Trade Arrangements with Third Parties

The EAC Secretariat informed the meeting of the latest requests that had been received from countries indicating their interests to negotiate a Free Trade Area Agreement with the EAC. These countries are Pakistan, United Arab Emirates and Serbia. These were in addition to the earlier requests made by Turkey, China, EFTA, United States of America, United Kingdom, Singapore.

The Experts took note of these requests and committed to fast-track the finalization of the Policy Paper on FTA negotiations with third Parties.

The meeting recalled earlier directives that any requests for FTA negotiations should await the finalization of the EAC Policy Paper on FTA Negotiations with Third Parties.

The Senior Officials noted that five(5) experts meetings had so far been held and there was a need to expedite the finalization of the Policy Paper.



The Sectoral Council on Trade, Industry, Finance and Investment directed the Secretariat to convene a meeting of Experts in the First week of February 2023 to finalize the Policy Paper on FTA Negotiations with Third Parties for submission to SCTIFI (EAC/SCTIFI 41/ Directive 62).

4.11 PROGRESS REPORT ON THE EAC-UK TRADE ARRANGEMENTS

The meeting recalled the decisions of the 38th SCTIFI Meeting held in May 2021 as follows:

- (a) took note that the Republic of Kenya had submitted the signed Kenya - UK EPA to the EAC Secretariat;
- (b) directed the EAC Secretariat to provide a legal opinion on compliance with Article 37 of the EAC Customs Union Protocol, with respect to the Kenya-UK EPA (EAC/SCTIFI 38/Directive57);
- (c) directed the EAC Secretariat to study the implications of Kenya-UK EPA to the EAC Customs Union and circulate a report by 30th July 2021 (EAC/SCTIFI 38/Directive58);
- (d) directed the EAC Secretariat to expedite the revision of the draft Paper on the implications of BREXIT on Market Access by the UK and circulate to Partner States by 30th July 2021 (EAC/SCTIFI 38/Directive59);
- (e) directed Partner States to submit their comments to the EAC Secretariat on the draft Paper on the implications of BREXIT by 15th August 2021 (EAC/SCTIFI 38/Directive60); and
- (f) directed the EAC Secretariat to convene an Experts meeting by 30th August 2021 to discuss the revised draft paper on the implications of BREXIT on Market Access by the UK (EAC/SCTIFI 38/Directive61).

The secretariat undertook the above-mentioned studies and an expert meeting to consider the draft study reports was convened in April 2022 and comments were submitted for revising the draft studies.

The 39th SCTIFI meeting considered the progress made and directed the Secretariat to finalize and circulate the studies, and convene an experts meeting to validate the studies.

The Secretariat convened the validation meeting from 24th to 28th October 2022 in Nairobi, Kenya which was attended by Experts from the EAC Partner States except the Republic of Kenya. The Republic of Kenya communicated to the Secretary General her unwillingness to participate in the meeting and any future meeting on the subject matter.

4.11.1 Background to the UK-EAC and UK-KE negotiations for an EPA:

The EAC Secretariat provided the following background to the UK-EAC and UK-KE negotiations for an EPA:

- The UK-KE Agreement has been necessitated by BREXIT whereby the UK ceased to be a member of the European Union in early 2020, and will have its own independent trade policy after 31 December 2020. The initial plan was to negotiate a Trade Agreement between the UK and the EAC as a whole unit. In pursuit of this objective, exploratory meetings were convened between the UK and the EAC Partner States Senior Officials. In earlier communication to the EAC and during the various sessions of the UK-EAC Senior Officials meetings, the UK made it quite clear to the EAC in August, 2020, that following BREXIT a new UK-EAC Trade Agreement should be in place by 30 December, 2020 in readiness for its implementation by 1 January, 2021. The negotiations and transition period would therefore span between August 2020 and December 2020 and an agreement be reached before the end of December 2020. The roadmap, modalities for the negotiations and the structure of the Trade Agreement were proposed by the UK and discussed at the UK-EAC Senior Officials Sessions. An important outcome of these discussions was that the EAC Partner States agreed to the initial EU-EPA text as the basis for the UK-EAC continuity Trade Agreement.
- In regard, to the timeframe and the transition period for negotiating the Agreement, a critical factor that would influence the process was the fact that while five of the Partner States are LDCS (Burundi, Rwanda, Uganda, United Republic of Tanzania and Republic of South Sudan) and could in principle continue accessing the UK market on Duty-Free, Quota-Free (DFQF) terms under the UK's GSP to be introduced by UK in 2021, Kenya, on the other hand could not benefit from the UK

GSP by virtue of its status as a non-LDC.

- These considerations, the protracted EAC-EU EPA negotiation experience, and the delay in embarking on the UK-EAC EPA negotiations due to repeated requests for postponement of the negotiations by EAC Partner States – ostensibly due to internal preparatory processes - resulted in Kenya exploring alternative options leading to the decision to embark on the negotiations with the UK on its own, in order to secure its established export interests in the UK market.
- Indeed, the Republic of Kenya communicated to the EAC Secretariat informing Partner States and the Secretariat of its intention to engage in bilateral negotiations with the UK with the aim of reaching a bilateral trade agreement by 31st December 2020. In response the EAC Secretary General informed the Republic of Kenya to adhere to the provisions of Article 37 (4) of the Protocol on the Establishment of the EAC Customs Union Protocol
- In spite of the above developments and considering past Council decisions concerning EAC negotiations of trade agreements with third parties as a bloc, the Sectoral Council of Trade, Industry, Finance and Investment meeting of 11 September, 2020 directed that a proposal should be made to the UK: concerning the EAC'S desire to negotiate an UK-EAC Trade Agreement as a group, need for extension of the transition period for the negotiations by one year (Jan 2021-Dec 2021), request the UK to consider a special market access mechanism for Kenya during the extended transition period (similar to EU Regulation 1528), and lastly, that the UK should consider treating the EAC as an LDC Group and in that regard extend to the entire EAC Customs Union the UK-GSP DFQF market access.
- Responding to the above issues on 11th November, 2020 the UK informed the EAC Partner States that the UK-KE negotiations for a Trade Agreement was almost finalized and that the Agreement would serve to secure market access for Kenya post BREXIT transition period. On the request for extension of the transition period by one year, the UK responded that this was not possible due to the fact that the transition period agreed between the UK and the EU as part of the UK's Withdrawal Agreement is time-limited and will not be extended beyond 31st December, 2020. The treatment of the EAC Customs Union as an LDC group was similarly not viable since it would not conform to the WTO rules and regulations.
- Further, in its response to the EAC, the UK pointed out that the UK-KE Agreement was open to accession by the other EAC Partner States as soon as they are ready to join.
- On 2nd December 2020 the EAC held an Extra-Ordinary meeting of the Sectoral Council on Trade, Industry, Finance and Investment to consider the response from the UK. The Meeting noted the progress on the bilateral negotiations between the UK and Kenya and directed the Republic of Kenya to submit the proposed Agreement to the Secretariat for circulation to Partner States for their comments, as per Article 37(4) of the Customs Union Protocol and the EAC Secretariat to guide Partner States on the implications of BREXIT on the Market Access by the UK.

On Tuesday 8 December, 2020, the United Kingdom (UK) and Kenya (KE) signed an Economic Partnership Agreement.

4.11.2 Outcome of the EAC Experts Meeting held on 24th to 28th October 2022:

The Secretariat convened the validation meeting from 24th to 28th October 2022 in Nairobi, Kenya which was attended by Experts from the EAC Partner States except the Republic of Kenya. The Republic of Kenya communicated to the Secretary General her unwillingness to participate in the meeting and any future meeting on the subject matter. The meeting considered the following:

4.11.2.1 Validation of the revised legal opinion on compliance with article 37 of the EAC Customs Union Protocol

The meeting received a presentation on the revised draft Legal opinion on compliance with article 37 of the EAC Customs Union Protocol and the comments matrix indicating how comments made at the previous meeting held in April 2022 were incorporated.

The meeting agreed with the following study recommendations:

- (i) The action of the Republic of Kenya in negotiating and concluding the EPA with the UK should be

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sanctioned as an infringement of the obligations under the EAC Treaty and EAC Customs Union Protocol. Given that one of the Objectives of the Community is to establish among the Partner States a Customs Union (Article 5(2) of the EAC Treaty) which was duly established by the EAC Customs Union Protocol (with a Common External Tariff), the Kenya-UK EPA is contrary to the general undertaking by a Partner State to “abstain from any measures likely to jeopardize the achievement of those objectives or the implementation of the provisions of the Treaty” (Article 8(1)(c) of the EAC Treaty).

- (ii) The sanction for the infringement of the obligations under the EAC Treaty and the EAC Customs Union Protocol should be initiated using the Secretary General's powers regarding a Partner State's failure to “fulfill an obligation under [the] Treaty or has infringed a provision of [the] Treaty”. The Secretary General's role (Article 29, and 71 (1) d of the EAC Treaty) in ensuring Partner States comply with obligations in the Treaty (and the Protocols), as a rules-based system, has been affirmed in many decisions of the regional Court, including, the in *James Katabazi & 21 Others v Secretary General of the East African Community & Another*, Reference No. 1/2007.

The Republic of Kenya expressed objections to the recommendations of the Legal Opinion while the other EAC Partner States recommended their adoption.

The Legal Opinion is hereto attached as **Annex XXI**

4.11.2.2 Revised draft Study on the Implication of Brexit on UK Market Access for EAC Partner States

The Experts received a presentation on the draft study on the implication of Brexit on UK Market access for EAC Partner States and the comments matrix indicating how comments made at the previous meeting held in April 2022 were incorporated.

The meeting reviewed and adopted the following policy recommendations in respect to the study:

- (i) The EAC to engage the UK in negotiations of an EPA as a bloc in order to have a binding trade agreement in accordance with article 37(4) of the EAC customs Union protocol. This will ensure protection of the integrity of the EAC CU and promote regional integration.
- (ii) The negotiation of an EPA should be undertaken product by product and identify products.
- (iii) The EAC Secretariat to map out the available market for goods and services of EAC Partner States to the UK and EU. The information on the mapped-out products should be made available to EAC producers to help enhance diversification.
- (iv) EAC Partner States should enhance their own source of revenue generation. With the decline in the ODA from the developed economies, countries need to revisit their tax policies to ensure adequate revenue generation to finance the local developments. Reform the tax policies/instruments to optimize resources and create incentives for the growth of the private sector.
- (v) Agreements negotiated between the EAC and third parties should take into account the CET (2022 version)
- (vi) Partner States should develop mechanisms that can assist EAC exporters to access the UK market with their products. This can be done by forming an Export development fund or working jointly with the East Africa Development Bank to advance funds to EAC exporters.
- (vii) Increase diversification of goods and services among EAC Partner States. Currently, EAC Partner States products are concentrated on specific agricultural products thus limiting access to the UK and EU markets. EAC Partner States should take advantage of the existing trade framework to scale-up market access and also improve product quality to access the existing market.

The revised study report is hereto attached as **Annex XXII**

4.11.2.3 Revised Draft Study on the Implication of the Kenya-UK EPA on the EAC Customs Union

The EAC Secretariat made a presentation on the revised study on the implications of the Kenya -UK- EPA on the EAC Customs Union which took into account the comments made at the previous Experts meeting held in April 2022.

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The study proposed the following five options for the meeting to consider:

- (1) Maintain the status quo and do nothing
- (2) Accede to the agreement as is
- (3) Accede to the agreement with modifications
- (4) Enter separate bilateral EPAs with the UK. The other EAC Partner States can negotiate with the UK as a group or individually
- (5) EAC negotiates an EAC-UK EPA as a bloc. Negotiating as a bloc would be in conformity with the directive of the Council in order to preserve the EAC CET and protect the integrity of EAC CU.

The Experts meeting adopted the 5th option.

The revised study report is hereto attached as **Annex XXIII**

4.11.3 Position of the Republic of Kenya:

The Republic of Kenya provided her position as follows:

- (1) The 21st EAC Heads of State Summit of February, 2021 recognized that not all Partner States are in a position to sign, ratify and implement the EAC – EU Economic Partnership Agreement. The Summit recognized the importance of some Partner States to move forward and concluded that Partner States who wish to move forward may commence engagements with the EU with a view to starting implementation of the Agreement under the principle of variable geometry.
- (2) The UK's exit from EU in 2020 necessitated negotiations of a trading arrangement between Kenya and UK to avoid trade disruption upon expiry of the transition period since UK is a major trading partner in the EU.
- (3) The draft legal opinion opines that the conclusion of the Kenya – UK Economic Partnership Agreement (EPA) did not follow the procedure under Article 37 of the EAC Customs Union Protocol. Yet, attempts to negotiate the EAC-UK_EPA were frustrated by other Partner States with endless excuses such as national elections.
- (4) Kenya's action to negotiate the Market Access Regulation with the EU and conclude the EPA with the UK was informed by the strategic trade interests to ensure continuity of duty-free and quota-free arrangement with both the EU and UK. The other Partner States were not in any haste to conclude an EAC –EU- EPA-based agreement with the UK since they could still access the UK on duty free quota free basis as Least Developed Countries (LDCs). In view of this, other Partner States did not have hard decisions to make in light of the critical timelines and impending trade disruptions post-Brexit.
- (5) The Kenya-UK Agreement is substantially similar to the EAC-EU Agreement. Kenya's action to conclude the Kenya-UK Agreement was within the spirit of the Summit decision to enable Partner States engage with the EU and by extension the UK, with a view of preserving duty-free and quota-free market access. The issue of whether Kenya complied with Article 37 of the EAC Customs Union Protocol is therefore superfluous.
- (6) In conclusion, Kenya objects to the continued consideration of a matter by SCITIFI when the Summit has already given policy direction on the issue.
- (7) Hence, Kenya reiterates her position to abstain from any discussion on the merits or demerits of negotiating Kenya-UK-EPA
- (8) Kenya affirms her commitment to the EAC integration process.

The Sectoral Council considered the matter and decided that this be discussed at the next meeting of the SCTIFI, to be preceded by an Experts meeting.

The Sectoral Council for Trade, Industry, Finance and Investment directed the Secretariat to convene an Experts meeting by end of February 2023 to discuss Legal Opinion on Compliance with Article 37 of the EAC Customs Union Protocol and the recommendations from the two studies, and report to the next SCTIFI meeting. (EAC/SCTIFI 41/ Decision 28).

4.12 EAC MULTI-SECTORAL MEETING OF EXPERTS ON THE DRAFT EAC COVID-19 EMERGENCY ECONOMIC RECOVERY PLAN, THE EAC TOURISM RECOVERY PLAN, AND THE STUDY ON COVID-19 RELATED TRADE SHOCKS AND POLICY OPTIONS FOR TRADE RECOVERY AND RESILIENCE IN THE EAST AFRICAN COMMUNITY

Pursuant to the 39th SCTIFI Meeting held on 12th November 2021, and the 41st Ordinary Meeting of the



Council held on 29th November 2022, a multi-sectoral meeting of Experts was convened on 7th – 10th November 2022 in Arusha to consider the following documents:

- (i) EAC COVID-19 Emergency Economic Recovery Plan;
- (ii) EAC COVID-19 Tourism Plan; and
- (iii) Study on Covid-19 Related Trade Shocks and Policy Options for Trade Recovery and Resilience in the East African Community.

4.12.1 THE DRAFT EAC COVID-19 EMERGENCY ECONOMIC RECOVERY PLAN

The EAC Secretariat presented the EAC COVID -19 Emergency Economic recovery plan.

The objectives of the EAC COVID-19 Emergency Economic Recovery Plan are:

- (i) To mitigate the short-term and medium-term (1 - 3 years) negative impacts of the pandemic on vital economic and social sectors of the EAC region;
- (ii) Support strengthening of the fundamentals for robust recovery and sustainable further growth of trade and investment flows; and
- (iii) Facilitate harmonized implementation of priority activities aimed at promoting economic recovery and ensuring the future prosperity of the EAC region.

The key drivers and interventions in the Recovery Plan are as follows:

- (i) Improving investment climate in the EAC
- (ii) Enhancing trade and trade facilitation
- (iii) Strengthening the Transport sector
- (iv) Building capacity for digital transformation
- (v) Key services sectors for trade development and investment
- (vi) Reorienting and Strengthening manufacturing value chains
- (vii) Supporting agriculture and food security and sustainability
- (viii) Reinvigorating Tourism and Re-orienting the Tourism Value Chains
- (ix) Capacity rebuilding of trade and investment facilitation institutions


4.12.1.1 OBSERVATIONS

- (a) The section on Agriculture should incorporate postharvest wastages experienced at the storage and consumption levels and recommendations provided to reduce the problem.
- (b) The section on Road transport should include the challenges experienced by truckers such as long queues, high charges for COVID 19 tests, non-recognition of COVID 19 Tests certificates from other Partner States and unpredictable operating hours
- (c) Under the section on Air Transport the recommendations were amended to include the following:
 - (i) Adopt the EAC open skies policy for regional airlines
 - (ii) Improve diversity of regional airports for international operations
 - (iii) Implement recognition arrangements for measures established by a Partner State to mitigate pandemics and liaise with border control health authorities for adequate capacity to facilitate passenger and cargo business during pandemics

The revised EAC COVID-19 Emergency Economic Recovery Plan is hereto attached as **Annex XXIV**

4.12.2 THE COVID 19 TOURISM PLAN

The EAC Secretariat presented the COVID 19 Tourism Recovery Plan. The EAC COVID-19 Tourism Recovery Plan aims to stimulate recovery and growth in the Tourism Sector and is in line with the UNWTO's call for action to mitigate socio-economic impact of COVID-19 and accelerate recovery. It also takes into account recommendations made by industry players in the region and the strategic



actions proposed in the Regional Tourism Marketing Strategy that could significantly contribute to recovery of the sector if implemented within the immediate and short terms.

The EAC COVID-19 Tourism Recovery Plan is structured into Six (6) Pillars each with a number of interventions that shall be implemented within the immediate and the short term to ensure quick recovery of the sector.

The six pillars include:

- (i) Managing the crisis;
- (ii) Product and market development;
- (iii) Development of tourism and hospitality standards;
- (iv) Human capital development;
- (v) Tourism research and statistics, and
- (vi) Environmental sustainability of the tourism sector.

4.12.2.1 OBSERVATIONS

- (i) The plan should be reviewed to cover the period of three years 2023 to 2025
- (ii) Under Pillar 1, the section should be amended to read as follows: "Continued monitoring of the impact of COVID 19 on Tourism"
- (iii) Review intervention of developing and implementing regional trade in services strategy to read "Implement EAC Trade in Services Strategy"

The revised draft COVID 19 Tourism Recovery Plan is attached hereto as **Annex XXV**

4.12.3 THE STUDY ON COVID-19 RELATED TRADE SHOCKS AND POLICY OPTIONS FOR TRADE RECOVERY AND RESILIENCE IN THE EAST AFRICAN COMMUNITY;

The Consultant presented the study on COVID-19 related trade shocks and policy options for trade recovery and resilience in the East African Community.

The Objectives of the Study on Covid-19 Related Trade Shocks and Policy Options for Trade Recovery and Resilience in the East African Community are:

- (i) Assessment of the impact of the COVID-19 pandemic on key EAC Partner States macroeconomic and microeconomic variables including output (gross domestic product), investment, government revenues and expenditure, prices, wages, employment, income and welfare, amongst others, using available data.
- (ii) Identifying the main trade-related challenges faced by EAC Partner States in key trade services sectors caused by the pandemic and assess the efficacy of relevant measures taken by governments and traders to address the challenges.
- (iii) Reviewing the available evidence on the impacts and coping strategies at industry and sector level in the EAC and other regions.
- (iv) Examining the capacity of trade support institutions at the regional and country level to provide support during recovery from the shock and build better resilience to the future.
- (v) Preparation of policy recommendations to support EAC trade recovery from the negative effects of the pandemic and build and/or strengthen resilience capacity through managing trade shocks

4.12.3.1 OBSERVATIONS

- (i) Correct the many typing errors in the document.
- (ii) The study should recommend establishment of a sinking fund to address future pandemics.
- (iii) Review recommendation on Regional Trade in Services Strategy to read "Implement EAC Strategy on Trade in Services"
- (iv) There is a need to develop an action plan matrix and monitoring and evaluation matrix for the



implementation of the recommendations of the Study.

The revised Study on Covid-19 Related Trade Shocks and Policy Options for trade Recovery and Resilience in the East African Community is hereby attached as **Annex XXVI**

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress made on the development of the three Studies and directed the:

- (a) **EAC Secretariat to incorporate comments made on the three studies during the meeting and in addition, develop an Action Plan Matrix and Monitoring and Evaluation Matrix for the implementation of the recommendations of the Study on Covid-19 Related Trade Shocks and Policy Options for trade Recovery and Resilience in the East African Community and circulate the three revised Studies to all Partner States by 15th December, 2022 (EAC/SCTIFI 41/ Directive 63);**
- (b) **Partner States to submit comments on the three studies by 15th January, 2023 (EAC/SCTIFI 41/ Directive 64); and**
- (c) **EAC Secretariat to revise the Studies based on the comments received from the Partner States and convene Experts meeting in the second week of February, 2023 to finalize the studies (EAC/SCTIFI 41/ Directive 65).**

4.13 PROGRESS REPORT ON IMPLEMENTATION OF THE EAC-EU MARKET ACCESS UPGRADE PROGRAMME (MARKUP)

The 7th Meeting of the MARKUP Regional Steering Committee was held on July 13th -14th July 2022. The meeting received progress reports on the achievements for the EAC and Partner States window for the period July 21-June 2022, including the highlights below:

4.13.1 EAC Window:

4.13.1.1 Improved capacity to advocate for the removal of sector trade barriers

- (a) Three (3) Trade regulations/guidelines were developed or improved with business sector input, as a result of MARKUP support. These include:
 - AFA/ HCD in Kenya issued a directive banning export of immature avocados in line with recommendations channeled through ASOK;
 - In Tanzania, TAHA and the Ministry of Agriculture jointly developed harvesting calendars for each of the Local Government Authorities; and
 - Guidelines for buying and selling avocado in Tanzania.
- (b) Completion of the EAC Quality for Trade Platform (including national pages): The regional online quality platform has been developed allowing users to access relevant quality requirements for priority products in targeted markets, obtain guidance on quality-related topics, share best practices, connect with relevant institutions or individuals who can offer assistance and gain insight from those who have already experienced success. The platform covers the following:
 - Quality Compass: nine priority products mapped to EU market (Link à <https://unconsulting.ch/eac/compass>);
 - Quality Connect: 49 Quality Champions and 7 institutions featured – 213 total registered users;
 - Quality Success – 14 Success stories published; 12 showcasing Quality Champions projects;
 - Embedded linkages to regional and national Trade Portals of EAC: Kenya, Tanzania, Uganda, Rwanda (e.g., <https://tradehelpdesk.eac.int/>);
 - Customized homepage showcasing project, partners, other tools.

4.13.1.2 Improved sector standards and harmonization of Sanitary and Phytosanitary (SPS) measures

Provided support to implement the harmonized criteria for registration, approval and border clearance of pre-packaged foods approved in 2021. These include:



- (a) Sensitisation of 80 border officials at 10 entry points (Kasenyi/Akanyagu, Manyovu/Mugina, Katuna/Gatuna, Rusumo, Mutukula, Ilegu / Nimule, Busina, Malaba, Namanga, and Taveta/Holili);
- (b) Assessment of the capacities of national authorities for registration, certification, testing and border verification of prepackaged foods; and
- (c) Preparation of a mechanism for coordination.

4.13.1.3 Enhanced export competitiveness for sector SMEs.

As activities in this Result Area have been completed, the period under review focussed mainly on undertaking impact surveys.

4.13.1.4 Coordination, Monitoring and Evaluation, Communication and Visibility

- (a) The 7th Regional Steering Committee was held on 14th-15th July and attended by representatives from all Partner States, EAC Secretariat, EU Delegation, and all the implementing partners - GIZ, ITC, Solidaridad, UNIDO, UCDA, ICU and Oxfam Ireland;
- (b) Organized joint data verification and monitoring missions to Burundi, Rwanda and Uganda. Missions to Kenya and Tanzania had been completed in late 2021;
- (c) Organized a Learning Workshop for Partners and Key stakeholders on 5-6 May 2022 to share emerging good practice and challenges; strengthen synergies among Partners and key stakeholders, and highlight systemic issues to be considered in future programmes in the EAC region with similar objectives to MARKUP; and
- (d) Provided regular updates on the MARKUP website, including a new page for videos MARKUP Videos (eacmarkup.org) as well as continuous engagement through Facebook and Twitter, reaching 1577 followers by June 2022.

4.13.2 Partner States Window:

4.13.2.1 Kenya

- (a) Completed practical on-farm Global Gap Mentorship for 35 qualified experts in nine counties. 1,416 farmers have been trained on Global Gap and 225 producers selected for trainings to become farm assurers; and
- (b) Conducted ToT training on Guide for Aflatoxin Management & Control and SOPs for Aflatoxin Management & Control, for macadamia, ground nuts and spices in March 2022.

4.13.2.2 Burundi

- (a) Conducted 2 Lead Auditor Courses on Quality Management System (QMS) ISO 9001:2015 and Food Safety Management System (FSMS) ISO 22000:2018 in March 2022; and
- (b) Supported OTB to upgrade to the new Rain Forest Standard 2020 and Prothem in preparation for the RFA 2020 certification.

4.13.2.3 Rwanda

- (a) Recorded 505 new jobs as a result of project interventions by providing alternative sources of income for farmers. Farmers saving groups have been able to collect a total amount of 116,948,770 Rwf (€100,385.21) in savings;
- (b) Four (4) horticulture enterprises secured financing grants to boost their businesses under the "financial support to third parties" framework worth €27,123.89;
- (c) 3 Coffee Washing Stations (CWS) attended coffee exhibition in Italy (Mar 2022), 3 others participated in World of Coffee, Milan (June 2022); and
- (d) 20 CWS managers trained on certification processes and requirements. 66 farmers inspectors recruited and trained; 8 CWS, 4,761 farmers had external audits in June.

4.13.2.4 Tanzania

- (a) Launched the Invisible barriers to trade – United Republic of Tanzania: Business Perspectives Report in Tanzania on the 14th of April 2022. The report has information for the Tanzanian exporters and aims at increasing exports of Tanzanian products to the East African regional market and EU;

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- (b) Organised capacity building workshops on Non-Tariff Measures (NTMs) in Mwanza, Zanzibar and Mbeya to train and sensitise key stakeholders on non-tariff measures and transparency of regulations following the official launch of the NTM Report;
- (c) Organised trainings for all responsible staff on Economic, Social Governance (ESG) criteria. The ESG framework is already in place and is being used to assess farmers' performance on compliance to Voluntary Sustainability Standards (VSS);
- (d) Three buyers: Unilever Company (tea); East Africa Coffee Co LLP; and Taylor Winch Company (coffee) continued to source tea and coffee from AMCOS supported by the project; and
- (e) The project identified other two buyers; Partner Kaffee Company from Wuerzburg, Germany and Mambo Coffee Company (MCC) who are interested in sourcing certified coffee. The project is in discussion with Luka Fresh, an avocado exporting company to collaborate in the certification of avocado farmers in Njombe region.

4.13.2.5 Uganda

- (a) Following field assessment and analysis, 10 cocoa genotypes have been planted in a Preliminary Evaluation Trial (PET) at NaCORI, Kituza for yield and growth parameter evaluation. Data on growth and yield traits as well as incidence and damage of pests and diseases were collected periodically on the candidate Arabica coffee clones and one of the varieties has been recommended for field trails;
- (b) A number of activities have been initiated for the 6 beneficiaries of the matching grants including:
 - Training on good agronomic and climate-smart agricultural practices, farming as a business and financial literacy;
 - Processing facilities like coffee driers, fermentation boxes, collection and storage centres, coffee hullers and grading machinery installed;
 - Coffee washing stations with supporting facilities for collection and drying have been established. Existing factories have also been upgraded and installed with new machinery; and
 - Training on certification requirements and assessment of compliance for specialty markets. Some of these are fair trade, rainforest alliance and organic.

4.13.3 Monitoring and Evaluation report

In the four key results clusters under MARKUP, performance was on track, ranging between 80% and 97%. Performance for the overall objective improved to 55% compared to the figures reported in (July 18 - June 2021) report of 28%. One indicator at this level i.e. Improvement in the score of the EAC Partner States in the "Trading across borders" indicator of the Doing Business analysis by World Bank was deleted as the source of this data set (World Bank) had discontinued providing statistics on this indicator. Some Results under the EAC Window have been fully achieved and no further activities are anticipated as this component is due to close in July 2023. A review of utilization of funds shows disbursement rates of between 41 and 99% representing grantees who commenced in 2020, and implementers of the EAC Window whose activities were rolled out from late 2018.

4.13.4 MARKUP mid-term review

The Mid-term review of MARKUP which was initiated in August 2021 was completed in April 2022 under the oversight of the MARKUP Technical Committee. The key findings of the MTR indicated that the programme was relevant to EU and EAC strategies, coherent with the EAC structures and effective in delivery of its activities. However, the MTR rated efficiency of the programme as average and sustainability as low to average.

4.13.5 Extension of MARKUP I and preparations for a successor programme (MARKUPII)

Following approval of requests for a no-cost extension, implementation of the EAC Window will come to an end in January 2023 for activities implemented by ITC and July 2023 for those supported by GIZ. Activities in Burundi, Kenya and Uganda will be closing at various dates between 2023 and 2024 following discussions with the responsible EU Delegations. Partners in Rwanda and Tanzania (Solidaridad) commenced in 2020 and there is therefore no need to consider extension as yet.

The RSC received an updated from the EUD on the process, timelines, next steps and other details of



MARKUP II, indicating that if the process advances as planned MARKUP II would start in first semester of 2023 with the International Trade Centre (ITC) as the lead implementer. He reported further that a detailed concept note for the MARKUP II had been shared with the RSC members for their feedback and comments; and consultations with Partner States were held in June 2022. Having discussed the clarification and additional information, the RSC directed as follows:

- (a) Partner States to conduct benchmarking missions for cross-country learning based on the approved guidelines. This is underway and the missions to Uganda and Kenya are scheduled for 7th November 2022 and 22nd January 2023, respectively;
- (b) Identify recommendations from the MARKUP Midterm Review that could be implemented during the extension phase. Selected activities have been incorporated into the work plans of the period July 2022-June 2023;
- (c) Prepare a proposal on coordination of activities whose implementation goes beyond June 2023; and
- (d) Partner States to consult with the various national stakeholders and identify the national priorities for MARKUP II as guided and integrate more sustainability components in the ongoing interventions and in MARKUP II for the entire region. National consultations in the 6 Partner States were conducted in September 2022.

4.13.5.1 Observations

- (a) The meeting of Sectoral Committee on Trade commended MARKUP I interventions in Partner States in promoting value addition and product competitiveness in selected agricultural products;
- (b) The Republic of Kenya urged MARKUP II project to increase its project coverage in Kenya to include all Counties; and
- (c) The Republic of Uganda requested the MARKUP II project to cover additional agricultural products.

[The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress made in the implementation of the MARKUP Project.](#)

5.0 REPORT OF THE EAST AFRICAN STANDARDS COMMITTEE

5.1 Background.

The East African Standards Committee (EASC) held its 5th Extraordinary meeting on 23rd November 2022, virtually via zoom.

The objective of the meeting was to consider a number of Final Draft East African Standards (FDEAS) that had undergone a due process in accordance with the principles and procedures for harmonization of EAC standards and recommended by the Standards Management Committee (SMC) for the EASC approval.

5.2 Declarations of the Final Draft East African Standards (FDEAS)

The 5th extra ordinary EASC considered and approved for SCTIFI declaration, forty (40) FDEAS as East African standards (EAS), and four (4) international standards for endorsement.

As a result of revision and issuance of new editions of the standards, editions of the twenty- two (22) East African Standards that were revised are recommended for withdrawal.

The approved standards were on the most traded goods in the region covering the following key sectors;

- 1) EASC/TC 002, Coffee, cocoa and related products (4 FDEAS)
- 2) EASC/TC 012, Seed and propagation materials (5 FDEAS)
- 3) EASC/TC 018, Nutrition and Foods for Special Dietary Uses (3 FDEAS)
- 4) EASC/TC 022 Wood, Timber and their products (6 FDEAS)
- 5) EASC/TC 025, Processed fruits, vegetable and tubers (3 FDEAS)
- 6) EASC/TC 035, Steel and Steel Products (2 FDEAS)

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- 7) EASC/TC 061, Textiles, textile products and accessories (5 FDEAS)
- 8) EASC/TC 071, Cosmetics and related products (12 FDEAS)

The Sectoral Council on Trade, Industry, Finance and Investment:

- (a) declared 40 FDEAS as East African Standards, the Scopes and titles of the 40 FDEAS listed in **Annex XXVII (EAC/SCTIFI 41/ Decision 29)**
- (b) endorsed the list of 4 international standards normatively referenced in the FDEAS and specifications for adoption by Partner States as listed in **Annex XXVIII (EAC/SCTIFI 41/ Decision 30)**

6.0 REPORTS OF THE SECTORAL COMMITTEE ON INVESTMENT

6.1 CONSIDERATION OF THE REPORT OF THE SECTORAL COMMITTEE ON INVESTMENT

The meeting was held from 10th - 11th November, 2022 at the EAC Headquarters in Arusha, Tanzania to consider the progress in implementation of investment and private sector promotion activities, programmes and provide policy recommendations. The meeting considered the following agenda items:

6.1.1 CONSIDERATION OF THE PROGRESS REPORT ON THE DEVELOPMENT OF THE EAC PUBLIC-PRIVATE PARTNERSHIPS (PPP) POLICY

The meeting was informed that the regional validation workshop for the EAC PPP Policy was held on 15th June, 2022 following a regional validation workshop that was held on 14th December, 2021 to consider additional Partner States comments and validate the revised draft EAC PPP Policy.

The Senior officials were informed that the Committee had noted that in validating the report, the officials observed that:

- (i) The EAC PPP Policy document should provide guidance on PPP matters in the region. However, the meeting noted the interventions were general and did not adequately address the TORs. The EAC PPP Policy document should therefore define PPP from a regional perspective and provide policy statements/interventions that are more specific and actionable to guide the Partner States in their actions in PPPs;
- (ii) There is a need to indicate the comparative advantage among Partners States about PPP technical expertise;
- (iii) The role of the private sector in the EAC PPP Policy was not adequately covered. There is, therefore, a need for the consultancy firm to address the role of the private sector, especially the technical aspects more clearly in the revised draft EAC PPP Policy;
- (iv) An EAC PPP Diagnostic Study undertaken in 2012 referenced in the report provides baseline information. However, given the time lapse, there is a need to undertake a Diagnostic study/feasibility study to provide information that will inform on the challenges and ensure the projects are viable;
- (v) There is a need for the EAC PPP Policy to capture issues from other regions for the lesson learnt and benchmarking. Further, the Policy should provide for issues of climate change, ICT and Sustainable Development Goals (SDGs) that cater to the interests of the investors in ensuring the projects are bankable;
- (vi) The revised EAC PPP Policy should provide more options for financing PPPs;
- (vii) Partner States have national PPP policies and there is therefore need for the EAC PPP Policy to complement the national PPP policies, especially for cross-border projects, thus the role of the regional PPP policy in the harmonization of the national PPP policies should be addressed;
- (viii) The EAC PPP Policy should clearly guide and point out the responsibility of the EAC PPP Policy Framework and the responsibility of Partner States PPP Framework to avoid confusion;

- (ix) The draft report provides for regional projects in Energy and Transport sectors and there is a need for the revised draft report to provide for regional projects in other sectors beyond transport and energy; and
- (x) For the institutional framework, the report should be specific on the structure (within the EAC Secretariat structures), the functions and responsibilities, including a relationship with the Partner State institutional frameworks.

The Senior officials were informed that during the workshop held in June, 2022, Partner States expressed the need to undertake country consultations and generate comprehensive comments on the EAC PPP Policy and submit comments to the EAC Secretariat and had agreed on timelines that could not be attained.

A request was therefore made to Partner States to submit comments. The Committed noted that the Republic of Burundi is the only Partner State that has submitted additional comments which have been incorporated in the revised report.

The revised report is hereto attached as **Annex XXIX**.

The Senior officials were informed that the Committee observed that there is a need for Partner States to undertake consultations and provide additional comments and projects of regional dimension in other sectors in addition to those provided under the Energy and transport sector. Further observed that there is a need for capacity building of public sector officials on PPP contracts.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress in the development of the EAC Public-Private Partnerships (PPP) Policy; and

(a) urged Partner States to submit comments on the revised report on EAC PPP Policy by 31st December, 2022 (EAC/SCTIFI 41/ Directive 66); and

(b) directed the Secretariat to mobilize resources to undertake the capacity building of public sector officials on PPP contracts (EAC/SCTIFI 41/ Directive 67).

6.2 PROGRESS ON EAC ACTIVITIES UNDER THE AfCFTA INVESTMENT PROTOCOL

6.2.1 REGIONAL WORKSHOP TO CONSOLIDATE PARTNER STATES COMMENTS ON THE AfCFTA INVESTMENT PROTOCOL.

The Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI) in their meeting held in May 2022 urged the Partner States to undertake national consultation and provide inputs and comments on the 1st draft AfCFTA Investment Protocol by 20th June 2022 (EAC/SCT/FI 40/Directive 64). SCTIFI also directed the EAC Secretariat to convene a regional workshop by 27th June 2022 to consolidate a regional position and provide inputs and comments on the 1st draft of the AfCFTA Investment Protocol (EAC/SCT/F/40/Directive 65).

Subsequently, the EAC Secretariat convened a virtual meeting on 27th June 2022. However, Partner States had not submitted comments for consolidation and consideration by the meeting.

The meeting noted that following the submission of comments by the Partner States, a regional meeting of experts was convened and held from 24th - 25th August 2022 in Moshi, Tanzania to consider the consolidated comments and agree on a common position for the region on the AfCFTA Investment Protocol. The Report of the meeting is hereto attached as **Annex XXX**. The EAC comments were submitted to the AfCFTA Secretariat for consideration by the AfCFTA task force on the Investment Protocol and thereafter the 7th meeting of the Committee on Investment of the AfCFTA held from 22nd to 30th September 2022 in Accra, Ghana.

The meeting was informed that, in the discussions that ensued during the 7th meeting of the Committee on Investment of the AfCFTA, there were areas of convergence and divergences. In several provisions, there was convergence. However, there were divergences on some provisions specifically on the definitions of investment, the scope of the application in particular Article 3 (2) (b) and (3); Denial of benefits; taxation and transfer pricing; relationship with other International Investment Agreements particularly, Article 50 (3); and Chapter 7 particularly on Investor-State Dispute Settlement (ISDS). The Committee therefore requested the Senior Trade Officers (STO) to recommend to Council of Ministers (COM) to:

- (i) consider and guide on resolving the divergences; and
- (ii) review and make recommendations on Draft 4.0 of the Protocol on Investment to the Council of Ministers for consideration.

The First Extraordinary Meeting of the African Continental Free Trade Area (AfCFTA) Council of Ministers responsible for Trade (CoMs) was convened in Libreville, Gabon in a hybrid format, from 27 to 28 October 2022. The overall objectives of the Meeting were to consider the Report of the 13th Meeting of the Committee of Senior Trade Officials (STOs) held on 25 October 2022 in Libreville, Gabon to consider among other agenda items, the Protocol on Investment.

In the discussions that ensued, the Council of Ministers agreed on the following:

- (i) Retain the provisions as formulated in Draft 4.0 of the Protocol on Investment in relation to: (i) Article 1, the definition of Investment in relation to Portfolio investment; (ii) Article 3 Paragraph 3 on the Scope of Application; (iii) Article 5 on Denial of Benefits; and (iv) Article 50(3) on Relationship with other International Investment Agreements;
- (ii) Revise Article 19(d) to add the words just and equitable and amend Article 21(1) to link assessment of fair and adequate compensation to domestic laws and regulation;
- (iii) Retain the formulation in Article 40 on Taxation and Transfer Pricing with a minor change to expressly link international best practices and international rules and principles to base erosion and profit shifting;
- (iv) Delete reference to Investor-State Dispute Settlement in Articles 46 and 47; and
- (v) Include a Built-In Agenda for State Parties to negotiate an Annex that will set out Rules and Procedures for the prevention, management and resolution of disputes covered by the Protocol on Investment.

The meeting noted that the First Extraordinary Council of Ministers among others made the following decisions:

- (a) Agreed on the Protocol on Investment as amended and recommended it for adoption by the Assembly of the Heads of State and Government of the African Union; and
- (b) Requested the Assembly to adopt an Annex that will set out Rules and Procedures for the prevention, management and resolution of disputes covered by the Protocol on Investment, and that shall form an integral part of the Protocol.

6.3 CAPACITY BUILDING OF THE PARTNER STATES INVESTMENT PROTOCOL NEGOTIATORS AND INVESTMENT PROMOTION AGENCIES (IPAs)

In line with the SCTIFI directive on the capacity building, the EAC Secretariat convened National Capacity Building Workshops on the AfCFTA Investment Protocol through the support of GIZ. The workshops were held from October- November 2022 in six (6) Partner States except the Democratic Republic of Congo.

The objective of the capacity-building workshops are to strengthen the capacity of Partner States in the negotiation of the AfCFTA Protocol on Investment. It also set a foundation to aid the implementation of the Protocol by providing a background on the current global, regional and national situation on investment treaties and the prospects of the dynamic policy discussions and negotiations on investment taking place on various levels (international, regional and national) among government officials. The training covers modern BIT provisions and how they can be incorporated for Partner States to effectively address their needs for investment that contribute to the attainment of sustainable development. Investment protection and dispute settlement provisions were featured, highlighting specifically the strengths and limitations of wide-ranging provisions on investment protection.

The training had a session on investment facilitation. The session discussed the incorporation of the investment facilitation provisions in investment treaties and the Global Action Menu/ principles that UNCTAD has developed on investment facilitation.

The key takeaway from the training is the need for Partner States to effectively consider the provisions of the Protocol and their implications and ensure that they address the needs for development for



Partner States and contribute to sustainable development. Further, the incentives should be tied to the performance obligation of the investors. There is a need to provide investment thresholds that can lead to contribution of our economies and also ensure there is coherence between country, regional, and continental level investment regimes.

The training workshops were attended by government officials from various Ministries and Agencies that regulate and facilitate investments. The Report of the training is hereto attached as **Annex XXXI**

The Senior officials were informed that the Committee observed that:

- (i) The two days allocated for the trainings was not adequate considering the issues that were covered and requested that the trainings should provide for at least five (5) days; and
- (ii) There is a need for the EAC to organize a training focused on investor-state dispute settlement mechanisms and its challenges.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the progress in the negotiations on the AfCFTA Investment Protocol; and

- (a) urged Partner States to ensure there is transparency and enhanced coordination among the relevant Ministries, Departments, and Agencies (MDA) on the AfCFTA negotiation process Protocol on Investment (EAC/SCITFI 41/ Directive 68);**
- (b) directed EAC Secretariat to review the EAC Investment Code to facilitate Partner States harmonized implementation of beneficial investment provision contained in new generation of investment treaties (EAC/SCITFI 41/ Directive 69);**
- (c) directed EAC Secretariat to mobilize resources and conduct high level training and sensitisation sessions for policy makers and political leaders on investment treaties provisions, AfCFTA Investment Protocol and Investor-State dispute settlement mechanisms (EAC/SCITFI 41/ Directive 70); and**
- (d) directed the EAC Secretariat to convene a meeting of experts to consider the implementation roadmap for the AfCFTA Investment Protocol (EAC/SCITFI 41/ Directive 71).**

6.4 PROGRESS ON THE REGIONAL PROGRAM ON ENHANCING THE INVESTMENT CLIMATE FOR THE ECONOMIC EMPOWERMENT OF REFUGEE, RETURNEE, AND HOST/RETURN COMMUNITY WOMEN IN THE EAST AND HORN OF AFRICA AND GREAT LAKES REGION.

The meeting was informed that development actors supporting investment climate reform are investing more in the reforms in Fragile and Conflict-affected Situations (FCS). However, there have been very few attempts to address investment climate issues in refugee-hosting and return areas. Furthermore, there have been limited interaction and linkage between advocacy and pragmatic activities aimed at improving the socio-economic conditions of refugees and returnees and investment climate reform activities aimed at creating conducive conditions for private sector development. This has led to insufficient consideration of improved socio-economic interactions and cohesion between refugees, returnees, and host communities, and their empowerment. In that regard, the East African Community (EAC), Intergovernmental Agency for Development (IGAD), and the United Nations High Commissioner for Refugees (UNHCR) designed, signed, and are implementing a Regional Investment Climate reform project that is funded by the African Development Bank (AfDB) to address these gaps.

The project covers 11 countries that are in the East and the Horn of Africa. The scope of the project includes six (6) EAC countries which are: the Republics of Burundi, Rwanda, Kenya, Uganda, South Sudan, and the United Republic of Tanzania. The project is being implemented in a phased approach and phase 1 of the project aims to identify and lay the foundation to address the legal, regulatory, procedural, and infrastructural barriers to the economic empowerment of refugees, returnees, and host/return communities and identify sectors of competitive advantage for investment and trade in selected refugee-hosting and return areas in the 11 covered countries.

The project is being spearheaded and implemented by UNHCR in close collaboration with the two RECs (EAC and IGAD). It has the following components and sub-components: Improving investment climate in refugee-hosting and return areas which will focus on financing a scoping study to analyze the challenges to trade; entrepreneurship and employment; and the economic potential of refugee-hosting

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and return areas; and technical assistance to RECs, Partner/Member States, refugees, returnees and host communities, which will focus on strengthening of a framework for dialogue and cooperation on investment climate issues by financing public-private dialogue at sub-national, national and regional level. It will also involve capacity building of EAC and IGAD on investment climate reform, including financial inclusion in refugee hosting and return areas. The deliverable of phase 1 will be a regional programme that will provide for the financing of flagship and pilot projects.

The launch of the project was held in July 2022 in Mombasa, Kenya, and included the participation of the EAC countries. The meeting agreed on the selection criteria/ guiding principles for the selection of the locations for the project. Subsequently, countries identified locations for the project in line with the principles. The following EAC countries have identified locations for the scoping assessment: the Republics of Burundi, Kenya, Rwanda, South Sudan, and Uganda. The United Republic of Tanzania is yet to identify the location for the project focus.

SCTIFI noted that UNHCR has recruited Tutwa Consulting firm following consultations and evaluation of the proposal by the two RECs. The firm will undertake the scoping study and public-private dialogues meetings and capacity building for the RECs.

In the EAC region, the kick-start/scoping mission commenced in October 2022 in Ruyigi province in the Republic of Burundi. The missions to the Republics of South Sudan and Kenya are planned for November 2022 and December 2022 respectively. The missions to the other Partner States are planned for January to February 2023.

SCTIFI observed that the Committee on Investment welcomed the initiative and highlighted that the interventions should focus on both men and women in the targeted areas.

The Sectoral Council on Trade, Industry, Finance, and Investment took note of the progress made in the regional program on enhancing investment climate and urged the United Republic of Tanzania to identify a location for the project focus (EAC/SCTIFI 41/ Directive 72).

6.5 THE PROGRESS REPORT OF THE EAC-EABC TECHNICAL WORKING GROUP

The Sectoral Council noted that the Treaty provides for creation of an enabling environment for the private sector through promotion of continuous dialogue in efforts to remove barriers and constraints to market development and production. In the spirit of dialogue and engagement with the private sector, the EAC Secretary General held a meeting on the 6th of November 2017 at the EAC Secretariat with the EABC Board of Directors, represented by the Chairman and the Vice Chairperson of the Board. They noted the need to strengthen collaboration and partnership between the EAC and EABC to improve the business environment in line with the objectives of the EAC Development Strategies and the EAC Vision 2050.

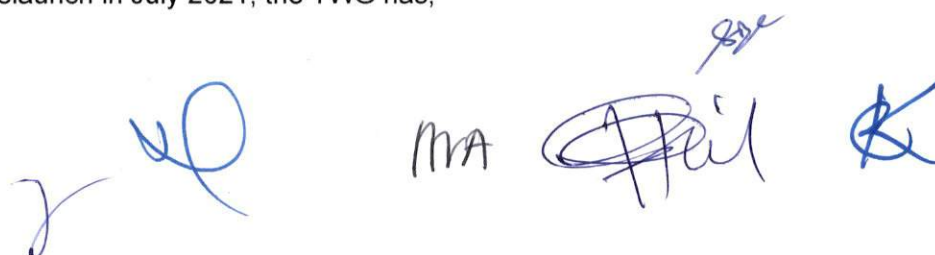
They agreed to form a joint committee of EAC and EABC technical staff to spearhead initiatives that would benefit the region's private sector. The EAC – EABC Technical Working Group (TWG) was formed in 2017 and relaunched in April 2021.

The roles and responsibilities of the TWG are;

- (a) Receive and synthesize issues received from the private sector at various levels and advise on appropriate solutions;
- (b) Create a joint work plan on Private Sector development and follow-up implementation;
- (c) Follow up on agreed interventions for EAC with various stakeholders;
- (d) Generate content for the SG Roundtable and CEO roundtable;
- (e) Generate, coordinate, supervise and report on EAC regional projects related to Private Sector support;
- (f) Mobilize resources for activities of the TWG; and
- (g) Any other activity relevant to the above objectives

6.5.1 THE ACTIVITIES UNDERTAKEN BY EAC-EABC TECHNICAL WORKING GROUP

Since the relaunch in July 2021, the TWG has;

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- ↓ (a) Received and synthesized private policy priorities along integration pillars, including challenges experienced at various one-stop border posts across the region;
- (b) Developed a matrix of private sector policy priorities with recommendations for consideration by various sectoral councils and the EAC Partner States. The matrix is updated monthly (Annex 1);
- (c) Presented private sector policy priority issues at the EAC Heads of State high-level retreat on Common Market Protocol;
- (d) Has shared a list of prioritized NTBs, including long outstanding to be submitted to the EAC policy organs and Summit; and
- (e) Mobilized resources to facilitate SG Forum and SG's CEOs Forum (private sector participation)

SCTIFI was informed that the priority issues raised by the private sector are under consideration at various Sectoral Councils and the Council of Ministers. Among the priorities include the following;

6.5.1.1 Free movement of Goods

- That EAC Partner States ratify the amendment of Article 24 (2) of the EAC Customs Union Protocol to provide for the establishment and operationalization of the Trade Remedies Committee to address Non-Tariff Barriers;
- That EAC Partner States expedite the finalization of the Amendment of the EAC Elimination of Non-Tariff Barriers Act, 2017, and its regulations to bring into force the Act and; eliminate all long-standing NTBs;
- That all EAC Partner States fast-track ratification of the EAC Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income to enable the Agreement to come into force;
- That EAC Partner States prioritise the harmonisation of domestic taxes (VAT & excise duty) to eliminate tax distortions and discriminatory taxes;
- That the EAC fast tracks the review of the EAC Rules of Origin 2015 to align with the Rules of Origin of AfCFTA, COMESA-EAC-SADC TFTA and EAC-EU EPA;
- That the EAC prioritizes and fast-tracks harmonization for the EAC's top 50 most traded products, including timber and timber products; and
- That the EAC Partner States finalize and implement the Standardization; Accreditation and Conformity Assessment (SACA) Bill, 2017 and commence development of regional technical regulation framework

6.5.1.2 Free movement of persons

- That all EAC Partner States should adopt the usage of National IDs (machine-readable) to facilitate the movement of citizens across all EAC Partner States to promote the free movement of persons and promote intra-regional tourism
- That all EAC Partner States adopt and implement a single tourist visa regime

6.5.1.3 Free movement of Services

- That the EAC Partner States fast-track the finalization of the amendment of the provisions of the EAC Common Market Protocol on Free Movement Services to bring into enforcement the new Regulations on the Free Movement of Services and Service Suppliers;
- That EAC Partner States commence negotiations for liberalization of the remaining five (5) Service sectors, which are: Construction & related; Environment; Health-related & Social; Recreational, Culture & Sporting services and other services not included elsewhere;
- That EAC Partner States finalize the development of the EAC Common Market (Mutual Recognition of Academic and Professional Qualifications) Regulations which is Annex VII of the EAC CM;
- That EAC Partner States establish a single EAC Air transport market and harmonize fees, levies and taxes on aviation, support cargo services, and lower air transport within the EAC region and
- That EAC Partner States fully implement the One Network Area Network for data and voice

6.5.1.4 Free movement of Labour

- That EAC Partner States fast-track the harmonization and classification of work and residence permit fees

- Develop a regional mechanism to facilitate the portability of public health insurance to support the free movement of persons.
- Develop a regional mechanism to facilitate coordination and portability of social security benefits.

It was noted that, the analysis of the issues raised by the private sector highlights that 90% are under consideration at various Sectoral Councils and the Council of Ministers.

It was observed that:

- Though the analysis highlights that issues are being considered by the various Sectoral Councils and Council, the pace has been slow in terms of development, ratification and adoption of the policy instruments that would contribute to lowering the cost of doing business. It was noted that some of the policy issues have been under consideration for an extended period of time which pose a challenge to private sector;
- The Technical Working Group (TWG) is not well capacitated in terms of financial resources; and
- The TWG is composed of members from Trade, Customs, Tourism, Agriculture, Industry, legal and private sector departments at the EAC Secretariat. Further, it includes national private sector apex bodies and EABC technical staff representing the interests and challenges faced by the private sector.

The meeting took note of the progress of the activities of the EAC – EABC Technical Working Group (TWG).

The Sectoral Council on Trade, Industry, Finance, and Investment considered the priorities and urged the relevant Sectoral Councils and EAC Council of Ministers to fast-track development and finalization of the priorities and modalities to improve the EAC business environment (EAC/SCTIFI 41/ Directive 73).

7.0 REPORT ON COMPETITION MATTERS

The EAC Competition Authority (Authority) Commissioners meeting was held from 6th – 8th September, 2022 and considered the following matters –

7.1 Consideration of proposed roadmap on enforcement of the EAC Competition Act, 2006.

The Commissioners were informed that enforcement of the EAC Competition Act, 2006 (the Act) was delayed due to human resource constraints experienced by the Authority and gaps identified in the EAC competition legal framework. Further, the Commissioners were informed that the Authority had addressed some of the constraints by developing the EAC Competition (Amendment) Bill, 2021 and Regulations as provided by the Act. The Commissioners observed that the Authority had developed policy documents, subsidiary legislations and instruments to facilitate enforcement of the Act.

Furthermore, the Commissioners noted that currently the Authority has a total of four staff (two established staff, one short term technical staff and one support staff) and the Council is soon expected to appoint one established technical staff.

The Commissioners considered the proposed roadmap on enforcement of the Act aimed at actualizing the Act and observed that the merger regime requires a budget to enable implementation to take place. However, the roadmap as presented had no budget; the Act requires progressive implementation of non-contradictory provisions; and operationalization of the merger regime requires involvement of many stakeholders since institutional interaction is critical to facilitate implementation.

The Commissioners directed the Secretariat to develop a clear roadmap detailing budgetary requirements and steps towards involvement of the key stakeholders and present the same for consideration at their next meeting.

7.2 Consideration of the draft EAC Competition Authority (Complaints, Investigations and Hearings) Rules of Procedure, 2022.

Section 40 of the Act provides that the Authority shall prescribe rules for the conduct of its affairs. In addition, Section 42 (1) (a), (c) and (d) of the Act empowers the Authority to investigate and to compel evidence, including the search and seizure of documents, holding of hearings and issuing of legally binding decisions, among other things.

The Rules of Procedure aim to (i) uphold the fundamental principles of the Community in Article 6 (c) and (d) of the Treaty which provide for the fundamental principles that govern the achievement of the objectives of the Community by the Partner States - peaceful settlement of disputes, rule of law, accountability and transparency; (ii) reinforce the Authority's core values of integrity, transparency, fairness, responsiveness, quality and confidentiality; (iii) enhance clarity, accountability and predictability among key stakeholders; and, strengthen procedural fairness in competition law enforcement.

The Commissioners recalled that the Authority developed draft EAC Competition Authority Rules of Procedure as provided by Section 40 of the Act, which were considered by the 20th Meeting of the Sectoral Council on Legal and Judicial Affairs (SCLJA) held on 8th March, 2018. The Commissioners were informed that the SCLJA meeting deferred approval of the draft EAC Competition Authority Rules of Procedure and observed that it was important to have two different sets of Rules, specifically, the Rules dealing with conduct of meetings of the Authority and Rules dealing with hearing proceedings of the Authority.

Further, the Commissioners recalled that at their 10th meeting held on the 27th-29th July 2021, they directed the Secretariat to develop rules to operationalize provisions on the conduct of Authority affairs, financial penalties and fees. A Partner States experts meeting held on 31st August- 2nd September, 2022 considered the draft EAC Competition Authority (complaints, investigations and hearings) Rules of Procedure, 2022 and observed that it was necessary to establish quorum for the hearings by the Commissioners in the Rules.

The Commissioners considered the draft Rules of Procedure, 2022 and made the following observations: -

- (a) interim orders be issued by the Registrar where necessary upon identifying competition harm or consumer issues which may require to be addressed immediately; and
- (b) a quorum of three Commissioners was ideal during hearings and is in line with best practice.

The EAC Competition Authority Commissioners considered and adopted the revised draft EAC Competition Authority (Complaints, Investigations and Hearings) Rules of Procedure; and recommended to the SCTIFI to consider and adopt the draft EAC Competition Authority (Complaints, Investigations and Hearings) Rules of Procedure, 2022.

The draft EAC Competition Authority (Complaints, Investigations and Hearings) Rules of Procedure, 2022 is hereto attached as **Annex XXXII**

7.3 Facilitation of Partner States AfCFTA Negotiations on Competition Policy

The Secretariat convened a Partner States preparatory meeting for the 6th AfCFTA Committee meeting on competition policy held on 5th – 7th July, 2022. The preparatory meeting developed EAC negotiation positions on the draft AfCFTA Protocol on competition policy. In addition, the Authority participated and facilitated Partner States during the 6th Meeting of the Committee on Competition Policy held on 7th -30th September 2022 in Accra - Ghana. One of the main objectives of the meeting was to continue consideration and finalization of the AfCFTA draft Protocol on competition policy.

The Committee considered the draft Protocol and arrived at a stable text subject to language alignment and legal scrubbing except for Articles 4 (2), 10, 23, and 25 where the committee requested the Senior Trade Officials to provide policy guidance on:

- (a) Article 4 (2) (Scope of Application): Whether the scope of application should expressly exclude the application of the Protocol on territories covered by regional competition authorities, especially in light of the limitation of the scope to conduct with a continental dimension and Article 21 provides assurance on the jurisdiction of regional competition authorities.
- (b) Article 10 (Abuse of Dominant Position) to guide on whether to include the threshold in Article 10 and what would be the appropriate thresholds (30%, 35%, 40%, and 45%); or to determine the appropriate threshold in a regulation of the Council of Ministers after a study.
- (c) Article 23 (Technical Assistance, Capacity Building, and Cooperation) to give guidance on whether the Competition Network should be established in the Protocol or by a regulation.
- (d) Article 25 (Establishment of the AfCFTA Competition [Tribunal/Court]), to give guidance on the appropriate naming of the appeal institution.

It is notable that some of the contentious issues regarding the role of RECs in regard to continental competition issues were resolved and the Draft Protocol provides that Regional Competition Authorities would maintain their jurisdictions.

7.4 COMESA-EAC-SADC Tripartite FTA Negotiations on Competition Policy

The 6th meeting of the Tripartite Technical Working Group (TWG) on Competition Policy was held on 22nd – 23rd August, 2022. The meeting's main purpose was to develop the modalities for implementing the Tripartite Protocol on competition policy as recommended by the 5th TWG Meeting on Competition Policy.

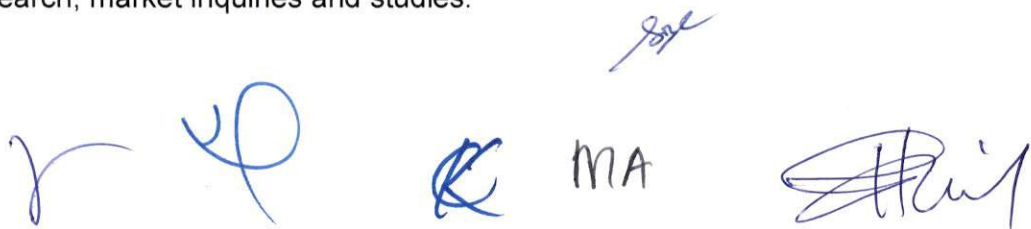
Partner/Member States shared and deliberated on the experiences, shared and were requested to make submissions and proposals on the type of implementation framework they would want the Secretariat to consider based on their respective experiences and the experiences from other jurisdictions.

It was agreed that the TTF/Secretariat develops a zero draft implementation framework based on international best practice and what is relevant to the Tripartite Partner/Member States to be presented for discussion at the next TWG meeting.

7.5 Cooperation frameworks with EAC Partner States Competition Agencies


Pursuant to Section 43 of the Act which requires the Authority to mutually cooperate with the Partner States in the implementation of the Act and in line with the EACA Strategic Plan, 2019/20-2023/24, the Authority negotiated and concluded a cooperation framework with the Competition Authority of Kenya. The Memorandum of Understanding is awaiting legal review and signature.

The Authority also commenced negotiations of a cooperation framework with Fair Competition Commission of Tanzania and COMESA Competition Commission with a view to concluding Memorandum of Understandings between the institutions. These negotiations are expected to be concluded in the financial year 2022/2023. The Memorandum of Understandings are aimed at strengthening areas of cooperation which includes: (a) capacity building on competition law and policy; (b) joint investigations and information exchange on competition and consumer protection; (c) joint advocacy and sensitization initiatives on competition law and policy; and (d) joint research, market inquiries and studies.

The bottom of the page features several handwritten signatures and initials in blue ink. From left to right, there is a stylized signature, a large 'P' or 'D' shaped mark, a signature that appears to be 'R', the letters 'MA', and a large, bold signature that looks like 'Hui'.

The Sectoral Council on Trade, Industry, Finance and Investment took note of the status of implementation of the EAC Competition Authority activities; and

- (a) considered and approved the draft EAC Competition Authority (Complaints, Investigations and Hearings) Rules of Procedure (*EAC/SCTIFI 41/ Decision 30*); and
- (b) referred the draft EAC Competition Authority (Complaints, Investigations and Hearings) Rules of Procedure, 2022 to Sectoral Council for Legal and Judicial Affairs for legal input (*EAC/SCTIFI 41/ Directive 74*).

  MA 

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