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**COMESA'S PRACTICAL EXPERIENCE ON TRADE FACILITATION IN
RELATION TO REGIONAL ECONOMIC INTEGRATION AND DEVELOPMENT.**

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I. INTRODUCTION

1. The upsurge in trade and development which is a result of latest technological advancement has brought serious challenges to trade facilitation against the background of securing the international supply chain that has been under threat from terrorist activities. It should be appreciated from the onset that the latest biotechnology and nuclear material utilisation for domestic purposes has led to improved production of goods whether in mining, manufacturing, or agriculture sectors. Therefore trading among countries has tremendously increased while infrastructure especially in the developing countries has remained the same if not deteriorated. This situation has seen the congestion of most borders with trucks due to inadequate infrastructure capacities and other trade facilitation challenges that this paper will discuss.

2. Regional economic integration in the Common Market for Eastern and Southern Africa (COMESA) is viewed as a means of creating a customs union, common investment area with a single market and preparing the region to face the challenges of global competition. Against this background, COMESA has been developing and implementing various trade facilitation instruments, which has resulted in the increase in the intra COMESA trade from 5% to 10% by 2000. Sustainable regional development can only be realised through effective economic integration.

3. This paper presents an assessment of the challenges that affect Trade Facilitation and the interventions that have been put in place to ensure that legitimate trade takes place in COMESA region. The paper draws most of the materials from a number of studies that have been conducted and the feedback that has been received from the Member States of COMESA on the effectiveness of various trade facilitation instruments. Further, the paper acknowledges the challenges that Customs Administration and other stakeholders in trade matters have to deal with in order to strike a balance between effective compliance and trade facilitation. The paper starts by providing the brief historical background of COMESA and then considers challenges of trade facilitation in the region. It then considers the trade facilitation interventions that COMESA has put in place in order to have regional integration before providing the highlights on the way forward.

II. BACKGROUND

4. The Common Market for Eastern and Southern African States (COMESA) was established in 1981 as the Preferential Trade Area (PTA) with the aim of attaining sustainable growth and development of the Member States by promoting a more balanced and harmonious development of its production and marketing structures. However the PTA later was transformed into the Common Market for Eastern and Southern African (COMESA) in 1994. In October 2000, the COMESA Free Trade Area (FTA) was launched which eliminated import

tariffs on all goods that met the COMESA Rules of Origin for the participating Member States. With the coming on board of Libya this year, COMESA has now a membership of twenty (20) countries. It is envisaged that the COMESA Customs Union shall be launched in December 2008.

5. The challenges of transition have led to the unprecedented increase in transit trade in the region despite COMESA developing and implementing a number of trade facilitation instruments. A recent study carried by UNCTAD shows that the international transport costs for imports of sub-Saharan landlocked countries accounts for an average of 20.7 per cent of the value of imports, as compared to the world average of 5.1 per cent and the average for other African countries of 12.7 per cent.

6. Appreciating the fact that most of the COMESA region is in sub-Saharan Africa, it is of paramount importance that the transport costs are reduced by any interventions available in order to make the region competitive. However, before any intervention can be put in place, it is critical to identify the elements that affect the effective and efficient trade facilitation management in the region. There are several elements to consider in addressing the efficient movement of goods but the cardinal of them are discussed below;

III. CHALLENGES TO TRADE FACILITATION

a. Customs Clearing Agents.

7. The Customs Clearing Agents are private companies that are registered with the Customs Administrations to be acting on behalf of the importers or exporters in processing customs documents so that Customs can release the goods after certain conditions have been fulfilled. The Clearing Agents have competencies in customs law and procedures. The clearing Agent's level of competency is a critical determinant of effective discharge of their duties. Incompetent Clearing Agents lead to an increase in costs, as they are subject to a number of queries by Customs and therefore taking more time on clearing one consignment at the expense of others. This leads to loss of confidence in the customs systems by the stakeholders. Therefore most Customs administrations in the region do licence the agents in order to ensure that only those who are competent and compliant with national legislation provisions are allowed to do business.

8. Further, for those small clearing agents with the customs bonds, their bond capacity is so limited that they cannot move high value consignments. They also have difficulties in monitoring the transit cargo, which they clear, as most of them do not have communication equipment such as radios to monitor their transit consignments. There is also lack of regional linkage, which should allow them do business beyond their national boundaries.

b. Clearing Charges/Fees

9. Clearing Agents make their earnings through charging the fees for the services rendered in having the goods cleared through Customs. Most of these charges are standardised depending on how organised the agents are. However, due to the intense competition in the industry, these charges vary though the minimum could be set depending on the economic policy of the country.

10. From the information available in the region, the minimum charge the Agents make ranges from US\$50 to US\$125 for processing of the Customs transit documents for each shipment of their respective clients. While the maximum charge range from US\$70 to US\$300 per shipment. On average the minimum charge is US\$68 while the maximum is US\$185. It should be noted that due to stiff competition in the clearing industry, some of the companies tend to charge lower than the minimum especially in countries with the liberalised economic policies and the industry is well organised. The variations in rates have proved to be counter productive to trade facilitation as in many cases where traders find their clients without bonds, they end up wasting time negotiating for better rates with other Agents. Therefore the clearing industry should come up with strong financial regulation and get more organised in order for the industry to continue being viable.

d. Demurrage

11. Demurrage is the charge the transporters impose on the owner of the goods for not ensuring that the truck is cleared within the stipulated timeframe at the border in order for it to make the deliveries according to the terms of trade. This charge is made on a daily basis that the truck remains at the border with the goods or remains in the custody of the owner of goods.

12. From the available data, the demurrage charges in COMESA range from US\$7 to US\$400 per day. It has also been noticed that, the demurrage charge ranges from US\$7 to US\$22 per day in one sub region while in the other sub region it ranges from US\$160 to US\$400 per day. The demurrage charges might be higher in other member states where cost of business is high due to several other factors but apparently there is no information collected due to the reforms on the customs systems that are being undertaken.

e. Data on Transit Period

13. As for transit period, geographically large member states such as the Democratic Republic of Congo and the Sudan, though we do not have the transit times, the time might be more than 10 days. Rwanda for instance has the transit time of only 8 hours due to its smaller geographical size. Therefore, it is difficult to have a regional prescribed transit time applicable to all Member states.

However, most member states have enshrined in their national Customs legislation maximum transit period that a transit consignment has to take and failure to make exit within that stipulated timeframe, the transporter is penalised unless there is a valid reason for the delay which should have been brought to the attention of any Customs authority.

f. Revenue leakage

14. Trade taxes are a major source of revenue in most of the Member States in the region. In some Member States trade taxes contribute more than forty percent of the revenue to the national treasury on annual basis. Since transit goods have the taxes suspended in the transit country, this has led to a number of transit frauds and as such transit trade being perceived as a high-risk area by Customs Administrations. This poses a challenge of balancing trade facilitation and implementation of effective compliance measures.

g. Infrastructure

15. In many cases the region does not have border infrastructure to handle commercial goods due to many reasons such as lack of political stability, insecurity in one country and poor road network. This leads to trade being conducted at a great expense, as longer and better routes have to be used in order to access the same area.

h. Delays in Transit

16. Delays are a serious source of concern where transit traffic is concerned as the delay results in increases in cost of goods. A Delay is understood as the failure for the importer or exporter to have the goods cleared with Customs Administration resulting in the transporter charging the demurrage. COMESA has developed a number of instruments to ensure that the delays of transit consignment are reduced in order to reduce the cost of doing business in the region and make the region competitive. The causes of delays have been cited to be numerous but prominent ones are:

- i) **Capacity of Agents:** Most clearing agents cannot afford the collateral as well as the premiums on the bonds, which results in few agents with the bonds at borders. Therefore, in many cases there are delays due to the fact that the few agents will exhaust their bond amounts and therefore cannot remove any more consignment until their bond balances have been reimbursed. Though the time for acquitting bonds is prescribed in many Customs legislation in the Region, it takes some time for the bond to be reimbursed especially if the customs procedures are not automated. Sometimes bonds are only reimbursed days after the truck had made exit due to the physical movement of the acquittal

details from one border to the other. As for small agents who are in a majority, even if they have bonds, the bond amount is not sufficient to move huge consignments due to the inadequate bond amount. The issue of bonds to cover transit consignment is a big challenge that COMESA is addressing in order to contain delays resulting from lack of sufficient bonds and penal sums.

- ii) **Documentation:** Customs Administrations depend on valid documents for them to process the declarations and that all items been declared should be substantiated by documentary proof. The submission of incomplete documentation by the Agents as provided by their clients leads to unnecessary delays. This result in Customs calling for further documentation such as invoices, cargo manifests, packing lists, bills of lading in order to value and classify the goods correctly. Some instances especially where Customs are suspicious that the goods (high-risk goods such as beer, cigarettes and cooking oil) might not make exit, it takes time for Customs to release the truck especially when the importer is new in the trading circles as they have to put in place compliance measures that will reassure them that no revenue will be lost.
- iii) **Competence:** the incompetent Clearing Agent staff make a number of mistakes that make customs query the declarations until there are corrected accordingly especially where tariff classification of goods and valuations are concerned. It is of paramount importance that the clearing industry improves the knowledge and skill of their staff by ensuring that they are trained in customs matters. This is even made worse if the customs officers are also incompetent, as most of the declarations have to be amended as directed by their supervisors before goods can be released.
- iv) **Integrity:** The lack of integrity by both Customs officers and clearing agents' staff is a serious source of delays where it manifests itself. Customs officers may deliberately misplace the declaration in order for the Client to panic and make an offer for a reward to an officer if only the declaration can be found. In some cases the customs officer may raise unnecessary queries or decide not to work on the declaration until the client makes an offer for a reward. This is usually done in conjunction with the clearing agents' staff. In other instances clearing agents can even collect the declaration from Customs but will keep on telling the client that unless an offer of a reward is made to particular customs officers, they will not release the declaration or they will over-value the goods.

- v) **Co-ordination:** The uncoordinated operating of the systems between Customs and Clearing Agents leads to unnecessary delays. This is common especially when Customs are changing the procedures. Most of the time the Agents are not trained in how to work with the new procedures but just instructed and therefore have difficulties in operationalising the new system. Meanwhile, Customs officers usually undertake the training on how the new system or procedures shall operate. This is worsened by the fact that the agents are rarely consulted in order for them to provide inputs to the new systems or procedures.

- vi) **Technology:** In terms of Customs administration that have not computerised their operations, the manual processing of Customs declarations has been cited as a source of delays. In cases of those that have computerised, they usually experience frequent system failures which make it difficult for the transit for instance to have bond balance reimbursed online even when the truck has made exit. As technicians work on the restoration of the system meanwhile the trucks are stuck as accounts on the computer system show that the balances are insufficient to process the declaration. Appropriate and sustainable technology should be procured in order to enhance bond management efficiency.

- vii) **Operation Hours:** In certain borders, operation hours are not harmonised. The late release of trucks at exit borders even when knowing so well that the other side of the border, nothing is going to be done as Customs by then would have been preparing for the closure of the border until the following day. Meanwhile the transporter will be counting the days. In other cases, one side of the border could be attending to the commercial cargo while the other is closed and therefore whatever could be cleared to make exit remains stuck. In certain cases the drivers have to wait for the Clearing Agents who have to come from towns to the border to do the clearance and if the Agent has not gone to the border for two days, the truck remains stuck for those days.

- viii) **Information:** Lack of information is also sighted as the cause of the delays at the borders. This leads to Clearing Agents doing the wrong thing as they depend on most material that could be outdated considering the pace at which Customs Administrations are moving, which results in Customs rejecting their declarations. It is important that Clearing Agents build their own databases on Customs materials as most of the laws and regulations are stocked by public institution which are accessible in the event that Customs Authorities do not seem to have such materials.

IV. TRADE FACILITATION INTERVENTIONS

17. COMESA has adopted practical measures to enhance trade flows among Member States. Through Working Groups and specialised Committees COMESA has developed and implemented various trade facilitation instrument which has resulted in simplified and harmonised common documents and processes. The following are the trade facilitation instruments the have been developed.

a. COMESA Customs Declaration

18. In order to clear the goods quickly at a lower cost COMESA has developed a single customs declaration form popularly known as a COMESA-CD. The majority of the Member States have implemented the COMESA-CD though with some modification in order to take care of certain national requirement.

b. Automation of Customs Procedures

19. Most Member States' Customs Administrations are using the ASYCUDA computer programme in managing their processes. Despite some technical challenges, the clearance of goods has tremendously improved especially when it comes to transit cargo. The bond is reimbursed the moment an exit declaration is processed at the port of exit and therefore transit turn around has increased as a bond is used for removal of other consignment. Transit management has also improved as each of the clearing agents has an account on the system, which is automatically blocked in the event that the agent has not been acquitting his declaration at the port of exit.

c. Capacity Building

20. COMESA appreciates the fact that for its programmes to succeed and be sustained, it is cardinal to build the human resources capacity. In this regard, a number of Customs training modules have been developed in order for the officers in COMESA Region to have the common understanding and approach to customs matters. This is the only way that the goods will be cleared in the quick and profession manner in order to reduce the cost of doing trade in the region. Under the ASYCUDA programme for instance, due to the good number of member states using the programme, COMESA has developed capacity for implementing and managing the programme.

d. Protocol on Transit Trade and Trade Facilitation

21. In order to secure the duties on transit goods, the Protocol calls for the licensing of all carriers involved in the transit movement of goods and approval of their means of transport in the region. The harmonised axle load controls has

been implemented in order to avoid the delays arising from overloading of trucks that damage the road infrastructure

e. Regional Customs Bond Guarantee Scheme

22. Under the auspices of the Protocol on Transit Trade and Trade Facilitation, the Regional Customs Bond Guarantee scheme has been developed. Apparently the mechanism to operationalise the scheme are about to be completed and it is envisaged that the scheme shall be launched before the end of 2005 or early 2006. This instrument has been designed in order to deal with many challenges affecting transit trade especially lack of bonds by many clearing agents and the congestion of trucks at the borders.

f. Protocol on the Rules of Origin

23. The Protocol highlights the five Rules of Origin under which the goods produced in the COMESA may qualify for duty free status when traded among Member States. The protocol has made it possible for member states to increase their production capacities as they have the read market for their products as long as such product qualify as originating.

g. Licensing of Clearing Agent

24. COMESA has also called for the licensing of Customs Clearing Agents at regional level in order to have uniform standards in operations. COMESA has even initiated the formation of COMESA Freight Forwarders Association, which is a regional association to facilitate networking and business opportunities for the clearing and freight industry besides having a common understanding of regional customs procedures and processes. This initiative has been taken in order to raise the standards and professionalism in the clearing and freight industry with the view to create confidence in other business stakeholders in the customs processes and systems.

h. Protocol on Third Party Motor Vehicle Scheme

25. The Insurance Scheme covering the Third Party liability popularly known as the Yellow Card scheme due to the colour of the card has been implemented in the region and so far thirteen countries are participating. There are several reasons that are attributed to non-participation of other member states most of which are beyond member states' intervention capacity. The scheme as performed very well so far as facilitation measures.

i. Joint Border Controls

26. COMESA in conjunction with some development partners is working towards implementation of One Border Stop concept at some of the busy ports

such as Chirundu, which is between Zambia and Zimbabwe, Malaba Border Post which between Uganda and Kenya. This is with the view of facilitating the clearance of goods at these borders, which are usually overwhelmed with traffic.

j. Implementation of Common Standards

27. Though only two member states of COMESA have ratified the Revised Kyoto Convention, most of them have realigned their legislation in line with the provisions of the Convention. This is because the Customs Administrations have done their preparations for ratification and therefore the region has the common understanding of customs matters. Hence the development of the COMESA Customs Management Act has been easy.

Way Forward

28. COMESA is apparently focused towards launching of the Customs Union and implementing the Regional Customs Bond Guarantee scheme besides ensuring that any trade dispute is handled in such a manner that trade facilitation is not affected. Emphasis is being made on the applications of the relevant Protocols and procedures. In preparation for the Customs Union, the Customs Management Act, Common External Tariff and Common Tariff Nomenclature are being finalised. The implementation of the above three stated instruments shall lead to more transparent, efficient and uniform procedure for the movement of goods and as such has an integrated regional economy.

29. Moreover, COMESA is developing standards for interfacing computer systems across borders to enable transit information to be shared by transit countries. Once computers are able to interface, it will be easy for Customs Administration to monitor transit goods. Information publication and dissemination on requirements by customs for transit movements is being undertaken. COMESA is also emphasising greater use of risk profiling and creation of intelligence databases for better targeting in all member states. The implementation of risk management in customs processes in the region has led to quicker clearance of goods and enhanced trade facilitation.

Conclusions

30. The challenges posed by trade facilitation require a holistic and regional approach as other member states might have different priorities especially when it comes to infrastructure development. Taking cognise of this fact, COMESA has a Directorate of Infrastructure Development that considers all infrastructural inadequacies and come up with project proposal on how such inadequacies can be addressed. It has to be underscored that COMESA requires the technical and financial assistance of the corporating partners in developing its capacity in order to ensure effective trade facilitation in the region.