

**COMESA BUSINESS COUNCIL PRESS STATEMENT**

**For Immediate Release**

**15th September 2020**

**Reference: Duties charged on COMESA origin products in Kenya**

The Common Market for Eastern and Southern Africa (COMESA) was established by treaty in 1994, with the goal of becoming a fully integrated, internationally competitive regional economic community with high standards of living for all of its peoples, ready to merge into an African Economic Community in line with Article 3 of the COMESA Treaty. COMESA has twenty-one-Member States: Burundi, Comoros, Djibouti, DRC, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia and Zimbabwe. COMESA Member States established a Free Trade Area (FTA) on 31st October 2000 after a sixteen-year period of progressive trade liberalization through reduction on intra-COMESA tariffs, with sixteen countries including Kenya participating in the COMESA FTA.

The implementation of the COMESA FTA grants preferential tariffs to products of COMESA origin. On the 8th of September 2020 the COMESA business community awoke to a situation where their goods were not afforded such preferences by the Kenyan customs authorities. Subsequent engagements highlighted the expiry of a preference provision under the EAC Customs Union granting preferences to COMESA and SADC countries till 30th December 2019, in anticipation of the implementation of the COMESA, EAC, SADC Tripartite Free Trade Area(TFTA). Furthermore, informed of meeting by the EAC on the 13th of September extending the arrangement by granting the EAC partner states a stay of application of the EAC Common External Tariff on originating goods imported from COMESA from 1st January, 2020 up to 30th June, 2021. This is to be gazetted to enable implementation, as such most of the businesses are still required to pay the duties. In fact, goods that have been entered in the systems since the 8th of September have been required to pay duty and businesses have been advised that duty will only be waived from the period of the gazette.

Kenya is an important and significant contributor to the COMESA and Tripartite regional integration agendas. Several COMESA businesses and investors have made decisions such as development of manufacturing hubs within the country or region, based on Kenya’s participation in the COMESA FTA. According to COMSTAT, in 2019 intra-COMESA trade stood at US$21.5 billion. Kenya’s is amongst the top three COMESA countries in intra-regional trade, accounting for about 13% with intra- exports of US$1.6 billion and intra- imports of US$1.2 billion. The key export products to COMESA included tea, palm oil, cigarettes of tobacco, iron products, medicaments, petroleum oil (crude) and sugar confectionary products among others. Further, key import products included cane sugar, milk and cream, mixtures of odoriferous substances and mixtures, unmanufactured tobacco, toilet paper, sanitary, soaps, organic care products, medicaments, refined copper, insulated wire cables, copper sheets and others.

Kenya is a leading member in terms of the COMESA regional integration agendas and an important partner for the private sector in terms of trade and investment. In this regard, to safeguard against the increasing adverse impacts on both business and economies of COMESA, the CBC requests as follows:

***Issue 1. Consideration of the COMESA Rules*.**

The COMESA FTA has been operational since 2000 and is still operational. The COMESA FTA is not contingent on the TFTA and been implemented and operational before the launch of the TFTA in 2015. Therefore, notwithstanding the arrangements under the EAC or TFTA, Member States must uphold the arrangements under the COMESA FTA.

* ***Recommendation 1: CBC requests the continued implementation of the COMESA FTA by all Member States, and in this instance by the government of the Republic of Kenya*.**
* ***Recommendation 2: To ensure alignment within the treaties for the EAC and COMESA countries, CBC recommends the need to ensure the treaties under the Regional Economic Communities are fully recognized within each other’s agreements.***

***Issue 2. Notification and Reprieve to businesses.***

The loss to business in the short term has been grave with businesses accumulating demurrage and other costs that had not been planned for, cognizant that the measure was applied instantly. Furthermore, businesses have been informed that goods that have been captured in the customs system from the 8th of September until the gazette on the extension, will be required to pay duty. This measure has also resulted in disruption of supply chains, with Kenya as a regional manufacturing hub, exacerbating the impact that had been felt with the COVID-19 disruptions. In the longer term, adverse effects will be felt on business, trade and investment due to the uncertainty and reduction in business or investor confidence.

* ***Recommendation 1: In the implementation of administrative measures, especially those with grave impact for businesses and cross border trade, Member States are urged to implement grace periods of at least one month to ensure business readiness and adjustment.***
* ***Recommendation 2: COMESA origin goods be exempt from the payment of duty within the time of the perceived lapse( from the 8th of September 2020 to date of gazette on stay of application of the CET) as businesses were not at fault but have been adversely affected by this administrative technical measure. .***
* ***Recommendation 3: CBC notes the approval of the amendment by the EAC and encourages speedier gazetting of the said, to enable the application of the extension/stay of application of the CET as a way of addressing the glitches in the interim.***

***About the COMESA Business Council***

The COMESA Business Council (CBC) is a business member organization bringing together a diverse group of businesses and associations in the region and is the recognized regional apex body of the private sector and business community in the COMESA region. It has been established as a consultative committee of the business community to provide a link between the private sector and organs of the Common market. We seek to improve the competitiveness and deepen the participation of the private sector in regional and global trade, through advocacy, business facilitation and enterprise development. This includes prioritizing and taking specific advocacy strategies to address key business impediments and measures that affect our industries and have a direct bearing on the participation of our businesses in trading in the COMESA region.

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