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ECONOMIC COMMISSION FOR AFRICA

Interim Secretariat of the Preferential  
Trade Area for Eastern and Southern  
Africa (PTA)

Meeting of Customs and Trade Committee of  
the Preferential Trade Area for Eastern  
and Southern Africa

Lusaka, Zambia  
25-29 October 1982

DRAFT TERMS OF REFERENCE OF THE CUSTOMS AND  
TRADE COMMITTEE

1. The Customs and Trade Committee (hereinafter referred to as "the Committee"), shall be the Customs and Trade Committee established by Article 11 of the Treaty for the Establishment of the Preferential Trade Area for Eastern and Southern African States (hereinafter referred to as "the Treaty").

2. The Committee shall consist of representatives designated to serve on it by the Member States of the Preferential Trade Area for Eastern and Southern African States (hereinafter referred to as "the Member States").

3. The Committee shall assist the Member States to reduce and eventually eliminate customs duties and non-tariff barriers imposed on or in connection with the importation or exportation of selected commodities to be traded within the Preferential Trade Area for Eastern and Southern African States (hereinafter referred to as "the Preferential Trade Area"), in accordance with the provisions of the Protocol on the Reduction and Elimination of Trade Barriers on Selected Commodities to be Traded within the Preferential Trade Area annexed to the Treaty as Annex I.

4. In the discharge of its functions as set out in paragraph 3 of these Terms of Reference, the Committee shall in particular:

- (i) undertake every two years negotiations as to the commodities to be included in the Common List and on the reduction or elimination of customs duties and non-tariff barriers on such commodities and submit their recommendations through the Intergovernmental Commission of Experts of the Preferential Trade Area (hereinafter referred to as "the Commission"), for the consideration and approval of the Council of Ministers of the Preferential Trade Area (hereinafter referred to as "the Council");
- (ii) require from time to time from the Member States lists of commodities for export and import of interest to them and any other relevant information that it may require for the purpose of identifying the commodities to be included in the Common List;
- (iii) make recommendations from time to time to the Council concerning amendments to the Common List;
- (iv) recommend to the Council the common percentage upon which further tariff reductions from the basic rates applicable to each group of commodities in the Common List shall be based for the purposes of each round of negotiations;
- (v) review the Common List and related tariff and non-tariff reductions or eliminations as may be directed from time to time by the Council;

- (vi) recommend to the Council through the Commission the temporary exemptions that may be made by the Council with respect to agreed reductions or eliminations of customs duties or non-tariff barriers; and
- (vii) undertake such other functions for the liberalization and promotion of trade within the Preferential Trade Area as may be directed by the Council from time to time.

5. The Committee shall assist the Member States in developing co-operation in customs matters among themselves and in taking measures to harmonize and standardize their customs regulations and procedures to ensure the effective application of the provisions of Chapter Four of the Treaty and to facilitate the movement of goods and services across their frontiers in accordance with the provisions of the Protocol relating to Customs Co-operation within the Preferential Trade Area for Eastern and Southern African States annexed to the Treaty as Annex II.

6. In the discharge of its functions as set out in paragraph 5 of these Terms of Reference, the Committee shall in particular:

- (i) undertake all activities relating to customs management and the organization of customs with respect to:
  - (a) matters concerning the preferential treatment of the exports and imports of the Member States within the Preferential Trade Area;
  - (b) the simplification and harmonization of customs regulations and procedures with particular reference to such matters as the valuation of goods, tariff classification, temporary admission, re-exports, frontier trade and export drawback;
  - (c) the prevention, investigation and repression of customs offences; and
  - (d) training facilities and programmes for customs officials of the Member States.
- (ii) promote the gradual establishment of uniform external tariffs in respect of goods imported from third countries;
- (iii) keep under constant review progress being made in the application of the provisions of the Protocol relating to Customs Co-operation within the Preferential Trade Area for Eastern and Southern African States;

- (iv) undertake studies and make recommendations to the Commission or the Council on the practical aspects of customs co-operation among the Member States.

7. During the period of ten years from the definitive entry into force of the Treaty, the Committee shall study all information on customs duties transmitted by the Member States to the Secretary-General of the Preferential Trade Area (hereinafter referred to as "the Secretary-General"), in pursuance of the provisions of paragraph 2 of Article 13 of the Treaty.

8. The Committee shall make proposals to the Commission through the Secretary-General of the Preferential Trade Area, with respect to a programme for the progressive reduction of customs duties among the Member States with a view to eliminating such duties not later than ten years after the definitive entry into force of the Treaty.

9. The Committee shall recommend to the Commission a programme for the gradual establishment of a common external tariff by the Member States.

10. The Committee shall assist the Member States in implementing the provisions of the Protocol on the Rules of Origin for Products to be Traded between the Member States of the Preferential Trade Area annexed to the Treaty as Annex III.

11. In the discharge of its functions as set out in paragraph 10 of these Terms of Reference, the Committee shall in particular:

- (i) make such proposals that would ensure that goods that are accepted for preferential treatment within the Preferential Trade Area satisfy all the requirements of the Protocol on the Rules of Origin for Products to be Traded between the Member States of the Preferential Trade Area and that during the period of ten years from the definitive entry into force of the Treaty, such goods are contained in the Common List;
- (ii) for the purposes of items (iii), (iv) and (v) of sub-paragraph (b) of paragraph 1 of Rule 1 of the Protocol on the Rules of Origin for Products to be Traded between the Member States ;
  - (a) make recommendations to the Council concerning the raising of the percentage of added value resulting from the process of production to more than 45 per cent of the ex-factory cost, of goods that have been produced in the Member States essentially from materials imported from outside the Member States or of undetermined origin;
  - (b) make recommendations to the Council concerning the designation in a list by the Council of goods which have been produced in the Member States and contain not less than 25 per cent of value added, to be goods of particular importance to the economy of the Member States;

- (c) make recommendations to the Council concerning the designation in a list by the Council of goods which have been produced in the Member States, are consumed in large quantities throughout the Member States and contain value added of not less than 30 per cent, to be goods currently in short supply within the Member States;
  - (d) make recommendations to the Commission concerning the exemptions that may be determined by the Council with respect to goods which have been imported into the Member States, have undergone a process of substantial transformation as a result of which they are classified or become classifiable under a CCCN tariff heading other than the CCCN tariff heading under which they were imported, and which are contained in the list known as "List A"; and
  - (e) make recommendations to the Commission concerning the exemptions that may be determined by the Council with respect to goods which have been imported into the Member States and which have not undergone a process of substantial transformation as described in item (d) of this sub-paragraph but which in the opinion of the Council should nevertheless be deemed to have undergone such process of substantial transformation, and which are contained in the list known as "List B";
- (iii) recommend to the Commission the amount of equity holding that shall apply five years after the definitive entry into force of the Treaty, to enterprises in the Comoros and Djibouti which may benefit from the provisions of the Protocol on the Rules of Origin for Products to be Traded between the Member States of the Preferential Trade Area;
  - (iv) recommend to the Commission the amount of equity holding that shall apply five years after the definitive entry into force of the Treaty, to enterprises in Lesotho and Swaziland which may benefit from the Protocol on the Rules of Origin for Products to be traded between the Member States of the Preferential Trade Area; and
  - (v) recommend to the Council the conditions that shall apply to products resulting from the mixing together of goods and accepted as originating in a Member State under the provisions of paragraph 2 of Rule 8 of the Protocol on the Rules of Origin for products to be traded between the Member States of the Preferential Trade Area.

12. The Committee shall make proposals to the Commission through the Secretary-General with respect to a programme for the gradual relaxation and eventual elimination, not later than ten years from the definitive entry into force of the Treaty, of all the existing quota, quantitative or the like restrictions or prohibitions which apply in a Member State to the import of goods originating from the other Member States.

13. The Committee may make proposals to the Commission with respect to the specified period during which a Member State which encounters balance of payments difficulties arising from the application of the provisions of Chapter Four of the Treaty may, after having taken all reasonable steps to overcome the difficulties, impose quantitative or the like restrictions or prohibitions on goods originating from the other Member States.

14. The Committee may make proposals to the Commission with respect to the specified period during which for the protection of an infant or strategic industry the products of which are in the Common List, a Member State may, after having taken all reasonable steps to protect such an infant or strategic industry, impose quantitative or the like restrictions or prohibitions on similar goods originating in the other Member States.

15. The Committee may keep under review the operations of any quantitative or the like restrictions or prohibitions imposed under Article 16 of the Treaty and make proposals thereon to the Commission.

16. The Commission may make proposals to the Commission on how the provisions of Article 17 of the Treaty with respect to dumping can be implemented effectively.

17. The Committee shall assist the Member States to facilitate trade in re-exports among themselves in accordance with the provisions of the Protocol on Re-exports of Goods within the Member States of the Preferential Trade Area annexed to the Treaty as Annex IV.

18. In the discharge of its functions as set out in paragraph 17 of these Terms of Reference, the Committee shall in particular make such proposals that would:

- (i) facilitate trade in re-exports among the Member States;
- (ii) prohibit the re-exports of goods from the Republic of South Africa to the Member States or the re-export of goods from the Member States to the Republic of South Africa; and
- (iii) ensure that goods being imported or re-exported in contravention of the Protocol on Re-exports of Goods within the Preferential Trade Area shall not benefit from the privileges provided for under the Treaty and that Protocol.

19. The Committee shall assist the Member States in the granting of transit facilities with respect to goods being Traded within the Preferential Trade Area through their territories, in accordance with the provisions of the Protocol on Transit Trade and Transit Facilities annexed to the Treaty as Annex V.

20. In the discharge of its functions as set out in paragraph 19 of these Terms of Reference, the Committee shall in particular make such proposals that would:

- (i) promote the freedom of transit through the territories of the Member States of goods proceeding to or from another Member State; and
- (ii) ensure the proper observance of the provisions of the Protocol on Transit Trade and Transit Facilities by all the Member States.

21. The Committee shall assist the Member States to simplify and harmonize their trade documents and procedures in order to facilitate trade in goods and services within the Preferential Trade Area, in accordance with the provisions of the Protocol on Simplification and Harmonization of Trade Documents and Procedures annexed to the Treaty as Annex X.

22. In the discharge of its functions as set out in paragraph 21 of these Terms of Reference, the Committee shall, inter alia, undertake all activities relating to trade document and procedures necessary to carry out trade transactions efficiently within the Preferential Trade Area by more particularly dealing with those documents and procedures relating to:

- (i) customs operations relating to the exportation, re-exportation and importation of goods;
- (ii) the collection and remission of customs duties;
- (iii) export and import licensing;
- (iv) foreign exchange controls;
- (v) clearing and forwarding of goods by agents;
- (vi) insurance of goods and transit traffic bonds;
- (vii) operations relating to transit trade;
- (viii) transport operations and licensing of carriers; and
- (ix) statistical control and dissemination of information on trade documents.

23. The Committee shall at the end of the period of ten years from the definitive entry into force of the Treaty, make proposals to the Commission concerning the extension or otherwise of that period of ten years as the period during which a Member State may refuse to accept as eligible for preferential treatment, goods in relation to which drawback is claimed or made use of in connection with their exportation from the Member State in the territory of which the goods have undergone the last process of production.

24. The Committee shall assist the Member States to:

- (i) promote the establishment of direct contacts between, and regulate the exchange of information among, their commercial organizations such as State trading corporations, expert promotion and marketing organizations, chambers of commerce, associations of businessmen and trade information and publicity centres;
- (ii) promote the establishment of appropriate machinery for the exchange of agricultural products, minerals, metals, manufactures and semi-manufactures within the Preferential Trade Area; and
- (iii) regulate the activities of their State trading and other commercial enterprises so as to ensure that they play an effective role in the development of the Preferential Trade Area.

25. The Committee shall:

- (a) implement such regulations as may be made by the Council in pursuance of the provisions of the Protocols referred to in these Terms of Reference; and
- (b) give effect to such directives as may be given to it by the Council from time to time.

26. The Committee shall submit from time to time reports and recommendations to the Commission either on its own initiative or upon the request of the Commission or the Council concerning the implementation of the provisions of the Treaty and the Protocols referred to in these Terms of References.

27. The Committee shall perform such other functions as may be necessary for the efficient implementation of the provisions of the Treaty and the Protocols referred to in these Terms of References.

28. These Terms of References shall be read in conjunction with the Treaty and the Protocols referred to in these Terms of References. The provisions of these Terms of References on the one hand and the provisions of the Treaty and the Protocols on the other hand shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict the provisions of the Treaty and the Protocols shall prevail.