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ECONOMIC COMMISSION FOR AFRICA

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

Meeting of the Customs and Trade Committee of the  
PTA for Eastern and Southern African States

Lusaka, Zambia, 25-29 October 1982

PROPOSALS FOR THE IMPLEMENTATION OF THE RELEVANT PTA  
TREATY PROVISIONS AND PROTOCOLS ON TRADE LIBERALIZATION  
AND FACILITATION

INTRODUCTION

It will be recalled that the first meeting of the Council of Ministers of the Preferential Trade Area for Eastern and Southern African States held in Lusaka, Zambia, from 22-25 June 1982, decided, inter alia, that the inaugural meetings of the customs and trade committee and the committees on agricultural and industrial co-operation should be held in Lusaka, Zambia, from 25-29 October 1982. The Council meeting also agreed on agenda for each of the above meetings.

This paper is aimed at presenting some proposals and observations regarding the implementation of the provisions of the PTA Treaty and relevant protocols as referred to in the agenda of the inaugural meeting of the customs and trade committee under the following items:

Review and adoption of the Terms of Reference of the Customs and Trade Committee (Agenda item 4)

The Committee's terms of reference are contained in Document ECA/MULPOC/LUSAKA/PTA/TC/I/6 to be presented for consideration by the Committee.

Adoption of rules of procedure for the Committee (Agenda item 5)

Uniform draft rules of procedure for all the PTA Committees, including the customs and trade committee, are contained in Document ECA/MULPOC/LUSAKA/PTA/TC/I for consideration and decision.

Consideration of substantive issues (Agenda item 6)Finalization of the Common List (Paragraph 6(a) (i) of agenda item 6)

The present Common List has been prepared on a commodity-by-commodity basis. On comparing this list with the national lists of commodities of export interest, it is noted that a number of commodities still remain outside the Common List, despite the fact that there is a demand for such products within the subregion. This is explained by the fact that the participating countries had tended to include in their lists of export interest more products than they did in respect of their lists of import interest. In order to rectify the situation, the Committee may wish to request member States to revise and up date their lists with a view to expanding them in a balanced manner. It may be appropriate for the purpose of expanding countries' import lists to give below a list of products which could be supplied from the countries of the subregion, although no import interest was notified in respect of them:

CCCN	Commodity	Potential exporters*
02.06	Meat and edible offals n.e.s.	Ethiopia, Kenya Swaziland
15.13	Margarine	Malawi
11.04	Manioc flour	Madagascar
17.03	Molasses	Angola
22.01	Mineral water	Ethiopia
25.06	Quartz	Angola
25.16	Granite	Angola
25.25	Mica	Mozambique
28.02	Sulphur	Zimbabwe
32.13	Ink	Malawi
34.05	Polishes, scouring powder	Kenya
34.06	Candles	Botswana, Lesotho
36.06	Safety matches	Kenya, Malawi, Mozambique Tanzania, Uganda
43.03	Sheepskin - seat cover, clothing	Lesotho
50.02	Silk	Madagascar
55.04	Cotton carded and combed	Ethiopia
55.09	Printed cotton materials	Uganda
57.04	Sisal, raw and sisal fibre	Angola, Madagascar, Tanzania
59.04/05	Twine, cardage and cables	Angola, Kenya, Mozambique Tanzania
69.08	Glazed ceramic setts	Angola
70.04	Window panels	Malawi
73.20	Tubes and pipe fittings of iron and steel	Zimbabwe
73.23	Tanks and containers, taps, valves made of steel	Kenya, Mozambique
73.32	Screws and washers, bolts and nuts of iron or steel	Zimbabwe
83.04	Office equipment of base metals	Zimbabwe

\* As notified by the governments of the respective countries.

CCCN	Commodity	Potential exporters*
83.02	Steel doors and windows	Kenya
84.10	Water pumps**	Zimbabwe
84.22	Mining machinery**	Zimbabwe
84.36/7/8	Textile machinery**	Zimbabwe
84.59B	Road construction machinery**	Zimbabwe
85.05	Tools, electric motors	Zimbabwe
85.15	Radios	Tanzania
85.20	Electric wire, conductors	Kenya
94.04	Mattresses/Pillow	Malawi
98.01	Buttons, zips	Kenya

\* As notified by the governments of the respective countries

\*\* Botswana is the only country which notified import interest for the whole CCCN chapter 84. Uganda notified import interest for food processing machinery; Zambia for wheel barrows, etc. Swaziland for machinery n.e.s. and Zimbabwe for some specified machinery.

Although a number of the above mentioned products falls under the category designated as "consumer goods of particular importance for economic development", "capital goods", "raw materials" and "intermediate goods", they do not appear on the Common List. Consequently, an attempt needs to be made in order to rectify this situation.

Preparations for negotiations on reduction of tariff and non-tariff barriers on product-by-product basis (Agenda item 6(a) (ii))

Procedures for conducting the required negotiations are in general well defined in the Treaty and it is possible that details of the modalities and techniques to be followed could be worked out. Furthermore, paragraph 3 of Article 3 of the Protocol on the Reduction and Elimination of Trade Barriers (Annex I to PTA Treaty) stipulates that "The Member States agree to reduce and eliminate among themselves in accordance with this Protocol, customs duties and non-tariff barriers with respect to the commodities appearing in the Common List". Further Article 9, Paragraph (b) of the same Protocol refers to "negotiations as to the commodities to be included in the Common List..." and states that negotiations shall be carried out by this Committee every two years. This implies that such negotiations would determine whether or not a particular commodity should be added to, retained or removed from the Common List. It further means that once a particular commodity is on the Common List, all participating countries are required to reduce or eliminate import duties as well as non-tariff barriers on that product, irrespective of whether or not their initial notifications of import interest include that particular product. On the other hand, attention may also be drawn to Article 7, paragraph 6(d) where the Council is authorized to "exempt for a specified period any Member State from the application of the agreed reduction or elimination of customs duties or non-tariff barriers in respect of any commodity" on the recommendation of the Committee as submitted to the Council by the Commission.

Further, the Committee may wish to note under Article 4 of Annex I to the PTA Treaty that member States agreed to classify the commodities appearing in the Common List under six groups in respect of which the basic rates are to be progressively reduced and eventually eliminated commencing with the percentages that are reproduced below.

	<u>Categories of goods</u>	<u>% of tariff reduction</u>
- Group I:	Food (excluding luxury items)	- 30 per cent
- Group II:	Raw materials:	
	(a) Agricultural	- 50 per cent
	(b) Non-agricultural	- 60 per cent
- Group III:	Intermediate goods	- 65 per cent
- Group IV:	Manufactured consumer goods (excluding luxury items)	
	(a) Durable consumer goods (excluding (c) and (d) below)	- 40 per cent
	(b) Non-durable consumer goods (excluding (c) and (d) below)	- 35 per cent
	(c) Highly competing consumer goods	- 30 per cent
	(d) Consumer goods of particular importance to economic development	- 70 per cent
- Group V:	Capital goods (including transport equipment)	- 70 per cent
- Group VI:	Luxury goods	- 10 per cent

What remains now is for member States to carry out product-by-product negotiations in the course of which specific levels of tariff cuts applicable to individual commodities appearing on the Common List will have to be agreed upon.

Bearing in mind the experience gained in previous trade negotiations between developing countries, due attention needs to be given to non-tariff barriers, which usually tend to be neglected. Almost if not all non-tariff barriers presently being applied by countries in the subregion have already been identified. And in this respect the INT negotiations have resulted in the adoption of Article 5 of the Protocol on the Reduction and Elimination of Trade Barriers on Selected Commodities to be Traded within the PTA (Annex I to the PTA Treaty) which sets out the following non-tariff barriers in respect of which concessions will need to be made.

Non-tariff barriers

Concessions

- |   |  |
|---|--|
| (a) Quantitative restrictions                               | - Preferential treatment in allocation of quotas |
| (b) Export and import licencing                             | - Preferential treatment in issuing licences     |
| (c) Foreign exchange licencing                              | - Preferential treatment in issuing licences     |
| (d) Stipulation of import sources                           | - Preferential treatment                         |
| (e) Prohibition or temporary prohibition of imports         | - Exempted where possible                        |
| (f) Advance import deposits                                 | - Preferential treatment (including exemption)   |
| (g) Conditional permission for imports                      | - Exempted                                       |
| (h) Special charges for acquiring foreign exchange licences | - Preferential treatment (including exemption)   |

Paragraph 2 of the same Article stipulates that "The Member States undertake to keep under constant review the non-tariff barriers to trade among themselves with a view to progressively relaxing and eventually abolishing them".

To facilitate the implementation of these provisions the Committee might wish to request participating countries to provide the PTA secretariat and other member States with their national trade statistics for the more recent five years and with the national customs tariff schedules as a matter of urgency. The PTA secretariat would also need to obtain international trade statistics of countries within the subregion of Eastern and Southern Africa for use in course of the impending negotiations.

The appropriate time for holding the initial round of negotiations would seem to depend among other things on the arrangements to be made for the finalization of the Common List. To this end, the PTA secretariat may be requested to collect from member States all the necessary information so as to be able to update and revise the list and submit it for final acceptance by the Customs and Trade Committee as the basis on which the product-by-product negotiations will proceed. Allowing time for the PTA secretariat to settle down and assuming that the above described process could take about three months it is envisaged that the negotiations could perhaps start sometime around May 1983. The outcome of these negotiations in terms of the specific tariff and non-tariff concessions that will be recommended for individual commodities will have to be submitted for approval to the Council of Ministers through the Commission as provided for under Article 9 of the above mentioned Protocol.

Customs co-operation, simplification and harmonization of customs regulations and procedures and standardization of customs and trade documents (Agenda item 6(b))

One of the most important tasks to be undertaken by the Committee, in this respect, should be to develop and co-ordinate co-operation between the Committee and the national customs administrations, on the one hand, and among the national customs administrations themselves, on the other, with a view to the achievement of uniform customs legislations and procedures. This would mainly be directed towards facilitating negotiations on commodities and implementation of provisions on preferential concessions to be exchanged among countries. Meanwhile, due attention should be given to the implementation of the standstill provisions of the PTA Treaty with a view especially to familiarizing the national customs administrations with their duties and responsibilities in this connection and the possible effects that may arise from changes in customs tariffs during the standstill period.

When the customs duty affecting imports from outside the PTA is increased, at a time the standstill provisions are still being applied within the area, the margin between the old and the new customs duty, becomes the preferential margin for the countries of the area. In a similar way, the continuation of the application of less restrictive non-tariff barriers within the area would constitute preferential treatment. In this connection, the PTA Treaty is quite explicit as paragraph 1 of Article 6 of the Protocol on the Reduction and Elimination of Trade Barriers, etc. (Annex I to PTA Treaty) stipulates that "The member States undertake not to increase customs duties and non-tariff barriers in respect of commodities appearing in the Common List with effect from the date on which agreement is reached to include such commodities in the Common List". This is because any increase in duty on commodities contained on the Common List and any extension or deepening of non-tariff barriers would not conform with the PTA objectives. In fact, experience in other integration groupings suggest that strict measures need to be taken in order to enforce such an arrangement. It also seems quite evident that reliance on the co-operation of national customs administrations will be indispensable for the enforcement of the standstill provisions. In addition, the Committee may find it useful to review from time to time standstill provisions with a view to preventing the imposition of new restrictions on trade exchanges among the countries of the subregion.

The issue of whether or not reductions of customs duties should be included in the national customs tariff schedules and the method whereby this could be achieved needs to be given early attention. Once the commodities subject to preferential treatment and duties are selected, relevant information could be presented as an appendix to the relevant Protocol, as stipulated in the Treaty. The Committee may, however, wish to recommend the addition of a column to the tariff book of each member country where the subregional preferential duty rates could be indicated. The heading of the column could be "PTA duty rate" or "Sub-regional preferential duty rate" or "Preferential duty rate for Eastern and Southern African States", or some other suitable heading. The proposed column would easily and quickly provide the parties concerned (exporter, importer, customs officer, etc.) with the required information. In this respect, it might be appropriate to mention that the use of the loose-leaf editions of national customs tariff schedules has already been adopted (paragraph 2 of Article 5 of Annex II to PTA Treaty). This arrangements apart from the fact that it is generally less expensive to work out than that of fixed binding would technically facilitate the inclusion of all tariff changes in the schedules.

Furthermore, arrangements should be made for the application of the provisions of the Protocol on Transit Trade and Transit Facilities (Annex V to PTA Treaty). Thus, transit plates (TIA (PTA) BONDED) should be produced and distributed to countries in time. Arrangements for the printing and distribution of the TIA(PTA) CARNET should also be made. The same applies to the other forms indicated in Appendices II, IV and V of the Protocol. In addition, all the parties involved in transit trade and transit facilities should be acquainted with the provisions of this Protocol and with the requirements for a speedy and safe transit of goods within the subregion.

The work on streamlining export/import procedures and standardization of customs and commercial documents should also be undertaken as a matter of urgency. The Committee should therefore request member countries to give particular attention to these two important areas. Substantial work has been carried out over many years by the Customs Co-operation Council (CCC) on the standardization of customs procedures.

Preparations for the implementation of the provisions of the Protocol on Rules of Origin (Agenda item 6(c))

Printing of the forms contained in Appendices I, II and III of the Protocol on the Rules of Origin is considered to be urgent, despite the fact that the PTA preferences may not be introduced immediately. The introduction of these forms should be arranged well before the PTA secretariat embarks on briefing exporters and importers on the technicalities of the Rules of Origin to be applied, within the PTA. Instructions for use by customs officers should be prepared in co-operation with the customs administrations of member countries.

The following considerations may be taken into account in respect of the need for simplified detailed instructions on the application of the PTA Rules of Origin:

(i) Detailed instructions need to be prepared well beforehand on the basis of which briefing could be made; consequently, the instructions could be consolidated (in booklet form) for the effective functioning of the customs system within the PTA.

(ii) Briefing should be undertaken as early as possible with a view to acquainting customs officers and businessmen with the basic technicalities of the PTA Rules of Origin.

Any other matters related to Articles 12 to 21 of the PTA Treaty (Agenda item 6(d))

In the case of Articles 12, 15, 16 and 20 on liberalization of trade, preferential treatment, non-tariff restrictions on goods and customs administration respectively, no further actions need perhaps to be taken at present, other than those already indicated. They may apply the Articles 14 and 17 on common external tariff and dumping. Furthermore, the provisions of Article 21 on drawback need to be applied only after ten years from the definitive entry into force of the PTA Treaty and therefore no action is required to be taken at present in this respect.

With respect to Article 13 on customs duties, action could be taken to enforce the provision that member States should forward to the PTA Secretary-General all information on customs duties and legislations for review and appropriate action by the Committee. In the case of Article 18, on most-favoured-nation treatment, the Committee may wish to remind member States that by signing the PTA Treaty, countries are required to accord to each other the most-favoured-nation treatment in respect of trade among themselves. Here, provisions of paragraphs 2 and 3 of Article 18 of the PTA Treaty should be strictly observed. These stipulate respectively that "in no case shall trade concessions granted to a third country under an agreement with a Member State be more favourable than those applicable under this Treaty", and that "any agreement between a Member State and a third country under which tariff concessions are granted shall not derogate from the obligations of that Member State under this Treaty".

As regards Article 19, on re-exportation of goods, etc., detailed arrangements could be worked out for the implementation of paragraph 1 of the Article which permits member States to object to the re-export of goods in certain cases to be jointly agreed upon. The Committee may, however, choose to wait until some experience is gained before taking any further action in this respect. The Committee may also find it necessary to remind member States that in accordance with the PTA Treaty the goods imported into their territories from the Republic of South Africa should not be re-exported to the territories of other member States and that goods imported into member States from another member State should not be re-exported to the Republic of South Africa.