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9TH MEETING OF THE SADC SUB-COMMITTEE ON TRADE FACILITATION

27 JULY 2011

GABORONE, BOTSWANA

RECORD

**Record: 9th Meeting of the SADC Sub-Committee on Trade Facilitation
27 July 2011, Gaborone, Botswana**

1. OPENING AND WELCOME

- 1.1 The meeting was chaired by Mr. Asser Nashikaku from the Ministry of Trade and Industry, Namibia. Ms. G.P. Kario, Principal Trade Officer in the Ministry of Trade of Botswana welcomed participants to Botswana and wished the meeting fruitful deliberations.
- 1.2 Secretariat noted the presence of representatives from the just ended meeting of the Sub-Committee on Customs Cooperation (SCCC) and noted that in the past the SCCC and Sub-Committee on Trade Facilitation (SCTF) meetings were held jointly and underscored the relationship between the two sub-committees in addressing implementation of matters concerning trade facilitation and NTBs.
- 1.3 The meeting was attended by representative from Angola, Botswana, Lesotho, Mozambique, Namibia, Tanzania, South Africa, Swaziland, Zambia and Zimbabwe. The list of participants is attached as Annex I.

2. ADOPTION OF THE AGENDA

The following agenda was adopted.

1. Opening and Welcome
2. Adoption of the Agenda
3. Progress Report on the Implementation of the Online System and Status of Resolution of Reported NTBs
 - 3.1 Improvement to the Online NTBs Reporting Mechanism
 - 3.2 2011 Audit Report
 - 3.3 Status of Resolution of Reported NTBs
4. Consideration of Recommendations from the Tripartite NTBs Focal Points Orientation Workshop (Nairobi, 10-11 March 2011)
5. Update on Implementation of Customs & Trade Facilitation Instruments
6. Any Other Business
7. Date and Venue for the Next Meeting
8. Adoption of the Draft Report

3. PROGRESS REPORT ON THE IMPLEMENTATION OF THE ONLINE SYSTEM AND STATUS OF RESOLUTION OF REPORTED NTBs

3.1 Improvements to the Online NTBs Reporting Mechanism

- 3.1.1 The SCTF recalled that recommendations for the improvement to the NTB Reporting and Monitoring Mechanism made by the March 2009 joint COMESA-EAC-SADC NTBs meeting were adopted by the Committee of Ministers of Trade (CMT) during its 21st Meeting held in Cape Town, South Africa. The SCTF also recalled that during its April 2010 meeting held in Gaborone, Botswana, it made recommendations for further improvement to the mechanism.
- 3.1.2 The SCTF noted that a new website www.tradebarriers.org has since been developed and it has taken into account the recommended improvements. The website has been presented to two meetings of National NTBs Focal Points at the Tripartite level in October 2010 and March 2011.
- 3.1.3 The SCTF noted that a meeting of National NTBs Focal Points from the Tripartite Member States held in Nairobi, Kenya in November 2010, agreed on re-categorisation of the NTBs based on the Categorisation developed by the World Trade Organisation (WTO) and recommended that the online system be updated by effecting that change. The categories are contained in document **SADC/SCTF/9/2011/3.1**.
- 3.1.4 The SCTF noted that to effect the recommended changes, officials from the Secretariat and TradeMark Southern Africa met to re-categorise all the reported/registered NTBs (both pending and resolved). The SCTF is also invited to note that the WTO Categorisation has an illustrative list of examples under each category and that for ease of management and use of the system, those examples have been used as sub-categories. The use of sub-categories would also facilitate reporting and improve data generation and presentation. The Secretariat and TradeMark SA also examined the coverage of the WTO NTB Categories and its non-exclusive list of examples, and introduced additional examples and a new sub-category named 'other', which are envisaged to accommodate entries that are/may not be covered by the WTO list. In addition a new section of non-actionable NTBs, grouping all complaints that are not NTBs, has been introduced.
- 3.1.5 The meeting noted that a total of 273 NTB complaints reported on SADC Member States and SADC Secretariat, consisting of 186 resolved, 83 pending and 4 non-actionable, were re-categorized and are already uploaded into the system. The change has been incorporated into the online system and the NTBs elimination plan matrices for all SADC Member States have been provisionally changed accordingly.
- 3.1.6 The categories are as follows:

Category 1: Government Participation in Trade & Restrictive Practices Tolerated by Governments

Category 2: Customs and Administrative Entry Procedures

Category 3: Technical Barriers to Trade (TBT)

Category 4: Sanitary & Phyto-Sanitary (SPS) measures

Category 5: Specific Limitations

Category 6: Charges on Imports

Category 7: Other Procedural Problems

3.1.7 The SCTF noted that the list is non-exhaustive and that there was a possibility to expand and further clarify the entries. It was noted that a consultative meeting of one of the NMCs has suggested inclusion of a new category to accommodate NTBs related to the transport sector.

3.1.8 The meeting endorsed the categorisation as contained in **SADC/SCTF/9/2011/3.1** and noted that there may be need to include new categories and sub-categories at a later stage as Members may decide.

3.2 2011 Audit Report

3.2.1 The SCTF is invited to note that the 2011 Audit on implementation of the FTA included an assessment of utilisation of the online reporting mechanism and implementation at national level in the Member States that were covered. The audit also looked at some supposedly resolved NTBs for which supporting documentary evidence was pending.

3.2.2 The SCTF noted the outcome of the audit of the audit as summarised below:

3.2.3 It was observed that there was little or no documentation to support the resolution of issues. In fact, in many cases, it would not be possible to provide documentation given the nature of the complaints which are often subjective or too vague to address directly.

3.2.4 The SCTF noted the outcome of the audit with regard to NTBs as summarised below:

- (i) There had been little or no documentation to support the resolution of issues. In many cases, it would not be possible to provide documentation given the nature of complaints which are often subjective or too vague to address directly.

- (ii) Most of the complaints are subjective as there no standards or benchmarks , which make some of the complaints difficult to address

3.2.5 The Audit report recommended exploring the possibility of setting and defining standards and parameters to address issues of subjective NTBs.

3.2.6 The meeting noted the importance of standards to measure subjective complaints and the need for harmonisation of charges, quality and product standards in the region.

3.2.7 The meeting also noted the need to enhance transparency by submission of notifications for posting on the NTBs website to enable traders to know what to expect when they move goods across borders.

3.3 Status of Resolution of Reported NTBs

3.3.1 The SCTF noted that following the work undertaken to re-categorize complaints, new data were generated on the Status of Resolution of Reported NTBs (273 complaints: 186 resolved (68,1%), 83 pending (47,9%) and 4 (2,3%) non actionable complaints) and were used as basis for the following summary below. The revised categories were also used in preparing the status document on reported NTBs contained in document **SADC/SCTF/9/2011/3.2**.

3.3.2 The SCFT recalled that its 8th meeting and subsequently the 39th meeting of the Trade Negotiating Forum (TNF) both held in April 2010, agreed that internally reported NTBs be removed from the plans and that they be addressed nationally within the respective Member States. Subsequent to those meetings, the meeting of National Focal Points from Tripartite countries agreed that internally reported NTBs should not be deleted as they affect international trade. The internally reported NTBs were therefore retained.

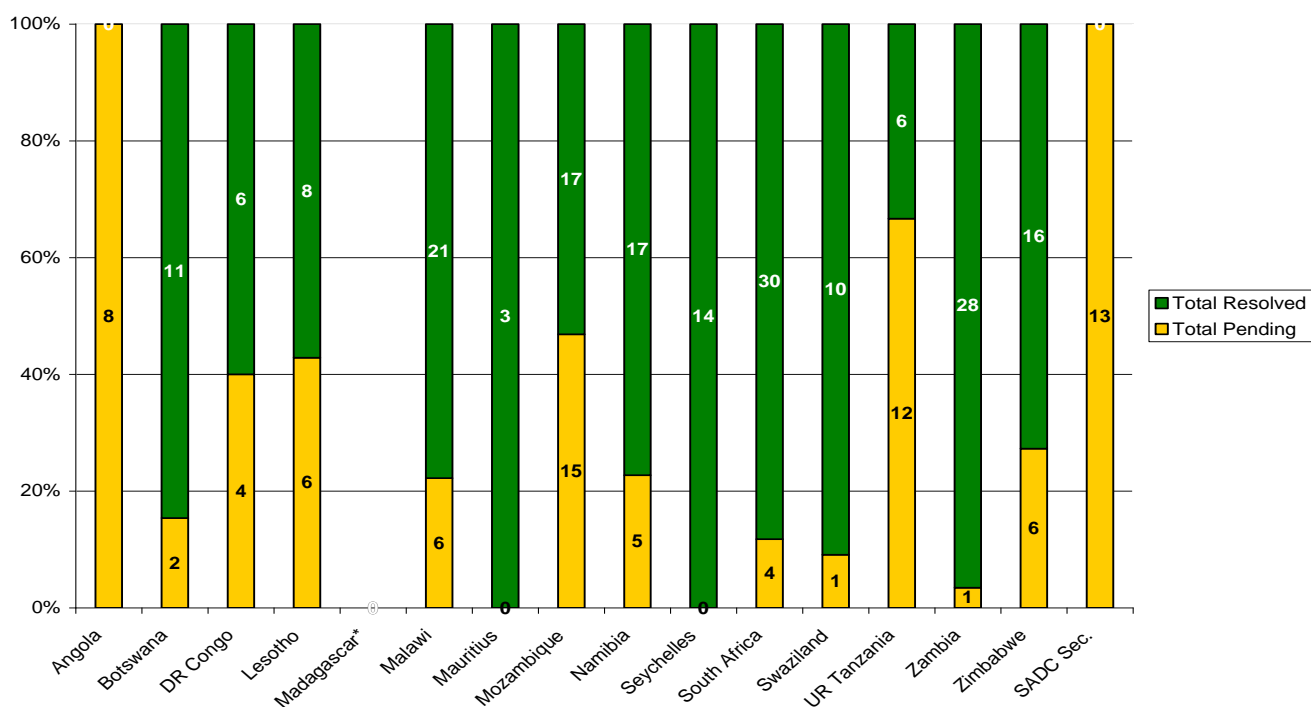
3.3.3 The SCTF also recalled that an exercise to develop an inventory of NTBs in the SADC Region was undertaken in 2007 and that the first entries into the online system were part of the outcome of the surveys, which were presented as reported by the respective Member States. Following the April 2010 decisions, entries from the inventory surveys have been separated from the internally reported NTBs and this has been factored in the respective Member States' matrices on the Status of Resolution of Reported NTBs.

3.3.4 The SCTF considered the status document on reported NTBs contained in document **SADC/SCTF/9/2011/3.2** and Member States were requested to provide updates on the resolution of outstanding NTBs. A summary of the status report is provided below:

3.3.5 Aggregate generic SADC NTB Complaints figures:

- (i) NTB Status by Member State (Imposing Country)

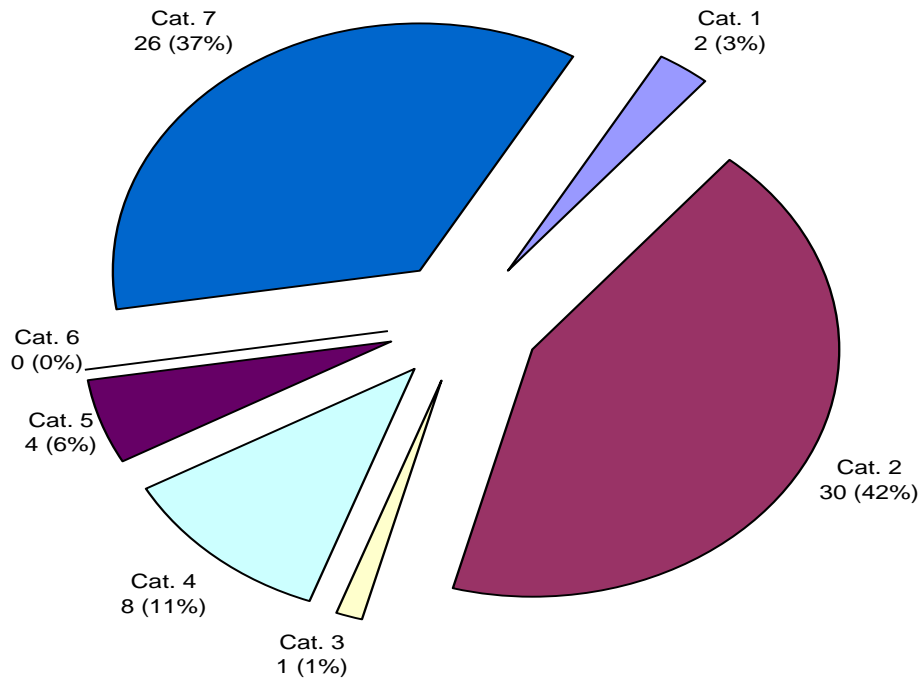
Figure 1: SADC NTB Status by Countries (2009-2011), 27/06/2011



3.3.6 The above graph shows the state of play of pending and resolved NTBs for each Member State for the period 2009-2011.

(ii) Pending NTB Complaints by Category:

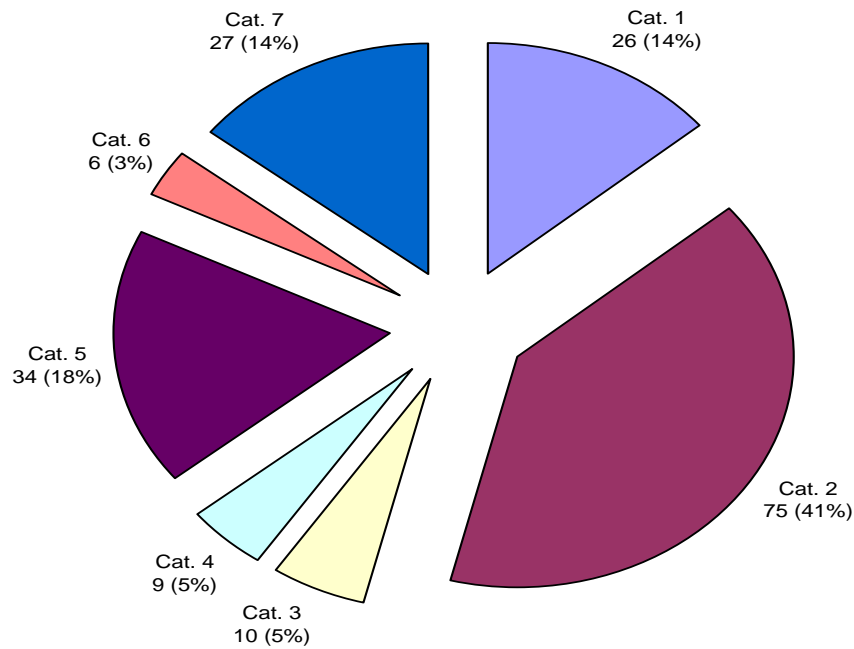
Figure 2: SADC NTB Pending Complaints by Categories as at 27/06/2011



3.3.7 The above chart shows the share of NTB pending resolution by categories for the years 2009-2011. It can be observed from the chart that categories 2 (customs and administrative entry procedures) and 7 (other procedural problems) constitute almost 80 % of pending NTBs. This may be a signal that those two categories need to be given the highest priority when developing NTB elimination plans at both Member State and Regional levels. Resolution of NTBs in those categories would make a significant contribution towards facilitating regional trade.

(iii) Resolved Complaints by Category

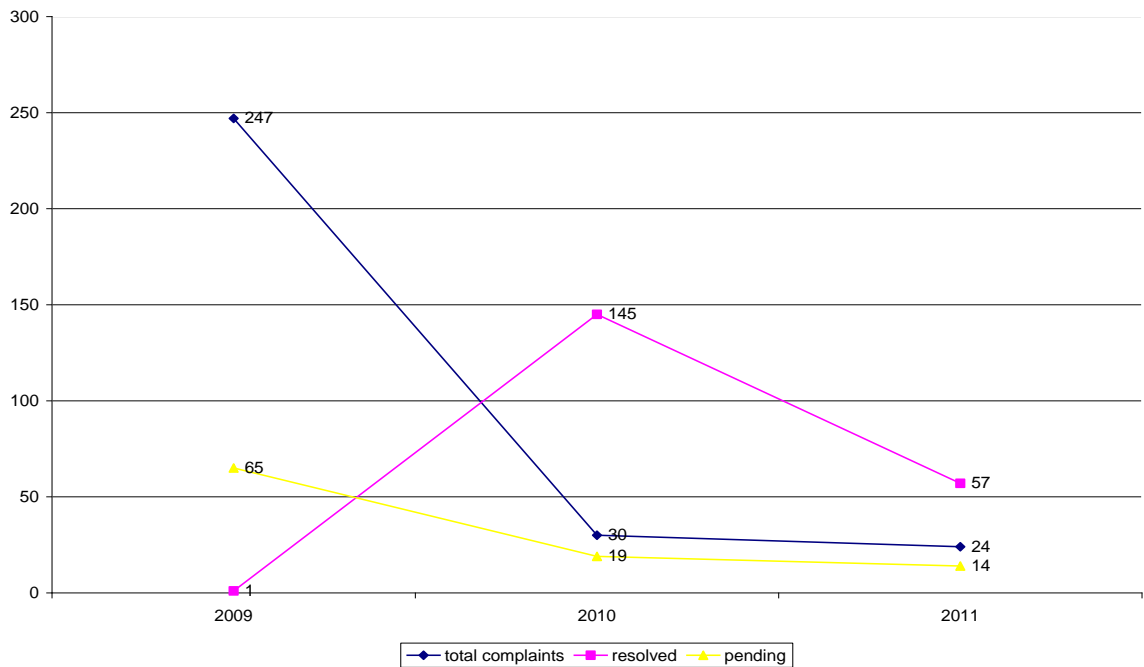
Figure 3: SADC NTB Resolved Complaints by Categories, 27/06/2011



3.3.8 The above chart shows the share of NTB resolved complaints by categories for the years 2009-2011. It also shows progress made with respect to elimination of NTBs in all the categories.

(iv) Evolution of the SADC NTB Complaints

Figure 4: Evolution of the SADC NTB Complaints 2009-2011



- 3.3.9 The above graph shows the evolution of the complaints raised within the NTB online reporting, monitoring and eliminating mechanism. The data shown are not directly correlated as some NTBs are resolved in a different year than they were reported. For the pending complaints, the line chart shows the number of NTBs that are still pending and for the resolved complaints, those that were resolved in a particular year.
- 3.3.10 Amongst those still pending in 2011, around 80% were reported in 2009 or earlier. There is therefore a need for a programme to facilitate elimination of long-standing NTBs.
- 3.3.11 Zambia reported that the outstanding NTB had been resolved and submitted resolution status to the meeting.
- 3.3.12 The meeting noted the progress reports with regards to NTBs recommended for resolution by Lesotho; Malawi; Mozambique; Namibia; Tanzania and Zimbabwe.
- 3.3.13 Tanzania informed the meeting that all outstanding NTBs had been resolved and that a formal communication on the resolution of NTBs would be submitted to the Secretariat after the meeting.
- 3.3.14 Secretariat reported that the Sub Committee on Customs Cooperation (SCCC) meeting of 25 – 26 July 2011 noted that over 40% NTBs are customs related and agreed that they would avail their officers to participate in the respective NMCs to facilitate speedy resolution of NTBs.
- 3.3.15 In order to address common and recurring NTBs experienced in the region, the meeting recommended that the Secretariat identifies areas of harmonisation especially on areas covering regulations, procedures and other areas of trade facilitation.
- 3.3.16 The SCTF agreed that in order to enable effective assessment of progress in relation to elimination of NTBs, the matrix should provide an indication of whether or not action taken by an imposing country against a reported NTBs has led to compliance with obligations under the SADC Protocol on Trade and the World Trade Organisation.

Decision

- 3.3.17 The SCTF urged Member States to resolve NTBs, in particular long-standing ones; and agreed to develop national programmes for elimination of NTBs that will be complemented by support from the Secretariat.
- 3.3.18 The SCTF agreed that internally reported NTBs should not be deleted as they affect international trade.

3.3.19 The SCTF requested the Secretariat to update the NTB reporting, monitoring and elimination action plan matrices on the basis of reports submitted by Member States upon verification.

4. CONSIDERATION OF RECOMMENDATIONS FROM THE TRIPARTITE NTBs FOCAL POINTS ORIENTATION WORKSHOP (NAIROBI, 10-11 MARCH 2011)

4.1.1 Pursuant to the Tripartite NTBs meetings held in March 2009 and October 2010, which recommended improvements to the NTBs online reporting and monitoring system, TradeMark Southern Africa (TMSA), upgraded the website during the period September- December 2010.

4.1.2 The new design of the online mechanism provides an interactive window for focal points to communicate with one another to speed up processing of complaints as well as interactive stakeholder involvement in eliminating NTBs and enhances cooperation among the Tripartite Member States, both government and private sector partners. A communication window is available for stakeholders to communicate with all focal points and REC system administrators in the Tripartite countries.

4.1.3 The SCTF noted that a workshop of Tripartite NTBs Focal Points held in March 2011, considered the improvements made to the system, and noted that TradeMark Southern Africa is supporting the NTBs online reporting and monitoring mechanism as well as a system administrator and underscored the importance of ensuring sustenance of the mechanism by the RECs post TMSA support. The SCTF is also invited to note the following recommendations from the workshop:

- (i) A transition mechanism should be put in place by the RECs in the near future to manage and administer the online system.
- (ii) The Secretariats should implement a sustainable capacity building programme for all the Member States for the smooth implementation of the NTBs elimination mechanism.
- (iii) Private Sector Focal Points be accorded administrators' access into the system.
- (iv) National Monitoring Committees (NMC) Chairpersons be given Focal Points status.
- (v) The resolutions status for the NTBs reported should be captured in the public window of the system.
- (vi) The NTBs online system website should be linked to the websites of relevant public and private sector institutions in the Member States.
- (vii) Assessment of legitimacy of long standing barriers to speed up process of resolution.
- (viii) Members States to implement agreed capacity building programme.

- (ix) All Member States who have not yet established NMC should be urged to do so. Where substitute structures exist, NMC TORs to be incorporated into the work of such structures and notified to the Secretariats.
- (x) Member States should notify the REC Secretariats of all national laws, regulations and procedures that impact on regional trade for circulation to Tripartite Member States.

4.1.4 The SCTF noted that recommendations (iii), (iv), (v) and (vii) above have already been implemented. With regard to capacity building, TradeMark Southern Africa and USAID Trade Hub will partner with the Secretariat to facilitate dealing with country-specific needs of NMCs based requests. The first phase of this envisaged joint programme is planned to cover at least eight countries between August 2011 and March 2012. The programme will focus on strengthening NMCs, sensitisation and facilitating resolution of long standing NTBs. So far workshops have been held in Malawi, South Africa and Zimbabwe. Botswana will host its workshop on 13th, 16th September; Lesotho on 9th to 10th August and Mozambique in September 2011 on a date to be confirmed.

4.1.5 With regard to recommendation (vi) only Seychelles and Zimbabwe has linked some of their websites to the NTBs website. The Secretariat has also linked the NTBs website to its site.

4.1.6 Regarding recommendation (ix), the SCTF noted that to date eleven Member States namely; Botswana, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe have reported to have established NMCs or mandated already existing national structures to also deal with elimination of NTBs. Angola reported that the status of establishment of its NMC will be reported by the National Contact Point (NCP). Mozambique informed the meeting that an NMCs has been established, however, it is experiencing some teething challenges and the country has sought technical support from the Secretariat and would like to have the workshop in September 2011. Lesotho reported that an NMC is yet to be established and that support has already been solicited from the Secretariat. Namibia reported an NMC has been established, and the Secretariat will be notified accordingly.

Decision

4.1.7 The SCTF urged:

- (i) Member States which have not yet established NMCs to do so expeditiously or to use substitute structures where they exist by incorporating TORs of NMCs into the work of such structures;
- (ii) Member States to notify the Secretariat of their NMCs and submit details of NMC Chairpersons, who are not already focal points, to facilitate their access into the system;

- (iii) Member States to notify the Secretariat of all national laws, regulations and procedures that impact on regional trade for circulation and uploading onto the website; and
- (iv) TMSA and Member States to ensure that the NTBs online system website should be linked to the websites of relevant public and private sector institutions.

5. UPDATE ON IMPLEMENTATION OF CUSTOMS AND TRADE FACILITATION INSTRUMENTS

5.1 The SCTF considered the following update on the implementation of Customs and trade facilitation instruments.

Transit Management Information System

5.2 Cooperation with COMESA in order to develop a common Transit Management Information System (TMIS) is in progress and discussions are underway involving technical experts of the two RECs comprising of officers from the Customs Units, ICT Units and the Legal Units. The discussions are based on the understanding that each REC would bring the strengths of its system and the fact that the output – ie the COMESA-SADC Transit Management Information System will be co-owned and based on equal partnership. A Memorandum of Understanding on same has recently been signed by the Secretary General of COMESA and the Executive Secretary of SADC.

5.3 A work plan and an estimated budget specifying the human resources, hardware and software required have been worked upon to implement the joint system. As it was necessary to assess the connectivity challenges at different border post where the system will be piloted, a connectivity challenges assessment was carried out and the results are positive. In order to enhance the system, necessary arrangements are also being undertaken to take into consideration other developments in the region such as the TATIS system which have already developed modules on risk and bond management.

Customs Capacity Building

5.4 Training Modules on the Rules of Origin, EU SADC EPA Rules of Origin, Post Clearance Audit, Client Care, Integrity, Management the Customs Environment, Risk Management, Trade Facilitation, SADC Protocol on Trade, Customs Cooperation, Tariff Classification and WTO Valuation, were developed for training customs officers and other stakeholders. Training on rules of origin was conducted in Angola in May 2011 and Seychelles in July 2011. Training on tariff classification, including Harmonized System (HS 2012), is also planned for Customs Officers in SADC Customs Administrations.

- 5.5 During its last meeting, the Sub-Committee on Customs Cooperation (SCCC) had observed that the e-learning programme was important and that measures to work on establishing a regional e-learning platform should be continued. Consequently, the SADC Secretariat started initial discussions with the WCO to implement e-learning for the SADC region. The SCTF is invited to note that the WCO is already planning to implement the e-learning programme for the Eastern and Southern Africa (ESA) region on a pilot basis as it will be the first time that such a project is implemented for a region. A concept paper had been developed and presented at the Governing Council of the World Customs Organization – Eastern and Southern (WCO-ESA) for approval. On the way forward for the implementation, a work plan will be formulated in collaboration with the WCO and the RTCs and the SADC ICT Unit.

Regional Customs Transit System

- 5.6 SADC's Customs Transit Management system comprises of Transit Regulations (Annex IV to the Protocol on Trade), and a Regional Customs Transit Bond Chain Guarantee (Appendix VI to Annex IV) was adopted in 2009. The objective of this Appendix is to facilitate extra territorial recognition of single surety and single customs declaration, freedom of movement in transiting countries and speedy clearance of transit traffic by providing common regional customs bond chain guarantee system for goods in transit through SADC transport corridors. The Sub-Committee on Customs Cooperation (SCCC) is currently reviewing the Transit Management System (TMS), and Regional Customs Transit Bond Guarantee taking into consideration other developments in the region and changes in technology.

Implementation of Coordinated Border Management Concept

- 5.7 Coordinated Border Management (CBM) concept can be used as an instrument to facilitate trade at border posts by establishing coordination and cooperation mechanism amongst various border agencies. An essential part of CBM involves dialogue between Customs and other agencies at the border as well between customs and business community. The CBM concept is intended to encourage governments and individual border agencies to engage one another more actively to ensure better and smarter management of national border.
- 5.8 Secretariat had developed draft CBM guidelines and a workshop was held in Gaborone on 21-22 November 2010 with a view to soliciting contributions to the process. Participants to the workshop were drawn from Customs, Immigration, Police, and Agriculture Departments from Botswana, Namibia, RSA, Zambia and Zimbabwe.
- 5.9 During the EU funded Customs Project a consultant was engaged to develop draft guidelines for the CBM. A task team was constituted and it met in Gaborone, Botswana from 21 -22 November to consider the draft guidelines. The task team was made up of experts from Botswana, Namibia, RSA, Zambia and

- Zimbabwe. The experts were from Customs, Immigration, Police, Agriculture, and Transport. The participants appreciated the concept and they recommended that those MS interested to start to implement CBM concept should request assistance to Secretariat while the guideline is going to be approved. Secretariat is available to offer assistance to the MS as per request.
- 5.10 SCCC has already noted the draft guideline on Coordinated Border Management as an appropriate benchmark to assist Member States in coordinating and implementing CBM. SCCC has also directed Secretariat to make consultations with other stakeholders for endorsement of the guidelines.
- 5.11 The participants noted the difference between CBM and One Stop Border Post (OSBP) as follows; Unlike a One Stop Border Post Concept which requires cooperation between bordering countries at all levels including the political leadership, CBM can involve only one country, and can easily be implemented on one side of the border. An OSBP is a step further, in the sense that it must involve two nations liaising and working together. CBM has a shorter term, effective and can be used as a stepping bloc to the higher level of the OSBP.

Implementation of Electronic SADC Certificate of Origin

- 5.12 The concept of e-certificate of origin was presented to the SCCC and it was recommended that those countries that are interested to adopt this concept should request assistance from Secretariat. Following a request received, a National Workshop was held in Lusaka in order to assist Zambia Revenue Authority to implement e-certification. Other requests have been received from Angola, Botswana, Malawi, Namibia and Swaziland.

Updating the SADC Common Tariff Nomenclature to HS 2012

- 5.13 The Harmonized System (HS) is an annex to the international convention on the harmonized commodity of 1983 and amended in 1986 (protocol of amendment). It is code comprised by 22 Section 97 chapter and several heading and subheading and also notes and general rules of interpretation.
- 5.14 This code was developed by the WCO and is used for classification of goods. It has to be updated every 5 years due to the changes in technology or in patterns of international trade. The current HS 2007 code has recently been updated to HS 2012. The amendments to the HS resulted from demand of the Food Agriculture Organization (FAO), United Nation Environment Programme (UNEP), World Health Organization (WHO) and other as result of innovation or progress on technology which leads to production of new product or improvement and also from trade patterns. Right now there are 220 amendments which can be summarized as follows: Agricultural `sector, 98; chemical sector, 27; paper sector, 9; textile sector, 14; base metal sector, 5; machinery sector, 30; and other sector, 37.

- 5.15 SADC's Common Tariff Nomenclature (CTN) was last updated on the basis of HS 2007 and this will be further revised to incorporate the new HS 2012 amendments.
- 5.16 The meeting noted the importance of migrating from older versions of HS to the new HS 2012.

Proposed Simplified Trade Regime for Small-Scale Cross Border Traders

- 5.17 According to a recent report by OECD on Informal Cross Border Trade and Trade Facilitation Reform in Sub-Saharan Africa (2009), the informal sector constitutes part of the developing country economies with a share of 43% of the Gross Domestic Product (GDP), thus being almost equal to the formal sector. The Informal Cross Border Traders (ICBTs) and small-scale cross-border traders face numerous obstacles that prevent them from benefiting from the SADC Free Trade Area (FTA) when trading with other SADC countries. ICBTs in SADC face difficulties in meeting the requirements to benefit from the SADC Rules of Origin (RoO) and other trade facilitation instruments, particularly obtaining the necessary documentation such as certificates of origin.
- 5.18 The Trade Negotiating Forum in its 39th meeting (14th-15th April 2010) had supported in principle for the establishment of a SADC Simplified Trade Regime (STR). The issue was also considered at the last SCCC meeting held on 25-26 July 2011, which agreed that there was need for a study to assess the implication of the STR for the SADC region considering the various developments in the region like revenue and risk issues by November 2011. .

Customs-Business Partnership

- 5.19 The World Customs Organization, through its different international instruments strongly recommends Customs-to-Business partnership to facilitate trade. The Revised Kyoto Convention urges Customs to institute and maintain formal consultative relationships with the trade, increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements. To enhance private sector involvement in the region, an assessment of the National Customs Business Forum of Swaziland was carried out. The objective of this assignment is to evaluate the effective functioning of the Customs-to-Business Forum in Swaziland. The intention was to identify ways in which the performance of the forum can be improved as a means to facilitate public private dialogue on customs matters in Swaziland and the SADC region. Moreover the Customs-Private Sector Task Force meeting was held to review private sector activities in Customs consider the way forward on private sector involvement.

6. ANY OTHER BUSINESS

There were no issues discussed under this item.

7. DATE AND VENUE FOR THE NEXT MEETING

The SCTF agreed that the Secretariat will communicate the date for the next meeting after consultation with the Chair.