

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone +251115- 517700 Fax : +251115- 517844

Website : www.africa-union.org

**EXECUTIVE COUNCIL
Ninth Ordinary Session
25 – 29 June, 2006
Banjul, THE GAMBIA**

EX.CL/284 (IX)

**REPORT ON TRADE FACILITATION WITHIN AFRICA AND
THE PROCESS OF ESTABLISHING A CUSTOMS UNION**

**REPORT ON TRADE FACILITATION WITHIN AFRICA AND THE
PROCESS OF ESTABLISHING A CUSTOMS UNION**

INTRODUCTION

1. The Second Ordinary Session of the AU Sub-Committee of Directors General of Customs was held in Harare, Zimbabwe from 3 to 7 April 2006. This statutory Sub-Committee meeting was established by decision taken by the 2nd Conference of Ministers of Trade of the African Union held in Kigali, Rwanda in May 2004 regarding the creation and operationalization of the Conference of Directors General as an organ of the Specialized Technical committee on Trade, Customs and Immigration. This decision was endorsed by Executive Council Decision EX.CL/Dec.111(v), and the Third Assembly of Heads of States and Government of the African Union held in Addis Ababa, Ethiopia, from 6th to 8th July 2004.

2. The Commission which had convened, organized and serviced this 2006 Second Ordinary Sub-Committee meeting had proposed as main theme and agenda item, the issue of Continental and Regional Integration so that its outcome would dovetail into the theme of the July 2006 Summit of Heads of States and Government of Banjul. The meeting therefore provided a unique opportunity for Customs administrations to point out the weaknesses and constraints at regional level hampering integration from a Customs point of view and to propose pragmatic solutions on the way forward. To assist the Directors General in their deliberations, the meeting was preceded by a Customs Experts meeting which was held in the same venue from 3 to 5 April 2006.

MAIN FINDINGS AND RECOMMENDATIONS OF THE MEETING

Findings

3. The meeting welcomed the establishment of the Brussels-based African Customs Group whose main objective is to network African customs officials based in Africa, Brussels and elsewhere for better coordination and harmonization of customs and trade facilitation activities. It examined progress reports on customs programmes at RECs level and took note of the implementation of the various customs-related integration activities with a view to establishing customs unions. It commended COMESA Secretariat and the East African Community for signing a MOU on coordination and cooperation in the implementation of trade liberalization programmes. It further welcomed the decision of COMESA and SADC Councils of Ministers requiring that COMESA, EAC and SADC should meet and harmonize their negotiating positions on Economic Partnership Agreements (EPAs), external trade matters and implementation of common programmes.

4. The meeting also considered the report by the ECA and AUC on the validation of the document Assessing Regional Integration in Africa (ARIA) II and the presentation by ECA on the impact of EPA negotiations on African integration, more particularly, its fiscal implications.

5. The meeting noted that the multiplicity of RECs, overlapping membership and duplication of mandates turned out to be a major constraint frustrating rapid and effective economic integration at the regional level. It is clear that this has had the

effect of impeding rather than accelerating the process of economic integration in Africa by creating technical difficulties associated with the attempts by many countries to implement different trade liberalization programmes simultaneously. This situation is further complicated by the EPA negotiations which are considered to be dragging Africa into new regional political structures that are far from the planned regional integration frameworks and therefore hampers regionalization efforts.

Main recommendations

6. The meeting recommended the following:

On the Way Forward in terms of Trade Facilitation

- The strengthening of the AUC structure to monitor customs activities in RECs;
- The review of the funding requirements for the implementation of customs programmes and search for new sources of funding such as Aid for Trade initiative;
- The development of national, regional and continental customs strategic plans;
- The development of a harmonized Customs Management Act by the AUC based on the COMESA/EAC/SADC version;
- The harmonization of Rules of Origin taking into account outcomes of WTO and EPA negotiations;
- The development of Customs Bond Guarantee Scheme by other RECs based on the COMESA advanced one;
- The development by AUC and RECs of capacity building plans at regional and continental levels based on the World Customs Organization's plan;
- The full implementation by Member States of the Arusha and Maputo Declarations on Integrity;
- The need to focus trade facilitation under the Aid for Trade initiative on infrastructure development with a regional dimension and the full involvement of RECs and the AUC; and
- The involvement of customs experts in all trade facilitation negotiations at national, regional, continental and global levels.

On Rationalization of RECs

- In considering rationalization of RECs, African governments should ensure that no Member State belongs to more than one REC, in order to minimize problems being experienced by customs administrations in implementing multiple Rules of Origin and other trade facilitation measures.

On Economic Partnership Agreements (EPAs)

- AUC should provide guidelines on the interactions of EPAs and RECs;
- EPA negotiations should respect existing RECs configuration in Africa; and
- EPA negotiations should provide longer implementation timeframes to enable industries in concerned Member States to be competitive and hence minimize revenue losses to Governments.

7. The meeting prepared a proposal from the point of view of Customs administrations on Regional Integration as well as a framework of action reflecting identified issues, recommendations and actions required. Both are annexed to the report.

EX.CL/284 (IX)
Annex I

REPORT OF THE 2nd ORDINARY MEETING OF THE AU
SUB-COMMITTEE OF DIRECTORS GENERAL
OF CUSTOMS

**REPORT OF THE 2nd ORDINARY MEETING OF THE AU SUB-COMMITTEE
OF DIRECTORS GENERAL OF CUSTOMS**

INTRODUCTION

1. The Second Ordinary Meeting of the AU Sub-Committee of Directors General of Customs met from 6 to 7 April 2006 at Crown Plaza Monomotapa Hotel, in Harare, Zimbabwe. The Meeting was preceded by a meeting of Experts which met from 3-5 April 2006. The theme for the meeting was "INTEGRATION" in line with the theme of the July 2006 Summit of the AU.

PARTICIPATION

2. Delegations from the following Member States participated in the meeting: Algeria, Angola, Botswana, Burkina Faso, Burundi, Cameroon, Côte d'Ivoire, Democratic Republic of Congo, Ethiopia, Ghana, Guinea, Kenya, Madagascar, Mozambique, Namibia, Nigeria, Rwanda, Senegal, South Africa, Sudan, Togo, Uganda, Zambia, and Zimbabwe.

3. Also in attendance were the UN Economic Commission for Africa (UNECA), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Economic and Monetary Community of Central Africa (CEMAC), the Common Market for Eastern and Southern Africa (COMESA), and the West African Economic and Monetary Union.

Agenda Item 1: Opening Ceremony

4. The Commissioner General of Zimbabwe Revenue Authority, Mr. Gershem T. Pasi, delivered a welcome address at the opening session. He welcomed all delegations to Zimbabwe and Harare in particular. He outlined the work the Zimbabwe Revenue Authority (ZIMRA) had accomplished in its efforts to facilitate the movement of goods across the borders. He particularly informed the meeting of the new technology the institution had acquired to facilitate border clearance.

5. He underscored the importance of Customs administrations in the pursuit of continental integration and called for unity of purpose in order to ensure that Africa achieves its development goals. He also invited the participants to find time in their busy schedule to visit some parts of Zimbabwe and experience the hospitality of the Zimbabwean people.

6. The AU Commissioner, Mrs. Elizabeth Tankeu, delivered a statement at the opening ceremony in which she expressed the AU's appreciation to the Government and People of Zimbabwe for the warm hospitality and excellent facilities made available for the meeting. She also thanked all the participants for responding in large numbers to the invitation to participate in the meeting whose focus was integration in Africa. She highlighted that trade is an engine of growth and that there was urgent need to facilitate trade across the African borders.

7. The Commissioner recalled the provisions of the Abuja Treaty establishing the African Economic Community and the Sirte Declaration which calls for an acceleration of the process of integration. She emphasized the need to come up with a revised time frame for the achievement of the African Economic Community. She also outlined the major challenges facing the African integration agenda particularly in relation to the overlapping and multiple memberships to various regional economic communities, which tends to disperse resources. Given the thrust of trying to achieve customs unions at regional level and subsequently convergence at the continental level, it was critical that Member States and indeed the meeting should examine the way forward for those countries with multiple membership.

8. Honourable Dr. Herbert M. Murerwa, Minister of Finance of the Government of Zimbabwe officially opened the 2nd Ordinary Meeting of the Directors General of Customs in Africa. The Minister welcomed all the delegations to the meeting and indicated that African countries faced a lot of challenges, individually and collectively. He underscored the critical importance of cementing relations amongst African countries with a sense of unity of purpose in order to achieve development. He then acknowledged the critical importance of the meeting as regards the ultimate integration of the African marketplace. He emphasized that integration empowers all members in getting a leverage at the negotiating table at the multilateral level, He stressed that customs administrators need to adapt and modernize in order to meet the new challenges of the globalizing and rules-based world economy. He further highlighted the importance of pooling resources at the continental level in order to achieve development.

9. He acknowledged that decisions taken on the establishment of Free Trade Areas, Customs Unions are noble but that not much progress has been made mainly due to problems associated with overlapping membership and multiplicity of regional economic communities. He called on the meeting to come up with solutions to overcome these problems, to reflect on how Africa could tackle the current negotiations on Economic Partnership Agreements and to propose a way forward to the creation of Customs Unions in a situation of double membership.

10. He urged the meeting to enhance cooperation and implementation of the Customs programmes within the various building blocks, that is, the Regional Economic Communities, and pay particular attention to the problems, constraints, challenges and opportunities in the implementation of such programmes. The Minister invited the participants to feel at home in Zimbabwe and finally declared the meeting officially open.

11. A representative of Senegal moved the vote of thanks on behalf of the participants. He particularly thanked the Minister for finding time to address the meeting and for the guidance given to the meeting.

Agenda Item 2: Election of the Bureau

12. The Bureau of the meeting was elected as follows:

Chair : Zimbabwe
Vice Chair : Côte D' Ivoire

Rapporteur : Zambia
Friends of the Chair

- West Africa : Ghana
- North Africa : To be Determined *ad referendum*
- East and Southern Africa : Rwanda

13. The outgoing Chairperson of the Sub-committee of Directors General of Customs, delivered a brief statement. She congratulated the new Bureau and wished it success in its work. She then highlighted progress made on some of the recommendations and decisions taken in the 1st Meeting of the Sub-committee and also pointed out actions yet to be undertaken.

Agenda Item 3: Adoption of the agenda

14. The meeting adopted the agenda as amended.

Agenda Item 4: Organization of Work

15. The meeting adopted the following working hours:

Morning	09.00 – 13.00
Afternoon	14.30 – 18.30

Agenda Item 5: Regional /Continental Integration: Consideration of the Report and Recommendations of Experts

16. The Chair of the meeting of Experts presented the Report of Experts as well as its recommendations to the Sub-Committee. He gave a brief overview of the report item by item and gave more emphasis on the recommendations, which were derived from a SWOC analysis. The report of experts is attached to this report as Annex 3 for ease of reference.

General Discussion

17. Before the start of the meeting, the Vice Chairperson raised concern at the low level of attendance of the Directors General at the meeting. He urged Member States to give priority to AU related work as the Customs Administrations have a critical role to play in the integration process of Africa. The meeting agreed that it was important for Members States to ensure their participation.

18. The Sub-committee of Directors General of Customs commended the experts on the good report prepared for their meeting. The Sub-committee decided to concentrate on the way forward and recommendations of the report in their discussion.

19. Having deliberated on the way forward as proposed by Experts, the Sub-Committee of Directors General of Customs agreed on the following recommendations as the way forward:

- i) That the institutional framework already in place within the AU Commission be adequately staffed in order to facilitate coordination and harmonization of Customs programmes and activities of RECs and to monitor the implementation of the recommendations or decisions of the Sub-committee on Customs. Meanwhile the AUC should establish a mechanism for the secondment of customs officers from member states to the AUC to provide technical assistance in the implementation of the agreed programmes;
- ii) That information should be exchanged on the legal instruments such as Customs Management Acts and Common Tariff Nomenclatures already developed by COMESA, EAC and SADC as well as the revenue sharing instrument developed by ECOWAS with other RECs with a view to harmonizing them and adopting a continental model instruments;
- iii) That the AU reviews the funding requirements for the implementation of the customs programs at regional level and takes the necessary measures to avail the required resources as well as pursue other sources of funding such as the WTO Aid for Trade initiative;
- iv) That RECs develop Regional customs strategic plans which would be aligned into a Continental customs strategic plan;
- v) That AUC facilitates the harmonisation of Rules of origin by RECs taking into account WTO and EPA negotiations;
- vi) The AU and RECs to take note of and encourage Member States to implement the World Customs Organization Frame work of Standards;
- vii) That other RECs consider the COMESA advanced transit Customs Bond Guarantee scheme as they develop their own;
- viii) That AUC and RECs develop capacity building plans at regional and continental level taking into account the WCO capacity building plans for the three African regions;
- ix) That AUC, RECs and Member States use training modules already developed in capacity building activities by RECs and the programmes being developed by the Regional Capacity Building Centres;
- x) That Member States fully implement Arusha and Maputo declarations on Integrity and RECs and AUC monitor such implementation;
- xi) That Member States Customs Administrations fully participate in EPA and other trade negotiations to advise on implementation requirements;
- xii) That AUC reviews the customs IT systems being used by Member States with a view to establish standards for the continent, taking into consideration current instruments such as WCO Data Model.

Interconnection of Customs electronic clearance systems should also be envisaged;

- xiii) That Member states recognize the implementation challenges that customs administrations face with respect to the issue of overlapping and multiple memberships to RECs.

20. Details of implementation are contained in the Framework of Action at Annex 4. The overall responsibility for ensuring that the framework of action is implemented will be for the AUC and the elected bureau. The AUC and the bureau must finalize the Framework of Action with specific time lines and the resources required to implement the plan.

Agenda Item 6: The Way Forward: Consideration of the Draft Proposal of the Directors General of Customs on integration

21. A draft Customs Proposal on Regional Integration in Africa was presented to the meeting (Annex 5).

Discussion

22. Following the presentation of the Draft proposals, the meeting agreed that there was a serious problem arising from multiple memberships to RECs and it makes it difficult for customs administrations. These problems manifest themselves in the ongoing negotiations on EPAs and at the WTO as well as the proposed move to Customs unions by many RECs. Customs administrations find themselves under pressure to implement complex multiple trade agreements. The need for convergence of these processes within specified timeframes through rationalization was emphasized. The meeting supported the recommendations of the Conference of African Ministers of Integration. It agreed to prepare recommendations on rationalization of RECs, Economic Partnership Agreements and trade facilitation for submission to Ministers.

23. The meeting agreed to make the following recommendations to Ministers:

Rationalization:

- i) That African Governments consider rationalizing membership of RECs by ensuring that no Member State belongs to more than one REC, in order to minimize problems being experienced by Customs administrations in implementing multiple rules of origin and other trade facilitation measures.

Economic Partnership Agreements

- ii) That AUC provide guidelines on the interactions of EPAs and RECs;
- iii) That EPA negotiations respect existing RECs configuration in Africa;

- iv) That EPA negotiations provide longer implementation timeframes to enable industries in affected Member States to be competitive and minimize revenue losses to Governments.

Trade Facilitation

- v) That capacity building for trade facilitation under the Aid for Trade initiative should focus on infrastructure development with a regional dimension with full involvement of RECs and the AUC;
- vi) That Member States ensure that Customs experts are involved in all trade facilitation negotiations at national, regional, continental and global levels.

Agenda Item 7: Any Other Business

24. Under this item, Member States shared information on what each country was doing to combat corruption in their administrations as well as their public service institutions.

25. Following proposals by Côte d'Ivoire and Nigeria to host the next meeting, the Sub-Committee agreed that Nigeria and Cote d'Ivoire would host the 3rd Ordinary 2007 session and the 4th Ordinary 2008 session respectively.

Agenda Item 8: Adoption of the Report

26. The report was adopted with minor amendments.

Agenda Item 9: Closing Ceremony

27. In her statement, the AU Commissioner for Trade & Industry, Mrs. E. Tankeu commended the meeting for the high quality of its deliberations and for the strong recommendations that ensued. Whilst thanking one and all, she also reminded the RECs of the necessity to observe a common position during the next round of EPA negotiations. Thereafter she declared the 2nd Ordinary Meeting of the AU Sub-Committee of Directors General of Customs closed.

EX.CL/284 (IX)
Annex II

CUSTOMS PROPOSAL ON REGIONAL INTEGRATION
IN AFRICA

CUSTOMS PROPOSAL ON REGIONAL INTEGRATION IN AFRICA

CONTEXT / BACKGROUND

1. African Customs Administrations (ACAs) find themselves operating in global, continental, regional and national contexts. They are viewed traditionally as trade administrators and collectors of revenue, implementers of policy rather than developers thereof. Developments at the various levels have, however, impacted on the role Customs Administrations are being called on to play.

2. At a global level, ACAs, as members of the World Customs Organisation (WCO), are involved in the development of various international Customs instruments, all of which have legal, operational and capacity implications. In terms of the World Trade Organization (WTO), ACAs will be faced with having to implement the outcomes of the ongoing trade facilitation negotiations, which will have tariff administrative and revenue implications.

3. At a continental level, Customs Administrations are but one of the actors in the process of establishing the African Economic Community as directed by the Abuja Treaty. The establishment of the AU Sub-Committee of Directors General of Customs as an organ of the Specialized Technical Committee on Trade, Customs and Immigration, has made it possible for Africa to address Customs matters collectively for the first time.

4. Regionally, Customs Administrations are involved in the integration processes at the level of the various Regional Economic Communities (RECs). It is at this level that Customs Administrations are faced with the realities of overlapping memberships and the resultant involvement in the development and implementation of various, sometimes conflicting, regional Customs programmes.

5. Also at a regional level, the negotiating groups currently negotiating with the European Union (EU) to establish Economic Partnerships Agreements (EPAs) cut across the existing REC structures recognized by the AU. It is envisaged that the EPAs will be established between the EU and regional groupings that are effectively Free Trade Areas (FTAs) or Customs Unions (CUs), raising the possibility of an additional layer for Customs Administrations to administer. The EPAs are also intended to establish reciprocal duty-free access for goods, which will have potentially negative revenue implications for Africa.

6. Nationally, Customs Administrations are called upon to put into practise those trading arrangements and instruments that are developed at the various levels, each with particular administrative and revenue implications.

7. In terms of the African integration process, various Customs-level challenges and constraints emerge from these developments.

CUSTOMS CHALLENGES AND CONSTRAINTS

The global drivers

8. The current focus on the role of Customs administrations still remains on the harmonisation of procedures and the creation of mechanisms to facilitate trade and lower the costs of trade. The changing role of Customs administrations in terms of border management and control and the impact of new drivers regarding securing the international supply chain and ensuring Custom cooperation, are only gradually beginning to feature. Key WCO instruments in this regard include the SAFE Framework on Security and Trade Facilitation (Framework of Standards), the Revised Kyoto Agreement on the Simplification and Harmonisation of Customs Procedures, the Johannesburg Convention on Mutual Administrative Assistance in Customs Matters and the Nairobi Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences.

9. These instruments contain elements seen as fundamental to realizing security imperatives, while also facilitating customs cooperation, such as the establishment of electronic corridors and the advance exchange of information. These can in essence also underpin regional and continental Customs harmonization efforts. A more nuanced view of Customs in Africa recognizes that Customs administration is about more than just revenue collection and trade administration.

10. Customs administrations, however, face capacity constraints in terms of implementation.

Regional economic integration and overlapping memberships

11. Due to the overlapping memberships of RECs, countries are often members of several arrangements that share broadly similar objectives, but use different and sometimes conflicting operational modalities or time phasing of trade liberalization program implementation schedules. The duplication of activities leads to the situation in which the limited available resources are spread thinly over a number of institutions, limiting their effectiveness in carrying out their functions. Countries that belong to several RECs also essentially raise the transaction costs for their traders

and producers, as these have to find their way around a number of trade regimes with different tariff rates, different rules and certificates of origin and different procedures.

12. Multiple memberships raise the complexities and costs for Customs administrations, as well as obliging them to divide their efforts between various, perhaps contradictory, regional Customs programmes and potentially conflicting legal implications. Membership of multiple FTAs, for example, imply that Customs administrations may need to apply different Rules of Origin to the same goods, depending on where these are being exported to or originating from, which has verification implications. Furthermore, where various RECs are working towards establishing Customs Unions, Customs Administrations may find themselves involved in developing instruments for different Customs Unions, although membership of more than one Customs Union is not possible.

13. All RECs also put much effort and resources into reaching agreement on Customs procedures and standardization of documentation per region. However, notably where differences exist between such regional programmes, multiple memberships has impacted on implementation.

14. In Southern Africa, a particular example is that of Swaziland, a member of the Southern African Customs Union (SACU), but also a member the Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community (SADC), both seeking to become Customs Unions as well. Swaziland cannot implement its commitment under the COMESA FTA by introducing free trade for imports from other non-SACU members of COMESA, as it is prevented from doing so because of the common external tariff of SACU, which applies to imports from all non-SACU members.

15. In western Africa, it is noted that a process of harmonization of trade liberalization programmes of the Economic Community of Western African States (ECOWAS) and the Union Economique et Monétaire Ouest Africaine (UEMOA) is under way. Such harmonization relates to rules of origin, approval of licensing procedures, certificates of origin, Customs nomenclatures and declaration forms which are now identical. The process is also being pursued with the implementation of the Common External Tariff (CET) which will be applied uniformly throughout the countries of the west African region as from January 2008.

16. In Central Africa, the potential exists for conflict between the Economic Community of Central African States (ECCAS) on the one hand and the Communauté Economique et Monétaire de l'Afrique Centrale (CEMAC) and the Communauté Economique des Pays des Grands Lacs (CEPGL) on the other hand.

17. In East Africa, the problem pits COMESA against the East African Community (EAC), the Inter-Governmental Authority on Development (IGAD) and the Indian Ocean Commission (IOC). The EAC which includes Tanzania has already launched its Customs Union since January 2005. Tanzania is an ex-member of COMESA and member of SADC, which is also working towards a Customs Union..

The Economic Partnership Agreements

18. Although several conditions are needed for establishment of the EPAs, two are of particular Customs relevance. Firstly, regarding regional integration processes, a regional grouping needs to be an effective Free Trade Area or a Customs Union to sign an FTA with the EU. The fact that the EPA negotiating structures do not correspond to existing RECs implies that concluding the EPAs will create a new administrative layer for Customs administrations. As examples, COMESA, CEEAC/ECCAS and SADC each have members split over three EPA negotiating groups. Even a small and closely established REC such as the EAC finds its three members split over two EPA negotiating groups.

19. Secondly, in order to maintain preferential access for exports to the EU, future agreements between the EU and ACP countries, if governed by GATT's Article 24, would require that substantially all trade between the EU and individual (or groups of) ACP countries is covered. This would require reciprocal trade preferences. Should duty free access be desired for all or most African exports to the EU, all or most EU exports should also enter Africa duty free. This would have tariff administrative and revenue implications for Africa.

20. Given that the EPAs seem set to cut across the existing REC structures, the EPA Rules of Origin will add to the cost and complexity of trade administration and will complicate matters as regards overlapping memberships, requiring perhaps a continental overview of the EPA process.

Fiscal/Revenue implications

21. While the focus remains on harmonized Customs procedures and the requirements of trade facilitation and needs to widen to include the broader role of Customs in the 21st century, the revenue impact remains under-emphasized. ECA studies show that, on average, over 27% of Sub-Saharan Africa's fiscal revenue is derived from Customs duties. There is, however, variance between countries as to the contributions of Customs duties to individual national coffers, with some more reliant on such duties than others. Each trade regime that seeks to eliminate the application of such duties on imports will, by definition, impact on fiscal revenue. The greater the number of such regimes in place, the greater the administrative cost to

Customs administrations and the less they eventually will have to show for it.

22. It is likely that for many African countries it will not be possible to adequately diversify or broaden the existing revenue base in an attempt to replace the lost Customs duties. The implementation of Value Added Tax (VAT), for example, will also raise the issue a priori of the need for VAT harmonization, as some members may seek to implement VAT rates at levels sufficiently high to offset the worst of the duties losses. Diverse VAT rates will be counterproductive to integration efforts. Regional and possibly even continental revenue mechanisms would need to be explored in this regard.

REGIONAL CUSTOMS PROGRESS EVALUATION

23. Customs administration and the RECs have put considerable effort and resources into developing various regional Customs programmes and projects:

Legislation

24. Various RECs have developed appropriate legal instruments, such as regional Customs Management Acts and Common Tariff Nomenclatures. These have been based on relevant WCO Conventions, promoting consistency in terms of the instruments. However, implementation of these instruments is lacking, while the development of penalties and rules and regulations at national level could undermine harmonization.

Rules of Origin

25. At least three RECs, ECCAS/CEEAC, ECOWAS and COMESA, have developed common regional standards in terms of Rules of Origin, which are similar to each other. The harmonization of Rule of Origin in terms of the WTO is an issue that requires the attention of the AU Commission. However, implementation of ROOs by members remains inconsistent, while the process of issuing of Certificates of Origin is also not harmonized.

Harmonisation and simplification of clearance procedures

26. The Revised Kyoto Convention is widely used as the basis for benchmarking the regional and national development of harmonised and simplified clearance procedures. Various instruments have been developed or exist to enhance this further, such as Single Administrative Documents (SADs), Time Release studies, the WCO Diagnostic and the WCO data model.

27. There is a need to facilitate the movement of legitimate goods by making compliance easier and reducing delays. Where practical, documentation and procedures will need to be standardized and simplified to ensure rapid clearance and minimal enforcement intervention. For this, Customs administrations will need to:

- Review existing procedures on the basis of international standards (such as the WCO's Revised Kyoto Convention) and international best practice;
- Introduce a Single Administrative Document;
- Introduce the WCO Single Window concept to simplify compliance with international trade regulatory requirements;
- Provide tailor-made solutions to privileged clients by offering maximum simplified procedures;
- Provide dedicated trade advisory service to clients; and
- Work with trade sectors to better understand their business and develop a menu of service options to meet their specific needs.

Streamlining and harmonising of transit procedures

28. Some transit instruments have been developed by various RECs, but the development of outstanding instruments and the implementation of existing ones, remain a problem. The development of a regional Customs Guarantee system is advanced in COMESA, while members are encouraged to implement transit in terms of international procedures and standards, notably the provisions of the WCO's Revised Kyoto Convention.

29. There is need for compatible and connected Customs computer systems in the different RECs, which would enable electronic exchange of information and the operation of the One-Stop border concept.

Technical assistance and Capacity Building

30. There is a widespread agreement that the concept of capacity building is broad and comprehensive and cannot be tackled on a narrow technical or single basis issue. It is broader than training and technical assistance and usually involves legislative issues, infrastructure, processes, systems, resources and organizational development aspects. Capacity building can be referred to anything from the training of individuals to large scale institutional reform

31. WCO Regional Capacity Building Centres have been established in Kenya and Burkina Faso, in addition to the Regional Training Centres in Kenya and South Africa. Various RECs have also developed training modules for the various instruments and procedures developed at a regional level. Although various partners are offering technical assistance to Customs administrations and RECs, Africa has still not developed a comprehensive overview of all Africa's Capacity Building requirements, as this relates to more than simply Customs training.

Integrity

32. Both COMESA and SADC have developed integrity action plans, using the WCO's Revised Kyoto Convention as a framework. Customs administrations have also adopted the Arusha and Maputo Declarations. The AU Commission will also look to develop an Integrity plan.

IV. THE WAY FORWARD

33. The African Customs way forward should be pursued within a comprehensive framework, at the continental, regional and national levels.

Continental level

34. The AU Commission has a crucial role in developing and implementing a broad continental framework for matters of Customs relevance, including the issues of global drivers, overlapping memberships, rationalization, harmonization of Customs programmes, the EPAs, the roles of RECs, the sharing of best practices, potential revenue impacts and the implementation of the African Customs agenda, with input from the Customs administrations and the RECs. Concerning the rationalization of the RECs, the AU Commission should assist in the process of identifying the potential cost and complexities of trying to administer numerous, overlapping trade regimes, including the potential Capacity gap which may exist and which would need to be addressed. The AU Commission also has a key role, in conjunction with the RECs and Customs administrations, in ensuring consistency within and across RECs, given the broader objective of eventual full African economic integration. The Customs Department of the AU Commission needs to be strengthened in order to enable it to fulfil the expectations of member administrations and the RECs. Customs administrations could assist in building capacity at the AU commission by seconding Customs officers.

35. There also needs to be a consideration of the relevant Customs instruments required for a harmonized approach, such as common Rules of Origin, common legislative frameworks, common standards, procedures and documentation, the

electronic exchange of information, as well as the need for effective Capacity Building.

Regional level

36. The RECs have a crucial and recognized role in promoting the economic integration of Africa. The Customs-level constraints and implications thereof need to be recognized, notably the impact of multiple memberships on individual Customs administrations abilities to participate fully in regional efforts and to implement instruments duly developed. The practical implications of multiple memberships and the inconsistency thereof with the establishment of Customs Unions need to be recognized and resolved. In terms of the broader African agenda, RECs need to strengthen coordination and cooperation with each other and the AU Commission in terms of existing Customs programmes and those being developed. Such strengthened cooperation will allow for the sharing of best practises and promote harmonization and consistency across the RECs in support of the broader African agenda.

37. There needs to be an identification of the gaps in the regional Customs programmes, such as elements of the Transit system that still need to be developed, the implementation constraints faced by members' Customs administrations and the coordination of Capacity Building efforts with those of the WCO. Furthermore, there needs to be a consideration of the potential impact of the present EPA negotiating groupings on existing REC structures and Customs administrations.

38. As with the continental level, there also needs to be a consideration of the relevant Customs instruments required for a harmonized approach, such as common Rules of Origin, common legislative frameworks, common standards, procedures and documentation, the electronic exchange of information, as well as the need for effective Capacity Building.

National level

39. Individual Customs administrations implement Customs programmes, whether these have been developed at a continental, regional or national level. The onus therefore rest with Customs administrations to be effective participants to ensure the development of programmes that can be implemented. There is a need to not only recognize the importance and value of international Customs instruments, but also to ensure that these are implemented so as to underpin efforts at Africa integration and harmonization. Customs administrations face increasingly complex trade regimes (such as various FTAs and the EPAs), requiring the radical enhancement of existing capacity, while facing the risk of reduced Customs duties undermining any argument

for greater investment in Customs capacities.

40. Customs administrations also need to recognize the changing role of Customs in the 21st century and the new exigencies resulting from a rapidly changing global trade and security environment. Customs administrations will be called upon to improve their ability manage risk. For this, access to and exchange of information is key. Whether or not goods and/or travellers need to be stopped for security or revenue reasons, or allowed free passage, requires timely and effective risk-based decisions, which in turn require information on cargo and travellers prior to arrival or departure. So too, this will require modern information technology that enables the secure, real-time exchange of information, subsequent risk profiling and processing of declarations. Customs Administrations will have to work together, through the WCO and regional forums, to move in the direction of a worldwide system of harmonized advance electronic information exchanges on inbound, outbound and transit shipments. Eventually traders will be need to be linked up electronically to Customs authorities at point of commencement and exit. For this, Customs administrations will need to:

- Implement, integrate and amplify the various electronic clearance systems to support paperless transactions;
- Introduce the WCO Unique Consignment Reference (UCR) number to support the international movement of goods and provide end-to-end auditability;
- Align information requirements with the WCO Data Model;
- Provide for mandatory advance electronic reporting by carriers (including airlines);
- Provide for mandatory electronic submission of data by traders, including a new export requirement on the clearance of goods by exporters before they are exported;
- Secure electronic access to operators' reservation and cargo management systems to minimize Customs information requirements;
- Implement and align accreditation schemes with the WCO Authorized Economic Operator standards and review and improve licensing and accreditation system, including strengthening compliance capacity; and
- Enhance risk management strategies and the capability to target non-compliance.

41. AU members have committed themselves in various forums to the integration of Africa and the establishment of the AEC. At all levels, the progress made by Customs in assisting the processes of regional integration will depend on the implication of members states at all levels, both politically and technically.

42. During the 2nd Ordinary Meeting of the AU Sub-Committee of Directors General of Customs held in Harare, Zimbabwe from 3rd to 7th April 2006, Directors General of African Customs Administrations reaffirmed their commitment to implement the programmes identified below and in this regard, requested for the continued support of their governments in the provision of the necessary resources required for the implementation of the Customs programmes at AU, REC and national levels.

43. The 2nd Ordinary Meeting of the AU Sub-Committee of Directors General of Customs made the following recommendations:

Rationalization:

- i) That African Governments consider rationalizing membership of RECs by ensuring that no Member State belongs to more than one REC, in order to minimize problems being experienced by Customs administrations in implementing multiple rules of origin and other trade facilitation measures.

Economic Partnership Agreements

- ii) That AUC provide guidelines on the interactions of EPAs and RECs;
- iii) That EPA negotiations respect existing RECs configuration in Africa;
- iv) That EPA negotiations provide longer implementation timeframes to enable industries in affected Member States to be competitive and minimize revenue losses to Governments

Trade Facilitation

- v) That capacity building for trade facilitation under the Aid for Trade initiative should focus on infrastructure development with a regional dimension with full involvement of RECs and the AUC;
- vi) That Member States ensure that Customs experts are involved in all trade facilitation negotiations at national, regional, continental and global levels.

Strengthening of the AUC Customs Division

- vii) That the institutional framework already in place within the AU Commission be adequately staffed in order to facilitate coordination and harmonization

of Customs programmes and activities of RECs and to monitor the implementation of the recommendations or decisions of the Sub-Committee of Directors General of Customs. Meanwhile the AUC should establish a mechanism for the secondment of Customs officers from Member States to the AUC to provide technical assistance in the implementation of the agreed programmes.

Funding

- viii) That the AUC reviews the funding requirements for the implementation of the Customs programs and takes the necessary measures to avail the required resources as well as pursue other sources of funding such as the WTO Aid for Trade initiative.

FRAMEWORK OF ACTION OF THE AU SUB-COMMITTEE OF DIRECTORS GENERAL OF CUSTOMS

FOCUS AREA	ISSUE	RECOMMENDATIONS	ACTION REQUIRED	RESPONSIBILITY	TIME FRAME	RESOURCES
1. STRATEGY	<p>There are no specific plans for integration of Customs programmes at regional and continental levels</p> <p>Difficulties in implementation arising from multiple membership leading to multiple rules of origin and other trade facilitation measures.</p>	<p>Member States should consider rationalizing membership of RECs</p>	<p>REC to develop 5 year strategic plans</p> <p>AUC to consolidate all regional Customs plans into a continental one</p> <p>Recommend to Ministers to consider rationalizing RECs</p>	<p>RECs</p> <p>AUC</p> <p>AUC Member States</p>		
2. CAPACITY BUILDING	<p>There is no continental Capacity Building plan</p> <p>There are different training modules within</p>	<p>Develop Capacity Building plans at continental level, taking into account the WCO Capacity Building plans for the three WCO African regions</p> <p>That AUC, RECs and Member States use</p>	<p>Develop Capacity Building plans at continental level, taking into account the WCO Capacity Building plans for the three WCO African regions</p> <p>Use Training modules already developed in</p>	<p>AUC RECs</p> <p>AUC RECs</p>		

FOCUS AREA	ISSUE	RECOMMENDATIONS	ACTION REQUIRED	RESPONSIBILITY	TIME FRAME	RESOURCES
	<p>RECs which are not harmonized.</p> <p>Trade Facilitation capacity building under WTO has no regional dimension</p>	<p>training modules already developed in Capacity Building activities by RECs and the programmes being developed by the WCO Regional Capacity Building Centres (RCBCs)</p> <p>RECs and AUC to monitor Trade Facilitation capacity building programmes under WTO</p>	<p>Capacity Building initiatives and the programmes developed by the WCO's Regional Capacity building Centres</p> <p>Member States to sensitize WTO/WCO on the need to have a regional dimension under Aid for Trade</p>	Member States		
3. TRADE NEGOTIATIONS	<p>Customs administrations face numerous implementation challenges which hamper trade administration</p> <p>Negotiators are not necessarily consulting Customs administrations</p>	<p>That AUC facilitates harmonization of Rules of Origin by RECs taking into account WTO and EPA negotiations</p> <p>That Member States Customs administrations fully participate in EPA and other trade negotiations to advise on</p>	<p>Within the RECs, harmonize Rules of Origin, taking into account the negotiations at the World Trade Organization and for the Economic Partnership Agreements</p> <p>With the AU Commission, harmonize Rules of Origin, taking into account the negotiations at the World Trade Organization and for the Economic Partnership Agreements</p> <p>Fully participate in the EPA and other negotiations to advise on implementation requirements and</p>	<p>AUC</p> <p>RECs</p> <p>Ministers of Trade and Finance</p>		

FOCUS AREA	ISSUE	RECOMMENDATIONS	ACTION REQUIRED	RESPONSIBILITY	TIME FRAME	RESOURCES
	<p>Current EPA configurations cut across existing RECs</p> <p>Time frames being proposed are too short</p>	<p>implementation requirements</p> <p>That EPA negotiations respect existing RECs configuration</p> <p>That EPA negotiations provide longer implementation time frames to enable industries in affected Member States to be competitive and minimize revenue losses to Governments</p>	<p>implications</p> <p>EPAs to reconsider configuration</p> <p>To negotiate for longer time frames for tariff reductions</p>	<p>Member States RECs AUC</p> <p>Member States RECs AUC</p>		
4. FRAMEWORK OF STANDARDS	<p>Some Member States have not sent in Letters of Intent to the WCO on their willingness to implement the Framework of Standards</p> <p>RECs and AUC not being kept abreast on SAFE implementation</p> <p>There are no standards on systems being used by Member States</p>	<p>The AU and RECs to take note of and encourage Member States to implement the World Customs Organization Framework of Standards</p> <p>That AUC reviews the Customs IT systems being used by Member States</p>	<p>To submit letters of intent</p> <p>Those who signed Letters of Intent to carry out diagnostic studies</p> <p>Customs administrations to communicate with RECs and AUC. RECs and AUC to monitor implementation</p> <p>Review Customs IT systems being used by Member States with a</p>	<p>Customs Administrations</p> <p>Customs Administrations</p> <p>Customs Administrations</p> <p>RECs Customs Administrations</p>		

FOCUS AREA	ISSUE	RECOMMENDATIONS	ACTION REQUIRED	RESPONSIBILITY	TIME FRAME	RESOURCES
	There is no interface amongst systems implemented by Members	with a view to establishing standards for the continent, taking into consideration current instruments such as the WCO Data Model Implement electronic clearance systems and electronic data interchange among administrations.	view to establishing standards for the continent, taking into consideration current instruments such as the WCO Data Model. Ensure that Customs IT systems can accommodate the inter-regional and regional electronic exchange of information	AUC RECs Customs Administrations		
5. INTEGRITY	Perception of lack of integrity by Customs administrations	That Member States fully implement Arusha and Maputo Declarations on Customs integrity and RECs and AUC to monitor such implementation	Monitor application of the Arusha and Maputo Declarations on Integrity Implement the Arusha and Maputo Declarations on Integrity	AUC RECs Customs Administrations		
6. TRANSIT	High costs of bond guarantees, discontinuous transit systems, delays in transit.	That Member States implement initiatives that will ensure smooth flow of transit traffic, e.g. Customs Bond Guarantee Systems, One-Stop Border Posts.	Consider the COMESA Customs Bond Guarantee System in developing own transit systems Adopt the corridor principle for transit operations	RECs Member States RECs Member States		
7. LEGAL	There is no information	That information should be	Exchange information on	RECs		

FOCUS AREA	ISSUE	RECOMMENDATIONS	ACTION REQUIRED	RESPONSIBILITY	TIME FRAME	RESOURCES
	exchange amongst RECs	exchanged on the legal instruments such as Customs Management Acts and Common Tariff Nomenclatures already developed by COMESA, EAC and SADC as well as revenue sharing instruments as developed by ECOWAS with other RECs with a view to harmonizing them and adopting continental model instruments.	<p>the legal instruments already developed by COMESA, EAC, SADC and other RECs with a view to harmonize them and adopt continental model instruments</p> <p>Assess the three Customs Management Acts developed by COMESA, EAC and SADC with a view to developing a harmonized version for adoption at continental level</p>	AUC RECs		
8. IMPLEMENTATION AND MONITORING	AUC is understaffed to support the Customs African agenda	That the institutional framework already in place within the AU Commission be adequately staffed in order to facilitate coordination and harmonization of Customs programmes and activities of RECs and to monitor the implementation of the recommendations or decisions of the Sub-	To fill the existing vacancies and consider expansion	AUC		

FOCUS AREA	ISSUE	RECOMMENDATIONS	ACTION REQUIRED	RESPONSIBILITY	TIME FRAME	RESOURCES
	Funding to Customs programmes is inadequate	<p>Committee on Customs.</p> <p>Meanwhile, the AUC should establish a mechanism for the secondment of Customs officers from Member States to the AUC to provide technical assistance in the implementation of the agreed programmes.</p> <p>That the AUC reviews the funding requirements for the implementation of the Customs programs and takes the necessary measures to avail the required resources.</p>	<p>AUC to create a mechanism for secondment of Customs staff</p> <p>Administrations to second staff</p> <p>Review the funding requirements, identify potential sources and take the necessary measures to access them.</p>	<p>AUC</p> <p>Customs administrations</p> <p>AUC</p>		

AFRICAN UNION UNION AFRICAINE

African Union Common Repository

<http://archives.au.int>

Organs

Council of Ministers & Executive Council Collection

2006-06-29

Report on Trade Facilitation Within Africa and the Process of Establishing a Customs Union

African Union

DCMP

<https://archives.au.int/handle/123456789/8668>

Downloaded from African Union Common Repository