

Update on the Outcome of third Meeting of the CFTA Technical Working Groups (TWGs)

20th August – 1st September, 2017, Durban, Republic of South Africa

I. INTRODUCTION

1. From 21st August to 1st September 2017, the Department convened the third meeting of the CFTA TWGs in Durban, South Africa, in line with the revised CFTA Calendar of Meetings. The meeting aimed at giving the CFTA Experts the opportunity to further make technical inputs in the draft CFTA texts. At the same time, a dedicated session of the CFTA Chief Negotiators was convened for the drafting of Annex A on Trade in Goods. The output of these meetings will be on the Agenda for the 7th meeting of the CFTA-NF scheduled to be held on the 2nd – 7th October 2017.

2. The meetings were held over two weeks as follows:

From 21st – 25th August 2017:

- a) TWG on Legal and Institutional Affairs;
- b) TWG on Non-Tariff Barriers and Technical Barriers to Trade;
- c) TWG on Rules of Origin; and
- d) TWG on Trade in Services.

From 28th August – 1st September 2017:

- a) TWG on Sanitary and Phytosanitary (SPS) Measures;
- b) TWG on Customs Procedures and Trade Facilitation;
- c) TWG on Trade Remedies; and
- d) A Dedicated Session of CFTA Chief Negotiators to consider Annex A: Agreement on Trade in Goods.

II. KEY OUTCOMES

a. Dedicated Session on Annex A on Trade in Goods

3. The Dedicated Session of Chief Negotiators had rich and extensive deliberations on the draft text of Annex A, on Trade in Goods and made preliminary comments. There were different proposals that were captured as options and where there was no agreement, either provisions were bracketed or decisions were deferred to next NF. They agreed that the draft text will require further work.

b. TWG on Non-Tariff Barriers & Technical Barriers to Trade (NTB&TBT)

4. The TWG was to consider and finalize the Appendix 6 on TBT and also start the drafting of the Appendix on NTBs. The outstanding articles on the Appendix on TBT were finalized including the definitions chapter which was done at the end. During the discussions minor refinements were done on a couple of articles. **The meeting**

considered the work on Appendix 6 on TBT complete (100%) pending NF determination on Article 11 on 'transparency' and the bracketed text.

5. With respect to Appendix 5 on NTBs, the meeting managed to complete drafting Articles 2 to 4. They also considered Articles 5 to 7 but did not conclude on the text so it remains bracketed. Ten Articles including the article on definitions remain undone and will be considered at the next meeting. This gives a level of completion of approximately 20%. The outstanding work will take the whole of the next meeting and may actually require additional time judging from how the TBT and SPS Appendices drafting progressed.

c. TWG on Legal and Institutional Affairs (LIA)

6. The TWG considered and concluded discussions on the draft main agreement. They adopted the change of the title of the legal text, arising from the decision of the 6th NF to "Agreement Establishing the Continental Free Trade Area". Debate ensued regarding the titles of the attachments to the main Agreement. Specifically, the meeting debated whether the attachments to the main agreement should be referred to as 'annexes', 'agreements' or 'protocols'. **This question was referred to the NF for decision.** The TWG has exhausted debate on the issues and the agreement may not need to go back to the TWG - if the NF can clear the outstanding issues.

d. TWG on Rules of Origin (RoO)

7. The TWG on RoO made substantial progress towards concluding the draft text of Appendix 2. The TWG noted the final Situational Analysis Report and acknowledged it as a good basis for the drafting of Appendix 2 on RoO.

e. TWG on Customs Procedures and Trade Facilitation (CP&TF)

8. The TWG considered the draft Appendix 4 on Trade Facilitation and Transit and agreed, with amendments, on a number of the Articles in that text. In considering the Appendix 4, the TWG noted that the two regimes Trade Facilitation and Transit have become topical both at regional and international level. The draft appendix was considered not comprehensive.

9. The TWG agreed that there was need to split these into two separate appendices to ensure that the continent gives due attention to the subjects, which are both important to the movement of goods in Africa. Further the TWG noted that some trade regimes in Africa had separate appendices on Trade Facilitation and Transit and it was important for the CFTA to build on this acquis. The TWG took note of the need to draft a separate appendix on Transit and agreed to consider this at the next TWG when a draft will be made available.

f. TWG on Sanitary and Phyto-Sanitary (SPS) Measures

10. The TWG was to consider and finalize the Article on 'Definitions' as the rest of the Articles had been finished at their 2nd meeting in Nairobi in May 2017. At the beginning of the meeting however, experts agreed to scan / review each of the other Articles in order to identify and collate the terms that needed to be defined. They also agreed that in so doing they would polish up and provide better clarity for any text requiring this. The result was that there were quite a lot of discussions again started mainly by delegates who had not been at the Nairobi meeting. Finalization of the draft Appendix which had been estimated to take just two days ended up taking the better part of 3.5 days. The stand in Chair however managed to control the meeting well and prevented unnecessary re-drafting of the Appendix. The little modification of text that was eventually done on some articles was actually needful and did improve on the clarity of text or better sequential flow of information.

11. The meeting also reflected on its other functions and responsibilities as assigned in the TWG's terms of reference particularly the issues on identification of technical areas for capacity enhancement activities and on work schedules and sequencing of work in the area of SPS measures. In this regard, the TWG concluded that the technical capacity enhancement needs following the launch of the CFTA would be addressed by the proposed Sub-Committee on SPS issues.

12. The TWG also concluded that they had concluded their work (100% progress) and would only re-convene if the NF assigned them other work or requested them to re-visit parts of the SPS Measures Appendix. The December deadline is considered met unless NF directs that any additional work be done.

g. TWG on Trade Remedies

13. The experts then considered the draft Appendix on Trade Remedies which contained a number of optional proposals for various Articles. The experts reviewed and adopted a good number of the Articles. On certain issues where there was no agreement, the technical experts decided to bracket the relevant articles and refer the provisions to the Negotiating Forum. With the consideration of four new articles and the remaining contentious articles to be agreed on, together with the negotiation of the Guidelines on implementation, the fourth session of the TWG is likely to be quite hectic and will need to be extremely efficient in carrying out the remaining work in order that the draft Appendix and Guidelines can be completed by the deadline for conclusion of the CFTA.

h. TWG on Trade in Services

14. **Significant progress was made in drafting the Framework Agreement which is almost finalized.** The TWG envisages that a Framework Agreement for Trade in Services should be finalized by the end of 2017.