REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS

ON THE

PROPOSAL

TO RATIFY THE AGREEMENT ESTABLISHING THE TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

FOR THE

FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

Printed by the National Assembly of Zambia

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1.0 Composition of the Committee

The Committee consistedof Dr S Musokotwane, MP (Chairperson); Ms M Miti, MP (Vice Chairperson); Mr G G Nkombo, MP; Mr D Livune, MP; Mr E M Mwila, MP; Mr C Chali, MP; Mr D Chisopa, MP; Dr S C Kopulande, MP; Mr E Kamondo, MP; and Mr M Mubika, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

The Committee has the honour to present its Report on the consideration of the proposal to ratify the Agreement Establishing the Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC) for the Fifth Session of the Twelfth National Assembly.

2.0 Functions of the Committee

Pursuant to Article 63 of the *Constitution of Zambia* as amended by Act, No. 2 of 2016 and section 5 of the *Ratification of International Agreements Act*, No. 34 of 2016, the National Assembly is reposed with the power to oversee the performance of Executive functions by, among other things, approving international agreements and treaties before they are acceded to or ratified. Your Committee was mandated to receive submissions and make recommendations to the House on proposal to ratify the Agreement Establishing the Tripartite Free Trade Area among the Common COMESA, EAC and SADC.

3.0 Meetings of the Committee

The Committee held ten meetings to consider the proposal to ratify the Agreement Establishing the Tripartite Free Trade Area (TFTA) among the COMESA, EAC and SADC.

4.0 Procedure adopted by the Committee

In order to acquaint itself with the provisions and ramifications of the Agreement, the Committee sought both written and oral submissions from various stakeholders, who are listed at Appendix II.

5.0 Background to the Tripartite Free Trade Area

The Committee was informed that in the last 40 years, Africa has seen a proliferation of Regional Economic Communities (RECs) such as SADC, COMESA, EAC and the Economic

Community of West African States (ECOWAS), among others. While the implications of these RECs are not always obvious, their creation necessitates trade policy reform among member states.

One of the recently established RECs in Africa is the TFTA comprising member states from COMESA, SADC and EAC. The TFTA traces its formal roots to a decision made by Heads of State and Government of COMESA, SADC and the EAC at the first tripartite summit which was held in October 2008 in Kampala, Uganda. At the meeting, it was resolved that the three RECs should immediately start work towards a merger into a single REC that would fast track the attainment of the African Economic Community (AEC) in line with the Abuja Treaty of 1991.

Following significant progress that was made on background technical work, the Heads of State and Government from the three RECs met on 10th June 2015 in Sharm EL Sheik, Egypt where the TFTA was launched. The TFTA brings together twenty-eight countries with a combined area of 17.3 million square kilometres, with a population of 625 million people, and a combined Gross Domestic Product (GDP) of US$1.4 trillion. Additionally, the region accounts for almost half of the membership of the African Union and sixty percent of the GDP of the African continent.

The Committee further heard that the establishment of a number of RECs on the African continent has resulted in overlapping, and sometimes incompatible, preferential trade regimes. The TFTA goes a long way in addressing the issue of overlapping membership by bringing together three of Africa's major RECs namely, COMESA, EAC and SADC.

To enter into force, the TFTA requires a minimum of fourteen ratifications by member states. Recently, there had been a spike in the number of countries ratifying and set to ratify the Agreement. As of September, 2020, eight countries had ratified the agreement, namely Namibia, Egypt, Uganda, Kenya, South Africa, Rwanda, Burundi and Botswana. In addition, seven countries are currently in advanced stages of the ratification process. These include; the Comoros, Eswatini, Malawi, Sudan, Tanzania, Zambia and Zimbabwe.

6.0 The objectives of the Tripartite Free Trade Area

6.1 General objectives of the Agreement

The Committee was informed that the general objectives of the TFTA Agreement as stipulated in Article 4 of the Agreement are outlined below.

a) Promote economic and social development of the region.
b) Create a large single market with free movement of goods and services to promote intra-regional trade.
c) Enhance the regional and continental integration processes.
d) Build a strong Tripartite Free Trade Area for the benefit of the people of the region.

6.2 Specific Objectives of the Agreement

It was further noted that in order to fully realise the general objectives set out in Article 4 of the Agreement, member states would have to:

a) progressively eliminate tariffs and Non-Tariff Barriers to trade in goods;
b) liberalise trade in services;
c) cooperate on customs matters and implementation of trade facilitation measures;
d) establish and promote cooperation in all trade related areas among Tripartite Member/Partner States, and;
e) establish and maintain an institutional framework for implementation and administration of the Tripartite Free Trade Area.

7.0 Salient Provisions of the Agreement

The Committee heard that the salient provisions of the TFTA Agreement were those set out hereunder.

PART I – INTERPRETATION, ESTABLISHMENT, OBJECTIVES AND PRINCIPLES

Article 1 – Interpretation

This Article defined various terms used in the agreement. These included "most favoured nation" treatment; and non-tariff barriers.

Article 2 – Establishment of Tripartite Free Trade Area

This Article established a Free Trade Area among Member states of the three Regional Economic Communities (RECs).

Article 3 – Scope and Coverage

This Article outlined the types of trade that the Agreement related to. These were trade in goods, services and other related matters. This referred to the transactions, that is, buying and selling, of goods and services between state parties to this Agreement.

Articles 4 and 5 – General and Specific Objectives

These Articles provided for the objectives of the Agreement. As stated above, the main objective of the Agreement was to strengthen and deepen economic integration of the southern and eastern African regions. The objectives were, therefore, aimed at harmonising policies and programmes across the three RECs in the areas of trade, customs and infrastructure development. This meant that member states would be free to trade amongst themselves without the constraints of rigorous tax regimes that normally impeded trade. Once the Agreement was ratified, the member states would work towards ensuring uniformity in tax rules and the liberalisation of trade generally.

Article 6- Principles

This Article provided for all the principles that would govern the Agreement once it came into force. All the principles outlined were aimed at levelling the playing field so that member states could trade with ease amongst themselves.

Part II – Non-Discrimination

This part dealt with non-discrimination in trade amongst State Parties.

Article 7 – Most-Favoured-Nation Treatment
This Articled provided for an entrenched principle of the World Trade Organisation (WTO). The Most-Favoured-Nation Treatment (MFN) principle ensured that all member States were treated equally. For example, where a concession was given to one country, the same concession must be extended to all other countries that were party to the Agreement. The Article allowed Member States to maintain and enter into preferential trade agreements with third countries. However, in line with this principle, the same concessions offered to the third country must extend to member States of the TFTA.

Article 8 – National Treatment
This principle prohibited discrimination between imported and domestically produced goods with respect to tax. It entailed that goods, whether imported or domestically produced, must be subjected to the same rules, once they had entered the local market. This was a progressive provision as it would ensure that local products competed fairly against foreign products.

Part iii – Liberalisation of Trade in Goods
This part dealt with the elimination and non-imposition of new duties with regard to import duties, non-tariff barriers and quantitative restrictions. Quantitative restrictions were restrictions made with regard to the quantity of goods, for example restrictions on how much maize could be imported or exported. The idea behind quantitative restrictions was to protect the price of locally produced goods and also avoid deficits. Under the TFTA, member States were required to eliminate these trade restrictions (Articles 9 to 11).

Article 12 provided for preferential treatment for goods that were produced in any of the Tripartite member States. These meant that concessions, such as reduction of tariffs, would be made with regard to goods coming from these countries.

Part iv – Customs Cooperation and Trade Facilitation
This Part provided for measures that would facilitate trade between or amongst Tripartite member states. According to the WTO, trade facilitation referred to the simplification, modernisation and harmonisation of international trade procedures.

Article 14 provided for the standardisation of customs documents and information, reducing the cost of processing documents and adopting common standards of trade procedures.

Article 15 provided for facilitating easier movement of goods between member states. These provisions were aimed at making trading easier for member states, by doing away with or relaxing rules which usually made it hard for countries to trade with one another. These provisions entailed that less time was spent processing documents and goods were able to move faster, thereby saving on time and costs.

Part V – Trade Remedies
This Part related to all measures that member States were allowed to put in place to protect domestic trade.

Articles 17 and 18 allowed member states to adopt measures which would prevent exporters from selling their products at a lower price than similar products on the local market, thereby 'dumping' them; and also to prevent the import of products in such increased quantities that it would cause, or threatened to cause, serious injury to the domestic industry that produced "like or directly competitive" products. This would ensure that local products were not ousted by foreign competition.

The annexure on trade remedies had not yet been finalised and operationalised. As such, in terms of Article 16, member states were at liberty to apply any measures that they already had in place.

Part vi – Trade-Related Areas

This Part dealt with matters such as the removal of or relaxation of laws, standards or procedures that made trade in goods difficult (Article 21). It also dealt with implementing measures aimed at protecting humans, animals and plants from diseases pests and contamination (Article 22). Further, Article 23 proposed the establishment of special economic zones.

Part vii – Other Areas of Cooperation

This Part provided for areas in which member states may cooperate with one another. These included cooperation in financial areas, trade policies and research. This cooperation would serve to deepen relations between member states as envisaged in the objectives of the Agreement.

Part viii – Implementation of the Tripartite Free Trade Area

Article 29 provided for the Organs necessary for the implementation of the Tripartite Free Trade Area and their composition.

Part ix – Dispute Settlement

This Part provided for the dispute settlement mechanisms available to member states. The member states were encouraged to first engage in consultations and negotiations with a view to resolving any dispute that may arise. Where such consultations or negotiations failed, then the disputes could be referred to the Dispute Settlement Body. Further, in the event of any inconsistency between this Agreement and treaties of COMESA, EAC and SADC, this Agreement shall prevail to the extent of the inconsistency. This meant that this Agreement shall, for all intents and purposes, be superior to any other agreement in the RECs.

Part xii – General and Final Provisions

This Part dealt with working languages, protocols and annexes, sanctions, signature, ratification, accession and the obligation not to defeat the object and purpose of the Agreement before it entered into force.

8.0 Summary of Views from Stakeholders

8.1 Conformity to the parameters provided in the *Ratification of International Agreements Act*

The Committee was informed that the *Ratification of International Agreements Act, No.34 of2016*provided guidance on the parameters to be satisfied for before an international agreement was ratified or acceded to by Zambia. The Act provided that the international agreement should be in the best interests of the state. Specifically, Section 3(2) of the Act was instructive on what would constitute the 'best interest of the state'.

In this regard, the Committee considered the views of the stakeholders on the proposal to ratify the TFTA Agreement considering the parameters stipulated in the Act.

i. The Object/ Rationale of the International Agreement

Stakeholders informed the Committee that the main objective of the Agreement was to strengthen and deepen economic integration of the southern and eastern African region. This would be achieved through the harmonisation of policies and programmes across the three RECs in the areas of trade, customs and infrastructure development. The ratification of the Agreement would further harmonise different aspects of trade regimes in the three RECs such as technical regulations, sanitary and phyto-santitary requirements, rules of origin criteria for goods, customs procedures and trade facilitation guidelines.

ii. Existing Legislation Addressing the Object of the International Agreement

Stakeholders informed the Committee that some pieces of legislation that dealt with various aspects of tax and trade in Zambia included, but were not limited to, the *Competition and Consumer Protection Act, No 24 of 2010,* the *Customs and Excise Act, Chapter 322,* the *Zambia Revenue Authority Act, Chapter 321*and the *Value Added Tax Act, Chapter 331 of the Laws of Zambia.* Although the existing pieces of legislation were sufficient to address the objectives of the TFTA, stakeholders were of the view that enactment of legislation to deal with investment, trade and enterprise development, provide for trade remedies and local content were necessary in order to protect local industries from cheap imported.

iii. The Impact of Implementing any Measure Specified in the International Agreement

The Committee learnt that no substantial loss in revenue was expected once the TFTA was ratified and became operational, because revenue from import tariffs was already foregone as the country was already trading on a preferential basis with twenty-one of the members of the TFTA through the COMESA and SADC arrangements apart from Angola, Democratic Republic of Congo (DRC), Eritrea and Ethiopia which were not implementing the COMESA or SADC trade agreements or protocols. Furthermore, Zambia had offered tariff concessions which were already prevailing under COMESA and SADC. This meant total liberalisation of all tradable goods under the COMESA Treaty and SADC Protocol on Trade.

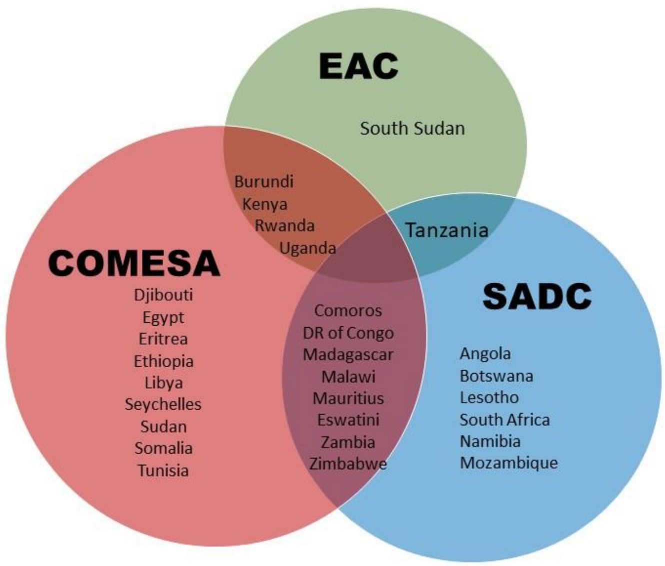
iv. Legislative Measures and/or Reforms Necessary to Give Effect to the International Agreement

Stakeholders informed the Committee that the TFTA Agreement was not inconsistent with the Constitution of Zambia. However, they noted that one of the key legislative measures that may be required to give effect to the TFTA Agreement was the revision of certain laws such as the *Value added Tax Act, Chapter 331* and the *Customs and Excise Act,Chapter322* in order to ensure that the laws were consistent with what was provided in the TFTA Agreement. Stakeholders further submitted that to further enhance the protection of local industries, the Government should introduce the Investment, Trade and Enterprise Development (ITED) Bill, Trade Remedies Bill and Local Content Bill.

8.2 Membership of the TFTA

The Committee was informed that the TFTA had a membership of twenty-nine countries. Of these, only fifteen countries belonged exclusively to one REC while the rest were spread among the three RECs. It was worth noting that twenty-one of the twenty-nine countries were members of COMESA. The implication of this configuration was that COMESA was the anchor of the TFTA and currently chaired the Secretariat that had been setup to operationalise the TFTA.

Figure 1: The overlapping nature of the membership to the 3 RECs that constitute the TFTA:



8.3 The Status of Trade in the TFTA

The Committee was informed that Trade data showed that, in value terms, Zambia mostly traded with SADC followed by COMESA, and least with the EAC as shown in Table 1 below.

Within the SADC region, it was noted that Zambia recorded a widening trade deficit between 2005 and 2017, reaching US$3.7 billion in 2017 from US$1.0 billion in 2005. The widening trade deficit was attributed to the increase in imports from the SADC region, predominantly from South Africa. However, in 2018 and 2019, Zambia's imports from the region declined, largely due to the slowdown in domestic economic activity coupled with the sharp depreciation of the Kwacha. Regarding trade with COMESA, from 2009 to 2017, Zambia increasingly imported more from the region relative to its exports to the region. With respect to the EAC, over time, Zambia's trade with this REC was mostly balanced, implying that exports were approximately equal to imports. However, between 2013 and 2016, Zambia recorded higher trade deficits with the region, largely on account of a surge in imports from Kenya. Further, Zambia's trade with the TFTA was highly skewed to only a few countries. In 2019, for instance, South Africa accounted for 68.8 per cent of Zambia's imports from the SADC region, while the Democratic Republic of Congo accounted for 58.5 per cent of total exports from the region.

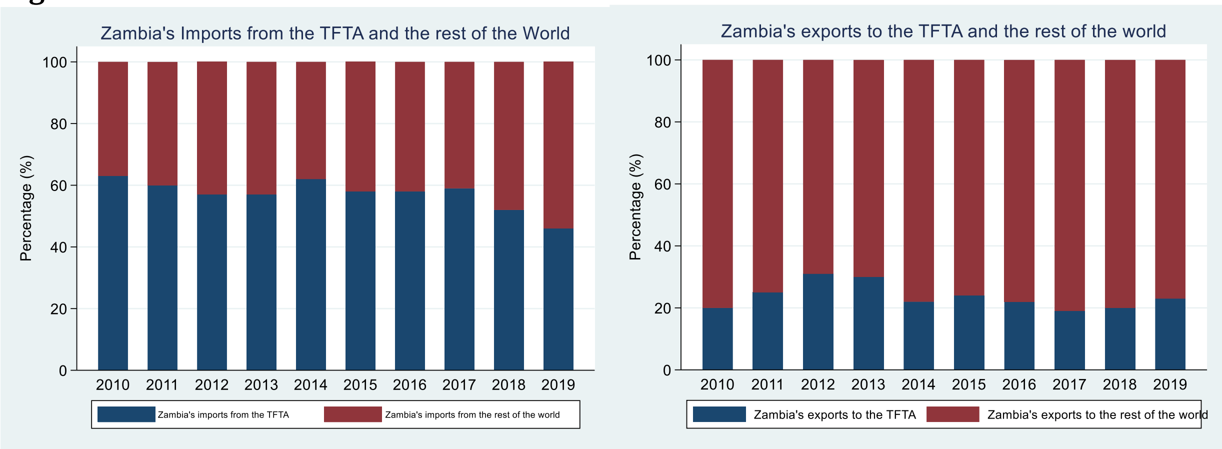
Table 1: Exports to and imports from the TFTA Region (US$ millions)

	COMESA			EAC			SADC		
	EXPORTS	IMPORTS	TRADE BALANCE	EXPORTS	IMPORTS	TRADE BALANCE	EXPORTS	IMPORTS	TRADE BALANCE
2005	257.3	197.7	59.6	26.3	107.1	-80.8	500.6	1,479.3	-978.7
2006	251.1	226.3	24.8	40.8	98.6	-57.8	691.8	1,750.5	-1,058.7
2007	634.3	355.7	278.6	125.1	101.9	23.2	1214.8	2,279.9	-1,065.1
2008	849.5	781.5	68.0	75.8	129.8	-54.0	987.7	3,031.8	-2,044.1
2009	639.7	668.8	-29.1	71.8	111.8	-40.0	943.7	2,201.2	-1,257.5
2010	694.7	1,418.4	-723.7	96.9	106.5	-9.6	1304.5	3,254.0	-1,949.5
2011	1047.6	1,606.3	-558.7	181.7	162.3	19.4	2006.7	4,137.8	-2,131.1
2012	1418.3	1,856.6	-438.3	381.4	357.8	23.6	3020.1	4,574.9	-1,554.8
2013	1900.4	2,802.6	-902.2	173.7	791.9	-618.2	3173.8	5,314.7	-2,140.9
2014	1275.7	2,539.0	-1,263.3	124.6	873.4	-748.8	2,077.7	5,051.9	-2,974.2
2015	1,024.0	1,990.1	-966.1	102.1	392.3	-290.2	1645.0	4,409.2	-2,764.2
2016	873.6	1,510.1	-636.5	170.8	221.5	-50.7	1,297.4	4,242.6	-2,945.2
2017	912.7	2,181.6	-1,268.9	224.7	204.1	20.6	1,360.4	5,074.7	-3,714.3
2018	1,193.1	1,779.9	-586.8	190.7	244.5	-53.8	1,657.7	4,873.0	-3,215.3
2019	1,223.3	699.9	523.4	174.7	256.9	-82.2	1,539.4	3,263.6	-1,724.2

Source: Bank of Zambia

Notably, the level of trade in the TFTA remained low and consistent with the general picture across Africa. For Zambia, the country imports from the TFTA averaged 60per cent for the period 2010 to 2019 compared to about40 per cent of imports from the rest of the world as shown in Figure 2. This showed that the country mainly sourced its imports from the TFTA region mainly from South Africa. In terms of exports, Zambia's exports to the TFTA averaged approximately 16 per cent during the period 2010 to 2019, while exports to the rest of the world averaged nearly 80per cent.

Figure 2: Zambia's trade with the TFTA and the World



Source: Zambia Institute for Policy Analysis and Research

The Committee was also informed that Zambia had a negative trade balance with the TFTA region, with much of it resulting from the trade with South Africa. It was worth noting that close to 92 percent of Zambia's 2019 exports went to six countries as shown in Table 2. This was also the case with imports.

Table 2: **Zambia's Top Six Trading Partners in the TFTA Region**

Country	**Exports (%)**	**Country**	**Import (%)**
DRC	53.5	South Africa	66.4
South Africa	18.4	DRC	6.9
Malawi	6.7	Tanzania	6.11
Zimbabwe	5.9	Mauritius	6.0
Kenya	3.7	Namibia	3.15
Tanzania	3.6	Seychelles	2.9

Source : Ministry of Commerce, Trade and Industry

8.4 Predominant Goods Traded in Zambia

The Committee was informed that the notable goods imported into Zambia from SADC were: mineral fuels, mineral oils and products for their distillation and bituminous substances; machinery, mechanical appliances, nuclear reactors, boilers, and parts thereof; and vehicles other than railway or tramway rolling stock and parts and accessories thereof. A summary of Zambia's top imports and exports in the TFTA is as shown in Table 3.

Table 3: Zambia's Top 15 Exports and 15 Import for the TFTA Region (2013 – 2019)

Top Export Products	**Top Import Products**
Sulphuric Acid; Sulphur, sublimed or precipitated; colloidal Maize (Excluding seed for sowing) Portland Cement Electric Energy	Copper ores and concentrates copper, refined, in form of cathode and sections of cathodes Copper powders, of lamellar structure, and flakes of copper (excluding grains of copper

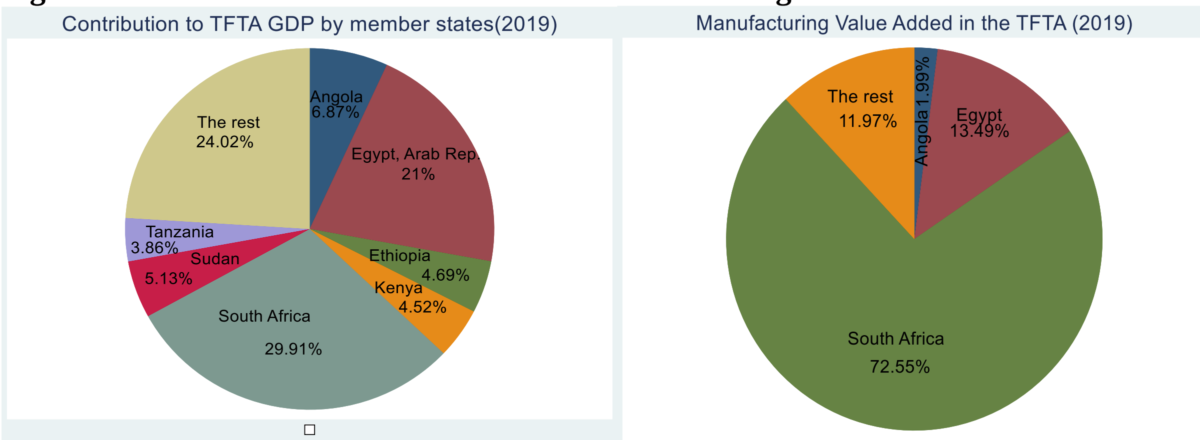
Tobacco, unstemmed or unstripped Raw cane sugar, in solid form, not containing added flavouring or colouring matter, obtained … Cane or beet sugar and chemically pure sucrose, in solid form Soap in form of flakes, granules, powder, paste or in aqueous solution Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting … Gold, including gold plated with platinum, in semi manufactured form, for non-monetary purposes Copper, refined, in form of cathode and sections of cathodes Wire of refined copper, with a maximum cross-sectional dimension of >6 mm Cobalt oxides and hydroxides; commercial cobalt oxides Articles of cobalt, n.e.s.	and Cobalt ores and concentrates Medium oils and preparations, of petroleum or bituminous minerals Cobalt oxides and hydroxides; commercial cobalt oxides Light oils and preparations of petroleum or bituminous minerals which >=90% by volume "incl. … Carbonates and peroxocarbonates "percarbonates", commercial ammonium carbonate containing ammonium … Mixtures of odoriferous substances and mixtures, incl. alcoholic solutions, with a basis of … Frozen Fish, n.e.s. Moto vehicles for transport of goods, with compression-ignition internal combustion piston … Telephones for cellular networks "mobile telephones" or other wireless networks Structures and parts of structures, of iron or steel, n.e.s. (excluding bridges and bridges-sections, … Mineral or chemical nitrogen fertilisers (excluding urea; ammonium sulphate; ammonium nitrate; … Parts of machinery of heading 8426, 8429 and 8430, n.e.s

Source : Ministry of Commerce, Trade and Industry

8.5 TFTA Member States' GDP and Manufacturing Value Added Contribution

Stakeholders submitted that the TFTA region's two major economies, South Africa and Egypt, accounted for about 50 per cent of the entire region's total GDP. In addition, the seven largest economies accounted for nearly 75 percent of the region's GDP, while the remaining twenty one countries accounted for only 25 per cent of the region's total GDP.

Figure 3: TFTA member States' GDP and Manufacturing Value Added contribution



Source: Zambia Institute for Policy Analysis and Research

The Committee was further informed that the manufacturing capacity within the region was unevenly distributed. In 2019, total manufacturing value addition, which was the net output of the manufacturing after adding up all outputs and subtracting intermediate inputs, was almost entirely accounted for by South Africa and Egypt as shown above in the pie chart on the right in Figure 3. The rest of the member states accounted for a paltry 12 per cent of total manufacturing value addition in the region.

8.7 Benefits of Ratifying the TFTA Agreement

The Tripartite FTA was envisaged to provide contracting parties with numerous benefits, not only with respect to trade, but in many associated areas. Some of the anticipated benefits to member states included those outlined below.

i. Enlarged Market and Increased Market Access for Products and Services

The Committee was informed that the main benefit of the TFTA was provision of a much larger market with a single economic space than any one of the three RECs. Thus, it would be more attractive to invest in manufacturing and large-scale production. If successfully implemented, all partner countries to the TFTA would be able to trade freely with more than half of the African continent with a large population and income. While Zambia was already trading in the COMESA and SADC FTAs, the market access for Zambia would drastically rise if Angola, Democratic Republic of Congo (DRC), Eritrea and Ethiopia ratified and implemented the TFTA as they were currently implementing neither the SADC nor COMESA trade Agreements or protocols. Further, South Sudan, which was a member of the EAC, was not a member of either COMESA or SADC, and hence the extension of the TFTA would allow Zambia to trade with the South Sudan.

Specifically, the TFTA offered Zambia the possibility of accessing a market of 626 million people, and spending power of US$1.2 trillion in a region that boasted of Africa's fastest growing economies. The TFTA, therefore, presented an opportunity for Zambia to build on its current share of trade within the region, and have access to a larger more integrated and growing regional market. This had the potential to stimulate industrialisation, investment and job creation.

ii. Elimination of challenges associated with Overlapping Membership
The Tripartite arrangement would advance the ongoing harmonisation and coordination initiatives of the three RECs to achieve convergence of programmes and activities. The TFTA was also expected to address the challenge of inconsistent trade rules which Zambian businesses faced, largely on Rules of Origin, as a result of having to conform to two trading regimes, namely, COMESA and SADC. It was widely agreed that overlapping memberships to RECs weakened implementation and increased costs for member countries as traders were expected to comply with different trade regimes. The TFTA would address this problem through its provisions that did not hinder member states from entering into preferential trade agreements, provided that such benefits were extended to other members without any discrimination. As such, overlapping memberships would not be a problem per se as benefits would be non-discriminatory.

iii. Stimulant for Increased Industrialisation
The bigger market under the Tripartite FTA would be more conducive to attracting local investment and Foreign Direct Investment (FDI). This would spur industrialisation.

iv. Improved Competitiveness of Products
The TFTA region would be a destination for Zambian exports, and a source of a substantial amount of its imports. Therefore, trading with the region on preferential terms would help Zambian exporters and importers. The exporters would have access to a larger market and the importers would have access to supply chains that were much closer to home. In the long run, this would help to reduce the cost of the imports.

v. Development of Good Infrastructure
The establishment of the Tripartite FTA would stimulate investment in joint infrastructure development programmes as partner countries sought to unlock all the potential benefits of trading under the Tripartite FTA. This would incentivise efficient and cost-effective production, effective marketing and smooth cross-border movement of raw materials and finished goods.

vi. Increased Revenue Collection
Zambia did not expect any substantial loss of revenue once the TFTA became operational because revenue from import tariffs was already foregone as the country was already trading on a preferential basis with twenty one of the members of the TFTA through the COMESA and SADC arrangements, apart from Angola, Democratic Republic of Congo (DRC), Eritrea and Ethiopia, which were not implementing the COMESA or SADC trade agreements or protocols.

On the contrary, as more businesses and individuals entered the Zambian market, this would increase the revenue base and, therefore, enable the collection of more revenue. It was expected that withholding taxes as well as personal income taxes were more likely to directly benefit from the agreement.

vii. Address the High Incidence of Non-Tariff Measures
The TFTA would also address the high incidence of non-tariff measures(NTMs) in member states through a non-tariff barrier (NTB) monitoring mechanisms, which had been put in place to enable the private sector to register any NTB experiences online.

viii. Trade Liberalisation

Another benefit of the TFTA, when compared to the more pronounced African Continental Free Trade Area (AfCFTA), was that it offered a different level of liberalisation (100 per cent) from the AfCFTA, and would remain an option for use by member states of the AfCFTA. In addition, the TFTA was premised on high levels of integration already existing in COMESA, SADC and EAC. As a matter of fact, the mechanisms for commencing trade under the TFTA were immediate, different from the AfCFTA which had transitional periods. Thus, until such a time when the AfCFTA was able to offer a higher level of integration, which could take many years, the TFTA would continue to exist and be used as an alternative trading mechanism.

8.8 Measures the Government Will Put in Place in an Event that Zambian Industries are Affected by the Trade Agreement

The Committee was informed that the Government had put in place a number of measures to protect Zambian industries in case of negative impacts emanating from the Agreement. The measures were as outlined below.

i. Effective use of trade remedies as provided in the Agreement.
ii. Improved access to local markets to ensure that locally produced goods were prioritised on the local market.
iii. Improving the quality and quantity of locally produced goods by working with the chain stores and other stakeholders like the Zambia Association of Manufacturers (ZAM), Zambia National Farmers Union (ZNFU) and Zambia Chamber of Commerce and Industry (ZACCI).
iv. Government would enhance the protection of local industries through the amendments to *Competition and Consumer Protection Act, No. 24 of 2010,* the *Zambia Development Agency Act, No. 11 of 2006, Citizens Economic Empowerment Act, No. 9 of 2006*and the *Cooperative Societies Act, No. 8 of 1998*. The Government would also enact the Investment, Trade and Enterprise Development (ITED) Bill, Trade Remedies Bill and Local Content Bill.
v. Intensified monitoring of imported goods with a view to curb smuggling of goods, and curb the importation of substandard goods that disadvantaged locally produced goods.
vi. The Government was working on reducing the cost of compliance to obtain trade permits, phyto-sanitary and other certificates, quality analysis and product registration and testing.
vii. Reducing border costs and facilitating trade.

9.0 CONCERNS BY STAKEHOLDERS

Most of the stakeholders who appeared before the Committee supported the ratification of the international Agreement. Nonetheless, the stakeholders raised some concerns as highlighted below.

i. Harmonisation of the legal framework of ratification of the TFTA Agreement

Stakeholders noted that the TFTA Agreement was not inconsistent with the Constitution of Zambia. However, upon ratification of the TFTA Agreement, the *Value added Tax Act Cap 331* and the *Customs and Excise Act Cap 322of the Laws of Zambia* would accordingly need to be reviewed in order to ensure that the pieces of legislation were consistent with the provisions of the TFTA. Stakeholders also proposed that the Investment, Trade and Enterprise Development

(ITED) Bill, Trade Remedies Bill, and Local Content Bill should be enacted in order to protect local industries.

ii. Revenue loss as a result of removal of tariffs

Although Zambia had very little to lose in ratifying the TFTA on account of being a member of both SADC and COMESA, stakeholders observed that the establishment of the TFTA was set to eliminate tariff and non-tariff barriers, and other restrictions on commerce. They noted that due to the expanded market, these restrictions would eventually result in some revenue loss, although minimal.

iii. Low levels of industrialisation in the country

Stakeholders expressed concern on the low levels of industrialisation and the export of raw materials or low value-added products. This was of particular concern in terms of the TFTA because low industrial capacity countries like Zambia would most likely continue to trade in lower value goods, thereby failing to maximise the benefits of integration. This also raised fears about the possible polarisation of the benefits of TFTA towards the two biggest economies in the region at the expense of the relatively weak and undeveloped nations.

iv. Manipulation of Rules of Origin

Stakeholders noted that the manipulation of Rules of Origin by member states was a potential challenge in the implementation of the TFTA. This was because the TFTA region did not have a common external tariff to regulate treatment of goods from third parties. While rules had been put in place, countries could still manipulate them to their advantage. Zambia had previously experienced such challenges with imported cooking oil from Kenya which was imported under the guise of being produced in Kenya when it was actually a re-export. Zambia ended up taking the drastic measure of banning the importation of this cooking oil. This illustrated how provisions in the TFTA concerning Rules of Origin could be exploited in the absence of local verification and monitoring mechanisms. This could be particularly injurious to an importing country.

v. Non-Tariff Barriers

While noting the existing reporting, monitoring and elimination mechanisms established by the three RECs, and the intention to harmonise them into a single mechanism, stakeholders noted that Zambian manufacturers continued to experiencee several challenges to free trade on account of NTBs whilst exporting into SADC and COMESA partner countries. Requirements to unpack and repack goods from containers at the borders, roadblocks, fees and licenses along the trade routes, pre-inspection requirements, among others, continued to hamper trade facilitation within the RECs.

Stakeholders proposed that as a trading block of the three existing REC's, the TFTA should go beyond the reporting and monitoring mechanisms and establish practical measures to remedy and eliminate the usage of NTBs by member states so as to ensure the free flow of trade and accord all partners the most favoured nation treatment.

Further, since NTBs were still evident among some countries in some of the RECs, some stakeholders were of the view that a harmonised single mechanism should encompass solutions on the loopholes of the individual REC mechanisms.

vi. Infant industries

Stakeholders noted that the definition of infant industry adopted under Article 24 of the Agreement was a strict application of the term and clearly side-lined those industries that may have been failing to grow and disadvantaging some emerging strategic industries that may require assistance. They proposed that Zambia should actively negotiate for the definition of infant industry to be extended in terms of years. A period of ten years would allow for a broader definition because not only infant industries but also slow to mature industries would need to be protected to enable them to grow and mature before facing competition in the trading block.

vii. Dumping and countervailing challenges

Stakeholders noted that Article 17 of the Agreement proposed anti-dumping and countervailing measures in accordance with the World Trade Organisation (WTO) Agreement. While this was a standard and acceptable practice, stakeholders were of the view that the TFTA should recognise the trade imbalances at play within the region. Some member states were more import oriented and had weaker industrial economic bases, making them highly susceptible to dumping by stronger economies within the economic block.

Thus, stakeholders proposed that the TFTA should go beyond what had been provided in the WTO on anti-dumping, countervailing and safeguard measures to specifically aid import-oriented countries to also build up industrial capacity. The capacity to monitor any negative practices such as dumping, which were associated with belonging to RECs would also need to be enhanced within the country.

viii. Challenges arising from Value Added Tax Rule 18

Stakeholders noted that the current provision relating to VAT claims provided by VAT Rule 18 created unfavourable conditions for most manufacturers. Therefore, it was proposed that the period of claiming VAT should be increased from the current three months to four months to allow manufacturers adequate time to have the required documentation following the arrival of exported goods to respective destinations. Stakeholders further proposed that the Government should reinstate implied duties on the duty draw back.

ix. General concern

Given the various concerns raised, some stakeholders were of the view that the TFTA Agreement should be ratified only after the concerns raised had been adequately addressed. They expressed concern that Zambia’s negative trade balance might worsen if Zambia ratified the TFTA without deliberate strategies to ensure that its local manufacturers were armed with the necessary tools to compete favourably in the playing field. Further, export products from bigger economies like South Africa and Kenya might sweep away the little market share Zambia had in different export destinations, and further compete with domestic products.

On the other hand, the majority of the stakeholders recommended that Zambia should ratify the TFTA and consider it as a key priority in the county’s integration agenda. They submitted that the TFTA Agreement was largely similar to various other trade agreements that Zambia was party to and the county's experiences from its membership to SADC and COMESA showed that there was potential for growth in exports within the TFTA. However, in making this recommendation, stakeholders were cognisant of the domestic challenges that continued to inhibit the country's trade interests. To this effect, stakeholders proposed the following complimentary policy actions and measures:

i. the Government should enhance the monitoring of the National Industrial Policy to facilitate industrialisation and diversification of the economy, so that Zambia could fully exploit its regional markets;
ii. to protect the domestic market, the Government must strengthen the institutional coordination and implementation framework of the local content strategy in order to encourage or incentivise import substitution;
iii. the Government must also enhance the enforcement of Rules of Origin within the TFTA, through improved verification and monitoring of imported products;
iv. the Government should pursue deliberate investment priority needs that could aid improved technology, increase labour skills and capital to increase manufacturing production capacity, and ensure that Zambian goods competed with international products. Furthermore, linkages in the production process and value addition should be championed for the manufacturing sector to grow.
v. the Government should also implement some deliberate measures such as standards, procedures, and requirements that made it harder for imports to cross Zambian borders.
vi. the Government should strengthen the incentive structure for exporters through such measures as the multi-facility economic zones, and a favourable fiscal regime to enable them compete favourably in the export market;
vii. the Government should strengthen the regulatory monitoring framework for institutions like the Zambia Bureau of Standards, the Zambia Weights and Measures Agency, and the Competition and Consumer Protection Commission in order to ensure protection of consumers against sub-standard goods and services;
viii. the Government should strengthen the local content strategy to encourage local value addition and participation of Zambians in the economy and to take advantage of the bigger export market; and
ix. the government should build capacity of underdeveloped but strategic industries in order to protect their domestic market share, and to enable them compete favourably in the export market.

10.0 Committee's Observations and Recommendations

From the outset, the Committee supports the proposal by the Executive to ratify the Agreement Establishing the Tripartite Free Trade Area among COMESA, EAC and SADC. This is on account of the anticipated enlarged market that the TFTA will create for Zambian products, especially if all the member states of the EAC ratify and implement the TFTA. In supporting the ratification of the TFTA, the Committee makes its observations and recommendation as set out hereunder.

i. Harmonisation of the legal framework of ratification of the TFTA Agreement

While the Committee is cognisant that TFTA Agreement is consistent with *the Constitution of Zambia,* as amended by Act No.2 of 2016,the Committee notes that the TFTA will need supporting legislation for it to be effectively implemented.

In light of this, the Committee recommends that upon ratification of the TFTA Agreement, the *Value added Tax Act Chapter331* and the *Customs and Excise Act Chapter322 of the Laws of Zambia* will accordingly need to be reviewed to ensure that these pieces of legislation are consistent with the TFTA. The Committee also recommends the enactment of legislation to deal with investment, trade and enterprise development, provide for trade remedies and local content in order to protect local industries from cheap imported products.

ii. Increased market access

The Committee observes that being a member of the SADC and COMESA, the ratification of TFTA will not significantly increase market for Zambian exports. However, while Zambia is already trading under the COMESA and SADC FTAs, the market access for Zambia will drastically rise if Angola, DRC, Eritrea, Ethiopia and South Sudan ratify the TFTA. This is because these countries are currently neither trading under the SADC nor COMESA FTAs. In order to make Zambian exports competitive on international markets, the Committee strongly recommends as follows:

i. that industrialisation should be given more prominence by the Government because ratification of TFTA will further open up the Zambian market to foreign products, thereby making local products uncompetitive;
ii. the Government should effectively implement the National Industrial Policy in order to facilitate industrialisation of the economy, so that Zambia can fully exploit TFTA regional markets;
iii. the Government should develop and diversify all potential capacities not only for purposes of production, but also value addition.
iv. The Government should also establish practical ways of expanding the manufacturing potential in order to expand the capacity to efficiently produce tradable goods;
v. the Government should expedite the review process in order to actualise the initial intentions of the MFEZs, and to support the manufacturing sub-sector with the required incentives that would ultimately promote production and export of tradable goods.
vi. Zambia should prioritise improving the quality of exports to meet acceptable standards and become more competitive. In doing so, the Government should strengthen collaboration among the Zambia Bureau of Standards, the Zambia Weights and Measures Agency, the Competition and Consumer Protection Commission and other relevant bodies in order to ensure that Zambian exports meet the required and acceptable standard, as well as to ensure protection of consumers against sub-standard imported goods and services.

iii. Lack of incentives for local manufactures

The Committee observes with great concern that local investors and manufacturers are disadvantaged due to inadequate incentives. The Committee expresses concern that most of the incentives that were introduced through the Multi-Facility Economic Zones (MFEZs) have been withdrawn. Therefore, in the absence of incentives, there is limited capacity to increase production and fully benefit from the market created by the TFTA. The Committee is, however, cognisant that the Government, in consultation with relevant stakeholders is in a process of reviewing the entire incentives structure in order to make the MFEZs more attractive.

In this regard, the Committee strongly recommends that the Government should re-instate MFEZ incentives without delay.

iv. Export of unprocessed goods

The Committee observes that most Zambian exports are characterised by unprocessed commodities or raw materials. The processes of value addition mainly take place outside the country. This has largely contributed to returns on Zambian trade being predominantly low. To fully benefit from the TFTA, the Committee reiterates that the Government should expand the industrial base and accelerate the diversification agenda as espoused in the Seventh National Development Plan in order to increase export volumes for finished products with corresponding acceptable standards.

v. Manipulation of Rules of Origin

The Committee observes that the country currently faces significant capacity challenges in detecting the origin of products using the Rules of Origin. This is on account of some importers and member countries re-classifying products to qualify them for tax waivers, and ultimately have market access to other member states. The Committee notes that this challenge will continue to exist under the TFTA in the absence of effective local verification and monitoring mechanisms.

The Committee, therefore, recommends that the Government should put in place robust monitoring mechanisms that will enforce Rules of Origin, and effectively detect whether products truly originate from the TFTA.

vi. Revenue leakages

While noting that the Tripartite FTA is set to eliminate tariff and non-tariff barriers and other restrictions on commerce, the Committee observes that the main unintended consequence of this Agreement is its effect on tax revenue through the elimination or substantial reduction of taxes on trade.

In light of this, the Committee strongly recommends that the Government must mitigate this challenge by protecting sensitive industries by taking advantage of the provisions stipulated in Article 18 of the Agreement which provide for conditions under which a member state can apply safeguard measures. The Committee further recommends that the Government must enhance the enforcement of Rules of Origin within the TFTA through improved verification and monitoring of imported products in order to safeguard revenue lost through manipulation of Rules of Origin.

vii. Safeguard measures and anti-dumping

The Committee observes that since Zambia is a net importer in the SADC and COMESA RECs, the TFTA will further expose the manufacturing sector in Zambia to cheaper products produced by bigger, more efficient competitive economies among the TFTA member States. If not well implemented, the loss of market by Zambian products may further lead to loss of employment and decrease taxes collected from the sector.

In light of this, the Committee strongly reiterates that the Government must robustly implement safeguard measures stipulated in the TFTA Agreement in the leather subsector, textiles subsector, the plastics and plastic packaging subsector, fertiliser manufacture subsector, and other sectors where Zambia has a comparative advantage. The Committee further recommends that for Zambia to take advantage of the TFTA, the Government needs to aid the manufacturing sector with an enabling policy environment that ensures that local manufactures can compete favourably. This should include favourable tax incentives, sufficient energy for production, and access to affordable credit from financial institutions.

11.0 Conclusion

The TFTA is expected to substantially increase Zambia's market, especially if Angola, DRC, Eritrea and Ethiopia ratify and implement the TFTA Agreement. Currently, these countries are neither implementing the SADC nor COMESA FTA. Notably, ratification will allow for deeper penetration into the Congo DR market which is one of Zambia's largest export markets in Africa. To fully harness the potential benefits of the Agreement, there is need to provide an enabling environment for the manufacturing sector to thrive such as incentives for local investors, access to affordable credit and reduced taxes on importation of raw materials. To this effect, it is imperative for Zambia to take advantage of the safeguard measures in the Agreement, such as those in Article 18, in order to protect sensitive industries.

The Committee, therefore, supports the proposal to ratify the Agreement Establishing the Tripartite Free Trade Area among COMESA, EAC and SADC RECs. It however, urges the Government to address the concerns raised in its report.

The Committee expresses its gratitude to all stakeholders for their oral and written submissions on the Agreement. The Committee further thanks the Offices of the Speaker and the Clerk of the National Assembly for the guidance and services rendered to it during the consideration of the TFTA Agreement.

Dr S Musokotwane, MP
(Chairperson)

Ms M Miti, MP
(Vice Chairperson)

Mr GNkombo, MP
(Member)

Mr D Livune, MP
(Member)

Mr E M Mwila, MP
(Member)

Mr C Chali, MP
(Member)

Mr D Chisopa, MP
(Member)

Dr S C Kopulande, MP
(Member)

Mr E Kamondo, MP
(Member)

Mr M Mubika, MP.
(Member)

October, 2020
LUSAKA

Dr Situmbeko Musokotwane, MP
CHAIRPERSON

APPENDIX I - List of National Assembly Officials

Ms C Musonda, Principal Clerk of Committees
Mr H Mulenga, Deputy Principal Clerk of Committees (FC)
Mrs C K Mumba Senior Committee Clerk (FC)
Mrs E K Zgambo, Committee Clerk
Mr C Chishimba, Committee Clerk
Mrs G Chikwenya, Typist
Mr M Kantumoya, Parliamentary Messenger

Appendix II - List of Witnesses

i. Minister of Commerce, Trade and Industry
ii. Ministry of Commerce, Trade and Industry
iii. Ministry of Justice
iv. Ministry of Finance
v. Zambia Revenue Authority
vi. Bank of Zambia
vii. Zambia Institute for Policy Analysis and Research
viii. Zambia Chamber of Commerce and Industry
ix. Zambia Association of Manufacturers
x. Zambia Development Agency
xi. Centre for Trade Policy and Development
xii. Southern Africa Cross Border Traders Association
xiii. Bankers Association of Zambia
xiv. Zambia Customs and Forwarding Agents Association
xv. Economics Association of Zambia (written submission only)