REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS

ON THE

PROPOSAL TO RATIFY THE AFRICAN CONTINENTAL FREE TRADE AREA AGREEMENT

FOR THE

FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

Published by the National Assembly of Zambia

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1.0 Membership of the Committee

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; Dr S C Kopulande, MP; Mr C Chali, MP; Mr E Kamondo, MP; Mr D Chisopa, 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 African Continental Free Trade Area Agreement (AfCFTA).

2.0 Functions of the Committee

Pursuant to Article 63 of the *Constitution of Zambia (Amendment) 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 the approval of the African Continental Free Trade Area Agreement.

3.0 Meetings of the Committee

The Committee held ten (10) meetings to consider the AfCFTA.

4.0 Procedure adopted by the Committee

The Committee requested written submissions from various stakeholders. The stakeholders were also requested to appear before the Committee to orally brief it on the contents of their written memoranda, and to clarify issues that arose from the presentations. The witnesses who appeared before the Committee are listed at Appendix II of this Report.

5.0 BACKGROUND TO THE AFRICAN CONTINENTAL FREE TRADE AREA AGREEMENT

During the 18th Ordinary Summit of the African Union (AU) Heads of State and Government in January 2012, a decision was made to increase intra African trade which was at around 12% at the time. During the Summit, the AU of State and Government agreed to establish Agreement establishing the AfCFTA with the aim of boosting intra African trade and establishing the African Continental Free Trade by an indicative date of December, 2017.

The Framework Agreement establishing the African Continental Free Trade Area was opened up for signature on 21st March, 2018 in Kigali, Rwanda. As at January 2021, fifty-four (54) out of the fifty-five (55) AU Member States had signed the Agreement. Zambia signed the AfCFTA Framework Agreement on 10th February 2019 in Addis Ababa, Ethiopia. Eritrea

was the only country that had not yet signed the AfCFTA. Further, Angola, Burkina Faso; Chad; Congo Republic; Côte d'Ivoire; Djibouti; Egypt; Eswatini; Equatorial Guinea; Ethiopia; Gabon; The Gambia; Ghana; Guinea; Kenya; Mali; Mauritania; Mauritius; Namibia; Niger; Rwanda; Saharawi Republic; São Tomé & Príncipe; Senegal; Sierra Leone; South Africa; Togo; Uganda; and Zimbabwe had ratified the Agreement:.

There were a number of Regional Economic Communities (RECs) on the continent and the AU officially recognised eight RECs as building blocs of the AfCFTA. These were the Arab Maghreb Union (AMU), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Community of Sahel Saharan States (CEN-SAD), Common Market for Eastern and Southern Africa (COMESA), Intergovernmental Authority on Development (IGAD), and the Southern African Development Community (SADC). The establishment of many RECs has resulted in overlapping and sometimes incompatible preferential trade regimes and the AfCFTA was intended to harmonise the different trading arrangements.

The AfCFTA brought together fifty-five (55) countries with a population of over 1.2 billion people with a combined Gross Domestic Product (GDP) of around US$2.5 trillion.

6.0 OBJECTIVES OF THE AGREEMENT

The main objective of the AfCFTA Agreement was to create a continental market for goods and services, with free movement of people and capital; and to pave way for creating a customs union. It was also expected to facilitate the growth of intra African trade through better harmonisation and coordination of trade liberalisation across the continent.

6.1 General Objectives

Article 3 of the Agreement outlined the general objectives as follows:

i) create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of "An integrated, prosperous and peaceful Africa" enshrined in Agenda 2063;

ii) create a liberalised market for goods and services through successive rounds of negotiations;

iii) contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs;

iv) lay the foundation for the establishment of a Continental Customs Union at a later stage;

v) promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties;

vi) enhance the competitiveness of the economies of State Parties within the continent and the global market;

vii) promote industrial development through diversification and regional value chain development, agricultural development and food security; and

viii) resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.

6.2 Specific Objectives

Article 4 of the Agreement outlined the specific objective as follows:

i) progressively eliminate tariffs and non-tariff barriers to trade in goods;

ii) progressively liberalise trade in services;

iii) cooperate on investment, intellectual property rights and competition policy;

iv) cooperate on all trade-related areas;

v) cooperate on customs matters and the implementation of trade facilitation measures;

vi) establish a mechanism for the settlement of disputes concerning their rights and obligations; and

vii) establish and maintain an institutional framework for the implementation and administration of the AfCFTA.

7.0 KEY PROVISIONS OF THE AGREEMENT

The Committee noted the salient features of the AfCFTA Agreement as set out below.

Composition of the Agreement
The Agreement required Member States to progressively eliminate tariffs and non-tariff barriers to trade in goods, liberalise trade in services and cooperate in customs matters among other things. It provided for a dispute settlement mechanism and the establishment of an institutional framework for the implementation and administration of the AfCFTA. The Agreement also comprised Protocols, Annexes and Appendices which were all to be read as one document.

How to Become a Party
According to Article 22, the Agreement was to be signed by Member States and ratified by these States in accordance with their respective constitutional procedures. Further, according to Article 23, the Agreement and its Protocols would enter into force thirty (30) days after the twenty second (22nd) country ratifies it. Further, where a State Party acceded to the Agreement, the Protocols would enter into force on the date that a particular State Party deposited its instrument of accession.

Reservations
The Agreement had no reservations.

Denunciation/Withdrawal
Article 27 provided an exit clause where State Parties were free to withdraw from the Agreement when they were no longer comfortable. A State Party could withdraw from the Agreement five years from the date it either ratified or acceded to the Agreement. The withdrawal had to be done by giving twelve (12) months' written notice of the State's intention to withdraw. The withdrawal would not, however, affect the State Party's pending rights and obligations prior to the withdrawal.

Part II – Establishment, Objectives, Principles and Scope
This Part provided for, *inter alia,* the general and specific objectives of the Agreement; the Principles, Scope and the status of the Protocols; and Annexes and Appendices.

Article 2 – Establishment of the African Continental Free Trade Area
This Article established the African Continental Free Trade Area.

Articles 3 and 4 – General and Specific Objectives
These Articles outlined the objectives of the Agreement as espoused above. Article 3 set out the general objectives, while Article 4 set out the specific objectives, outlining the avenues through which the general objectives will be achieved.

Articles 5 – Principles
This Article provided for all the principles that would govern the Agreement once it came into force. The principles outlined were aimed at levelling the playing field so that Member States could trade with ease amongst themselves.

Article 6- Scope
This Article provided for the scope of the Agreement, that is, the extent of its coverage. The Agreement covered trade in goods, services, investment, intellectual property and competition policy.

Article 7 – Phase II Negotiations
This Article provided for negotiations in the areas of intellectual property rights, investment and competition policy. In pursuance of the objectives of the AfCFTA, the Phase II negotiations would only commence after the adoption of the Agreement.

Article 8 – Status of Protocols, Annexes and Appendices
This Article provided for the status of the documents accompanying the Agreement. The status of the protocols and other documents was that, upon adoption, they would form an integral part of the Agreement, that is, they would be read as one document. In terms of Article 8(2), nothing was agreed until everything was agreed. That is to say, once the various protocols, annexes entered into force, it would be taken that State Parties agreed to be bound by all their provisions, as one undertaking.

Part III – Administration and Organisation
This Part provided for the institutional framework that would ensure implementation, administration, monitoring and evaluation of the Agreement. The institutional framework comprised of the Assembly, the Council of Ministers, the Committee of Senior Trade Officials and the Secretariat. Hierarchically, the Assembly was the highest decision-making organ. It was tasked with the responsibility of providing oversight and strategic guidance on the Agreement.

Article 11 – The Composition and Functions of the Council of Ministers
This Article provided for the composition and functions of the Council of Ministers. One of the functions of the Council was to ensure effective implementation and enforcement of the Agreement. The decisions made by the Council of Ministers would be binding on State Parties.

Article 12 – Committee of Senior Trade Officials
This Article provided that the Committee of Senior Trade Officials which would consist of permanent secretaries or other officials designated by each State Party. One of the key responsibilities of the Committee would be to implement the decisions of the Council of Ministers. The eight (8) RECs would be part of the Committee in an advisory capacity.

Article 15 – Waiver of Obligations
This Article provided that the Council of Ministers could waive a State Party's obligation under the Agreement, in exceptional circumstances. The exceptional circumstance had to be one that would affect the implementation of the obligation.

Part IV – Transparency
This Part provided for publication and notification of any laws, regulations, procedures and administrative rulings of general application, to other State Parties. The requirement to notify other State Parties of any laws and so on would afford State Parties that desired to engage in trade with each other a opportunity to acquaint themselves with the trade rules and regulations in advance.

Further, Article 16 (2) provided an exception to the rule on publication. The Article provided that State Parties should withhold information relating to confidential information which would impede law enforcement or be contrary to public interest. This was a safeguard measure that would be helpful to State Parties as they engaged in trade with other states.

Part V – Continental Preferences
This Part provided for the preferences that countries may accord to one another that are no less favourable than those accorded to Third Parties. The preferences envisaged could not only be accorded on a reciprocal basis. Additionally, they needed to take into account the levels of development of State Parties.

The Part further provided for instances where conflicts or inconsistencies were encountered between the AfCFTA and other regional agreements. In terms of Article 19, the provisions of the AfCFTA should prevail to the extent of the inconsistency. This illustrated the fact that in terms of hierarchy, the AfCFTA ranked higher than regional agreements. The exception to the foregoing general rule was that, where State Parties were members of RECs or had other trading arrangements which had attained higher regional integration, those arrangements would subsist.

Part VI – Settlement
This Part provided for the establishment of a dispute settlement mechanism to be administered in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Part VII – Final Provisions
This Part provided for, *inter alia*, adoption; signature; ratification and accession; when the Agreement and the Protocols would enter into force; withdrawal from the Agreement; and

how to effect amendments to the Agreement. The Part also provided for the working languages.

7.1 ADDITIONAL PROTOCOLS

The AfCFTA Agreement was supplemented by three (3) Protocols which were still being negotiated. The Agreement and the Protocols were to be taken as a single undertaking and in terms of Article 8 (2) of the Agreement, once negotiations were concluded, the Protocols would be deemed to have been agreed to by State Parties.

7.1.1 PROTOCOL ON TRADE IN GOODS

This Protocol supplemented the AfCFTA with regard to trade in goods and aimed to reduce the cost of doing business thereby boosting intra-African trade. This would be done by progressively eliminating trade barriers and harmonising trade liberalisation. Some of the key provisions are discussed below.

Part II – Non-Discrimination

This Part provided for the principles which State Parties should apply as they traded amongst themselves. It amplified Articles 5 and 18 of the Agreement.

Article 4 – Most-Favoured-Nation Treatment

The Most-Favoured-Nation Treatment (MFN) was an entrenched principle of the World Trade Organisation (WTO) which ensured that all Member States to an agreement were treated equally. The Article allowed Member States to maintain and enter into preferential trade agreements with third countries, that is, those that were not party to the AfCFTA. However, in line with this principle, the same concessions offered to the third party must be extended to Member States on a reciprocal basis.

Article 8 – National Treatment

This principle prohibited discrimination between similar imported products 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.

Part III - Liberalisation of Trade

This Part (Articles 7 to 13) provide for the elimination and non-imposition of new duties with regard to import duties, non-tariff barriers and quantitative restrictions. Member States were required to eliminate trade restrictions.

Article 13 – Rules of Origin

This Article provided for preferential treatment for goods that originated in any of the State Parties. This meant that concessions such as reduction of tariffs would be made with regard to goods coming from these countries. Goods that did not adhere to the rules of origin in the Zambian context would be subjected to the duty rates provided for under the *Customs and Excise Act, Chapter 322 of the Laws of Zambia.*

Part IV – Customs Cooperation, Trade Facilitation and Transit

This Part provided for measures that would facilitate trade between or amongst State Parties by simplifying and harmonising international trade procedures, for easier passage of goods.

Article 14 – Customs Cooperation and Mutual Administrative Assistance
This Article provided for the standardisation of customs documents and information, reducing the cost of processing documents and adopting common standards of trade procedures.

Article 15 – Trade Facilitation
In terms of this Article, State Parties pledged to take measures aimed at facilitating easier movement of goods between Member States. State Parties would implement these measures by eliminating or relaxing laws or rules which usually made it difficult for countries to trade with one another.

Part V – Trade Remedies
The term trade remedies refers to the measures that governments could put in place to curb certain types of abuses. This Part, therefore, related to all measures that State Parties were permitted to effect in order to protect domestic trade.

Articles 17 – Anti-dumping and Countervailing Measures
This measure could be invoked where it was proven that goods were being sold at a price lower than what was quoted in the market of origin or where it was proven that goods had been subsidised in the country of origin.

Part VI – Product Standards and Regulations
This Part, under Article 21, provided for the removal of or relaxation of laws, standards or procedures that made trade in goods difficult. It also dealt with implementing measures aimed at protecting humans, animals and plants from diseases pests and contamination under Article 22.

Part VII – Complementary Policies
Article 23 proposed the establishment of special economic zones.

Article 24 – Infant Industries
This Article provided for newly established industries that lacked the experience and size to compete effectively against more established competitors. In this regard, State Parties could impose measures to protect such industries. Such measures would be applied on a non-discriminatory basis and for a specified period of time.

Part VIII – Exceptions
This Part provided for all exceptions. For example, Article 27 permitted State Parties to withhold information related to its security.

7.1.2 PROTOCOL ON TRADE IN SERVICES
Trade in services referred to the sale and delivery of an intangible product, called a service, between a producer and consumer. This type of transaction usually took place between different countries. Some common examples of trade in services included the provision of telecommunication services, tourism services, transport services and legal services.

There were typically four (4) modes of supply of a service as illustrated in Article 1 (p) of the Protocol on Trade in Services, that is, from the territory of one State Party into the territory of any other State Party; in the territory of one State Party to the service consumer of any other State Party; by a service supplier of one State Party, through commercial presence in the

territory of any other State Party; and by a service supplier of one State Party, through presence of natural persons of a State Party in the territory of any other State Party.

Part II– Scope of Application
This Part provided that the Protocol applied to measures by State Parties affecting trade in services.

Article 2 - Scope of Application
This Article outlined measures to which the Protocol would apply; the manner in which they would apply; and also exceptions. The Protocol applied to measures affecting aircraft repair and maintenance services; selling and marketing of air transport services; and Computer Reservation System (CRS) services.

The Protocol also applied to measures affecting trade in services taken by central, regional or local governments and authorities as well as by non-governmental bodies in the exercise of powers delegated by the above-named institutions. The Protocol also implored each State Party to take reasonable and available measures to ensure the observance by regional and local governments and authorities; and non-governmental bodies within its territory.

Article 2 (3) defined two terms namely, 'services' and 'service supplied in the exercise of governmental authority'. The definition of 'servicé' was similar to that in the WTO General Agreement on Trade in Services (GATS).

Part III- Objectives
Part III set out the objectives of the Protocol. The Protocol was principally aimed at supporting the objectives of the AfCFTA and in particular to create a single liberalised market for trade in services.

Part IV – General Obligations and Disciplines
This part of the Protocol (Articles 4 to 13) stipulated the general obligations to promote intra-African trade in services. It also provided for safeguard measures and exceptions. It dealt with a wide range of matters which included MFN treatment; right to regulate; domestic regulation; mutual recognition; transparency; effective and transparent regulation; general exceptions; subsidies; and monopolies and exclusive service suppliers.

Article 4 - Most Favoured Nation Treatment
By the MFN principle, a country undertook to treat all State Parties the same according to the best treatment it accords any of them. The Article also allowed member States to negotiate and conclude other preferential agreements on trade in services with other members or with third parties provided that the countries negotiating such agreements allow other states to negotiate the preferences that would be granted in such agreements on a reciprocal basis. This should however be done in a manner that did not frustrate the objectives of the Protocol. Negotiating States needed to afford reasonable opportunity to other members to negotiate such preferences granted on a reciprocal basis.

Article 8 - Right to Regulate
This Article allowed a State Party to regulate its service industry taking into account its own unique circumstances and level of development provided that such regulations did not impair any rights and obligations under the Protocol.

Article 10- Mutual Recognition
Article 10 provided for mutual recognition agreements (MRAs) which were aimed at facilitating the authorisation, licensing or certification of professional practices based on qualifications obtained in another country. The objective of MRAs was to ensure that professional licences and certificates given by one jurisdiction were considered to be valid in the other jurisdiction and thus provide a proof of professional qualifications and experience in the particular field, in line with the requirements of the issuing jurisdiction. This was a progressive provision as it would afford Zambian professionals an opportunity to offer their professional services to other member states without being required to undergo further assessment. MRAs recognised the efforts or measures of other states in regulating trade in services.

Article 15 - General Exceptions
This Article provided for exceptions to the general commitments imposed by the Protocol. These exceptions held that each member state may adopt any measures necessary to protect and maintain public morals, protect human, animal, or plant life or health and that members may implement measures necessary to prevent fraud and protect individual privacy.

Member States could also implement measures that offered preferential treatment, in contrast with the MFN principle where all member states were to be treated the same. This could be done as long as members did not go against any double taxation agreements or provisions that they were bound by.

Part V – Progressive Liberalisation
The principle of progressive liberalisation is aimed at increasing trade and helping trade flow as freely as possible. Article 18 (3) provides that the liberalisation process shall focus on the progressive elimination of the adverse effects of measures on trade in services as a means of providing effective market access with a view to boosting intra-African trade in services.

Article 19 - Market Access
This Article restrained Member States from adopting or maintaining certain limitations relating to the provision of services.

Article 20 - National Treatment
The principle of national treatment prohibited discrimination against foreign services and service providers to the advantage of local services and service providers of like nature. All services had to be treated the same. This treatment was made subject to any conditions and specific limitations stipulated in the particular country's list of commitments. This meant that, if there was any area in which Zambia may wish to have monopoly in terms of services, this should be stipulated in its list of commitments as a limitation or condition.

Part VI - Institutional Provisions
This Part provided for institutional arrangements for the settlement of disputes; implementation, monitoring and evaluation of the Protocol; and technical assistance, capacity building and cooperation.

7.1.3 PROTOCOL ON RULES AND PROCEDURES ON THE SETTLEMENT OF DISPUTES
This Protocol applied to the settlement of disputes arising between State Parties. It amplified Article 20 of the Agreement which provided for the dispute settlement mechanism. It

provided for the establishment of panels, an appellate body, appeals, review, compensation and costs. It also provided for arbitration, the rules of interpretation and amendment.

Notably, Article 5 of the Protocol established a Dispute Settlement Body in accordance with Article 20 of the Agreement. The body would administer the provisions of the Protocol.

Article 6 – Procedures under the Dispute Settlement Mechanism
This Article provided that, in the first instance, State Parties had to attempt an amicable resolution of disputes. Where this was not achieved, the matter would then be referred to the Dispute Settlement Body for determination. The decisions of this body would be binding.

Article 8 – Good Offices, Conciliation and Mediation
This Article provided State Parties with the opportunity to voluntarily utilise good offices, conciliation, or mediation as dispute resolution procedures at any time to resolve a dispute.

Article 13 – Third Parties
This Article provided that the interest of all parties including third parties had to be taken into consideration during the resolution of disputes. The third party would be accorded an opportunity to be heard and to make written submissions where its claim was well founded.

8.0 SUBMISSIONS FROM STAKEHOLDERS

All but one of the stakeholders who appeared before the Committee supported the proposal to ratify the AfCFTA Agreement and stated that ratification would result in a number of additional benefits to the country especially in the medium to long term. Stakeholders stated that the AfCFTA was the main framework through which the aspirations of Agenda 2063 would be actualised. Agenda 2063 was Africa's blueprint and master plan for transforming Africa into the global powerhouse of the future. It was the continent's strategic framework that aimed to deliver on its goal for inclusive and sustainable development and was a concrete manifestation of the Pan-African drive for unity, self-determination, freedom, progress and collective prosperity pursued under the Pan-Africanism and African Renaissance Agenda.
The Committee was informed that in this regard, the benefits of Zambia ratifying the Agreement far outweighed any concerns and to this end, there was need to ratify.

Below is a summary of the submissions from stakeholders.

8.1 The Committee was informed that Zambia signed the AfCFTA Agreement on 10th February 2019 and was given Cabinet approval to ratify the Agreement on 26thOctober 2020.

8.2 The Committee was further informed that Zambia's membership to multiple RECs led to the country having multiple financial obligations. Customs officials had to cope with varying tariff reduction rates, Rules of Origin, trade documentation and statistical nomenclatures. The differences of the customs regulations of the different regional communities undermined the effectiveness of the customs officials. Hence, the AfCFTA could help correct this by harmonising the different customs requirements from the different RECs.

8.3 Stakeholders submitted that a review of Zambia's export and import data for the period 2015 to 2019 indicated that the country had exported or imported goods from fifty-three

(53) African countries. However, the trade was mostly with the COMESA and SADC blocs, which were part of the Tripartite Free Trade Area (TFTA) that Government recently ratified. Zambia already had preferential trading arrangements with twenty-five (25) countries through COMESA and SADC and traded with twenty-one (21) countries using the existing COMESA and SADC preferential trading arrangements. The African Continental Free Trade Area would, therefore, build on progress that has been achieved at regional level under the TFTA.

In this regard, Zambia's AfCFTA negotiations had been with countries that were outside the TFTA region. Using the AfCFTA Framework, there was a possibility of Zambian products being exported into the thirty-three (33) countries with which the country had no preferential trading arrangements.

8.4 The Committee was informed that Zambia had scope to expand the export of goods and services. The major products showing the greatest potential for this increase included molasses resulting from refining of sugar; unmanufactured tobacco; pebbles, gravel, broken or crushed stone; natural steatite; tanned or crust hides and skins of bovine; and ferro alloys. Others products that the country could increase exports included textiles; wooden furniture; horticultural products; household items; footwear and leather products; sugar confectionery; precious metals, refined copper and copper alloys and scrap of ferrous metals, steel and plastics; basket works and natural sculptures; essential oils and vegetable oils; dried leguminous vegetables and fruit juices; jewellery; and white and red meat.

8.5 The Committee was further informed that with an underdeveloped input industry in Zambia, importation of raw materials and intermediate inputs would play an important role in bridging this gap. The reduction or elimination of import duty on raw materials and intermediate products not available in Zambia, would enable companies to produce more diverse goods and help them make more profits. Due to the diversity in the goods demanded from different countries, local producers could take advantage of the ready market and diversify their products.

8.6 Stakeholders submitted that the Agreement entailed that there would be a reduction in cross-border trade procedures which would save time and money for manufacturers engaged in international trade. Should investment be tactically pursued, the opportunities in the market could stimulate foreign investment in Zambia through joint ventures which would also be useful for making local enterprises competitive. In addition, this would also allow for joint investments in relevant sectors such as infrastructure.

8.7 Stakeholders submitted that with a GDP of US$2.5 trillion and a population of over 1.2 billion people, the AfCFTA would be the largest Free Trade Area in the world by population. This would provide Zambian exporters with a far larger market than it enjoyed under SADC and COMESA, respectively. Furthermore, increased market access could spur demand for transport infrastructure and services, thus enhancing investment and job creation in the construction, transport and tourism sectors.

8.8 The Committee was informed that in addition to increased trade flows in both existing and new products, the AfCFTA had the potential to generate substantial economic benefits for domestic enterprises. In particular, increased competition could lead to

higher income arising from increased efficiency and productivity from improved resource allocation, higher cross-border investment flows, and technology transfers. Therefore, Zambian firms would need to quickly adapt to the prospects of increased competition as well as the new market opportunities that the AfCFTA could provide.

8.9 Stakeholders surmised that increased competition could inadvertently enhance consumer welfare through reduced prices for goods and services, and subsequently disposable incomes, as well as increase the diversity of products that would be available to meet the tastes and preferences of Zambians.

8.10 The Committee was also informed that the AfCFTA would also have a strong impact on intra-regional trade which was expected to expand by more than 80 percent. Increased intra-regional trade would add about US$60 billion to African exports and support ongoing diversification efforts that were espoused in the Seventh National Development Plan (7NDP) and the National Industrial Policy. Due to its central location in Africa with eight (8) neighbouring countries, Zambia stood to benefit from increased intra-regional trade, directly through increased investment, and indirectly through fees and costs that foreign transporters could incur in Zambia while transporting goods to other countries.

8.11 Stakeholders pointed out that as Zambia was struggling with the social and economic impacts of the COVID-19 Pandemic, as evidenced by its negative growth rate of -2.8% in 2020, the Agreement would be a very important element to galvanise post-pandemic recovery and to foster economic growth in the medium term through the creation of a larger and more integrated market, reducing uncertainty associated with trade relations, and the promotion of intra-continental trade.

The Committee was informed that COVID-19 had caused major disruptions to trade across the country and the continent, including in critical goods such as medical supplies and food. By increasing regional trade, lowering trade costs and streamlining border procedures, the full implementation of the AfCFTA would enhance the resilience of the Zambian economy in the face of future economic shocks and would help to usher-in deep reforms that are necessary to enhance long-term growth.

8.12 In addition, the decrease in prices of capital goods, owing to a reduction in trade barriers and increased competition, could steer demand, including for skilled labour. This had the potential to raise productivity and wages for both skilled and unskilled labour and consequently enhance Government efforts aimed at building equality by empowering women. This would be attributed to high demand for labour labour intensive sectors like agriculture and manufacturing in many countries.

8.13 Stakeholders stated that the AfCFTA would complement existing sub regional economic communities and trade agreements in Africa by offering a continent-wide regulatory framework and by regulating policy areas— such as investment and intellectual property rights protection that so far had not been covered in most sub regional agreements in Africa.

8.14 The Committee was informed that with the anticipated increase in the trade of higher value manufactured goods, Zambia was poised to benefit through the reduced dependency on extractive commodities, particularly minerals that were prone to price

volatilities. Using the AfCFTA, the country could pivot away from extractive exports and move towards securing more sustainable and inclusive trade that was less dependent on the fluctuations of commodity prices.

8.15 The Committee was informed that ultimately, the ratification of the AfCFTA would also demonstrate Zambia's commitment to the larger continental integration agenda and enhance its bilateral partnerships with other member states, in line with the aspirations of the Pan-Africanist Movement.

9.0 SUMMARY OF CONCERNS RAISED BY STAKEHOLDERS

While supporting the proposal to ratify the AfCFTA, stakeholders raised a number of concerns and expressed hope that the Government would attend to these as it ratified the Agreement. A synopsis of these concerns is outlined below.

9.1 Stakeholders lamented that Zambia's weak productive and export capacity limited the country's ability to withstand the fierce competition posed by more industrialised countries such as South Africa, Egypt and Nigeria. Notably, Zambia's industrial capacity, though from a low base value, had been improving steadily over the years. While this growth is commendable, the country still lagged behind countries such as Egypt, South Africa and Nigeria that were projected to gain the biggest increase in the value of exports to other African countries under the AfCFTA. Thus, an important risk for Zambia is that countries with stronger productive capacities were likely to gain the most from the AfCFTA.

9.2 In addition to weak productive capacities, Zambia was further constrained by low labour productivity particularly in agriculture and service activities which may render the country less competitive in the AfCFTA. Since productivity drove income growth, Zambia's low productivity limited wage growth and perpetuated poverty. The country's labour engaged in agricultural activities was the least productive compared to what was produced by each worker in stronger economies such as Egypt, South Africa and Algeria. This low labour productivity highlighted the long-standing challenges in the agriculture sector namely low mechanisation and modernisation, inadequate irrigation systems, limited diversification, inadequate extension services and skills amongst others.

9.3 The Committee was informed that beyond tariff considerations, cumbersome documentation and border procedures increased trade costs thereby rendering Zambian firms uncompetitive in regional markets. For these reasons, tackling non-tariff barriers and implementing trade facilitation measures were key aspects of the AfCFTA Agreement that were imperative for maximising the benefits of the continental free trade area. Zambian firms faced considerable red tape when it comes to trade. According to the World Bank's Ease of Doing Business –'Trading across Borders' indicator which recorded the time and cost associated with the process of exporting and importing goods, Zambia ranked 155 out of 190 economies in 2020.

9.4 The liberalisation of trade entailed the progressive elimination of tariffs and thus a loss in tax revenues for governments. The Committee was informed that for Zambia in particular, the revenue loss was mainly mitigated by the fact that a very small proportion of tariff revenues was derived from imports from African countries that were not already part of SADC or COMESA. Having already eliminated tariffs in

SADC and COMESA, Zambia's major source markets for imports, little impact was expected on tariff and overall tax revenues.

9.5 The Committee was informed that there was a possibility that local industries would face unfettered intense competition from imported products, which could result in business closures and job losses. To avert this, it wiould be important to have regulations that protected the domestic industries but within the confines of the AfCTA rules.

9.6 Stakeholders submitted that considering that the RECs were building blocks for the AfCFTA, in the initial stage, it was envisaged that Zambia's overlapping membership to these RECs would most likely increase the cost of trading. This will be as a result of the application of different rules of origin, trading standards and cross-border procedures before harmonisation with the AfCFTA broader regulations. There were also multiple administrative procedures associated with information availability, fees and user charges. These Non-Tariff Barriers (NTBs) had a tariff equivalent effect to intra-Africa trade, making trading costly.

9.7 The Committee was informed that the reduction in trade barriers stemming from the AfCFTA could affect tax revenues in the short term through three main channels, namely: a direct reduction in tax revenue from the removal of tariffs on Intra-Continental imports; trade diversion from efficient exporters to less efficient exporting countries owing to lower tariffs; and higher consumption, because of increased imports and income, would also raise revenue.

9.8 Stakeholders expressed concern that Zambian enterprises may not be ready for exposure to foreign competition since 88.7% of Micro, Small and Medium Enterprises (MSMEs) were in the informal sector and accounted for large share of the country's total employment, contributing 70% to GDP.

9.9 Stakeholders pointed out that Zambia's geographical position did not allow direct access to the seaport because different transport routes had to utilise entrance into other countries before reaching the export-destination country. The challenges were twofold. Firstly, transport infrastructure within and outside Zambia was still underdeveloped, thereby delaying transportation of commodities and risking damage of perishable goods. Secondly, transit procedures were still complicating the ability to engage in international trade.

9.10 The Committee was informed that Zambia traded with different countries that required that goods were certified with a quality mark. Unavailability of certain testing facilities in our national quality infrastructure posed challenges for some companies in accessing export markets. Zambia needed to invest more in the national quality infrastructure to eliminate such bottlenecks.

9.11 Stakeholders submitted that much as trade had important benefits, it could also harm domestic industries if there was a surge in imports that competed directly with local products. There was need to ensure that safeguard measures were adequate to protect local products.

Further, revenue sensitive products had been placed on exclusion lists to guard against significant revenue losses. Over the medium-term, import tariff revenues were expected to increase as trade volumes increased. The growth in overall taxes would also be reinforced by economic growth and the expansion in economic activities.

10.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Following the interactions with stakeholders, the Committee makes its observations and recommendations as outlined below.

The Committee notes from the outset that the African Continental Free Trade Area is a renewed opportunity to steer Africa's economic relations away from a reliance on external donors, foreign creditors and excessive commodity dependence, ushering in instead a new economic and political era focused on self-reliant cooperation, deeper integration and higher levels of intra African trade. The AfCFTA Agreement can boost African economies by harmonising trade liberalisation at the continental level; promote economic diversification and intra-African trade; and foster a more competitive manufacturing sector. The consolidation of the continent into one trade area provides great opportunities for Zambia's trading enterprises, businesses and consumers.

More importantly, Zambia is expected to benefit from the creation of the AfCFTA through increased foreign direct investment and access to a broader range of expertise. This, however, will largely depend on Zambia's continued efforts to make her investment climate conducive in comparison to other countries in Africa.

The Committee further observes the following:

1. *New Markets*: The AfCFTA will allow access to a bigger market community that will help the local businesses to expand both their structures and capacity in order to meet the market demand thereby resulting in job creation.

2. *Trade facilitation*: The trade agreements will facilitate trade for member countries by eliminating some trade barriers and restrictive practices that some countries previously had. This will make it easy for local businesses to import and export goods and services to other players in member countries and it is expected that this will continue under the AfCFTA.

3. *Revenue Base*: As more businesses and individuals enter the Zambian market, the revenue base will increase and thereby enable the collection of more revenue.

4. *Access to foreign goods and services*: The trade agreements will make it easy for local consumers and producers to have access to foreign goods and services thereby improving their standards of living and business profiles respectively.

5. *Quality of Products*: Being a member to these agreements will provide market exposure to domestic industries, which will enable local businesses to learn from the bigger market community. With the coming of AfCFTA, the local businesses may learn from their peers on the latest innovations, trends and practices, which will improve the quality of goods and services they offer both domestically and internationally.

6. *Competition*: Being a member to the trade agreements brings about competition among players dealing in homogenous products and goods thereby leading to a competitive price in the market. This competition will be healthy in the economy for it will bring about new innovations in the production of goods and services and consequently improve market and economic conditions.

7. *Accelerated Growth of the Tourism Sector*: The increased investments in product development and marketing, coupled with appropriate business-friendly reforms can also present an ideal opportunity for Zambia to attract more international tourists beyond the traditional markets in the region.

8. *Development of Tourism Infrastructure:* With the likely increased contribution of the sector to the development of the economy, Zambia will be encouraged to develop supportive infrastructure such as roads, airports, electricity supply, communication and other tourism amenities to improve competiveness to attract and harness the increased movement and presence of individuals in the country.

9. *Benefits to the Agriculture*: One of the key areas the country has continued to foster such partnerships and enhance competitiveness is the agriculture sector. With the AfCFTA ratification, Zambia will have the opportunity to trade in seed and other commodities beyond COMESA and SADC thus strengthen the domestic and regional agricultural value chain.

The Committee, however, observes a number of concerns as outlined hereunder.

1. A major potential challenge in harmonising Africa's heterogeneous economies under one agreement is the wide variation that exists in their levels of development. For example, over 50% of Africa's cumulative GDP is contributed by Egypt, Nigeria and South Africa.

2. Zambian manufacturers continue to experience several challenges to free trade on account of non tariff barriers 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, permits, among others, continue to hamper trade facilitation within the RECs. As a union of all existing REC's, the AfCFTA will require to go beyond the reporting and monitoring mechanisms and ensure practical measures to remedy and eliminate the usage of non tariff barriers by trading partner states to enforce the free flow of trade.

3. There is a possibility that local industries will face unfettered intense competition from imported products, which may result in business closures and job losses.

4. Although the AfCFTA Agreement has entered into force, there are critical elements of the Agreement that require finalisation in order for the Agreement to become fully operational. For example, the Trade in Goods component requires a schedule of tariff liberalisation by each country and a set of Rules of Origin for the products to be traded.

Notwithstanding the aforementioned, the implementation of the AfCFTA can also result in short-term revenue losses, potentially higher income inequality and transitional

unemployment, and increase the risk of unfair trade practices such as dumping. In order to fully exploit the potential benefits of the AfCFTA, there are a number of structural and fundamental issues inhibiting Zambia's effective participation in trade that need to be addressed. In this regard, the Committee recommends that the following measures be put in place.

1. Build productive capacities through investments in education, skills, research and development, technology and the provision of affordable finance.

2. Provide an enabling business and macroeconomic environment by addressing infrastructure constraints, ensuring policy consistency, streamlining trade documentation and border procedures; dismantling arrears owed to domestic suppliers of goods and services, ensuring financial and exchange rate stability.

3. To avert possible local industry closure, it will be important to have regulations that protect the domestic industries but within the confines of the AfCTA rules.

4. Strategically exclude revenue sensitive products and protect products with the most potential for improving productive capacities, boosting exports and employment creation in line with the provisions under the AfCFTA. These industries should also be supported financially and technically.

5. Zambia's capacity to apply safeguard measures should be strengthened in order to mitigate losses that may arise in the process of implementing the agreements through unfair trade practices that other countries may engage in. The Government should strengthen the institutional capacity in the Ministry of Commerce, Trade and Industry to deal with safeguards and trade remedies.

6. The Government should strengthen the regulatory monitoring framework for institutions like the Zambia Bureau of Standards, the Zambia Compulsory Standards, Competition and Consumer Protection Commission in order to ensure protection of consumers against sub-standard goods and services.

7. Zambia should take advantage of its geographical central position especially in the region by improving its transportation sector and other ancillary services to earn more revenue.

8. Zambia should encourage local producers to add value to the goods and services before exportation by providing incentives to them such as the fiscal incentives under the local content initiative.

9. The country should build capacity of underdeveloped but strategic industries in order to protect their domestic market share and enable them compete favourably in the export market.

10. Rules of Origin should be made simple and business friendly for the gains expected from the AfCFTA to be realised. Rules of Origin criteria needed to determine the nationality of a product can make or break the AfCFTA that can be a game changer for the continent as long as they are simple, transparent, business friendly and predictable.

The Committee is of the view that the AfCFTA presents both opportunities and challenges. It has the potential to significantly increase income, employment and wages; provide the initial impetus for post-COVID pandemic recovery; spur investment and trade in all sectors of the economy; and reduce uncertainties associated with trade relations and rules, among others. In this regard, the Committee is of the view that the medium to long term benefits of the AfCFTA far outweigh the possible short term adverse effects on economic growth and development and recommends that the House supports its ratification.

11.0 CONCLUSION

The Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions; and to thank you, Mr Speaker, for affording it an opportunity to scrutinise the Agreement. The Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly.

We have the Honour to be, Sir, the Committee on National Economy, Trade and Labour Matters mandated to consider the Executive's proposal for Zambia to ratify the African Continental Free Trade Area Agreement for the Fifth Session of the Twelfth National Assembly.

Dr S Musokotwane, MP
(Chairperson)

Ms M Miti, MP
(Vice Chairperson)

Mr G G Nkombo, MP
(Member)

Mr D Livune, MP
(Member)

Mr E M Mwila, MP
(Member)

Dr S C Kopulande, MP
(Member)

Mr C Chali, MP
(Member)

Mr E Kamondo, MP
(Member)

Mr D Chisopa, MP
(Member)

Mr M Mubika, MP
(Member)

February, 2021
LUSAKA

APPENDIX I - National Assembly Officers

Ms C Musonda, Principal Clerk of Committees
Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)
Mr H Mulenga, Deputy Principal Clerk of Committees (FC)
Mrs C K Mumba, Senior Committee Clerk (FC)
Mrs D C Mukwanka, Committee Clerk
Ms I Mwiya, Typist
Mrs G Chikwenya, Typist
Mr Daniel Lupiya, Committee Assistant
Mr M Chikome, Committee Assistant

APPENDIX II – The Witnesses

Minister of Commerce, Trade and Industry
Ministry of Commerce, Trade and Industry
Ministry of Finance
Ministry of Tourism and Arts
Ministry of Foreign Affairs
Ministry of Agriculture
Common Market for Eastern and Southern Africa
Bank of Zambia
Zambia Revenue Authority
Zambia Institute for Policy Analysis and Research
Zambia Chamber of Commerce and Industry
Zambia Development Agency
Zambia Information and Communications Technology Authority
Centre for Trade Policy and Development
Southern Africa Cross Border Traders Association
Bankers Association of Zambia
National Economic Advisory Council
Zambia Customs and Forwarding Agents Association
Indaba Agriculture Policy Research Institute
Mr Mark Pearson, Consultant