



**Professional Services in Regional Markets:
Private Sector Challenges in the Liberalization of
Accounting, Engineering and Legal Services in COMESA**

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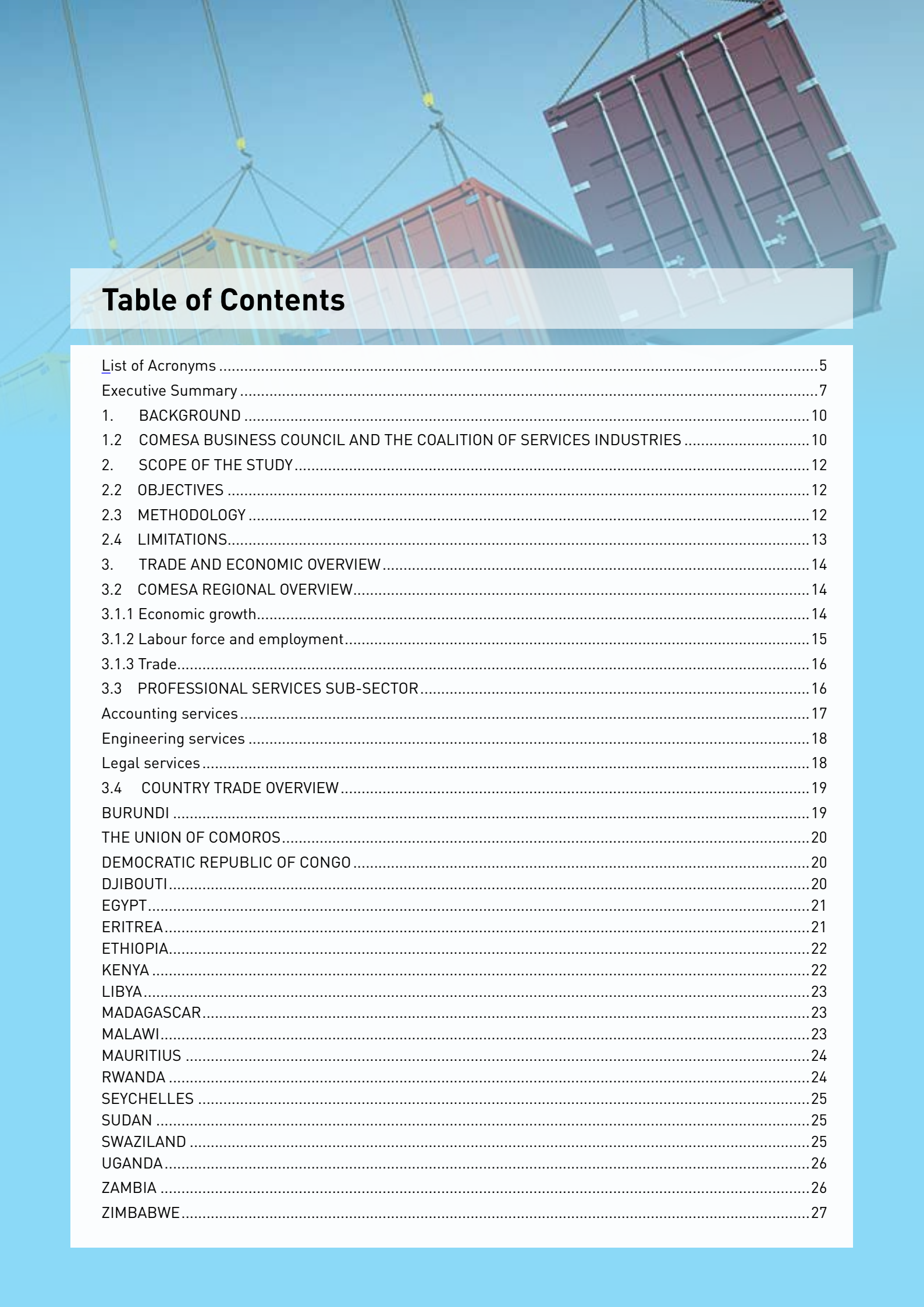


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List of Acronyms

ASEAN	Association of Southeast Asian Nations
BBC	British Broadcasting Corporation
CBC	COMESA Business Council
COMESA	Common Market for Eastern and Southern Africa
EAC	East African Community
EU	European Union
ECOWAS	Economic Community of West African States
GDP	Gross Domestic Product
MRA	Mutual Recognition Agreement
ITC	International Trade Centre
OECD	Organization of Economic Co-operation for Development
REC	Regional Economic Community
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organization

Acknowledgements

This CBC report was developed in 2017 as part of CBC's activities to promote the engagement of the services industries within COMESA as part of the Coalition of Services Industries and to promote services trade in the region. It focusses on Business Services- Professional services; legal, engineering and financial sectors.

The information used was obtained from various sources, including relevant regional reports, COMESA Member states' policy and regulatory documents and instruments, as well as relevant international reports and legal instruments. In addition, interviews were carried out with key stakeholders from various private sector associations companies and government stakeholders within the COMESA region. These stakeholders are thanked for their time and valuable insights which enabled a more meaningful analysis.

The Report was prepared by CBC Consultant- Dr. Max Wengawenga.

Abstract

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The COMESA Business Council (CBC) is a Business Member Organization and recognized private sector institution of the Common Market of Eastern and Southern Africa (COMESA).
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Executive Summary

Professional services play a catalyst role in economic development of any nation. Empirical studies have demonstrated that usage of professional services is associated with higher labour productivity. It is also generally agreed that trade in professional services is probably the most resilient to economic shocks. The relevance of professional services to the COMESA region remains substantial and continues to grow.

COMESA Member States agreed that there should be an indicative list of priority sectors that includes the four sectors that are common between EAC and SADC; namely financial, communication, business and transport services. The list was extended to tourism, energy and construction and related engineering services. In May, 2010, The Second Meeting of the Committee on Trade in Services agreed to start the negotiations of schedules of commitments in the last quarter of the year, covering four priority sectors, namely, communication, transport, tourism and financial services

The second round of negotiations which focuses on the three additional priority areas of Business services, Energy services, and Construction and Related Engineering services has been initiated. The negotiations in the second round will also cover professional services, which fall under business services.

The level of trade, policies, regulations and practices for trade in professional services in the region are not well documented. In view of this, the COMESA Business Council (CBC) commissioned a study to undertake an assessment of trade in professional services in COMESA and propose key recommendations or frameworks to facilitate trade in professional services in the region, based on regional and international best practices

This will provide an informed position for the private sector as they seek to input into the ongoing negotiations that will shape the liberalization of services sectors in the COMESA region. Therefore, the study which was a combination of desk and field work, aimed at:

- Identifying the level of development of professional services in the COMESA countries
- Reviewing the level of liberalization of trade in professional services in the COMESA countries
- Identifying main technical and policy challenges of implementation of the liberalization of trade in professional services.
- Identifying opportunities for increased trade in professional services.
- Identifying the necessary reforms to be undertaken to facilitate growth and trade in professional services in the region.
- Proposing key policy or regulatory frameworks or interventions to facilitate increased trade in professional services in COMESA.

The following are the key findings of the study;

- The potential of trade in professional services in the COMESA region is not yet fully tapped. The players are still very few and there is a huge demand for professional services.

- Progressive liberalization of trade in professional services is slowly happening among the COMESA countries. The EAC countries are more advanced than the rest of the COMESA countries in terms of liberalizing professional services.
- With respect to the liberalization of the sectors; the professions of accounting and engineering have become less protected. COMESA countries have allowed foreign professionals to both own and manage firms. The legal profession still faces more protection. Many restrictive regulations are still intact, especially on client representation services in court.

Liberalizing professional services has some potential benefits, which include technological transfers, economies of scale, improved welfare from increased access to better services and increased economic growth via the supportive fabric offered by the services. However, there is fear among professional associations from smaller economies that benefits of liberalization will not be shared equally. The big firms from bigger economies will be the main winners.

The major constraints to the growth and liberalization of the sector include; protectionism, regulatory heterogeneity, restrictive legal frameworks, weak political will, skill shortages, restrictive migratory policies, unreliable statistics, limited involvement in the liberalization process, fear of revenue loss, fragmentation of service providers, poor negotiation skills, limited awareness of the processes and exclusion of services in national trade policies.

To achieve a progressive liberalization of trade in professional services, decision makers in the COMESA region are encouraged to consider the following:

- **There should be reforms;** One of the key reforms is on regulatory frameworks, including amendments to the national laws. Legal instruments in the COMESA countries were instituted way back before the processes of liberalization of trade in professional services started. Therefore, the liberalization initiatives do not have relevant legal support. These reviews need to be extended to immigration policies so that they can be in line with liberalization processes.
- **Member states should build skills capacity;** Liberalization will be more beneficial to the existing domestic firms if their capacity to compete and deliver will be enhanced. COMESA governments could support professional associations with capacity building programmes like identifying trainers or on behalf of the associations negotiate with advanced economies for some specialized trainings given under government to government cooperation and exchange programmes.
- **Involve the professional bodies;** The liberalization process for the COMESA Trade in Services has to be inclusive and fully consultative for it to be implemented successfully. Therefore, all key stakeholders need to be taken on board, including the private sector and professional bodies.

Executive Summary continues...

- **Implement Mutual Recognition Agreements;** One of the key lessons from EAC, EU and ASEAN is the use of Mutual Recognition Agreement (MRA) for trade in professional services. These, need to be government led and coordinated at a regional level to attain a legal status.
- **Establish Regional Coalition of Professional Services;** COMESA Business Council is well placed and was already mandated by the COMESA Council of Ministers to establish a Regional Coalition of Professional Services to assist the professional bodies have a platform for engagement within the trade in services negotiations and regional services development.
- **Establish a Regional Education Body;** This education body will help harmonize academic standards among Member states. It will also allow continuous monitoring of academic standards to sustain the MRAs.
- **Liberalize sectors progressively;** Liberalizing all sectors at once will be overwhelming to the Member states. The process needs to be consultative and is associated with several domestic policy reviews. So, it is beneficial to start with a few sectors and move to the next one. COMESA being a 19 member group, bilateral agreements would be a better way to move faster with the liberalization. Then the circle could grow. It is easier to start with neighbours because there might already be high levels of informal trade and more knowledge about each other. It would also help to start with a sector that both countries find beneficial so that there is enough motivation to liberalize.
- **Invest in Information and Communication Technology;** Use of ICT in professional services is a must. It speeds up businesses, expands market and lower costs, among other benefits. Therefore, expansion of trade in professional services needs to be complimented with investment in ICT.

1. BACKGROUND

Trade in services is an increasingly important part of the trade both at a global and regional level. The services sector accounts for a substantial share of domestic output, typically around 50 per cent of GDP, even outpacing the traditional manufacturing and agriculture sectors, for most COMESA Member countries. Trade in services offers enormous opportunities for COMESA countries: to diversify their exports, pursue new opportunities for dynamic growth, increase investment and; promote efficiency and widen access to services in the domestic economy.

The framework for trade in services in COMESA is governed by the COMESA Treaty. In particular, Article 3(b), as read with Article 4(4) (c), provides for the removal of obstacles to the free movement of services within the Common Market. Furthermore, Article 164 of the Treaty, among other things, provides for the free movement of services, and, Articles 148, 151 and 152 provide a mandate for work to be done in the liberalization of trade in services.

COMESA Member states completed the first round of negotiations for trade in services liberalization in four priority sectors namely, communications, financial (insurance and banking), tourism and transport. The second round of negotiations focuses on the three additional priority areas of business services, Energy services, and Construction and Related Engineering services.

The negotiations in the second round will also cover professional services, which fall under business services. Trade in professional services is often aligned with the negotiations on the movement of persons and at the same time negotiated under Trade in Services. This has often resulted in lack of clarity and reluctance by Member states on liberalization of professional services. Therefore, the COMESA Business Council (CBC) commissioned a study to have a

better understanding of existing practices for trade in professional services in the region, juxtaposed to other Regional Economic Communities and Bilateral Country practices. There was also a need to assess various challenges for professional service providers and ensure that they are part of the ongoing negotiations on the schedules of specific commitments that will shape the liberalization of services sectors in the COMESA region. This study will form the basis of the position paper which shall be used for advocacy at various COMESA policy organs and the Trade in Services negotiations on Business services.

1.2 COMESA BUSINESS COUNCIL AND THE COALITION OF SERVICES INDUSTRIES

The COMESA Business Council (CBC) is a business member organization bringing together a diverse group of businesses and Associations in the region, and is the recognized regional apex body of the Private Sector and Business Community in the COMESA region. By engaging and interfacing with the policy makers, CBC provides the key role of a key platform for advocacy in the development, progress of the private sector through providing a platform for the inclusion of the private sector as part of the regional integration agenda. Beyond business advocacy CBC also provides various platforms through unique business model that is anchored on the pillars of Business and Policy advocacy, Business Intelligence and Development Services and Membership development.

Within the services agenda, the 2010 COMESA Council of Ministers directed that the COMESA Regional Services Coalition should be established under the COMESA Business Council. Further to this, CBC has been working towards strengthening and expanding regional level business cooperation and advocacy chiefly through CBC working groups or coalitions in Financial Services and Tourism,

Transport and Telecommunications, and Business services workgroups. The intention is the development of regional groupings or Sectoral clusters through engaging the leading national associations and companies, and the Sectoral clusters to form part of the regional coalition of services industries.

The study is within the mandate and CBC's goal to influence policy and engage the Member States in the negotiations for the COMESA Trade in Services to ensure business friendly schedules. The engagement and participation of the private sector in trade negotiations from national to regional level within the Trade in Services committee is still limited. The CBC, as the voice of the private sector in policy making in the region seeks to work with existing membership at the national level, to ensure the establishment and inclusion of the services industry within the ongoing negotiations.

Furthermore, CBC seeks to create a dedicated platform for engagement of the professional services Associations within the COMESA Business Council, that benefits from Advocacy, business services (partnerships and linkages, trade information and market analysis) and Membership development (productive and technical capacity building). This will in turn promote the development of the sector and intra-regional trade in professional services.

A coalition is 'an alliance of individuals, businesses and or organizations that come together to work cooperatively to address specific state and market collective action problems through the pursuit and implementation of specific agendas, while retaining their autonomy'¹The purposes of service coalitions at an industrial/private

¹ CBC definition of coalition

sector level include building awareness on services and trade; regulatory advocacy at national, bi-lateral negotiations, regional and international level; and formation of business linkages or networks.

The benefits of services industrial coalitions are many and they include:

- Increased awareness: It creates a platform for sensitization of the private sector on the need to understand regulatory and policy impact of trade policies, negotiations and trends on their industry and on competitiveness.
- Increased advocacy: It does strengthen the voice of the private sector at national and regional level, thereby strengthening their abilities to negotiate with policy makers and other regulators
- Business linkages: It forms a platform that would allow business partnerships, and even trade between members and other parties. The private sector would take advantage of the partnerships to grow their businesses. There would be partnerships between Micro-Small and Medium Enterprises (MSMEs) and even larger companies. Smaller companies would also benefit from partnering with big companies within the Coalition.
- Market intelligence: From the coalition, the private sector would share experiences and ideas on growing their businesses. It would be a portal for dissemination of important information to guide policy making, market intervention and also linkages.
- Technical and Productive capacity building: Through the coalition, the technical capacity of private sector in services industry would be built.

2. SCOPE OF THE STUDY

The study focused on professional services in three sub-sectors, namely: accounting, engineering and legal. The choice of these professions was driven by their contribution in the economic development of the COMESA region through employment creation and intermediate inputting role into the development of other economic sectors.

2.1 OBJECTIVES

The objective of the study was to provide an informed assessment on the trade and policy frameworks for Professional services in the COMESA region. Thereby, propose key recommendations or frameworks to facilitate trade in professional services in the region, based on regional and international best practices. Furthermore, the study intended to explore opportunities for increasing trade in professional services in the COMESA region.

Specifically, the study aimed at achieving the following objectives:

- Identifying the level of development of professional services in the COMESA countries.
- Reviewing the level of liberalization of trade in professional services in the COMESA countries.
- Identifying main technical and policy challenges of implementation of the liberalization of trade in Professional services.
- Identifying opportunities for increased trade in professional services.
- Identifying the necessary reforms to be undertaken to facilitate growth and trade in professional services in the region.
- Proposing key policy or regulatory frameworks or interventions to facilitate increased trade in Professional services in COMESA.

2.2 METHODOLOGY

The study had two components: Desk and Field research. The first component of desk research, assisted with providing responses to the following research areas:

- Composition of professional services and level of trade in these services including intra-regional trade for each of the COMESA member states;
- Evaluation of existing regulatory frameworks in each of the member states in the COMESA region;
- Identification of the main technical and policy challenges for implementation of liberalization of trade in professional services;
- Assessment of advantages and disadvantages for the liberalization of the trade in professional services; and
- Identification of key policy regulatory frameworks and interventions for facilitating increased trade in the region, based on other RECs and bilateral agreements.

As trade in services continues to attract attention of researchers, literature on the same is quickly building up. The desk research made use of the available publications that development and trade institutions have made available. Most of the literature was sourced from COMESA secretariat, World Bank, COMESA member states, East African Community (EAC), World Trade Organization (WTO), International Trade Centre (ITC), Organization for Economic Co-operation and Development (OECD), African Development Bank (AfDB) and United Nations Conference on Trade and Development (UNCTAD). Various published academic papers also provided useful insights. Additionally, the analysis made use of trade in services databases maintained by ITC and the World Bank.

Field research, on the other hand, was largely through consultations with both government technocrats and private sector experts, working in the professional services sector. An attempt was made to cover all parts of the COMESA region, which included the northern, southern, eastern and island nations. The specific countries, which participated in the consultations, are Egypt, Ethiopia, Kenya, Malawi, Mauritius, Rwanda and Zambia.

The consultations complemented the desk research. It especially helped sourcing information, which had not yet been documented. In particular the consultations helped with:

- Identifying leading companies and professional associations among the COMESA member states
- Identifying the level of development of professional services in the COMESA member states
- Estimating demand and supply conditions in each of the member states
- Establishing level of liberalization of trade in professional services in the COMESA region
- Identifying the main technical and policy challenges for implementation of liberalization of trade in professional services
- Consolidating perceived advantages and disadvantages for the liberalization of the trade in professional services
- Identifying reforms for facilitating growth of trade in professional services; and
- Establishing regional cooperation mechanism, including cooperation services working group

Data collection was aided by a questionnaire. The instrument allowed standardization and comparability of responses.

2.3 LIMITATIONS

The major limitation to the study was missing data for some COMESA member states. The target was to have an analysis that covers all the member states, but some countries had either few data or completely no data on trade in professional services; specifically, on the regulatory requirements in Chapter 3 and 4. Nonetheless, the analysis was still done with the available statistics.

The other limitation is limited literature on trade in professional services. It appears there is limited research work done in this area. Nonetheless, this study is expected to expand the available knowledge about the sector.

3. TRADE AND ECONOMIC OVERVIEW

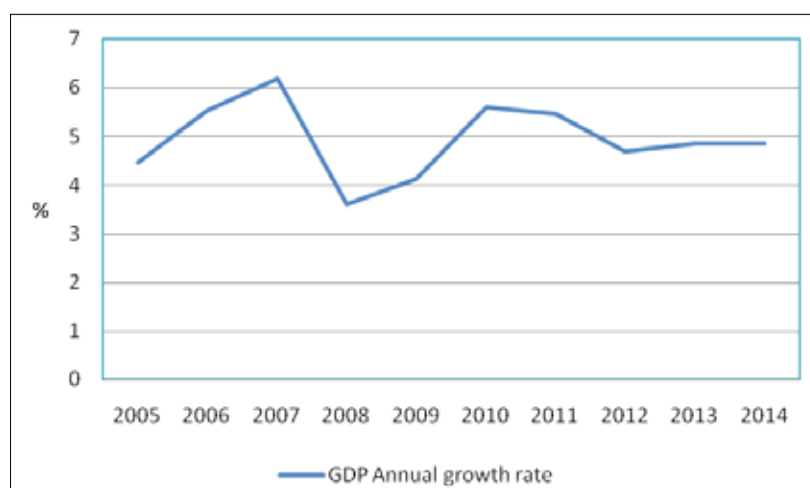
3.1 COMESA REGIONAL OVERVIEW

The Common Market for Eastern and Southern Africa (COMESA) is the largest regional economic body in Africa with 19 member states². The history of COMESA dates back to 1994 when it replaced the former Preferential Trade Area, which was launched in 1981. COMESA is a big market of over 389 million people. The region's main focus is to form a large economic and trading unit that is capable of overcoming some of the trade barriers faced by individual member states.³

3.1.1 Economic growth

Annual GDP growth for COMESA has consistently remained positive for over a decade, making the region to be one of the few regional blocs in the world with such a notable record. The average growth rate has been above 3.5 percent. Growth has been consistently higher at above 4.6 percent during the period between 2012 and 2014 as indicated in the following figure.

Figure 1: COMESA GDP Annual growth rate (2005 – 2014)



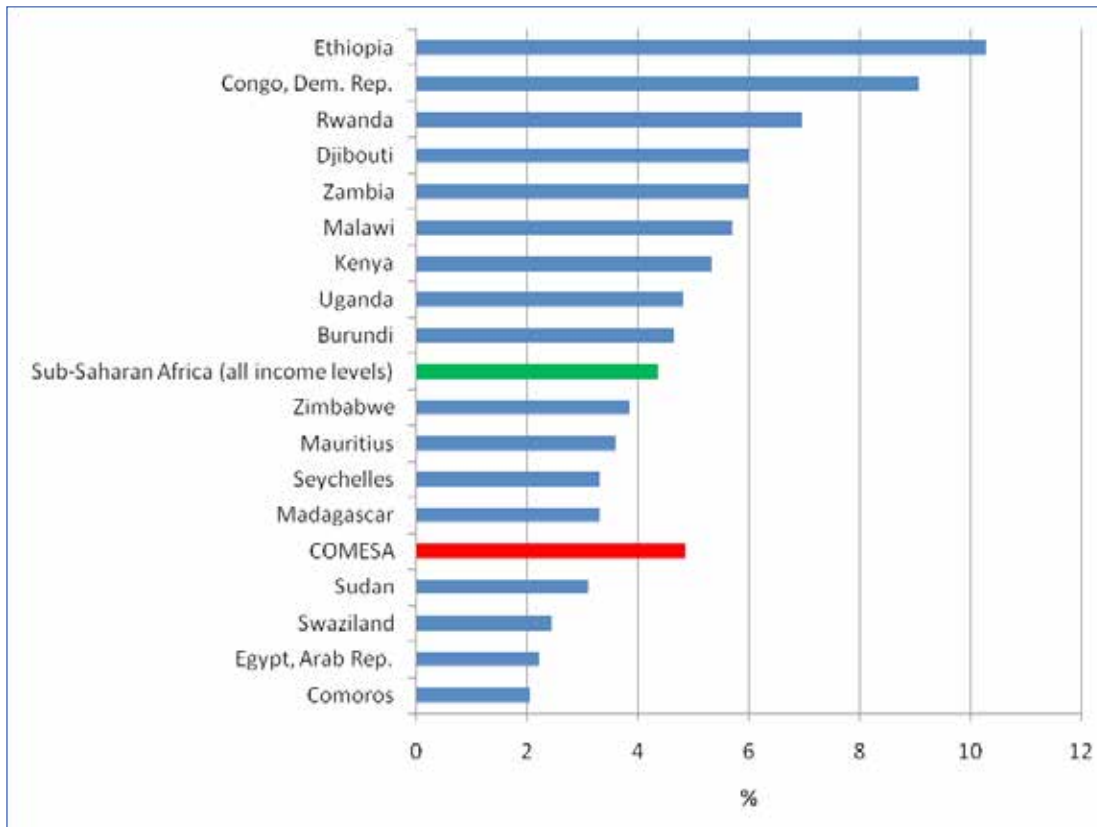
Source: World Development Indicators, World Bank. Libya n.a

COMESA being a huge regional community, wide growth variations also exist among the member states. In 2014, over 50 percent of the member states achieved growth rates that were significantly higher than the regional average. During the same year, there were also other countries whose growth rates fell far below the regional average. Ethiopia has been among the fastest growing economies in the region, with growth rate of above 8.5 percent since 2004. Other countries that achieved growth rates higher than the COMESA as well as Sub-Saharan regional average include Democratic Republic of Congo, Rwanda, Djibouti, Zambia, Malawi, Kenya, Uganda, and Burundi. Figure 2 summarizes the economic performance of the COMESA member states in relation to the COMESA and Sub-Saharan African averages.

²Burundi, Comoros, Congo Democratic Republic, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Swaziland, Sudan, Uganda, Zambia and Zimbabwe

³<http://www.comesa.int/overview-of-comesa/>

Figure 2: GDP growth rate for COMESA member states (2014)



Source: World Development Indicators, World Bank. Libya and Eritrea n.a

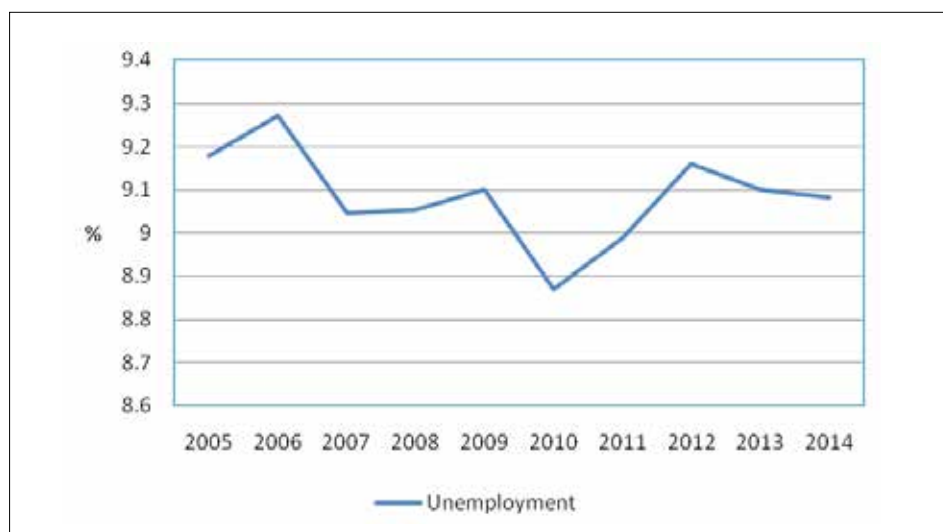
Studies on Foreign Domestic Investment (FDI) have shown that there exists a strong linkage between FDI and growth and that the relationship is bi-directional, implying that most of the COMESA member states, holding other factors constant, have the potential of attracting FDI, which includes professional services (Iamsiararaj and Doucouliagos, 2015).

3.1.2 Labour force and employment

Africa's labour force is estimated to grow to 500 million by 2020 from the 2013 estimate of 382 million people (COMESA, 2013). While others view the growing labour force as an asset for Africa and COMESA in specific, it is the quality in terms of skill of the labour force that will really matter. A well-developed trade in professional services will depend highly on the skills of the COMESA citizens, among other factors.

On average, unemployment rates have remained around 9 percent in the COMESA region since 2005. Between 2005 and 2014, the highest average unemployment rate was 9.28 percent, while the lowest was 8.88 percent as shown in the following figure 3.

Figure 3: COMESA Unemployment (2005 – 2014)



Source: World Development Indicators, World Bank. Djibouti and Seychelles n.a

At country level, Rwanda, Madagascar and Uganda seem to have low unemployment rates, recorded at 0.6 percent, 3.6 percent and 3.8 percent respectively in 2014. On the other hand, countries like Egypt, Zambia, Sudan, Libya and Swaziland had relatively high unemployment rates in the extent of 13.2 percent, 13.3 percent, 14.8 percent, 19.2 percent and 22.3 percent, respectively (World Bank, 2014).

High levels of unemployment can be a threat to liberalization of trade in professional services. It remains an issue of intense debate whether open immigration policies worsen unemployment levels. But restrictive immigration policies applied without exempting for reasons of trade in professional services, should really be trade reducing.

3.1.3 Trade

Trade in services is the most dynamic segment of the international trade and plays a very important role in value chains as well as economic development. In 2016, trade in services, which includes professional services, totaled USD 4.8 trillion, representing 21 percent of world trade in goods and services (WTO, 2017).

The importance of trade in services in the Common Market for Eastern and Southern Africa (COMESA) has increased significantly over the last five years. In 2014, trade in services in the COMESA region accounted for 9.3 percent of the GDP, up from 6.49 percent in 2012, representing a 43percent increase (World Bank, 2016).

3.2 PROFESSIONAL SERVICES SUB-SECTOR

Broadly defined, professional services refer to such services that have highly skilled professionals, have no manual labour requirement and are associated with established professions. Often times, such services require one to have a license or be accredited to provide them. They also require specialized post – secondary education or equivalent training or experience and the right to practice is granted or restricted by a party (UNCTAD, 2004).

The General Agreement on Trade in Services (GATS) Sectoral Classification List (MTN. GNS/W/120) has a comprehensive list of all professional services. They include legal; accounting, auditing and book keeping; taxation; engineering; medical and dental;

veterinary; and surveying, among others. All these professional services and others are traded in the COMESA region. However, accounting, engineering and legal professions are prominent. These professions are also at the centre of focus in this study, chosen based on their potential contribution to the region's economic growth.

World Bank (2012) survey shows that Sub-Saharan Africa is the main export destination of COMESA professional services, accounting for 47 percent of all exports, followed by Europe, which accounts for 16 percent. Other important markets are Middle East and North Africa, North and South America, Russia, India, China, Australia and New Zealand.

The top export markets within the Sub-Saharan Africa include South Africa, Rwanda, Tanzania, Zambia, Mozambique, Malawi and Seychelles. The first three account for 15 percent, 11 percent and 8 percent, respectively.

Accounting services

The accounting sector is characterized by both large and small firms. The size is in terms of both capital investment as well as staffing levels. According to the information sourced from the Accounting Professional Associations, the large firms are usually multinationals like Deloitte, KPMG, PricewaterhouseCoopers (PWC) and EY.

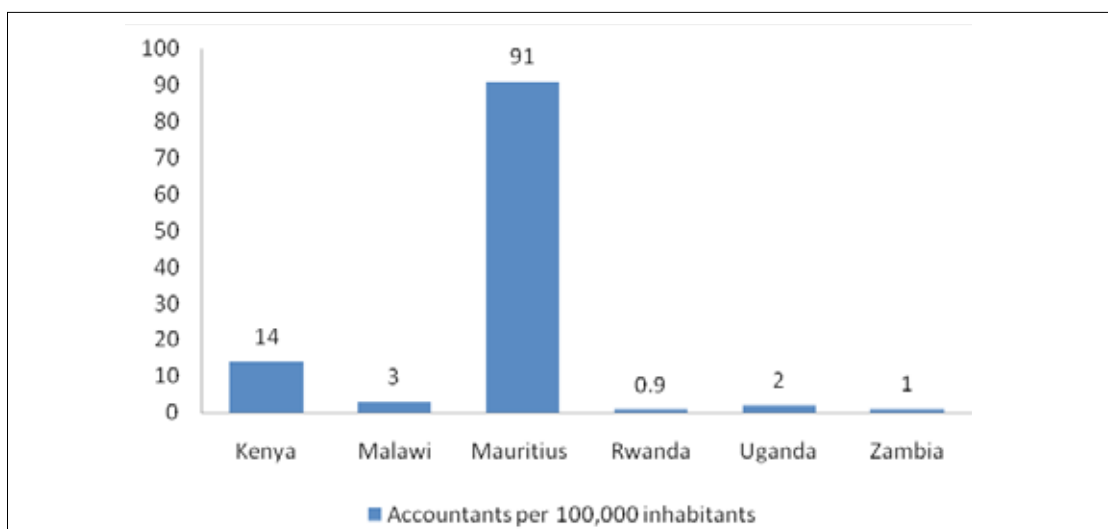
COMESA is generally a net importer of accounting services. Top export markets for COMESA accounting services include United Kingdom (UK), United States of America (USA), South Africa and Botswana.

COMESA largely imports accounting services from South Africa, Botswana and UK, notably; they are the same countries that feature in the list of main export markets. World Bank (2012) noted that there is high level of intra-trade in professional services in the COMESA region. One of the possible aiding factors is the short distances between the exporting and importing countries. Gravity model of trade suggests that neighbours should trade more (Anderson, 2016).

There is more intra-trade among countries in the eastern part of the COMESA region, which also belong to the East African Community. One of the reasons is the existence of Mutual Recognition Agreements (MRAs), which have been signed under the EAC protocols.

World Bank (2012) provides statistics that indicate a huge deficit of professional accountants in the COMESA region. For instance, Uganda and Zambia have as few as one professional accountant for every 100,000 residents. Mauritius is an exceptional with 91 accountants per 100,000 inhabitants as shown in the figure 4 below.

Figure 4: Supply of Accountants in the COMESA



Source: World Bank, 2012

Engineering services

Engineering is another vibrant sector in the COMESA region. The fact that almost all COMESA member states are developing economies and characterized by heavy construction works of railway lines, roads, buildings, ports, power plants and communication infrastructure, among others, creates a huge market for engineering services.

COMESA region has been increasingly importing engineering services from China. One of the contributing factors is the China - Africa Development Fund, which was created in 2007 with an initial budget of US\$ 5 billion and later increased to US\$ 10 billion to encourage and support Chinese enterprises to invest in Africa. Corkin, Burke and Davies (2008) conclude that the increase in the number of Chinese firms investing in the construction and engineering services in Africa is due to the China - Africa Development Fund.

According to Engineering Associations in COMESA member states⁴, other key suppliers of engineering services to the COMESA region include South Africa, Germany, United States, Japan and the United Kingdom. Foreign firms tend to be involved in big assignments like highway road construction works, while local firms are mainly concentrated in the maintenance assignments.

In terms of ownership structure, most of the engineering firms in the COMESA region are locally owned. Shareholding by foreigners in COMESA firms is estimated to be as low as 3 percent (World Bank, 2012). Most of the foreign service providers partner with local firms for specific projects and return to their original countries after the assignment.

World Bank (2015) finds that intra-trade is also substantial among countries like Burundi, Kenya, Uganda and Rwanda, which have signed MRAs under the EAC protocol. The EAC members are ready to import professional service from each

⁴Zambia Board of Engineers, Malawi Institute of Engineers, Kenya Board of Engineers

other because with the MRAs, there is trust that the service is of comparable quality and meet the required standards.

Legal services

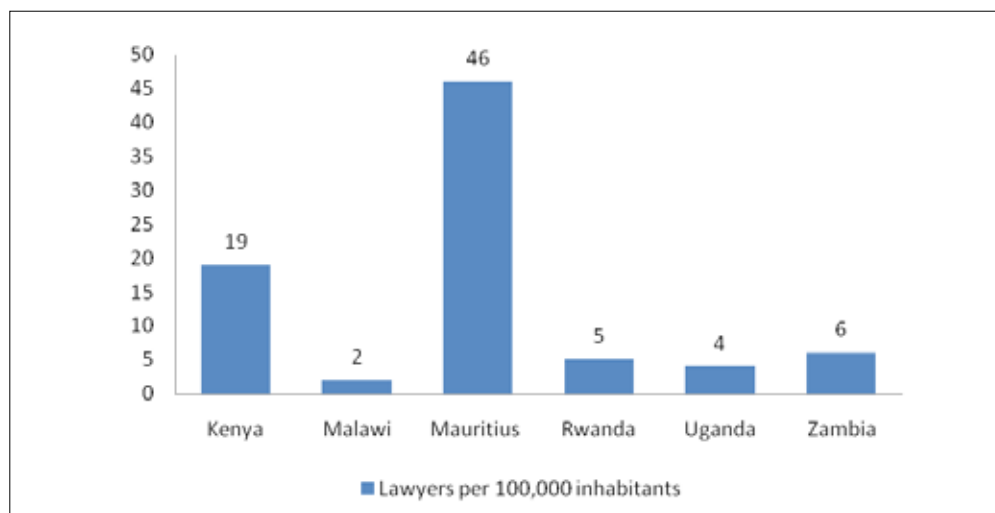
COMESA has been identified as another important market for legal services, where supply remains low compared to demand. World Bank (2012) established that most COMESA member states have less than 10 lawyers for every 100,000 inhabitants. For instance, for every 100,000 inhabitants, Malawi has 5 lawyers, Rwanda and Uganda have 4 lawyers, Zambia has 6 lawyers while Kenya has 19 lawyers. It is in Mauritius where the study found relatively high lawyer - inhabitant ratio. The country has 46 lawyers per 100,000 inhabitants. Figure 5 below provides a summary of these statistics.

Intra- trade in legal services is very low among COMESA member states. Those who manage to supply legal services beyond their national boundaries face several limitations. In most cases, they do not go beyond providing business legal advice and do not get into matters of litigation. The latter part is usually done by nationals. Stringent regulations contribute to the barriers to entry into a new market. Sometimes the requirement to use local language in court like in Egypt and Ethiopia also limits participation of foreign lawyers.

Trade in professional services is also associated with professional associations. These professional services primarily serve the function of representing the interests of the professionals. Most of the professional associations also regulate the conduct of their members, build technical capacities, defend rights of members and lobby government policies on behalf of the members.

The professional associations in the COMESA region have strong networks. They share ideas and support each other. For example, Kenyan Board of Engineers works closely with Rwanda Board of Engineers. The latter is more recently

Figure 5: Supply of Lawyers in the COMESA



Source: World Bank, 2012

formed, so there is a lot of learning from the former. There is no regional professional association at the COMESA level at present, but professional associations have expressed interest to see such a body getting established.

3.3 COUNTRY TRADE OVERVIEW

Levels of development of professional services differ widely from one COMESA member state to another. In some countries, the professional services sector is characterized by many players, both local and foreign and also supportive legal frameworks, while in others, the sector is still underdeveloped with very few players and also with restrictive policies. Nonetheless, trade in professional services keeps expanding in most countries.

BURUNDI

Burundi is a member of both COMESA and EAC and is a net importer of professional services (World Bank, 2015). Burundi imports most of the professional services from Kenya, Rwanda and Uganda. Geographical proximity to these countries as well as the East African Community trade agreements have played a greater role. Burundi also imports professional services from other countries outside the EAC, for instance from Zambia.

The kind of professional services that Burundi imports include accounting, engineering and medical services. Burundi also exports accounting and medical services largely to Rwanda, Kenya, Uganda and Democratic Republic of Congo.

Burundi market is dominated by local accounting firms. Deloitte is one of the few international accounting firms in Burundi. Most of the big firms operate from the neighbouring countries. French is the business language and so it limits the participation in the Burundi market of other foreign firms, especially from English Speaking countries. Nonetheless, the foreign firms often partner with the local firms to deal with the language challenge.

As for the engineering professions, service suppliers are both locals and internationals. Most of the local firms are small, but many in number compared to the foreign firms. Some of the foreign firms are based within the EAC. Just like in the accounting profession, the foreign firms partner with locals when they are working in Burundi

Provision of legal services in Burundi is dominated by the Burundians. Generally, locals prefer their country mates when they want an attorney for criminal cases. International firms

also tend to bring international lawyers. Usually, the international firms partner with the locals. The experience is the same in most countries including Ethiopia, Egypt and Zambia.

THE UNION OF COMOROS

The Union of the Comoros is a sovereign archipelago island nation in the Indian Ocean located at the northern end of the Mozambique Channel off the eastern coast of Africa, lying between northeastern Mozambique and northwestern Madagascar. Comoros has a population of 788,500. In 2015, the Union of Comoros had a GDP size of US\$565.7 million⁵.

Trade in professional services in Comoros is still low. The country's largest export sector is consumer goods, which accounted for 81.65 percent of the total exports in 2015 (World Bank, 2017). Exports of professional services are very dismal. Foreign ownership in Comoros' professional firms is around 5 percent and the proportion of firms with foreign employees is also about 5 percent (World Bank, 2012).

DEMOCRATIC REPUBLIC OF CONGO

The Democratic Republic of the Congo, also known as DRC is the second-largest country in Africa by area and eleventh largest in the world with a population of over 80 million. The DRC borders the Central African Republic and South Sudan to the north; Uganda, Rwanda, Burundi and Tanzania to the east; Zambia and Angola to the south; the Republic of the Congo to the west and the Atlantic Ocean to the southwest. DRC had a GDP size of US\$ 33.1 billion in 2014 and the economy the economy expanded at the rate of 9 percent (World Bank, 2014).

The contribution of trade in services to the DRC's GDP was 9.9 percent in 2014, an increase from 7.16 percent in 2012. DRC maintains a deficit of trade in services. In 2015, DRC export of commercial services was US\$173 million against an import of US\$2 billion (ITC, 2016).

⁵Economist Intelligence Unit statistics

In terms of professional services, DRC is both an importer as well as an exporter. The country imports professional services mainly from Rwanda and Uganda. Geographical closeness to these countries contributes to the intensity of trade. The country also exports professional services to the neighbouring Rwanda, Tanzania and Burundi. Some professionals also offer their service to Zambia. The professional services include accounting, engineering, medical and training. Similarly, most nationals of DRC import professional services, especially medical services from Kenya, Rwanda and Zambia (World Bank, 2015).

DJIBOUTI

Djibouti is a country located in the Horn of Africa. It is bordered by Eritrea in the north, Ethiopia in the west and south, and Somalia in the southeast. The remainder of the border is formed by the Red Sea and the Gulf of Aden at the east. Djibouti has a population of 876,174 and occupies a total area of just 23,200 km² (BBC, 2017).

Professional services in Djibouti are still in their infant stage. Less than 5 percent of professional firms in Djibouti are into exports and only about 10 percent of Djibouti's professional firms have foreign employees (World Bank, 2015).

AfDB (2017) highlights that one of the Djibouti's major challenges is high unemployment levels, which do worsen the country's poverty situation. The government is the largest employer and state owned enterprises dominate the market. Procurement policies that favour state-owned enterprises make the environment difficult for the private sector. Nonetheless, Djibouti has potential for growth of trade in professional services following the government's effort of mass production of graduates.

EGYPT

Egypt is the largest economy in the COMESA region with a GDP size of US\$ 301.5 billion and a population of 89,579,670. The country is a Mediterranean country bordered by the Gaza Strip and Israel to the northeast, the Gulf of Aqaba to the east, the Red Sea to the east and south, Sudan to the south, and Libya to the west (CIA, 2017).

In 2014, commercial services in Egypt accounted for 13.06 percent of the GDP. Egypt is a net exporter of trade in services even though the exports of commercial services have been fluctuating. In 2012, the exports of commercial services had reached US\$ 21.8 billion, only to fall the following year to US\$ 18.3 billion. On the other hand, imports of commercial services have been rising steadily. The value of imported commercial services was US\$ 16.5 billion in 2011. The value had risen to US\$ 17.5 billion by the end of 2015 (ITC, 2016).

With regard to professional services, Egypt is both an importer and exporter. The country exports professional services like accounting, engineering and medical. Importing countries of Egypt's exports of professional services include Malawi and Kenya in the COMESA region and UK and Middle East outside the region⁶.

However, there are just very few firms, estimated at less than 5 percent that export professional services. All firms are almost 100 percent owned by locals. One of the reasons is that the country has restrictions on ownership of professional firms by foreigners. OECD (2010) reports that foreign investors are not allowed to set up and manage companies under the rules of sole proprietorship even though they can participate in the trade.

In terms of imports, Egyptian firms import legal, accounting as well as engineering services

⁶Sourced from Egyptian Syndicate of Engineers and the Egyptian Chamber of Commerce and Industry

largely from North Africa, Middle East countries and also other COMESA countries. The legal services are mainly on business advisory and not litigation because of domestic regulations, which restrict the service to nationals⁷.

ERITREA

Eritrea is a country with a population of 6.3 million and a total area of approximately 117,600 km². The country shares borders with Sudan in the west, Ethiopia in the south, and Djibouti in the southeast. In 2013, Eritrea had a GDP of US\$3.44 billion. The GDP is estimated to have reached US\$ 5.4 billion in 2016 (CIA, 2017; and BBC, 2017).

Services contribute 58.5 percent to the national economy. The other percentage is contributed by the agriculture sector (12.1 percent) and industrial sector (29.5 percent). The industry and service sectors employ 20 percent of the total labour force. Eritrea is on number 189 in the World Bank's Ease of Doing Business Report (World Bank, 2016).

Eritrea is one of the COMESA countries that export professional services. However, the exporting firms are very few, accounting for less than 10 percent. The majority of professional firms are owned by the locals. The foreign owned account for just about 3 percent and number of foreign employees in Eritrea professional firms is negligible (World Bank, 2012).

The kind of professional services exported by Eritrea include medical and accounting services. Eritrea government maintains a command of the economy, such that government activities predominate over private enterprises (USBEB, 2016). This is one of the restrictions to growth of trade in professional services.

The other obstacle to development of professional services in Eritrea is the limited number of highly skilled professionals and managers. The promising aspect about Eritrea is that the overall quality of labour is rated good by international firms operating the country. This shows potential for the professional sector to be developed.

⁷According to the Egyptian Association of Female Lawyers

ETHIOPIA

Ethiopia is the most populous landlocked country in the world and the second-most populous nation on the African continent after Nigeria with land size of 1.13 million km². Ethiopia shares borders with Eritrea to the north and northeast, Djibouti and Somalia to the east, Sudan and South Sudan to the west, and Kenya to the south (BBC, 2017).

Ethiopia has a GDP of US\$ 61.5 billion and a GDP growth rate of 9.61 percent and is one of the fastest growing economies in the world, growing at an average rate of 8 percent and 11 percent annually. The high growth rates of Ethiopian economy are attributed to government investment in infrastructure, sustained progress in the agriculture and service sectors (World Bank, 2016).

In 2012, commercial services accounted for 14.59 percent of Ethiopia's GDP. Imports of commercial services outweigh exports in Ethiopia. The exceptional years were 2013 and 2014. The trend of imports of commercial services has been on an upward path for Ethiopia, while exports have been flat. In 2014, Ethiopia's exports of commercial services were valued at US\$3.02 million and in 2016 the value was USD 2.98 million. On the other hand, the value of commercial imports in 2014 was US\$ 2.85 million, while in 2016, the value was US\$3.63 (ITC, 2016).

Ethiopia's professional services sector is still developing. Less than 5 percent of professional firms export their services to other countries. Accounting and engineering account for the largest share of Ethiopia's professional exports.

Both locals and foreigners own professional firms in Ethiopia. However, most of the firms are owned by locals. About 5 percent of the professional firms are owned by foreign nationals. Similarly, foreigners account for less than 5 percent of all employees offering professional services (World Bank, 2012).

KENYA

Kenya is a country with a population of approximately 48 million people whose territory lies on the equator

and is bordered by Tanzania to the south and southwest, Uganda to the west, South Sudan to the north-west, Ethiopia to the north and Somalia to the north-east. Kenya has a land size that spans 581,309 km² (BBC, 2017).

According to World Bank (2016), Kenya's GDP was at US\$60.9 billion in 2014 and had expanded at the rate of 5.3 percent. Commercial services accounted for 12.9 percent of the GDP. Kenya is one of the COMESA member states that are consistently recording a surplus in trade of professional services. In 2012, Kenya's export of commercial services was US\$ 4.86 billion. Kenya's exports of commercial services had been rising until 2014 when a downward trend set in. In 2016, Kenya's export of commercial services declined to US\$ 3.88 billion.

Unlike the exports, imports of commercial services are on the rise. In 2012, the Kenya's imports of commercial services totaled US\$ 2.4 billion. In 2016, the total imports of commercial services had risen to US\$ 3 billion. Nonetheless, the imports have not yet surpassed the exports (ITC, 2016).

As for professional services, Kenya is one of the COMESA countries that have made considerable progress in developing the sector. Kenya exports accounting, engineering as well as legal services to many countries in Africa, especially within the East African Community bloc (Rwanda, Uganda, Burundi and Tanzania).

Kenya also imports professional services like accounting, engineering and medical. The significant proportion of professional services is supplied by South Africa, Rwanda and Uganda, India, Nigeria, Egypt, Sudan and China.

Ownership of professional services is open to both locals and foreigners. However, most of the professional firms are owned by Kenyans. In the accounting profession, foreign professional accountants account for just less than 10 percent of the total professional accountants. In general, professional services

offer employment opportunities to close to 30 percent of the labour force and public procurement in Kenya favours local firms (World Bank, 2012).

LIBYA

Libya is the fourth largest country in Africa, and is the 16th largest country in the world. Libya has the 10th-largest proven oil reserves of any country in the world. The country has an area of almost 1.8 million square kilometers sharing borders with Mediterranean Sea to the north, Egypt to the east, Sudan to the southeast, Chad and Niger to the south and Algeria and Tunisia to the west (BBC, 2017).

In 2013, Libya had a GDP of US\$ 75.46 billion and a population size of 6.28 million. Commercial services in Libya accounted for 13.2 percent of the GDP, up from 8.74 percent in 2010 and 12.76 percent in 2011.

Libya is both an importer and exporter of professional services. The country largely exports professional services to Maghreb neighbours and European countries and imports professional services from Tunisia and Europe. In general, Libya is a net importer of professional services (Peterson Institute, 2008).

Professional services exported by Libya include accounting and taxation and medical services. On the other hand, Libya imports engineering, accounting and business advisory services from both African and European countries.

MADAGASCAR

Madagascar is an island country in the Indian Ocean, off the coast of Southeast Africa. The nation comprises the island of Madagascar, and numerous smaller peripheral islands. The country's population in 2015 was 24.24 million (CIA, 2017).

Madagascar has a GDP size of US\$9.74 billion,

with a moderate growth rate of 3.3 percent in 2014. Commercial services make a substantial contribution to the GDP. In 2013, the contribution of commercial services to the national GDP was 24.5 percent, slightly lower than the previous years (25.6 percent in 2010, 25.02 in 2011 and 25.8 percent in 2012), according to the World Bank (2016).

Madagascar's exports and imports of commercial services have been almost the same level, leaving a very narrow gap. In 2012, Madagascar exported US\$ 1.3 billion worth of commercial services and imported services totaled US\$1.2 billion, translating to a trade surplus of US\$0.1 billion. In 2016, both exports and imports of commercial services declined. The exports fell to US\$0.98 billion, while the imports dropped to US\$1 billion, leading to Madagascar having a trade deficit of US\$ 0.02 billion.

In terms of professional services, Madagascar is among the top exporters of education service in Africa (UNESCO, 2017). The main importer of Madagascar's education service is Comoros. Madagascar also exports accounting services to European countries.

Like most COMESA countries, Madagascar has few firms that export professional services. The proportion of exporting professional firms is estimated at less than 10 percent and the majority of the firms are fully owned by the locals. Foreign ownership of professional firms is also estimated at 10 percent and only 5 percent of the professional firms have foreign employees (World Bank, 2012).

MALAWI

Malawi is a landlocked country in the south-eastern part of Africa bordered by Zambia to the northwest, Tanzania to the northeast, and Mozambique on the east, south and west. The nation is over 118,000 km² with an estimated population of 16,777,547 (NSO, 2017).

In 2015, Malawi GDP was estimated at US\$6.4 billion. For two consecutive years, Malawi GDP

had been growing at 5 percent (2013 and 2014). The contribution of commercial services to GDP has been relatively low, accounting for 7.9 percent in 2012. Nonetheless, it is an improvement from the 4.6 percent in 2010 and 4.7 percent in 2011 (World Bank, 2016).

Malawi is a net importer of commercial services. In 2016, the country imported commercial services valued at US\$ 245 million against commercial exports valued at US\$ 94 million. The 2016 import value is an increase from US\$227.44 million registered in 2012. On the other hand, the export value is a drop from the 2012 value of US\$105.27 (ITC, 2016).

In terms of professional services, Malawi is also a net importer. Malawi imports professional services like accounting, engineering and medical from South Africa, Kenya, United Kingdom, China and India.

On the other hand, Malawi exports accounting, engineering and medical services to both COMESA countries like Zambia, Zimbabwe and Kenya, and outside COMESA; Mozambique, South Africa, US, UK and China. Generally, Malawi trades more in professional services with COMESA countries than outside the region. About 15 percent of professional firms export their services.

Less than 3 percent of professional firms are owned by foreigners. Among the main foreign owned firms in the Malawi's accounting sector, include Deloitte, PWC, KPMG and EY. Proportion of accounting firms with foreign employees is also about 3 percent, and foreign engineers are less than 5 percent Malawi (World Bank, 2012).

Cross border trade in legal services is very minimal. One of the reasons is that Malawi's regulations require professionals from outside the country to sit for a bar exam before getting a license. So those who still provide services, do so with limitations. On the overall, trade in professional services has risen from US\$ 7.92 million in 2012 to US\$ 10.47 million in 2015, representing a 32 percent increase (ITC, 2016).

MAURITIUS

Mauritius is an island nation in the Indian Ocean with a land area of 2,040 km² and a population of 1.26 million people. Mauritius GDP is estimated at US\$ 11.68 billion with commercial services contributing 45.13 percent, down from 50.9 percent in 2011. The Mauritian economy expanded at the rate of 3.6 percent in 2015, up from 3.2 percent in 2013 and 2012 (World Bank, 2016).

Mauritius is on the lead in terms of producing professional accountants in the region. It is estimated that there are 91 accountants for every 100,000 inhabitants. In contrast, many COMESA countries only have 2 or 3 accountants for the same number of people.

About 10 percent of professional firms export their services in Mauritius. Most of the exported services are accounting and engineering. About 2 percent of all professional firms are foreign owned in Mauritius. About 18 percent of professional firms have foreign employees. This is generally higher than the regional average of 15 percent (World Bank, 2012).

RWANDA

Rwanda is in central and east Africa, bordered by Uganda, Tanzania, Burundi and the Democratic Republic of the Congo, occupying an area of 26,338 km² with a population of 11.61 million. Rwanda's GDP is estimated at US\$ 8.10 billion and has been registering positive growth of around 7 percent (BBC, 2017).

Commercial services in general, contributed 16.14 percent of Rwanda's GDP in 2013, up from 15.66 in 2010. Rwanda is a net importer of commercial services and the gap has been getting wider since 2012. In that year, both imports and exports were US\$ 518.6 million. The imports of commercial services have grown to US\$ 1.01 billion while exports have risen to US\$ 851 million.

Similarly, Rwanda is experiencing notable growth in professional services and is an important market for Kenya's accounting, engineering as well as legal services. The first two are dominant, attributed to Rwanda's structural shortage of skilled labour force. It is estimated that about 60 percent of all practicing professional accountants in Rwanda are foreigners (Dihel, 2012).

Other suppliers of professional services to Rwanda include the neighbouring Burundi, Uganda and Tanzania. Rwanda also imports medical services from Uganda, Kenya, South Africa, Democratic Republic of Congo and Burundi (World Bank, 2012).

Less than 3 percent of professional firms in Rwanda export services. About 10 percent of all professional firms are owned by foreigners. These firms are mainly in the accounting and engineering sectors. Most foreign owned firms also tend to employ a couple of foreigners. It is estimated that 10 percent of professional firms in Rwanda have foreign employees, according to Rwanda's professional associations⁸.

SEYCHELLES

Seychelles is an archipelago and country in the Indian Ocean, lying 1,500 kilometers east of mainland East Africa. Other nearby island countries and territories include Comoros, Mayotte, Madagascar, Réunion and Mauritius to the south. Seychelles has a population of 92,000, making the country the least populated in Africa (BBC, 2017).

In 2015, Seychelles had a GDP of US\$1.44 billion and the economy had been growing at an average of 6.6 percent between 2010 and 2013. It slowed down to 3.3 percent in 2014. Services account for the largest part of the GDP. Commercial services contributed 94.01 percent to the GDP. The importance of the services sector has been growing over the years and Seychelles is a net exporter of both commercial services.

⁸Professional Associations (Institution of Engineers Rwanda, Rwanda Bar Association and Institute of Certified Public Accountants of Rwanda)

In terms of professional services, Seychelles is largely an importer. The country imports accounting, engineering, legal and also medical services. The suppliers of professional services include India, South Africa, France and UK. About 22 percent of professional firms are owned by foreigners. Most of these professional services are supplied to the domestic market. About 12 percent of the professional firms in Seychelles have foreign employees (World Bank, 2012).

SUDAN

Sudan is the third largest country in Africa. The country shares borders with Egypt to the north, the Red Sea, Eritrea, and Ethiopia to the east, South Sudan to the south, the Central African Republic to the southwest, Chad to the west and Libya to the northwest. Sudan has a population of 40.23 million people and GDP of US\$97.16 billion (BBC, 2017).

Commercial services contribute minimally to the GDP. In 2014, the contribution of commercial services to the national economy was 4.7 percent. The contribution was also minimal in the preceding years. For instance, in 2010, the contribution was 4.22 percent and 2011 was 4.7 percent. Nonetheless, Sudan's exports have been rising from US\$ 1 billion in 2012 to US\$ 1.6 billion in 2016. On the other hand, imports of commercial services have been falling from US\$ 2.1 billion in 2012 to US\$1.5 billion in 2016 (ITC, 2016).

As for professional services, Sudan is both an importer and exporter of professional services. Sudan imports accounting, medical and engineering services from Kenya and Uganda. Sudan is also one of the countries in Africa, where professionals are generally paid well compared to other COMESA countries (World Bank, 2012).

SWAZILAND

Swaziland is a landlocked country that shares borders with Mozambique to its northeast and South Africa to its north, west and south; Swaziland has a population of 1.29 million people and covers an area of 17,364 km².

In 2015, Swaziland had a GDP of US\$4.12 billion and the GDP expanded by 2.45 percent in 2014. Generally, the Swazi economy has been growing, albeit weakly. In 2010, the economy grew by 1.6 percent. In 2012, the growth rate improved to 3 percent, only to fall again to 2.9 in 2013.

Commercial services contribute around 20 percent to the GDP. In 2013, the contribution of commercial services was 20.47 percent, down from 26 percent in 2010. Both imports and exports of commercial exports have been declining in Swaziland.

For trade in professional services, Swaziland trades a lot with South Africa. Swaziland both supplies and imports accounting, engineering and medical services to and from South Africa. Other countries that supply their services to Swaziland include Zimbabwe, Kenya and Uganda.

About 18 percent of Swaziland's professional firms are owned by foreign nationals. Proportion of firms with foreign nationals is also around the same, 18 percent. Exporting firms, are however, slightly less, estimated at 13 percent (World Bank, 2012).

UGANDA

Uganda is a landlocked country in East Africa, bordered to the east by Kenya, to the north by South Sudan, to the west by the Democratic Republic of the Congo, to the south-west by Rwanda, and to the south by Tanzania. Uganda has a population of 39.03 million people (CIA, 2017).

In 2015, Uganda's GDP was US\$ 27.53 billion and achieved an annual growth rate of 4.82 percent in 2014, up from 4.4 percent in 2012 and 3.27 percent in 2013. In 2013, commercial services contributed 20.95 percent to the nation's GDP. The contribution was higher than the previous years, signifying an improvement in the sector (World Bank, 2016).

Uganda is a net importer of commercial services and the gap has widened between 2012 and 2015. The commercial services imports and exports in 2012 were US\$2.5 billion and US\$ 2.1 billion respectively, while in 2015, the imports and exports were US\$2.7 billion and US\$2.2 billion respectively.

So the gap in 2012 was US\$ 0.4 billion while in 2015 was US\$ 0.5 billion (ITC, 2016).

Uganda's trade in professional services has also expanded with the deepening integration under the EAC. Uganda is an exporter as well as an importer of professional services. Uganda exports accounting, legal, engineering as well as medical services to neighbouring countries in the EAC (Rwanda, Kenya, Burundi and Tanzania) and beyond.

On the import side, Uganda also imports legal, accounting, medical and engineering services also from EAC member states. In addition, South Africa, China and India supply professional services to the country.

Locals own most of the professional firms in Uganda. Firms owned by foreigners account for about 8 percent and the proportion of firms in with foreign employees are estimated at 10 percent. Foreign accountants in Uganda account for less than 8 percent of all professional accountants in the country (World Bank, 2012).

ZAMBIA

Zambia is a landlocked country in Southern Africa covering 752,618 km² and neighbouring the Democratic Republic of the Congo to the north, Tanzania to the north-east, Malawi to the east, Mozambique, Zimbabwe, Botswana and Namibia to the south, and Angola to the west. The population of Zambia is estimated to be 16.21 million (BBC, 2017).

In 2015, Zambia's GDP was US\$21.15 billion. The Zambian economy has been growing at an average rate of 6 percent since 2011. The economy is largely driven by copper. Commercial services contribute 9.22 percent, an increase from 7.19 percent in 2010 (World Bank, 2016).

Between 2012 and 2016, imports of commercial services have increased while exports have fallen. The imports have increased from US\$1.33 billion to US\$ 1.39 billion. On the other hand, exports of commercial services have fallen from US\$ 990

million to US\$ 885 million (ITC, 2016).

Zambia' trade in professional services has been growing over the years. More professional firms are getting registered in various fields including accounting, engineering and legal. Presence of foreign professional service providers also keeps growing.

According to professional associations in Zambia⁹, the country has a wide export market for the country's professional services. The markets include Malawi, Kenya, South Africa, Uganda, Swaziland and Botswana. Zambia exports services like legal, engineering and accounting.

Imports of professional services in Zambia include engineering, legal and accounting. The supplying countries of professional services in Zambia include China, South Africa, Malawi, Zimbabwe and Kenya.

It is also estimated that 18 percent of professional firms export their services. About 8 percent of Zambian firms are owned by foreigners and close to 12 percent of the professional firms have foreign employees. However, foreign accountants are less than 3 percent of the total in Zambia (World Bank, 2012).

ZIMBABWE

Zimbabwe is a landlocked country located in southern Africa, between the Zambezi and Limpopo Rivers. It is bordered by South Africa to the south, Botswana to the west and southwest, Zambia to the northwest, and Mozambique to the east and northeast. Zimbabwe has roughly 13 million people (CIA, 2017).

⁹Zambia Board of Engineers, Law Society of Zambia, Zambia Institute of Certified Accountants

Zimbabwe has a GDP of US\$14.42 billion. Between 2010 and 2012, the country experienced high growth rates of 11.37 percent in 2010 and 11.90 percent in 2011. The growth rate dropped significantly in 2014 to 3.85 percent following drought and macroeconomic shocks (World Bank, 2016).

Zimbabwe is a net importer of commercial services. Zimbabwe's export of commercial services has slightly improved from US\$342.57 million to US\$ 386.68 million. On the other hand, the imports have fallen from US\$1.8 billion in 2012 to US\$ 1.5 billion in 2016.

As for professional services, Zimbabwe is also a net importer. The country imports accounting, engineering, legal as well as medical services from the COMESA region and beyond. Zimbabwe also exports these services to other COMESA and non-COMESA countries.

Foreigners have limited ownership of professional firms in Zimbabwe. However, Zimbabwe has the highest proportion of firms with foreign employees in the COMESA region, estimated at 60 percent. The average for the COMESA region is 12 percent. In terms of exporting firms, 17 percent of Zimbabwe's professional firms export their service. The proportion is also above the regional average of 15 percent.

The general observation is that COMESA countries are at different stages of development of their trade in professional services. The underlying fact is that all COMESA countries are engaged in trade in professional services. Furthermore, there is more intra-trade than international trade of professional services.

4. POLICY AND REGULATORY FRAMEWORK

4.1 GENERAL

Generally, trade in professional services is associated with movement of natural persons and therefore, it is associated with several regulations. According to WTO, Article 1:2 of the General Agreement on Trade in Services (GATS) defines the concept of trade in services depending on the territorial presence of the supplier at the time of the transaction, giving rise to four modes of supply:

Mode 1 — Cross border trade: From the territory of one Member into the territory of any other Member. An example could be distance training.

Mode 2 — Consumption abroad: In the territory of one Member to the service consumer of any other Member. An example is traveling abroad for tourism

Mode 3 — Commercial presence: by a service supplier of one Member, through commercial presence, in the territory of any other Member. For instance, a bank establishing a branch in a foreign country

Mode 4 — Presence of natural persons: by a service supplier of one Member, through the presence of natural persons of a Member in the territory of any other Member. An example is a visiting professor.

By the WTO definition of trade in services, professional services are largely supplied under mode 4, which usually faces several regulations. Nonetheless, some regulations are necessary to protect consumers from being supplied with sub-standard or hazardous services. However, some regulations are only intended to protect the domestic firms from foreign competition. Such regulations can be a real barrier to trade. An example is nationality requirement that other countries impose for one to provide a particular service. For example, to be a practicing lawyer in Mauritius, one has to prove that he or she is a national of Mauritius.

4.2 COMESA POLICY FRAMEWORK

All regional bodies have policy frameworks to guide respective domestic regulations and legislative processes. Regional frameworks assist in the processes of harmonization of regulations by member states.

COMESA has policy frameworks too that member states refer to during trade negotiations. Some of these policies relate to the issue of movement of natural persons, which is relevant for negotiations in the professional services.

The framework for trade in services in COMESA is governed by the COMESA Treaty. Article 3(b), as read with Article 4(4) (c), provides for the removal of obstacles to the free movement of services within the Common Market. Furthermore, Article 164 of the Treaty, among other things, provides for the free movement of services, and, Articles 148, 151 and 152 provide a mandate for work to be done in the liberalization of trade in services.

Article 164 of the COMESA Treaty (1994) provides the framework for the movement of persons. This treaty provides the foundation for the adoption of two Protocols on the movement of persons namely; the Protocol on the Gradual Relaxation and Eventual Elimination of Visas (Visa Protocol) and the Protocol on Free Movement of Persons, Services, Labour and Right of Establishment and Residence (Free Movement Protocol). Therefore, as COMESA countries formulate domestic regulations, they need to be in line with allowance of free movement of persons.

Additionally, there is an Investment Agreement for the COMESA Common Investment Area (2007). This Agreement applies to investments of COMESA investors who have been registered in the Member State in which the investment is made. COMESA investors can hire qualified persons from any country, giving priority to qualified workers from member States with equal qualifications.

Further to these Protocols, there is an ongoing dialogue in the COMESA region to introduce a Business Visa, which will serve as a multiple entry visa for business persons in the region. The business Visa initiative is part of the recommendations that the private sector presented to the COMESA Council of Ministers in 2012 to facilitate the movement of business persons (COMESA, 2016).

On the overall, there is remarkable progress among COMESA countries in the implementation of the Protocols. Some examples of positive changes include issuing of Visa on arrival, issuing 90-day Visa and deployment of COMESA desks at points of entry, especially for COMESA citizens

4.3 COUNTRY SPECIFIC POLICY FRAMEWORKS

COMESA countries have formulated regulations for each of their professional sectors. They have also listed their schedules of commitments for negotiations. Key observations from the regulations include that almost all countries emphasize on the first degree (Bachelor's) as a minimum qualification to be registered. The countries also require professionals to be registered with a professional body. The common approaches in registering professionals will simplify negotiations and implementation of MRAs.

With regards to market access commitments, most of the COMESA countries have imposed a requirement that legal service providers on matters presented before the court of law, be handled by nationals. The rules are relaxed for business advisory services. Foreign nationals can participate.

The other observation is that member states have emphasized the principle of reciprocity. There is an opportunity for growth of trade in professional services by agreeing to reciprocate the conditions offered by trading partners. The table below provides a summary of the domestic regulations and entry requirements that are required in each country. Furthermore, the table summarizes GATS commitments by the member states¹⁰.

DOMESTIC REGULATIONS AND GATS COMMITMENTS

Burundi

Regulatory framework	Profession		
	Accounting	Engineering	Law
GATS Commitment	<p>Staff transferred from the head office of the country of origin to work on a temporary basis at a subsidiary in Burundi. Each company can bring in expatriates up to 5% of total workforce.</p> <p>Staff employed by a foreign service supplier entering Burundi for business meetings cannot engage in direct services provision. Authorized to stay for a duration of up to 90 days in a calendar year.</p>		

DRC

Regulatory framework	Profession		
	Accounting	Engineering	Law

¹⁰The commitments are those that were declared under WTO

GATS Commitment	<p>Foreigners whose investments are approved may hold the majority of the enterprise's capital, regardless of the enterprise's nature. The restrictions laid down in the Special Law on trade no longer apply in principle to enterprises approved in accordance with the Investment Code.</p> <p>Non-discriminatory treatment of foreign investors granted on a reciprocal basis</p>
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Egypt

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> • Be a graduate of a Faculty of Commerce of one of the Egyptian universities with a major in accounting or hold a similar degree from any other local or foreign university or institute considered by the Supreme Council of Universities as equivalent. • Register as a trainee accountant with the General Register for the Accountants and Auditors • Registration rules stipulate that after three years of professional work in a practicing accountant's office, individuals may apply to be taken off the registry as a trainee accountant and classified as an auditor. • After an additional five years of employment experience, accountants may apply for a final registration certificate as a "full auditor" permitting them to act as an auditor of joint stock companies • Candidates can also register directly through membership in the Egyptian Society of Accountants and Auditors (ESAA), which then qualifies them for a license to audit joint stock companies. 	<ul style="list-style-type: none"> • To have obtained a bachelor's degree in Engineering from an Egyptian university or a degree certified by the Supreme Council of Universities to be equivalent to a bachelor's degree in Engineering. • To be of Egyptian nationality, or a national of a country which allows Egyptians to become members of its engineers syndicate. • To enjoy a full civil capacity. • To be of good reputation and commendable conduct. • To have never been sentenced to a criminal or custodial penalty in a crime involving moral turpitude or breach of trust, unless rehabilitated in either case. • To have never been subjected to any disciplinary rulings for actions involving moral turpitude or breach of trust, until after four years from the issuance of the final ruling. 	<p>Egyptian lawyers can only practice law after registering in the table of lawyers regulated by Law, although lawyers employed by the state are exempt from registration. In order to register, the individual concerned must:</p> <ul style="list-style-type: none"> • Have Egyptian nationality; • Have full civil capacity; • Possess a law degree from an Egyptian university or hold a certificate from a foreign university which is considered equivalent under Egyptian law; • Not have any outstanding disciplinary findings against them; • Be of good conduct and reputation, worthy of the respect required for the profession; • Pass a medical examination at a hospital determined by the Bar Council to make sure of his fitness for the practice of the profession; and • Pay the registration fees and annual subscriptions required by law. • After obtaining a law degree, an Egyptian lawyer must undertake two years of training as an Avocat-Stagiaire and plead a minimum of twenty-five cases during this period. The lawyer will be fully admitted to practice in the lower courts on the recommendation of the president of the lowest court and members of the local bar association.

GATS Commitment	<p>Business visitors: - A natural person who stays in Egypt without acquiring remuneration within Egypt and without engaging in making direct sales or supplying services to the general public, for the purposes of participating in business meetings, business contacts including negotiations for the sale of services and/or other similar activities including those negotiations to prepare for establishing a commercial presence in Egypt: ntry and stay shall be for a period of 90 days.</p> <p>Intra-Corporate Transferees: - Access is subject to the following conditions: - The natural person concerned must work within a juridical person, established in the territory of a COMESA Member and have been employed by it for a period of at least two years immediately preceding the date of their application for admission - the natural person concerned must be seeking temporary entry in order to work for (i) the same juridical person which is engaged in substantive business operations in Egypt or (ii) Juridical person constituted in Egypt and engaged in substantive business operations in Egypt which is owned by or controlled by or affiliated with the aforementioned juridical person. A work permit is required from the relevant Egyptian authorities, and the number of foreign natural persons necessary to the supply of services in any entity, regardless of the number of its branches shall not exceed 10% of the total number of personnel employed therein. The natural person concerned must belong to one of the following categories:</p> <p>(a) Senior Managers: Persons working in a senior position within a juridical person, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including:</p> <ul style="list-style-type: none"> - directing the establishment or a department or sub-division of the establishment; - supervising and controlling the work of other supervisory, professional or managerial employees; - having the authority personally to hire and fire or recommend hiring, firing or other personnel actions. <p>Compliance with an ENT is not required for senior managers.</p> <p>(b) Specialists: Persons working within a juridical person who possesses uncommon knowledge essential to the establishment's service, research equipment, techniques or management. In assessing such, account will be taken to the non-availability of such specialized personnel in Egypt, the applicant's employment experience, qualifications and suitability for the position.</p>
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Ethiopia

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> • Chartered accountants • No criminal record • Supervised at least for two years 	<ul style="list-style-type: none"> • At least a B.Sc degree or the equivalent in architecture or engineering from a recognized university or a similar institution. • The applicant must submit satisfactory evidence of at least four years of relevant and progressive design and supervision experience acquired after graduation. 	<ul style="list-style-type: none"> • Graduation from legally recognized institution and experience • Suitable code of conduct for assisting in the proper administration of justice • pass advocacy entrance examination • no conviction and sentence in an offense showing an improper conduct • documents evidencing entrance into a professional Indemnity Insurance Policy
GATS Commitment	Ethiopia is not yet a member of WTO		

Kenya

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> Complete a degree in accountancy, economics, finance, or law from a recognized university or Have the qualifications equivalent to admission to a degree in a University and complete three modules of the professional accountancy education program Pass exams administered by the Kenya Accountants and Secretaries National Examinations Board (KASNEB). 	<ul style="list-style-type: none"> Registered with EBK as a Graduate Engineer; Have at least 3years working experience from the date of registration as a Graduate Engineer; Have worked under supervision of a Professional Engineer. <p>Attach following documents;</p> <ul style="list-style-type: none"> Certified copy of Degree Certificate and other relevant academic certificates; Certified copy of National Identity Card (ID)/ Passport; EBK Graduate Engineer Certificate; IEK Membership Certificate or Receipt of application; Curriculum Vitae (CV) certified by one of the referees; Two colored passport photos. 	<ul style="list-style-type: none"> -Complete a law degree from a recognised university in the Commonwealth, and then attend the Kenya School of Law for a postgraduate Diploma in Legal Practice. -Complete a mandatory six month articles of pupillage under a lawyer of five years standing - 'petition' the Chief Justice of the Judiciary for admission to the Bar by filing the requisite documents, including the petition in a prescribed format under the Advocates Act and an accompanying affidavit, a certificate of completion of upilage and two certificates of moral fitness by practicing lawyers of five years standing, one of which must be from the petitioner's supervisor in chambers (referred to as 'pupil master') and pay a fee.
GATS Commitment	<p>Commercial presence requires that foreign service providers incorporate or establish the business locally</p> <p>Intra-corporate Transferees: Personnel sent from the headquarters in the home country to temporary work in a subsidiary in Kenya. Each company may be allowed to bring six expatriates, subject to unmistakable evidence that the skills are not available in Kenya. They must have at least two-year prior employment in the home country. Allowed to stay for two years that can be extended.</p> <p>Business Visitors Personnel employed by a service company abroad that enters Kenya to conduct business meetings or setting up establishment. Cannot be engaged in the direct provision of services. Entry allowed for up to 90 days in a calendar year.</p>		

Madagascar

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	Mandatory membership with Ordre des experts Comptablee Financiers de Madagascar (OECFM)	Proof of a Bachelor of Science in Engineering Letter of no objection from the Board Payment of annual fee	Must be of Malagasy nationality or a national of a State granting reciprocity to Malagasy nationals to practice law. The status of solicitor is conferred by a decree adopted in the Government Council."
GATS Commitment	Madagascar did not undertake any commitment on professional services in the WTO. The professionals in Madagascar are usually protected against foreign competition. Professionals wishing to practise must obtain an authorization to exercise their profession or accreditation from the relevant professional associations. Each professional association draws up its own rules, regulations and standards for practising the profession in question. Although it is not always necessary to be a Malagasy national in order to join a professional association, most of the texts contain nationality requirements.		

Malawi

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> Be qualified or chartered accountant 3 years of experience in an audit section at supervisory level in an audit firm Show evidence of skills, experience and competence in audit 	<ul style="list-style-type: none"> Graduate with degree in Engineering do professional training in engineering pass examinations with Malawi Board of Engineers 	<ul style="list-style-type: none"> Degree in law awarded by an institution accredited by The Malawi Council of Legal Education. Take and pass Malawi Law Examination.
GATS Commitment	<p>Intra-corporate Transferees: Personnel sent from the headquarters in the home country to temporarily work in a subsidiary in Malawi. Each company is allowed to bring a maximum of five expatriates. They must have at least two-year prior employment in the home country. Allowed to stay for three years that can be extended</p> <p>Each company must have at least three local directors in Malawi, of whom one will be designated Chairman of local directors and three or more directors (including the Chairman) should be resident in Malawi.</p> <p>Foreign investors are required to invest at least US Dollars 250,000.00</p>		

Mauritius

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> • Degree in the field of Accountancy • -Minimum of 3 years practical experience • -Member of professional accountancy body 	<ul style="list-style-type: none"> • Hold degree in Engineering granted by the UK or Northern Ireland or degree, diploma or certificate in Engineering from any other university • Technical knowledge or society approved by the Registered Professional Engineers' Council • Two years practical experience in engineering • Be a registered member of the Institution of Engineers (Civil/Electrical/Mechanical) London • Must be aged 21 and above 	<ul style="list-style-type: none"> • Hold a degree in Law awarded by University of Mauritius • Pass vocational examinations prescribed by the Council of Legal Education in Mauritius • Possess certificate of competency after serving a period of pupillage article ship or completing alternative training
GATS Commitment	<p>Foreign service suppliers need to incorporate/register in Mauritius,</p> <p>(a) Business visitors; Persons who visit Mauritius temporarily for the purposes specified in (i)- (iv) below</p> <p>(i) For the sale of services or entering into agreements for such sales for that services supplier (Service Seller) and/or</p> <p>(ii) Employees of a juridical person for the purpose of setting up a commercial presence of that juridical person in Mauritius</p> <p>(iii) Persons participating in business meetings</p> <p>(iv) Persons engaged in installing machinery of providing after-sale services of machinery under the conditions of the purchase of the machinery.</p> <p>Access is subject to the condition that representatives of such services suppliers or employees of such juridical persons • will not be engaged in making direct sales to the general public or in supplying services themselves • will not receive any remuneration from a source located within Mauritius. Entry for persons in this category shall be for a period of not more than 90days every 365-day period.</p> <p>b) Employees of foreign services suppliers; Specific categories of employees listed below who are hired temporarily by a service supplier with a commercial presence in Mauritius in the context of provision of a service in Mauritius.</p> <p>(i) Managers are: Persons who direct a branch office or one or more departments as their head, or supervise or control the work of other supervisory, professional or managerial personnel and have the authority to appoint or remove the personnel and powers to exercise discretionary authority over day-to-day operations</p> <p>(ii) Executives are: Persons who are in senior positions within a juridical person or a branch, and who primarily direct the management, have wide decision-making powers and are either members of the board of directors or receive directions from the board or the general body of shareholders</p> <p>(iii) Specialists are: Persons who possess high qualifications and knowledge at an advanced level relevant to the organization's activities or of the organization's research, equipment, techniques or management and may include persons who are members of accredited professional bodies.</p> <p>Entry for persons in the above categories shall be granted, for an initial period of 3 years, which may be extended subject to the terms of operation of the entity in Mauritius.</p>		

	<p>(c) Contractual Service Suppliers – Employees of juridical persons (i) Employees of a foreign based company or partnership who travel to Mauritius temporarily for short periods of stay of up to one year in order to perform a service pursuant to a contract between their employer and a client(s) located in Mauritius where the employer does not have an affiliate office and where remuneration must be paid solely to the employer and (ii) Employees of a foreign based company or partnership who travel to Mauritius temporarily for short periods of stay of up to one year in order to fulfil qualification and licensing requirements where presence in Mauritius is an essential condition for the fulfilment of these requirements</p> <p>Access shall be available under this category only in the specific service sector in which contract has been entered into and employees should have appropriate educational and professional qualifications relevant to the services to be provided</p> <p>(d) Independent professionals : (i) Natural persons who travel to Mauritius temporarily for short periods of stay up to twelve months with permission for extending for a maximum of three months in order to perform a service pursuant to a contract(s) between them and a client(s) located in Mauritius for which he or she possesses the necessary academic credentials and qualifications and has obtained, wherever necessary, registration with the professional body and remuneration is to be paid solely to the natural person; and</p> <p>Access shall be available under this category only in the specific service sector in which contract has been entered.</p>
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Rwanda

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> -Must be a member of Institute of Certified Public Accountant of Rwanda -Must possess qualification of a Chartered Accountant or Certified Public Accountant Issued by a body of professional accountants in another country, which has full membership of International Federation of Accountants (IFAC) 	<ul style="list-style-type: none"> - BSc or Equivalent from a recognized University or Higher institution of learning - Technical Report in any professional involvement 	<ul style="list-style-type: none"> - To be a Rwandan national; -To hold at least a bachelor’s degree in Law or its equivalent; -To have a recognized certificate from Institute of Legal Practice and Development or its equivalence; -Not to have been definitively sentenced to a term of imprisonment equal to or exceeding six (6) months; -To have passed the test conducted by the Bar Association; -Not to have been convicted for the crime of genocide perpetrated against the Tutsi; -Not to have been convicted for the crime of genocide ideology and related offences -Foreigners may also be allowed to practice the Advocates’ profession on condition of reciprocity or in accordance with international agreements to which Rwanda is a party.
GATS Commitment	Foreign investors can open and maintain commercial foreign currency bank accounts in Rwanda. Rwanda does not impose a minimum capital requirement on investors, nor does it impose any restrictions on the composition of the boards of directors of wholly foreign-owned companies.		

Seychelles

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations			<ul style="list-style-type: none"> - Complete a law degree (In Seychelles or Mauritius) - Pass bar examination - Law degrees from UK and France also qualifies one to sit for Bar exam - Two years of pupillage after the bar exam to be an Attorney at Law
GATS Commitment	<p>Unbound, except for measures relating to entry and temporary stay of natural persons of a COMESA member state who fall in one of the following categories:</p> <p>(a) Business Visitors: Persons not based in Seychelles who are representatives of business carrying on activities in COMESA member States and who are seeking temporary entry into Seychelles for the purpose of:</p> <ul style="list-style-type: none"> - Negotiating for the sale of the services of that business; - Entering into agreements to sell services for that business; - Participating in business meetings or preparing for the establishment of a commercial presence, where those representatives will not be engaged in making direct sales to the general public: <ul style="list-style-type: none"> - Conducting market research in relation to a service or services rendered by juridical persons not based in Seychelles - Represents a foreign shareholder(s) of a company based in Seychelles for the duration of the Annual General Meeting (AGM). <p>Entry and stay of such persons shall be for a period no more than 90 days.</p> <p>(b) Intra-corporate transferees (ICT): Shall mean managers, executives and specialists, as defined hereunder, of an foreign enterprise of a COMESA Member State which has established a commercial presence in the territory of Seychelles, being transferred temporarily to that commercial presence and who have been previously employed by the foreign enterprise for at least one year.</p> <p>Managers: Persons within an organization who primarily:</p> <p>(i) Directs the organization, or a department or sub- division of the organization. (ii) Supervises and controls the work of other supervisory, professional or managerial employees. (iii) Has the authority to hire and fire or recommend hiring, professional or managerial employees. (iv) Exercises discretionary authority over day to day operations.</p>		

	<p>Executives: Natural persons within the organization who primarily direct the management of the organization or a major component or function of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business.</p> <p>Executives would not directly perform tasks related to the actual provision of a service or services of the organisation.</p> <p>Specialists: Natural persons in the organization who possess knowledge at an advanced level of expertise and a proprietary knowledge of the entity’s products, services, operations or management techniques. This knowledge should reflect the required academic credentials and professional qualifications for performing work within the scope of a particular profession. Entry and stay shall be for a period no more than 180 days. Entry and stay shall be for a period of two year, which may be renewed .</p> <p>(c) Contractual services suppliers: Contractual service suppliers are employees of juridical persons of a COMESA Member State with no commercial presence in Seychelles, which have obtained a service contract in Seychelles requiring the presence of their employees in order to fulfil the contract. Currently entry of such persons is only allowed in the following sector and subsectors and entry stay shall be for a period no more than 180 days:</p> <ul style="list-style-type: none"> - Legal advisory on foreign and International law services - Accounting and bookkeeping services, excluding Auditing services - Architectural services - Environmental services - Urban Planning and landscape architectural services - Engineering services - Integrated engineering services - Primary, Secondary education services - Medical & Dental services - Veterinary services <p>(d) Independent Professionals: shall mean natural persons who are self-employed and based in the territory of another member and who supply services as part of a service contract with a juridical person in Seychelles. For the following sectors and sub-sectors entry and stay shall be for a period no more than 180 days:</p>
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Sudan

Regulatory framework	Profession		
	Accounting	Engineering	Law
GATS Commitment	<p>It is required that foreign service providers legally incorporate Business locally according to the legal incorporations allowed by each sector.</p> <p>4) Unbound, except for; Intra- corporate transferees: personnel sent from the headquarters in the home country to temporary work in a subsidiary in Sudan. Each company is allowed to bring a maximum of five expatriates. They must have at least two-year prior employment in the home country. Allowed to stay for period of five years with possibility of extension.</p> <p>Business Visitors Personnel employed by a service company establish another COMESA Member state that enters Sudan to conduct business meetings establishment. Cannot be engaged in the direct provision of services. Entry allowed for up to 90 days in a calendar year.</p>		

Swaziland

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<p>-Mandatory membership to Swaziland Institute of Accountants (SIA)</p> <p>-Bachelor's degree in accounting from an SIA-approved university</p> <p>-Complete accountancy education delivered by the South African Institute of Chartered Accountants (SAICA).</p> <p>-Three years of practical experience and pass final examinations conducted by either SAICA or the Association of Chartered Certified Accountants (ACCA).</p> <p>-Alternatively, individuals without a university degree may also become Chartered Accountants if they have five years of work experience and pass final examinations conducted by SAICA or the ACCA.</p> <p>-In order to obtain an Audit Practicing Certificate in Swaziland, individuals must hold the Chartered Accountant designation from SIA and must pass the SIA's "Conversion Examination" on Swazi taxation and business legislation.</p>	<p>-have passed the final professional examination</p> <p>-hold a current and valid membership of a professional institution, society or association recognised and approved by the Swaziland Association of Architects, Engineers and Surveyors (SAAES) committee</p> <p>-Be registered with a professional council or other professional registration body recognised and approved by the SAAES committee.</p>	<p>-To be an advocate, one has to be a citizen of Swaziland or is ordinarily resident in Swaziland, and is a fit and proper person to be admitted as an advocate</p> <p>-Above the age of twenty-one years</p> <p>-Holds the degree of Bachelor of Laws of the former University of Botswana, Lesotho and Swaziland; or the former university of Botswana and Swaziland; or the University of Swaziland; or Bachelor of Laws of any University in Botswana, Lesotho, Zimbabwe, South Africa or Namibia</p> <p>-Bachelor's degree in Law, not being a honorary degree, from any University in England, Ireland or Scotland</p> <p>-A Bachelor of Laws degree of a University in a country referred to in this paragraph and has been admitted and enrolled to practise as an advocate in South Africa, Namibia, Botswana or Lesotho or as a legal practitioner in Zimbabwe and has so practised for at least two years</p>
GATS Commitment	<p>Intra-corporate Transferees: Personnel sent from the headquarters in the home country to temporarily work in a subsidiary in Swaziland. Each company is allowed to bring a maximum of ten expatriates. They must have at least two-year prior employment in the home country. Allowed to stay for five years that can be extended.</p> <p>Business Visitors Personnel employed by a service company abroad that enters Swaziland to conduct business meetings or setting up establishment. Cannot be engaged in the direct provision of services. Entry allowed for up to 90 days in a calendar year.</p>		

Uganda

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> -Minimum of a bachelor's degree in finance or accounting -public accountants can sit for the certification exams. There are four different exams, and individuals have 18 months to pass all four exams. -Prior to taking the certification examinations, state boards typically require accountants to complete at least two years of work experience. 	<ul style="list-style-type: none"> -Membership with Uganda Institution of Professional Engineers -A Degree, Diploma or Licence of a University or School of Engineering recognized by Board as furnishing a sufficient guarantee of adequate academic knowledge in engineering -At least 2 years training as a pupil engineer after graduation, under the supervision of a Registered Engineer -A further 2 years working experience in a position or positions of some responsibility, again under the supervision of a Registered Engineer -Minimum age of 25 years. -Non-citizens are required to supply details of passport 	<ul style="list-style-type: none"> -A person must have a Bachelor of Laws (LLB) undergraduate degree from a recognized university -After graduation, one has to enroll with the Law Development Centre to study for the Bar course for 9 months -One becomes an Advocate after a successful Bar course -Foreign trained students must first study core subjects in a Ugandan University before they can be permitted to take the Bar Course. -Foreign trained students who have not completed the Bar course can be employed as lawyers and not Advocates.
GATS Commitment	<p>Authorities are required to inform applicants of reasons for any license rejection under mode 4 of supply.</p> <p>Foreign-licensed professionals are allowed to practice subject to conditions</p> <p>A legal practitioner in Kenya, Tanzania, Zambia or a country with a reciprocal arrangement with Uganda may be admitted temporarily to appear in a case, provided a locally-licensed lawyer works with him or her.</p> <p>Foreign lawyers cannot represent parties in arbitration proceedings, unless they appear jointly with qualified Ugandan lawyers.</p>		

Zambia

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> -Full qualification/ chartered accountant -3 years practical experience, two such years being post-qualifying 	<ul style="list-style-type: none"> - Be a fellow or member of the Engineering Institution of Zambia - Be resident or have an established office or appointment in Zambia as an engineer - Pay prescribed fee 	<ul style="list-style-type: none"> - Degree in Law from public university established under the University Act 1999 or private university registered in accordance with the provisions of the University Act 1999 and whose program has been accredited by the Institute of Advanced Legal Education -Pass the Legal Practitioners Qualifying Examination

GATS Commitment	<p>Employers who wish to employ expatriate staff are required to apply for work permits from the Immigration Department. The Immigration and Deportation Act enables the Immigration Department to issue work permits on the basis of the applicant's qualifications and experience and on the basis of local labour market tests. The Zambia Development Agency Act (ZDA) provides for the Agency to assist an investor, who invests a minimum of \$250,000 and employs a minimum of 200 Zambians, to obtain up to five work permits.</p> <p>Work permits are generally issued for two-year periods. The minimum employment stipulation for this support has recently been added by the introduction of the ZDA Act. The conditions for obtaining work permits are very restrictive. As it stands, this law does not take into account the needs of different sectors for expatriate staff.</p> <p>Foreign lawyers cannot be engaged to represent parties in domestic or international arbitrations taking place in Zambia.</p>
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Zimbabwe

Regulatory framework	Profession		
	Accounting	Engineering	Law
Regulations	<ul style="list-style-type: none"> -Be chartered accountant -For auditor, be chartered accountant plus three years documented practical audit experience obtained at: Ernst & Young, PwC, KPMG Deloitte or through public audit practice at the Auditor General's office. 	<ul style="list-style-type: none"> - Recognized engineering degree or equivalent - Be good standing - Posses evidence of competence in the relevant engineering discipline of practice 	<ul style="list-style-type: none"> - Law degree from specified jurisdiction; possess the qualifications prescribed in rules made by the Council for Legal Education in terms of section F forty-nine and has had such practical experience if any, as may be prescribed in such rules -Pass bar examinations -Be registered with Law Society of Zimbabwe; subject to residence requirements; residence in Zimbabwe, or by residence in a reciprocating country, or further still, by being granted a residential exemption certificate.
GATS Commitment	<p>Foreign companies are at liberty to create branches or subsidiaries, subject to obtaining the necessary approvals from the relevant licensing authorities or regulatory bodies, or to appoint agents in Zimbabwe. According to the authorities, branches or subsidiaries of foreign companies are treated no differently from local companies, unless expressly provided otherwise by legislation or government regulations. A foreign company is defined as a company incorporated outside Zimbabwe. Conversely, a local company is one incorporated in Zimbabwe, irrespective of ownership.</p> <p>Locally incorporated companies may employ foreigners under temporary work permits, which must be applied for by the company. These work permits are issued at the discretion of the Department of Immigration. The guiding principle is that the company should provide proof that the required skill cannot be sourced within Zimbabwe. A permit holder will only be allowed to work within the confines of the granted employment capacity.</p> <p>For professional services, Foreign degrees from certain countries (SADC and UK) are recognized.</p>		

5. FIELD WORK FINDINGS

Part of the study involved engaging with professional associations, private sector bodies, government officials and experts from selected COMESA member states. The consultations gathered views on the key constraints and challenges for progressive liberalization of trade in professional services. The discussions also deliberated on the opportunities, advantages and disadvantages of liberalizing trade in professional services in the COMESA region. There was some convergence in the views from experts with a diverse professional background. This chapter highlights the field findings.

5.1 KEY CONSTRAINTS AND CHALLENGES

The key constraints for progressive liberalization include protectionism, regulatory heterogeneity, restrictive legal frameworks, weak political will, skill shortages, restrictive migratory policies, unreliable statistics, limited involvement in the liberalization process, fear of revenue loss, fragmentation of service providers, poor negotiation skills, limited awareness and exclusion of services in national trade policies.

5.2.1 Protectionism

Protectionism is the tendency to impose regulations that make it very difficult or unattractive for foreign suppliers to enter the domestic market. Most professional associations raised a concern that several regulations applied by some COMESA member states only serve to protect their industries. For example, the requirement to be citizen of a particular country before you can be allowed to represent a client in court is seen as prohibitive regulation. Countries like Egypt, Ethiopia, Mauritius and Uganda have this regulation. The other example is the demand of using national language in court without an option of interpretation. This is also the case in several countries including Egypt.

5.2.2 Regulatory heterogeneity

The application of different regulations by COMESA member states adds to the cost of doing business. Service providers spend more financial resources and time researching on the regulations applied by different member states. They end up sticking to the market, with familiar regulations. There is need to develop a depository of regulations and requirements to ensure easy access to information.

5.2.3 Non-Commitment and Lack of Political will

Successful liberalization requires political will from the highest levels. Even if the service providers are keen to have their markets open, it will take the willingness of the policy makers and political leaders to achieve the real liberalization. East African countries that also fall under the EAC, have signed various agreements amongst themselves. However, despite the agreements, action of some member states does not reflect the agreements. The non-commitment and lack of sufficient political will frustrates the liberalization process.

5.2.4 Shortage of skills

Professional services involve dealing with high end skills, therefore the growth of trade in professional services is highly dependent on the availability of skills. As such, there is more willingness to liberalize the market when the country sees the benefit. An example is Mauritius where accountants and engineers are in high supply. Liberalizing these sectors on reciprocity principle would advantage the country to release excess labour force.

On the other hand, some countries would want to keep their markets closed for fear of failing to compete with foreigners once they open their

borders. Malawi and Zambia, for instance, would be reluctant to have the legal and engineering sectors open.

Some countries with skill shortage will approach the liberalization differently by still opening up with the expectations that an inflow of professional service would be a channel for technological transfer. Most professional associations in Malawi, Zambia and Ethiopia advised a partnership approach. If all foreign professional service providers are mandated to work with the local partners, then there could indeed be some technological transfer.

5.2.5 Limited availability of statistics

Statistics on trade in services are critical for policy making. Unfortunately, statistics on trade in services or professional services are still scanty. One of the reasons is that it is not very easy to capture. This has resulted in insufficient information accessible to both the policymakers and the professionals in making decisions pertaining to the liberalization of the sector. So as a result, countries hesitate to make decisions that could lead to opening up some sectors.

5.2.6 Limited understanding of the processes

Limited understanding of the professional services is a result of non-involvement of all actors in the liberalization process. As a result, other key actors including the professionals themselves tend to have little understanding of the opportunities from liberalization. Consequently, the stakeholders who were supposed to take advantage of the liberalization fail to do that.

5.2.7 Limited negotiation skills

Trade negotiations require some skills. Shortages of skilled negotiators among countries derail the process.

5.2.8 Fear of revenue loss

Some trade measures are a source of government revenue. For example, payments for VISA fees,

licenses, examinations, export or import permits and also taxes contribute towards government revenue. Therefore, the perception that liberalization will impact negatively on government revenue also hinders the progression of the same.

5.2.9 Fragmentation of the Professional Associations

Often, professional services industry operates in isolation. Consequently, they lack a platform for information sharing and having their views heard by decision makers at the highest level. This leads to their concerns being overlooked in various fora. They also miss an opportunity to influence policies that would support their expansion.

5.2.10 Non-incorporation of services in policies

Trade policies at national and regional level have mainly focused on trade in goods with little attention being given to trade in services. As such, there is limited support, technical, financial otherwise that the sector receives for its growth and development.

5.3 GAINS AND LOSSES FROM LIBERALIZATION

Liberalization produces winners and losers. Winning depends on the country's economic structure as well as the sector itself. Opening up some sectors would disadvantage other countries while working to the advantage of others.

Liberalization in the accounting profession, for instance, works more to the advantage of Kenya and Mauritius and disadvantage Malawi, Zambia and Uganda. The winners have a higher ratio of accountants to their country's population unlike the losers (Dihel, 2012). That means other professional accountants in Kenya and Mauritius would have a higher opportunity of expanding their markets.

On the other hand, liberalizing the engineering sector would advantage bigger economies, which have developed their capacities. So countries like Egypt and Kenya take advantage of the liberalization. Again they are the smaller economies like Malawi and Burundi that would not stand the competition.

Liberalization in the legal sector would also advantage Mauritius because of high proportion of lawyers in relation to the domestic market. In the COMESA region, Mauritius has the highest number of lawyers and accountants in relation to local population, seconded by Kenya. On the other extreme are Rwanda, Zambia, Uganda and Malawi.

Does liberalization always lead to winners and gainers? A win – win situation is also possible. Countries with capacity to competitively deliver services after liberalization already stand on the winning end. For those that cannot compete, they need to consider partnerships and take advantage of technological transfer, while they are also building their capacities.

In general, advantages of liberalization of trade in professional services include creation of economies of scale, enhancing consumer welfare, enhancing economic growth and technological transfer.

5.3.1 Economies of scale

Liberalization implies a bigger market for firms offering professional services. With the increased market, an opportunity for firms to grow bigger increases as well.

5.3.2 Welfare enhancing.

Liberalization also implies more competition. The competition is good for consumers because they begin to get better services at competitive prices. The consumers' freedom to choose a service provider also increases and are not denied an opportunity to change their consumption if they are not satisfied with one supplier.

5.3.3. Growth enhancing

Services play a crucial role in the development of other sectors. As the other sectors grow, they need more and more services to provide the facilitation support. As such, liberalization leads to more suppliers on the market.

5.3.4 Technological transfer

Liberalization of professional services is also advantageous for technological transfer. Countries rising from a background of limited skills have taken advantage of liberalization. Rwanda, for instance, has opened up its market for professional services. There are Kenyans, Ugandans, Burundi nationals and Tanzanians among others delivering services in various professions including the accounting and engineering. In the process, Rwanda is acquiring the technology and growing bigger economically.


Nonetheless, liberalization of trade in professional services is associated with the disadvantage of losing jobs to more competitive professionals. So some member states believe that the liberalization has to be done sequentially by starting with building national capacities and then opening up the market.

Liberalization can also disadvantage a country when the nationals are exposed to unfair competition. This would be the case when the foreign professional service providers are heavily subsidized in their countries of origin.

5.4 LESSONS FROM OTHER REGIONS

Progressive liberalization of professional services implies acceptance of foreigners to work in the host countries. The main challenge that arises is the issue of differences in professional qualifications. This challenge has been dealt with by the introduction of Mutual Recognition Agreement (MRAs).

MRAs facilitate recognition of supplier's qualification in the host country. Regional Economic Communities like the East African Community (EAC), the European Union (EU) and the Association of Southeast Asian Nations (ASEAN) have used



MRAs for facilitation of trade in the professional services (Hook, 2016).

5.4.1 EAC Experience with MRAs

EAC countries realized that they need the MRAs to develop trade in professional services. Stakeholders, mainly professional bodies took the initiative of negotiating and getting the MRAs signed. However, the negotiating and signing processes have been done with some shortcomings, which could be important lessons for COMESA.

The first issue relates to leaving out key institutions in the negotiating process, notably regulatory bodies. These bodies are the front-line implementer of MRAs, so their omission has caused implementation challenges.

The second oversight was the informal approach to the agreements. The agreements were not formally initiated at the regional level as such, the parties that were negotiating the MRAs had no powers to sign international agreements. So the MRAs lacked the “Treaty” status and legal instruments to support them. MRAs have to be formally adopted by Council of Ministers to become a Treaty. The implication is that the national regulations still reign supreme. This aspect has also led to implementation challenges.

The other issue is that the negotiations did not take into account all elements of Market Access Protocol like market access commitments and commitments on free movement of workers. Therefore, that has created uncertainties regarding the type of services an EAC citizen can provide in another EAC country.

Following these shortcomings, professionals in EAC countries have complained of MRAs that they are not being as helpful as they had wished. Despite the MRAs, the professional sector in the EAC says it faces delays in having a work permit processed and also huge differences

in the charges imposed by EAC countries when processing the work permits.

The EAC experience presents the following key lessons for COMESA:

- The process of negotiating and signing MRAs is very critical for them to be effective.
- The MRA process should be well formalized at the regional level to have the legal backing.
- The MRAs negotiating processes should be as inclusive as possible, involving all the key implementers for the ease and smoothness of implementation. The negotiation process needs to be as comprehensive as possible to cover important issues of timeliness and charges on work permits
- It is also highly advisable for all relevant parties to be sensitized on the MRAs to understand what they mean and what they are supposed to do.

5.4.2 EU experience with MRAs

The EU has a longer experience with the MRAs compared to most regional bodies. The EU started with promotion of free movement of professionals in various fields. Then they introduced the MRAs. The mutual recognition of professions was based on legislative harmonization of essential elements of qualifications, focusing on content and duration of university course as well as work experience. This approach proved hectic and time consuming. So the EU developed a general approximation approach to mutual recognition and was used across all professions. EU countries no longer needed to negotiate an MRA for specific sectors. The countries classified their own regulated professions according to the level of education, training and experience required for each profession. Then it was assumed that professional qualification attained in one state was similar across the EU and qualified for

automatic recognition.¹¹

The EU approach of establishing MRAs differ in a number of ways from the EAC. The first departure in the approach is the use of general approximation. This approach is viewed as a faster way of implementing MRAs than the sector by sector approach taken by the EAC and also suitable for regions with greater professional diversity. However, it is viewed as a risky approach because it gives national authorities a high degree of discretion.

The EU negotiations of MRAs was done and agreed by governments. This is also another area where the EU differed from the EAC. The government led negotiations have proven helpful because it has allowed legal backing of the MRAs. Nonetheless, the professions provided their input into the negotiation process.

The EU has also used the Court of Justice to enforce the rights and practice of mutual recognition. Consequently, all protectionist attempts by competent authorities have been challenged in the court of law.

The key lessons for COMESA include the following:

- Governments with input of the professions should lead the process of negotiating the Mutual Recognition Agreements.
- If COMESA decides to adopt the EU approach of general approximation for mutual recognition of professions, then this has to be accompanied by a legal system that would check any protectionist tendencies.

5.4.3 ASEAN experience with MRAs

ASEAN has its own style of MRAs with some minor resemblances to the EU's. ASEAN has three categories of MRAs. The first one is based on internationally agreed definition

of a profession. ASEAN members manage two registrations, one for the region and one for the domestic. Once a professional qualifies under the regional registration, then automatically qualifies for all members and also home country. Effectively, the regional registration is at a higher level than the domestic one.

The second category of MRAs is referred to as 'managed approach' where countries recognize each other's professional qualification, but limited to specific professionals (doctors, nurses and dentists). However, the countries are at liberty to impose other requirements prior to the registration at home.

The third category of MRAs is still under negotiations. This will cover surveyors and accountants. Nonetheless, arrangements under all categories have been negotiated with governments taking the lead, like in the case of the EU. The ASEAN goes a step further by setting up a Regional Monitoring Committee to closely monitor national competent authorities to keep them accountable.

The lessons from ASEAN for COMESA could be the following:

- Use of government lead processes in negotiating for MRAs
- Establishing regional monitoring committees for every profession to check on the performance of competent authorities and report to inter-ministerial governments.

On the overall, the experiences from EAC, EU and ASEAN reinforce the need for MRAs. But what is critical is the approach in the negotiations as well as supportive institutional fabric for the MRAs to be effective.

¹¹Hook, A (2016) Mutual recognition Agreement in Services in Trade in Africa

6. CONCLUSION AND RECOMMENDATIONS

Professional services remain a critical sector for the sustainability of the various economic developments taking place in the COMESA region. Because of its nature, professional services sector will inevitably continue growing with all the other sectors.

The key conclusion from this analysis is that the potential of trade in professional services in the COMESA region is not yet fully tapped. The players are still very few and there is a huge demand for professional services.

Progressive liberalization of trade in professional services is slowly happening among the COMESA countries. The EAC countries are more advanced than the rest of the COMESA countries in terms of liberalizing professional services.

With respect to the liberalization of the sectors; the professions of accounting and engineering have become less protected. COMESA countries have allowed foreign professionals to both own and manage firms. Legal profession still faces more protection. Many restrictive regulations are still intact, especially on client representation services in court.

Liberalizing professional services has some potential benefits, which include technological transfers, economies of scale, improved welfare from increased access to better services and increased economic growth via the supportive fabric offered by the services. However, there is fear among professional associations from smaller economies that benefits of liberalization will not be shared equally. The big firms from bigger economies will be the main winners.

The following issues are some of the constraints to the growth and liberalization of the sector; protectionism, regulatory heterogeneity, restrictive legal frameworks, weak political will,

skill shortages, restrictive migratory policies, unreliable statistics, limited involvement in the liberalization process, fear of revenue loss, fragmentation of service providers, poor negotiation skills, limited awareness of the processes and exclusion of services in national trade policies pose real threats.

To achieve a progressive liberalization of trade in professional services, decision makers in the COMESA region are encouraged to consider the following:

There should be regulatory reforms; One of the key necessary reforms is on regulatory frameworks, including amendments to the national laws. Legal instruments in the COMESA countries were instituted way back before the processes of liberalization of trade in professional services started. Therefore, the liberalization initiatives do not have relevant legal support. These reviews need to be extended to immigration policies so that they can be in line with liberalization processes.

Member states should build skills capacity; Liberalization will be more beneficial to the existing domestic firms if their capacity to compete and deliver will be enhanced. COMESA governments could support professional associations with capacity building programmes like identifying trainers or on behalf of the associations negotiate with advanced economies for some specialized trainings given under government to government cooperation and exchange programmes.

Involve the professional bodies; The liberalization process for the COMESA Trade in Services must be inclusive and fully consultative for it to be implemented successfully. Therefore, all key stakeholders need to be taken on board, including the private sector and professional bodies.

Implement Mutual Recognition Agreements; One of the key lessons from EAC, EU and ASEAN is the use of Mutual Recognition Agreement (MRA) for trade in professional services. These, need to be government led and coordinated at a regional level to attain a legal status.

Establish Regional Coalition of Professional Services; COMESA Business Council is well placed and was already mandated by the COMESA Ministers Council to establish a Regional Coalition of Professional Services to assist the professional bodies have a platform for engagement within the trade in services negotiations and regional services development.

Establish a Regional Education Body; This education body will help harmonize academic standards among Member states. It will also allow continuous monitoring of academic standards to sustain the MRAs.

Liberalize sectors progressively; Liberalizing all sectors at once will be overwhelming to the Member states. The process needs to be consultative and is associated with several domestic policy reviews. So, it is beneficial to start with a few sectors and move to the next one. COMESA being a 19-member group, bilateral agreements would be a better way to move faster with the liberalization. It is easier to start with neighbouring countries and countries with similar regulatory frameworks because there might already be high levels of informal trade and more knowledge about each other. It would also help to start with a sector that both countries find beneficial so that there is enough motivation to liberalize.

Invest in Information and Communication Technology; Use of ICT in professional services is a must. It speeds up businesses, expands market and lower costs, among other benefits. Therefore, expansion of trade in professional services needs to be complimented with investment in ICT.

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