



MEETING REPORT

2nd TRIPARTITE PRIVATE SECTOR REGIONAL DIALOGUE *Harmonizing and developing a private sector position on the Movement of Business Persons - Stimulating Trade and Integration 29th - 30th September 2016, LUSAKA-ZAMBIA*

1. INTRODUCTION

The Tripartite Private Sector Platform convened the 2nd Tripartite Movement of Business Regional Dialogue from the 29th -30th of September 2016 under the theme; Harmonizing and developing a private sector position on the Movement of Business Persons - Stimulating Trade and Integration. The objective was to come up with proposals on frameworks to facilitate movement of business persons in the region and to assess the Draft Agreement on the Movement of Business Persons as part of the TFTA framework. The meeting called for the need to work towards a visa free regime, and meanwhile for a framework which facilitates the movement of Business persons and builds upon existing initiatives on the free movement of business persons.

The free movement of business persons is a key enabler to economic development and integration; as it is necessary to facilitate trade. The importance of the developing framework for the Movement of Business Persons has been constantly echoed by private sector as necessary for trade and regional integration. The TFTA Technical Committee on the Movement of Business Persons is negotiating an instrument to facilitate the Temporary Movement of Business Persons, based on article 30 of the Draft FTA, and Annex 12. Various phases on the negotiation processes for Draft Annex on the Movement of Business Persons have already been undertaken with an almost complete Draft Agreement already in place. Nonetheless, the input of the private sector in the Agreement has been limited. In this regard, the Tripartite Private Sector Platform has recruited a Consultant; Mr. George Walusimbi-Mpanga to undertake a consultancy study that assesses and harmonizes the position of the private sector on Draft Agreement on the Movement of Business Persons for input into the TFTA negotiations. It is within the above background that the meeting was convened; present the study and develop the position of the private sector.



The meeting was a Private Sector Dialogue and had the participation of the private sector Associations from 19 Tripartite member states, and the three REC Business Council; COMESA Business Council, East Africa Business Council and the Association of SADC Chambers of Commerce and Industry. The List of participant- is attached to this Report. **Annex 2– List of Participants.**

The Dialogue took the format of an “inter-participatory or dialogue” approach, whereby presenters were given time to present on the selected topical issues on the Movement of Business Persons, regional and international best practices and a presentation that specifically focused on the Draft Agreement on the Movement of Business persons and the meeting were also given time to discuss and openly comment on the speakers’ presentations or issues under discussion. From each key issue; the meeting would then come out with key recommendations; which were then adopted at the end of the meeting.

2. OPENING CEREMONY

a. Statement - COMESA Business Council (CBC)CEO- Ms. Sandra Uwera

In her statement, Ms. Uwera urged the need for a stronger partnership amongst the Tripartite private sector as the policy makers are doing the same in the negotiations; highlighting the limited voice of the Tripartite private sector in the TFTA negotiation processes. She recalled the statement of the Zambian Minister of Home Affairs in his address the previous two days where he stated that; Free trade in the true sense is not possible without the free movement of economic actors and that economic integration cannot be realized without the free movement of the factors of production.

She bemoaned the movement of persons framework in Africa, citing the Africa Visa Openness Index which highlights some very interesting yet dismal statistics; for instance only 9 countries offer e-visa; at least 4 of them in the COMESA region; Africa largely remains closed, with Africans still needing visas to travel at least to half to the countries in the region.

She commended the efforts of the COMESA Business Council that proposed in 2011 for the developed of the COMESA Business Visa a framework that can support and facilitate the movement of business persons. And how two days back, had convened a meeting to consider and look at the proposed instrument that can be adopted as the COMESA Business Visa. She also commended the Tripartite Summit for identifying the movement of business persons as key to facilitating trade and investment. Looking at the objective of the meeting, she urged the private sector to influence the Draft Agreement on the Movement of Business Persons to ensure that it is more facilitative and addresses some of the challenges that businesses face when travelling across the region.

b. Statement – East African Business Council (EABC)- Technical Advisor; Ms. Agatha Nderitu

In her Statement, Ms. Nderitu spoke about the importance of the Tripartite Free Trade Area towards African economic integration. Highlighting further, that various studies have shown that African business people, who include business visitors, traders, investors and professionals, make the most travel across the African region when compared to Africa tourists or students but are faced with various challenges which include, but are not limited to visa requirements, requirement for visa fees, restrictions in the visas themselves, requirement to complete lengthy immigration procedures, among others. She called for the free a travel and visa free movement of all persons across the Tripartite region as essential to promote intra-regional trade within the TFTA

Ms. Nderitu, whilst acknowledging the government’s role in the creation of policy and the TFTA negotiations, implored the private sector to increase advocacy on matters relating to facilitating the movement of movement persons as part of the overall TFTA framework, And a quick conclusion on the Draft Agreement.

c. Statement – Association of SADC Chambers of Commerce and Industry (ASCCI) Representative –CEO Zimbabwe Chamber of Commerce and Industry Mr. Mugaga

In his statement, Mr. Mugaga spoke about the importance of Pan Africanism, as boundaries and borders were created with politics not economics in mind. He recalled the objectives of the TFTA and economic integration; suggesting that industrialization and economic development at REC and Tripartite level will be ineffective without facilitating the free movement of persons.

He reemphasized the importance of opening up economies highlighting that research shows they have higher levels of GDP and economic growth in comparison with close ones. Further, stating that the reason suffers from a very high rate of human and skills gap; hindering growth and productivity. In closing he recognized the efforts at COMESA level on the development of the COMESA Business Visa, calling upon the Tripartite private sector to work together on a framework that can facilitate the movement of business persons.

d. Statement - COMESA Assistant Secretary General –Programmes; Ambassador Kipyego Cheluget

In his statement, Ambassador Cheluget echoed that the movement of persons is an essential vehicle for our economies; to trade and regional integration. Further stating that the efficient movement of persons is to a large extent necessary for the conduct of trade and businesses.

He recalled the decision made , in June 2015 by the Heads of State and Government of the COMESA, EAC and SADC officially launching the COMESA-EAC-SADC Free Trade Area (FTA), the Tripartite FTA ,opening up tremendous opportunities for businesses with a population

of about 630 million consumers and global trade of about USD 640 Billion. He emphasized that trade cannot be fully achieved without the right framework for the movement of persons; particularly business persons in place; hence the decision to work on the Agreement on the Movement of Business persons as part of the first phase of negotiations.

Ambassador Cheluget, recognized some milestones that the RECs have achieved to facilitate the movement of business persons, but called for further work to ensure the implementation of Protocol, and a more facilitate agreement on the Tripartite Movement of Business persons. In closing he commended the importance of the inclusion of the private sector in policy making process as important in ensuring balanced legislative frameworks and the need for Public Private Platforms and dialogues in find solutions to business constraints and promoting an improved business environment and trade facilitation.

e. Statement – Ministry of Home Affairs – Permanent Secretary; Dr. Chileshe Mulenga

In his address; Dr. Mulenga spoke about the various trade benefits and opportunities that can be realized from a large tripartite market of more than 632 consumers and restated that the free movement of persons is fundamental to the objective of deepening regional integration and facilitating trade and economic development.

He emphasized the commitment of the government of Zambia to facilitating the movement of person, citing the progress made with the first UNIVISA system in the region, to promote and facilitate tourist between Zambia and Zimbabwe.

Whilst commending the Tripartite Summit for earmarking the movement of business persons as essential, he emphasized the need for a balanced framework that considers other issues such as security, terrorism and economic migration. He, therefore, urged the Dialogue to find solutions and recommendations of that strike a balance and a win- win situation for the movement of business persons versus other security considerations.

In closing he recognized the private sector as an important stakeholder in the development of our economies, in trade and regional integration, and commended the significance of Public –private dialogue and engagement.

3. PRESENTATIONS

a. Setting the Tone; The Tripartite Free Trade Area. Prospects for Trade and Development- Mr. Maybin Nsupila –CEO Zambia Association of Manufacturers

Mr. Nsupila gave an insight into the TFTA Framework; the history of the formation of the TFTA, which dates as far as 2001, and the subsequent Tripartite Summit in 2015 which formally launched the TFTA. He spoke further on the various negotiation pillars, which focus on market integration, infrastructure and industrial development and the various areas of negotiations from tariff issues, RoO, standardization, NTBs, Movement of Business persons and Dispute settlement systems.

On prospects for trade and development through the TFTA; he stated that Intra Africa Trade has remained low; currently at around 14 per cent of Africa's total trade.

He recognized that regional integration, needs to effectively addresses the different facets of trade development, and be accompanied by supportive domestic industrial and other structural policies to increase trade and assure development benefits

He submitted that TFTA process appears to have focus on all the important facets through the three pillars. Further, noting that progress has remained slow with, some important facets (industrial and infrastructure development) lagging market integration.

He also cited the proliferation of NTBS and other trade barriers such as the restrictive movement of business person's frameworks, negating the process of integration and undermining development; calling for the need for the tripartite framework to consider these issues.

b. Session 3: Presentation of Report ; The Study – Developing private Sector positions on the Movement of Business Draft Agreement (Background -Terms of References) Mr. George F. Walusimbi-Mpanga

In this presentation; Mr. Walusimbi-Mpanga focused on the background of his study highlighting the key objectives; to review the current status of application on the protocols on the movement of persons at tripartite level, and make recommendations on their implementation. And to propose best approaches on the Movement of Business Persons (the development of a facilitation visa mechanism) at TFTA level.

In terms of methodology for the study, he stated that two main approaches had been used; (1) Desk Review of secondary data - Literature (2) a combination of Key Informant Interviews (KII) and Focus Group Discussions (FGDs). Further, stating that 22 KII's and 5 FGDs were conducted with 40 key respondents drawn from 20 Institutions and Organizations in eight countries - Kenya, Tanzania, South Africa, Zimbabwe, Zambia, Namibia, Sudan and Uganda and 5 FGDs were carried out in South Africa , Zambia (2), Sudan and Uganda. He further advised that the focus had been both on the public and private sector stakeholders to provide an informed view of the applicable frameworks in the member states.

c. *Session 4: Presentation of the Report: Harmonizing and developing a private sector position on TFTA Movement of Business Agreement (Key Findings -Regional Practices) Mr. George F. Walusimbi-Mpanga*

In this presentation; Mr. Mr. Walusimbi-Mpanga focused on the key findings of the study. He highlighted the following key issues;

- The Tripartite Trade Negotiation Forum (TTNF) - the draft Agreement in its current form - does not serve to facilitate and encourage the movement of business persons and trade in the region its provisions are more restrictive; and in some cases quite unclear and inconsistent with the objective.
- There is limited awareness and inclusion of the private sector in the negotiations on the movement of Business persons.
- All three RECs have frameworks on the movement of persons with varied levels of implementation; none have a specific agreement that focusses specifically on the business persons. In COMESA, the COMESA Business Council is working on the development of the COMESA Business Visa.
- The existing frameworks for business persons are usually more stringent and restrictive; for instance business persons suffer the hustle of paying high fees for their visas prior to travelling; public officials and tourists enjoy the privilege of getting theirs gratis on arrival.
- One of the greatest impediments for business persons frameworks is the high handling fees; especially when dealing with countries without embassies in the respective member states as one would need to apply through an agent and the handling fees could be as high as US\$200.00
- Other key challenges also include the need for transit visas, and the limited duration for business visas which can be around 15-30 days in comparison to the 90 day tourist visa for most Member states.

d. *Session 5: Presentation of the Report: Harmonizing and developing a private sector position on TFTA Movement of Business Agreement(Recommendations) Mr. George F. Walusimbi-Mpanga*

In this presentation; Mr. Mr. Walusimbi-Mpanga focused on the recommendations stemming from the study. He highlighted as follows;

- Broadening the definition of a business person in the Draft Agreement to include the scope for a business person in the services sector' particularly to include SMEs, Independent Professionals and Contractual Service Suppliers.
- To adopt variable geometry as n operating principle.
- Building on Acquis. The importance of building on acquis, so as not to erode the benefits that already exist at REC level / bilateral level.
- Validity Period for Visas and Duration of Stay is extended to 90 days.
- Access to visas on arrival and moving to e-visa application processes; hence dealing away with the issues of handling fees.
- Harmonization of Motor Third Party Insurance Schemes. The COMESA Yellow Card scheme be extended to cover the Tripartite region.

e. Session 5: Country Specific Experiences on the Movement of Business Persons

A number of countries shared experiences on their respective frameworks on the movement of business persons. The summary of the presentations is below;

4. **Burundi;** Burundi has recently enacted a law that promote the movement of business persons and investors giving them 6 months visas, subject to fulfillment of the stipulated conditions.
5. **Egypt;** Egypt highlighted that there is a separate visa system that applies for business persons, and also for investors. However, their system is largely guided by the security considerations and also their proximity to Europe; as a potential gateway of illegal migration.
6. **Kenya;** Kenya highlighted that it has launched an e-visa system. A business visa is accessible after payment of a fee- US\$51. Most member states are able to access the visa on line.
7. **Malawi;** Malawi highlighted that the Chamber of Commerce usually assists with the application of visa for some of the business visa to fast track the processes. One of the key issues usually highlighted by business persons is the high visa fees.
8. **Mozambique;** highlighted that investors have a more relaxed frameworks the government is seeking to encourage investment in the country.
9. **Mauritius and Seychelles;** these have adopted a visa free regime, allowing persons including business persons access to entering their countries with no visas. These also include a very flexible and facilitative investment framework which allows investors free movement, stay and residence.
10. **Rwanda;** Rwanda has a visa on arrival regime, allowing all countries to access visas on arrival at a very nominal fee.
11. **South Africa-** South Africa has a specific regime for business persons; that categories them under the specific activity they are seeking; employment, professional, investors, quota skills and others. One would need to meet the requirements for each category to qualify.
12. **Sudan;** Sudan as a bilateral arrangement with Egypt which adopts a no visa regime or the national of the two countries when travelling. Sudan highlighted the various challenges for business persons when travelling to South Africa; as this has even led to a trade diversion as most business persons prefer to deal with Dubai instead.
13. **Zambia;** Zambia is implementing an e-visa system. Zambia is also operating a Cross-Border Permits & Transit Permits system that gives 6 months visa free entry to cross border traders and truck drivers of neighboring countries to be able to pass through the border without much hassle.
14. **Zimbabwe;** person applying are able to apply online for business visa which are valid up to 30 days stay.
- 15.

f. SUMMARY OF DISCUSSIONS

Throughout the meeting there were various discussions; especially on the findings and recommendations of the study as presented by Mr. Walusimbi-Mpanga. The key issues raised in the discussions are as follows;

- Most private sector associations are not involved in the negotiations at Tripartite level on the Movement of Business Persons and others. Hence the need to increase such participation at REC and national level. Furthermore, to increase the collaboration at Tripartite level; and hold such sensitization workshops occasionally. To share documentation with all Associations timeous to allow for adequate consultations before the meetings.

- The Report should include more precise information on the practices for the Business visas amongst the countries including the duration of the visa and the fees charged.
- The Draft Agreement on the Movement of Business Persons has already been finalized at Technical Working group level. There are now limited options for inputting into the negotiations since one of the principles of negotiations is that once something is agreed it cannot be reopened. Stakeholders' should lobby at national level as the Ministers meet for the TTNF for the revision of the Agreement.

a. Session 6 : Break away Workgroup sessions - TFTA Draft Agreement

Group sessions focused on discussions on some of the key provisions of the Draft Agreement. The input from the sessions is captured in the table below.

Issue	Group One	Group Two	Group Three	Group Four
Definition of a Business Persons	Include the movement of professionals- Mode 4 as part of business persons			
A business person be identified through the following;	Passport- Company Registration Form - Letter of designated BMO		Criteria for a business person- This can be verified - Registratio n certification for businesses - Permit for professionals - Tax certificate - Letter from the Apex Organisation	
Entry and Duration	90 days renewable for another 90 days Multiple entry		5 years	
Validity	5 years		5 years	
Principles	Include; Variable Geometry and Building on Acquis			
Administrative Processes	Processing time should be 3-7days	- E-Visa - Processing time should be 48		

		hours		
Fees		Cost – Reduction of cost	\$100	
Other Issues	Deletion of Article 8	Need for awareness of national laws on immigration		Article 8. <ul style="list-style-type: none"> - Recognizing credible private sector institutions within each country to carry out the verification process - Designated private sector institutions vet/ recommends a business persons' application
	Harmonization of documentation for application across the region.		Vision is visa free- this should be stated	Article 14(b) <ul style="list-style-type: none"> - Maximum 7 days, having notified the Applicant.

The above views were discussed in plenary; and the agreed positions are reflected in the adopted positions below:

b. *Session 7: Preparation and Harmonization of Private Sector Positions Formation on the regional position of the private sector- Adoption of Recommendations*

The meeting adopted the Report below, as the position paper on their recommendations; to be used for various advocacy at national, regional and Tripartite level.

4. RECOMMENDATIONS

The COMESA Business Council, East Africa Business Council and Association of SADC Chambers Of Commerce and Industry as the Tripartite Private Sector Platform convened the second (2nd) Private Sector Regional Dialogue -Movement of Business Persons Meeting in Lusaka Zambia from the 29th -30th September 2016, in Lusaka Zambia. The meeting was composed of representatives' private sector associations, Chambers of commerce's and business community from the Tripartite region.

The objective was to come up with proposals on frameworks to facilitate movement of business persons in the region and to assess the Draft Annex- Agreement on the Movement of Business Persons as part of the Tripartite Free Trade Agreement (TFTA) framework. The meeting recalled the various Protocols and frameworks to advance the free movement of persons under all the three Tripartite Regional Economic Communities, with the EAC even fully implementing a Common market; and the Abuja Treaty on African economic integration. As such, the movement of business persons and labour is an essential facet to the fulfillment of the TFTA trade liberalization objectives under the TFTA Agreement.

The meeting decided as follows;

The free movement of business persons is the ultimate goal; as movement of economic actors is important for regional economic integration. The Draft Annex -Agreement on the Movement of Business Persons should reflect the above.

1. Vision.

The frameworks on the Movement of Business persons should be guided by a vision that focusses on the development of a visa free regime for the movement of business persons as the ultimate goal.

2. Framework for the Movement of Business Persons. The framework or the Draft Annex, Agreement on the Movement of Business persons should provide for a regime that effectively promotes the movement of business persons in a manner that provides for expediting of processing, longer period of stay and duration of visa. It should encompass the following:

a) Validity of Visa.

The validity of the visa should be 5 years.

b) Duration of Stay.

The duration of stay should for a period of up to 90 days, with an option to extend for a further 90 days as captured in Article 7 of the Draft Annex on the Movement of Business Persons.

c) Multiple- entry.

The visa should allow for multiple entries.

d) E- Visa and Visa on Arrival.

Member states are encouraged to ensure expedited processing through the introduction of e-visa and processing of visas on arrival.

e) Processing Period.

The meeting proposes that the processing time should be 7 days as outlined in Article 14(1) of the Draft Agreement.

This should be complemented by a revision of Article 14(2) which should read, '***However, this process may be extended for an additional 7 days to allow further investigation, after having notified the Applicant.***' This is to ensure the applicant is promptly informed in instances where the processing time is unduly increased.

f) Harmonization of Visa Application Forms and documents required

Member states are encouraged to adopt harmonized visa application forms and uniform number of documents required in the visa application processes, to ensure certainty and efficiency in the administration processes.

g) Identification of Business Persons.

The following criteria should guide in formulation of the criteria for the identification of a Business person, and should inform Article 8 of the Draft Agreement:

A Business person shall be recognized by;

- Passport***
- Company Registration Certificate / Professional Permit***
- Tax Number/Compliance certificate***
- Letter from a designated BMOs or Invitation Letter from Host country***

h) Definition of a Business Person.

The definition of Business persons as specified in Article 1a. of the Draft Agreement should be reviewed to read as follows;

In this Agreement, unless the context otherwise requires:

- a. ***“Business person” means a natural person who is a citizen or a resident, in accordance with the law of a Tripartite Member State, and is engaged in trade in goods, services or the conduct of investment activities and shall include business visitors, traders and investors.***

i) Guiding Principles

-The brackets on the Guiding principles in Article 5 should be removed on the principle of Variable Geometry.

-The principle of Reciprocity should be removed.

-With respect to the principle of, ‘*Building on acquis*’, this should be cemented and clarified by statement that says, ‘***Building on acquis- being the achievements that have already been made on facilitating the free movements of persons in the region***’.

3. Private Sector Inclusiveness in the TFTA negotiations forum.

- a) The meeting noted the limited participation of the private sector in the TFTA negotiation processes at national and REC level. Member states are called upon to consider the incorporation of the Tripartite Private Sector Platform (CBC, EABC, and ASCCI) into the formal negotiation processes for the TFTA negotiations.
- b) Furthermore, that the private sector Associations at national level increase their advocacy on the Movement of Business persons and ensure that they are involved as part of their national delegations for the TFTA negotiations.
- c) The REC Business Council should also find ways of increasing their advocacy on the TFTA processes through their respective REC’s and also proving expert opinions on the issues under negotiations, including on the movement of Business Persons.

4. Increased Awareness on the regulatory frameworks for the Movement of Business persons.

There is limited information on business visa regimes amongst most stakeholders, both public and private sector with most being aware of the tourist visa frameworks instead. The public and private sector stakeholders are called upon to increase awareness on the visa regimes for business persons and the existing practices on the movement of business persons in the Tripartite region.