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

Submitted to the
Committee on National Economy, Trade and Labour Matters of the National Assembly

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1.0 Introduction

This memorandum is a response to the Committee on National Economy, Trade and Labour Matters of the National Assembly of Zambia who requested the Zambia Institute for Policy Analysis and Research (ZIPAR) to submit a memorandum indicating comments and stating whether or not Zambia should ratify the Agreement establishing the Tripartite Free Trade Area (TFTA) among the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC).

2.0 Background

As part of their broader developmental goals, countries often seek to improve the incentive structure offered to their domestic economies through the promotion of outward looking trade and competitive strategies. Popular among these strategies is the establishment of Regional Economic Communities (RECs). In the last 40 years, Africa has seen a proliferation of RECs such as SADC, COMESA, EAC and the Economic Community of West African States (ECOWAS), among others. While the implications of these RECs are not always obvious, their creation necessitates trade policy reform among member states.

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

Following significant progress that was made on background technical work, the Heads of State and Government from the three RECs met on 10th June 2015 in Sharm EL Sheik, Egypt where the TFTA was launched.

The TFTA brings together 28 countries with a combined area of 17.3 million square kilometres and a market of 626 million people (about 58 percent of the Africa's population). The aggregate economic weight of the TFTA is estimated at about $1.4 trillion representing more than 50% of Africa's GDP.

The economic rationale for the TFTA is grounded on a developmental approach to regional integration and based on three pillars; market integration, industrial development and infrastructure development. The foundation for the pillar approach is a recognition that currently, the key constraints to intra-regional trade are more a result of inadequate infrastructure and underdeveloped production structures than tariffs and regulatory barriers which have been reducing, anyway. Also, the TFTA has a symbolic significance as it was earmarked as a launchpad for the more ambitious African Continental Free Trade Area (AfCFTA).

To enter into force, the TFTA requires a minimum of 14 ratifications by member states. Recently, there has been a spike in the number of countries ratifying and set to ratify the Agreement. As of

September 2020, eight (8) countries had ratified the agreement namely Namibia, Egypt, Uganda, Kenya, South Africa, Rwanda, Burundi and Botswana. In addition, seven countries are currently in advanced stages of the ratification process; Comoros, Eswatini, Malawi, Sudan, Tanzania, Zambia and Zimbabwe.

Worth noting also is that aside from the geographical and economic dynamics, the TFTA differs with the more publicised AfCFTA mainly due to the following;

Level of ambition: Under the AfCFTA, the coverage of products with zero-rated duties is not intended to be 100%. Instead, each country or customs union will set 90% of goods to be zero-rated, up to 7% as sensitive goods with a longer phasing-in period, and up to 3% of goods to be exempt from free trade. By contrast, the level of ambition within the TFTA is 100% - all 5,387 tariff lines should have duties at 0%.

Transition period: Transition Periods Under the AfCFTA depend on the economic development of each country. For Middle Income Countries (MICs), the 90% zero-rated tariff lines would be phased in over 5 years, and sensitive goods over 10 years. For Least Developed Countries (LDCs), the periods would be 10 and 13 years respectively. For the TFTA, the move to full liberalisation would be effective immediately for all member states.

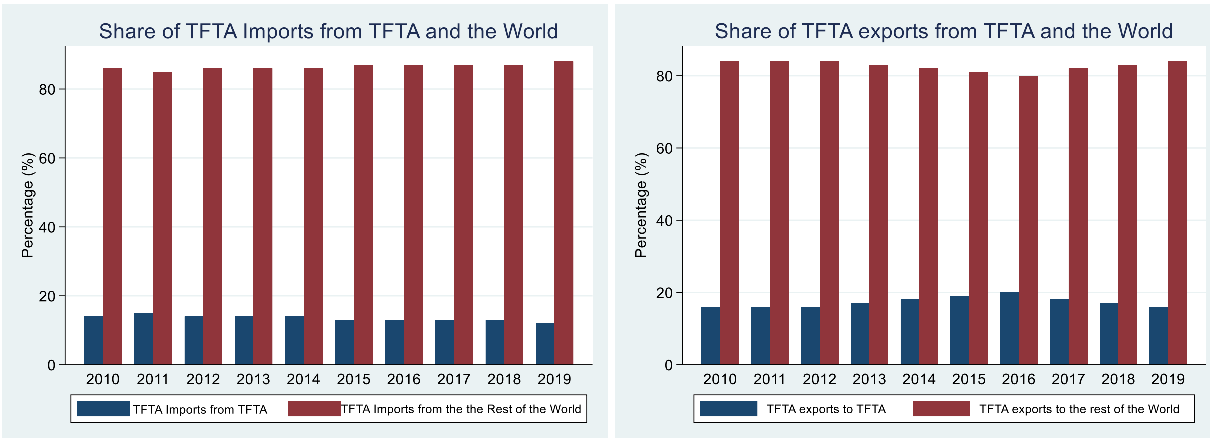
2. The status of trade in the TFTA

This section elucidates the current trade trends within the TFTA as well as Zambia's trade trends within the region. The analysis is largely based on data from the United Nations Comtrade database under the Trade map[1] portal.

Notably, the level of trade in the TFTA remains low and consistent with the general picture across Africa. Figure 1 shows that the TFTA's total imports from the TFTA averaged nearly 15% between 2010 and 2019 while imports from the rest of the world averaged about 85% over the same period. In similar vein, exports from the TFTA to the region averaged around 18% over the period 2010 to 2019 whereas exports to the rest of the world accounted for about 80% over the same period. This illustrates the numerous constraints to the growth of intra-TFTA trade which continues to be hindered by barriers such as poor infrastructure, weak productive structures and NTMs.

[1] Trade Map provides - in the form of tables, graphs and maps - indicators on export performance, international demand, alternative markets and competitive markets, as well as a directory of importing and exporting companies

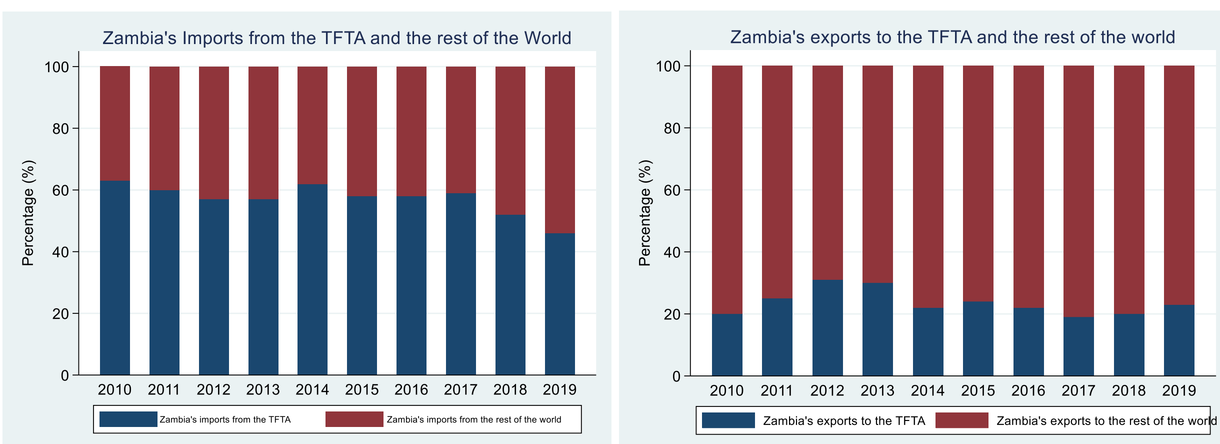
Figure 1: Average Intra-TFTA Trade as a share of World trade (2010 -2019)



Source: Plot based on ITC Trademap data

For Zambia, the picture is slightly different. Figure 2 shows that the country's imports from the TFTA averaged 60% for the period 2010 to 2019 compared to about 40% of imports from the rest of the world. This shows that the country mainly sources its imports from the TFTA region, mainly from South Africa. In terms of exports, Zambia's exports to the TFTA averaged approximately 16% during the period 2010 to 2019 while exports to the rest of the world averaged nearly 80%.

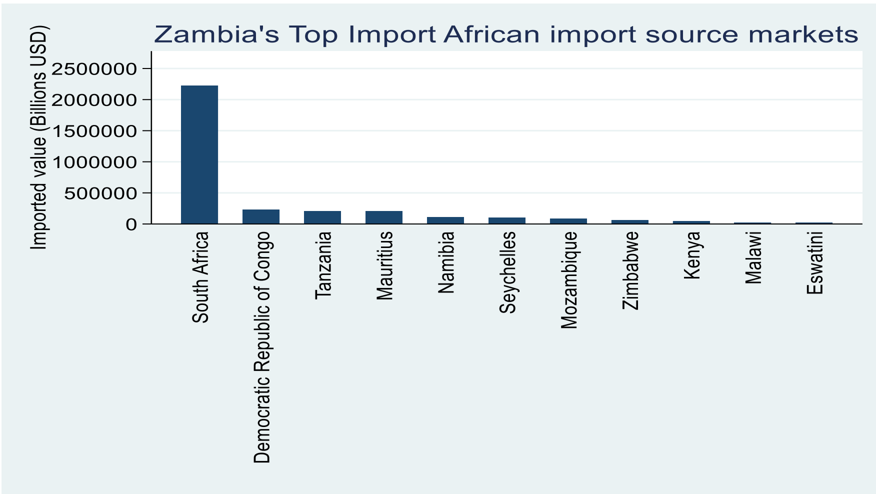
Figure 2: Zambia's trade with the TFTA and the World



Source: Plot based on ITC Trademap data

From a defensive trade perspective, in essence, figure 3 shows that in 2019, Zambia's top 10 import source markets from Africa were all members of either the COMESA or SADC FTA, with the exception of the DRC with whom Zambia has bilateral trade arrangements. This means that from a TFTA perspective, tariffs have already been reduced to zero and the likely impact of imports from the region will be negligible.

Figure 3: Zambia's Intra-African Import profile (2019)



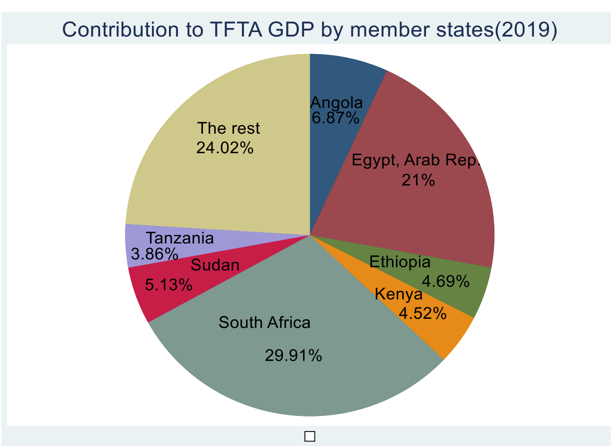
Source: Constructed from Trade map data

3.0 Potential challenges

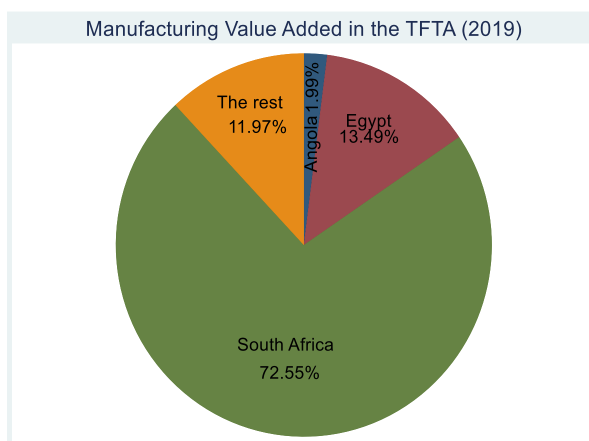
This section analyses some of the factors responsible for the low levels of intra-TFTA trade as well as the challenges that could inhibit the actualisation of full benefits from the establishment and implementation of the Agreement.

Such concerns about the TFTA do exist as a result of the economic disparities that are among member states. Specifically, Gross Domestic Product (GDP) in the TFTA region is not evenly distributed. The left sided pie chart in Figure 4 shows that in 2019, the TFTA region's two major economies, South Africa and Egypt accounted for about 50% of the entire regions' total GDP. In addition, the 7 largest economies accounted for nearly 75 percent of the regions' GDP while the remaining 21 countries accounted for only 25% of the regions' total GDP.

Figure 4: TFTA member states' GDP and Manufacturing Value Added contribution



Source: Constructed from World Bank data



Source: Constructed from UNIDO data

Perhaps what is even more striking is how manufacturing capacity within the region is unevenly distributed. In 2019, total Manufacturing value added, which is the net output of the manufacturing after adding up all outputs and subtracting intermediate inputs, was almost entirely accounted for by South Africa and Egypt as shown in the right-sided pie chart of figure 4. The rest of the member states accounted for a paltry 12% of total manufacturing value added in the region.

The low levels of industrialisation in Africa and Zambia should be particularly concerning when we consider the recent push for industrialisation within the African continent. These efforts seem not to have changed the tendency of African countries to specialise in the export of raw materials or low value-added products. Economic theory suggests that countries with similar comparative advantage are less likely to engage in bilateral trade. This is specially concerning for the TFTA because low industrial capacity means that countries will most likely continue to trade in lower value goods thereby precluding integration. It also raises fears about the possible polarisation of the benefits of TFTA towards the two biggest economies in the region, at the expense of the relatively weak and undeveloped nations.

Another potential challenge in the implementation of the TFTA is the manipulation of Rules of Origin by member states. Because the TFTA region does not have a common external tariff to regulate treatment of goods from third parties, an incentive exists for third countries to flood the market through a member with the most liberal trade regime, hence the need to agree on common Rules of Origin. Rules of origin are used to determine the origin of imported goods, so as to grant preferences to qualifying goods. Under the TFTA, Article 12 provides for uniformity among member states in the application of Rules of Origin. The Agreement has made provisions for the criteria to be considered in applying Rules of Origin. The Rules have built on the provisions under the three RECs, COMESA, SADC and EAC.

While Rules have been put in place, countries can still manipulate them to their advantage. Zambia has previously experienced such challenges with imported cooking oil from Kenya which was imported under the guise of being produced in Kenya when in actual sense it was a re-export. Zambia went to the extent of banning the importation of this cooking oil. This illustrates how provisions in the TFTA concerning RoO can be exploited, in the absence of local verification and monitoring mechanisms, and this is particularly injurious to an importing country.

A potential challenge worth noting in the implementation of the TFTA is the elimination of Non-Tariff Barriers (NTBs) and Non-Tariff Measures (NTMs). NTBs refer to a wide range of restrictive regulations and procedures, imposed by Government authorities, that make importation or exportation of products difficult and costly. On the other hand, NTMs are policy measures, other than ordinary customs tariffs, that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both.

While trade costs in the TFTA region have moderately declined due to the reduction in tariffs, NTMs and NTBs have not reduced at the same pace and continue to thwart the realisation of the full benefits of regional integration. According to World Trade Organisation (WTO) data, NTMs and NTBs in the TFTA region accounted for 92% of all NTMs and NTBs reported as outstanding in Africa as at 30th June, 2020. Table 1 shows that these NTMs were unevenly distributed within the region and concerted in South Africa, Uganda, Kenya and Egypt.

Table 1: Reported non-tariff measures in the TFTA countries

Country	Sanitary and Phyto Sanitary measures	Technical Barriers to Trade	Anti Dumping	Countervailing	Safeguards	Special Safeguards	Quantitative Restrictions	Tariff Rate Quotas	Export Subsidies
Botwana	6	2							
Burundi	8	85							
Democratic Republic of Congo	2								
Egypt	111	269	19		2				
Eswatini	8	9							
Kenya	134	999							
Madagascar	37		1		8				
Malawi	16	39							
Mauritius	18	10					9		
Mozambique	6	15							
Namibia		2							
Rwanda	1	342							
Seychelles	5	4					6		
South Africa	67	287	34		5			53	62
Tanzania	74	471							
Tunisia	3	28						13	
Uganda	131	1212							
Zambia	4	88							
Zimbabwe	6	2	54						
TFTA total	**637**	**3864**	**108**		**15**		**15**	**66**	**62**
Africa total	**828**	**4097**	**65**		**21**		**50**	**82**	**62**

Source: Constructed from WTO Data

However, the agreement does recognise the high incidence of these barriers and has therefore created an online reporting platform which allows affected exporters to report any barriers that they face, though the timely resolution of these barriers remains a challenge. While Zambia has done particularly well between 2012 and 2019 in resolving/eliminating at least 70% of annual NTBs reported against it by trade partners, it is the existence of these barriers in Zambia's export markets that is worrying.

In the recent past, Zambian exporters have faced restrictions in export of products to Zimbabwe and South Africa, as examples. These barriers have not been resolved in a timely manner thereby disadvantaging Zambian exporters.

4.0 Espoused Benefits of the TFTA

Under this section, we discuss some of the expected benefits from the TFTA and also make reference to simulations that have been undertaken by scholars and Zambian Government Agencies to illustrate some of the expected gains, for Zambia, from the TFTA.

The TFTA offers Zambia the possibility of accessing a market of 626 million people and spending power of US$1.2 trillion in a region that boasts of Africa's fastest growing economies. This is especially pertinent when we look at the country's objective to drive the growth of exports in the region as espoused in the Seventh National Development Plan (7NDP), National Trade Policy (NTP) and National Export Strategy (NES). The TFTA, therefore, presents an opportunity for Zambia to build on its current share of trade within the region and have access to a larger, more integrated and growing regional market. This has the potential to stimulate industrialisation, investment and job creation.

While Zambia is already trading in the COMESA and SADC FTAs, the market access for Zambia will drastically rise if Angola, DRC, Eritrea and Ethiopia ratify and implement the TFTA as they are currently neither implementing the SADC nor COMESA FTAs.

The TFTA is also expected to address the challenge of inconsistent trade rules which Zambian businesses face as a result of having to conform to two trading regimes (largely on Rules of origin), COMESA and SADC. It is widely agreed that overlapping memberships to RECs weaken implementation and increase costs for member countries as traders are expected to comply with different trade regimes. The TFTA will address this problem through its provisions that do not hinder member states from entering into preferential trade agreements provided that such benefits are extended to other members without any discrimination. As such, overlapping memberships would not be a problem per se as benefits would be non-discriminatory.

The TFTA will also address the high incidence of NTMs in member states through a Non-Tariff Barrier (NTB) monitoring mechanism which has been put in place to enable the private sector to register any NTB experiences online.

Another benefit of the TFTA, when compared to the more pronounced AfCFTA, is that it offers a different level of liberalisation (100%) from the AfCFTA and will remain an option for use by member states of the AfCFTA. In addition, the TFTA is premised on high levels of integration already existing in COMESA, SADC and EAC. Infact, the mechanisms for commencing trade under the TFTA are immediate, different from the AfCFTA which has transitional periods. Thus, until such a time when the AfCFTA is able to offer a higher level of integration, which could take many years, the TFTA will continue to exist and be used as an alternative trading mechanism.

To augment the case for the establishment of the TFTA, some studies have been undertaken by reputable institutions to assess the impact of the TFTA Agreement. One such study was undertaken by Andrew Mold and Rodgers Mukwaya[2] who evaluated the economic impact of the TFTA on consumption, industrial production and trade across the member states. The study found that there would be a 29% increase in intra-regional trade as a result of tariff elimination between member states. The study also found that the sectors that would benefit the most are manufacturing ones such as light and heavy manufacturing and processed foods. The study also revealed an aggregate welfare gain of US$2.4 million for the TFTA region.

Another study was undertaken by the Institute of Development Studies, University of Sussex[3] in 2013. The study found that the aggregate net benefit for the TFTA region was USD 3.3 billion per annum. It was also found that total intra-TFTA trade increased by 20%.

An updated study was undertaken by the Institute of Development Studies, University of Sussex[4] in 2014, in line with the agreed modalities of tariff liberalisation. The study found that Zambia registered the 6th highest welfare gain of 0.97% and its terms of trade would improve by 2.7%. The study also found that Zambia's aggregate export volume to the TFTA increased by 6%.

At a domestic level, in 2012[5], ZIPAR undertook a study to establish the implications for Zambia of the trade reforms implied in adopting the COMESA Customs Union and the Tripartite FTA. Specifically, for the Tripartite FTA, the study found that Zambia would have lost 4.5 percent of total tax revenue. These revenue losses were expected to be this high due to the need for liberalisation of trade with South Africa, which at the time was not trading on SADC FTA duty-free and quota-free terms.

A more recent study undertaken by COMESA used the Tariff Reform Impact Simulation Tool (TRIST) to assess the TFTAs impact on imports and tax revenues. Using a scenario where there was duty free access on current non-FTA (COMESA/SADC) countries, the study found that there would be a 0% change in imports for Zambia after the TFTA's entry into force. Under a similar scenario, the study also found that there would be a 0% change in total tax revenue. This is mainly because the tariff adjustments between South African and Zambia had all fully taken place under the SADC FTA implementation by the two trading partners.

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[2] See Andrew Mold and Rodgers Mukwanya (2013) Modelling the economic impact of the tripartite free trade area: Its implications for the economic geography of Southern, Eastern and Northern Africa at https://www.tralac.org/images/docs/11859/modelling-the-economic-impact-of-the-tripartite-free-trade-area-uneca-journal-of-african-trade-2017-

[3] See Willenbockel Dirk (2013). Computable General Equilibrium Simulations of the COMESA-EAC-SADC TFTA.TMSA/Institute of Development Studies, University of Sussex.

[4] See Willenbockel Dirk (2014). Computable General Equilibrium Simulations of the COMESA-EAC-SADC TFTA.TMSA/Institute of Development Studies, University of Sussex.

[5] See Cheelo, Malata and Tembo (2012) What do the forthcoming COMESA Customs Union and COMESA-EAC-SADC Tripartite Free Trade Area Mean for Zambia's Import Trade and Tax Revenue?

5.0 Should Zambia Ratify the Agreement?

In our analysis, we have explored the potential benefits and pitfalls of the TFTA Agreement. As is the case globally, any trade agreement is bound to be two-pronged, offering opportunities for export markets and at the same time presenting some downsides through the influx of imports from more competitive countries. The onus is therefore always on member states to ensure that they position themselves to reap as many benefits as they can from such Agreements.

In terms of its legalese, the TFTA Agreement is largely similar to various other trade Agreements that Zambia is party to. The county's experiences from its membership to SADC and COMESA show that there is potential for growth in exports within the TFTA.

Therefore, **we recommend that Zambia should ratify the TFTA and consider it as a key priority in the county's integration agenda**. In making this recommendation, we are cognisant of the domestic challenges that continue to inhibit the country's trade interests.

We therefore recommend the following complimentary policy actions;

- The Government should enhance the monitoring of the National Industrial Policy to facilitate industrialisation and diversification of the economy so that Zambia can fully exploit its regional markets.
- To protect the domestic market, the Government must strengthen the institutional coordination and implementation framework of the local content strategy to encourage/incentivize import substitution.
- The Government must also enhance the enforcement of Rules of Origin within the TFTA through improved verification and monitoring of imported products.