

Strengthening the Role of Customs Administrations in Implementing Green Trade Policies for Environmental Protection within the COMESA Region

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**What is the
paper about ?**



Outline

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1. Introduction

Certain substances and commodities that cross borders are considered to be “environmentally sensitive” for human health or ecosystems because of their inherent hazardous qualities, their potential for misuse, or their impact on biodiversity or species. Many of these items are controlled under Multilateral Environmental Agreements (MEAs) or other treaties, such as the Chemical Weapons Convention (CWC).

Effective monitoring and control of the transboundary movement of such substances and commodities is a key component of environmental protection and, in some cases, national security (UNEP, 2008). Environmental problems are transboundary in nature and have a global impact. They can be effectively addressed only through international cooperation and shared responsibility (UNEP, 2022).



Customs Administrations as the lead agent mandated with enforcing regulations on imports and exports, play an important role in protecting the environment.

In this regard, it is imperative that their coordination is strengthened to ensure that customs administrations and other border agencies are properly equipped to safeguard their countries' environmental and human health.

The Common Market for Eastern and Southern Africa (COMESA) is the largest Regional Economic Community (REC) in Africa comprising 21 African Member States that came together with the aim of promoting regional integration through trade and the development of natural and human resources for the mutual benefit of all people in the region .

These Member States are Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia and Zimbabwe.

COMESA Treaty Articles 112, 122 and 126 articulate provisions on the environment.



Indicators : COMESA 2021



Total Area (km2)

11,778,529

Population | 2021 (million people)

616

GDP | 2021 (Millions US dollar)

966,567

COMESA is a dominant trading bloc within Africa. The region's total exports and imports accounted for 42 and 52 percent of total Sub-Saharan African exports and imports respectively in 2020, (COMESA, 2022).

Therefore, the enforcement of environmental protection by the Customs Administrations within the region could significantly affect cross-border environmental goods trade within the African region.

2. Background

What is the problem ?

Environmental sustainability has become an issue of growing concern over the past decades. Trade in environmental goods is essential toward achieving sustainable economic growth, given their transboundary nature.

Customs Administrations play a critical role in furtherance of environmental objectives as gatekeepers at the borders where they are mandated with regulating imports and exports, hence the protection of the environment. In this regard, they need to be empowered and facilitated to efficiently and effectively play their role to safeguard the environment, people and society as a whole.

Presently, there is a paucity of empirical evidence that demonstrate how the role of customs can be strengthened to manage environmental threats. The paper seeks to address this gap focussing on the COMESA region.

Background cntd...

One way to link trade and the environment is through incorporation of environmental issues into trade agreements. Trade agreements by their very nature can have both desirable and undesirable effects on the environment. The undesirable effects include the increase in trade and economic growth that tend to accelerate climate change while the desirable effects include the advancement of environmental objectives.

<https://www.brookings.edu/research/greening-the-afcfta-it-is-not-too-late/>

In addition, a harmonised approach to promoting environmental sustainability through trade policy, trade facilitation and enforcing requirements of the MEAs by regionally agreed interventions, and regional reporting of impacts will make more visible contributions to ongoing global efforts. The policy paper seeks to explore how the role of customs administrations can be strengthened to ensure effective implementation of environmental/green trade policies.

3. Objectives

The overall objective of the policy paper is to provide insights and propose ways on how to strengthen the role of customs administrations in fostering environmental sustainability within the COMESA region.

Specifically, the paper sought to:

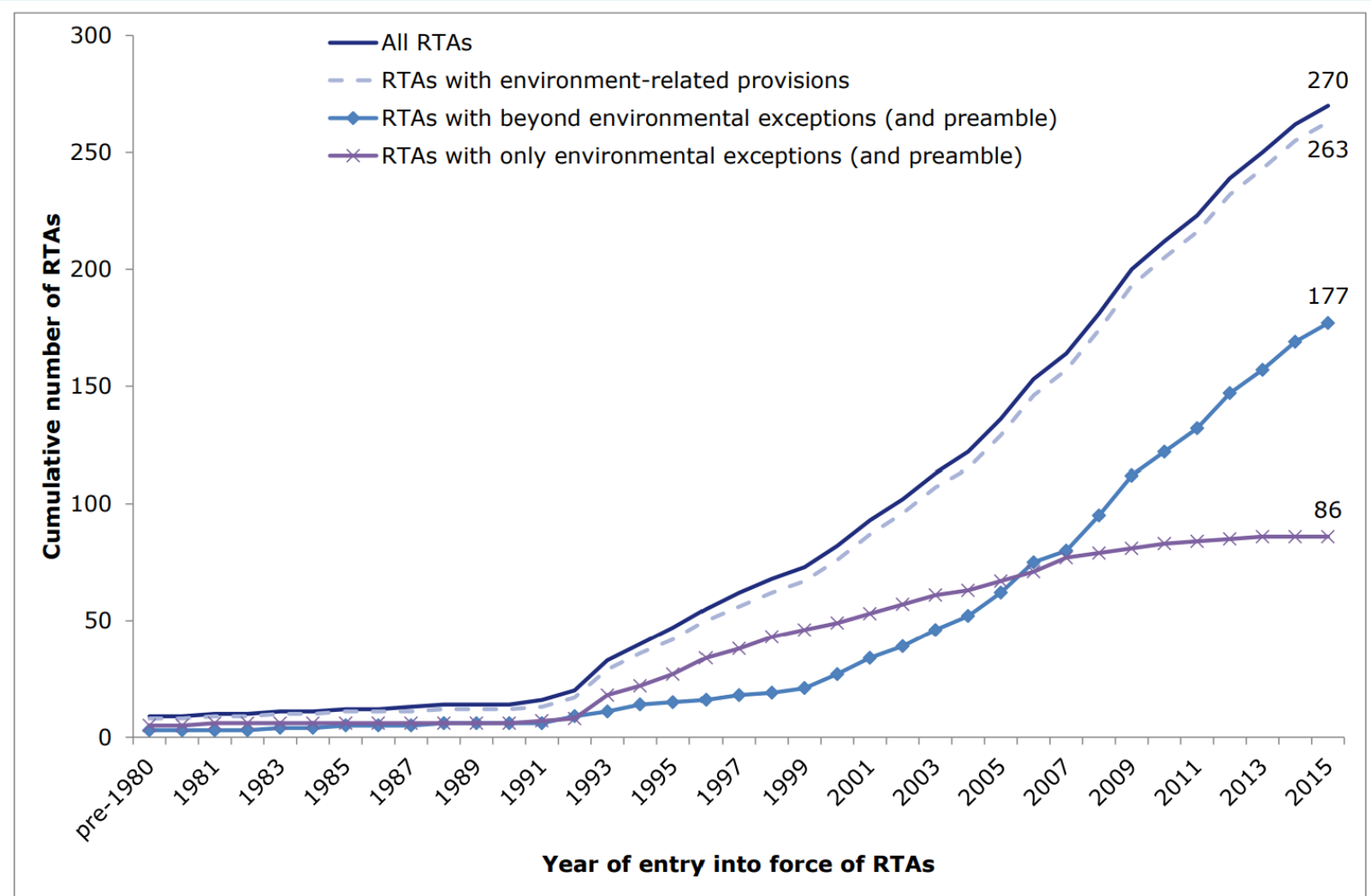
- i. Assess the ratification status of MEAs and determine how to strengthen the role of customs administrations in enforcing MEAs within COMESA;
- ii. Determine how customs administrations can facilitate trade (reduce barriers to trade) in environmental goods within the COMESA region; and
- iii. Discuss the application and use of WCO tools and instruments in enforcing green economy/green trade by COMESA Member States.

4. Construct from Literature

Recently, the world has seen an increase in the number of trade agreements with environmental provisions.

A study by the WTO in 2016 showed that 97% of the notified Regional Trade Agreements (RTAs) to the WTO incorporate at least one provision explicitly mentioning the environment.

This demonstrates their importance in the promotion of the environmental trade agenda.



Source: Computations based on WTO RTA database.

5. Methodology Applied

The policy paper relied on secondary data accessed from published reports and existing databases.

Documentary review and statistical descriptive analysis were the principal methods applied.

STATA was used to conduct statistical descriptive analysis.

6. Findings

A. Customs Role in Facilitating Environmental Goods Trade

Customs Role in Enforcing Multilateral Environmental Agreements (MEAs)

The trade related MEAs (MEAs including provisions that may affect trade) include:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- Cartagena Protocol on Biosafety to the Convention on Biological Diversity (CBD)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Minamata Convention on Mercury
- Montreal Protocol on Substances that Deplete the Ozone Layer
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Stockholm Convention on Persistent Organic Pollutants
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)

The status of ratification of the trade related MEAs

	Basel Convention	Cartagena Protocol	CITES	Minamata Convention on Mercury	Montreal Protocol	Rotterdam Convention	Stockholm Convention	CWC
Burundi	X	X	X	X	X	X	X	X
Comoros	X	X	X	X	X		X	X
Democratic Republic of the Congo	X	X	X		X	X	X	X
Djibouti	X	X	X	X	X	X	X	X
Egypt	X	X	X		X		X	
Eritrea	X	X	X		X	X	X	X
Eswatini	X	X	X	X	X	X	X	X
Ethiopia	X	X	X	X	X	X	X	X
Kenya	X	X	X	X	X	X	X	X
Libya	X	X	X	X	X	X	X	X
Madagascar	X	X	X	X	X	X	X	X
Malawi	X	X	X	X	X	X	X	X
Mauritius	X	X	X	X	X	X	X	X
Rwanda	X	X	X	X	X	X	X	X
Seychelles	X	X	X	X	X	X	X	X
Somalia	X	X	X		X	X	X	X
Sudan	X	X	X	X	X	X	X	X
Tunisia	X	X	X	X	X	X	X	X
Uganda	X	X	X	X	X	X	X	X
Zambia	X	X	X	X	X	X	X	X
Zimbabwe	X	X	X	X	X	X	X	X
KEY								
RATIFIED		X						
NOT RATIFIED								

Source: Author compiled based on data by MEA secretariats on ratification

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Under the Minamata Convention that deals with the adverse effects of mercury, DRC, Egypt, Eritrea and Somalia are not parties to the convention.

For the Rotterdam Convention that covers hazardous chemicals, Comoros and Egypt are not parties, whilst for the CWC that bans chemical weapons and handles their destruction, Egypt is not a party.

Thus, there is a need for these countries to ratify these treaties to consolidate the gains made on ratifications by the other Member States.

In addition, for those ratified, focus will also need to be on implementation at national levels (for example through national implementation plans (UNEP, 2006)).

As a region, the high rate of national ratifications illustrates the space for regional strategies on implementation to bolster enforcement.

B. Customs Role in Facilitating Environmental Goods Trade

Trade and Tariffs on Environmental Goods

Using the IMF definition and classification of Environmental Goods, the policy paper analysed intra-COMESA trade and tariff data from IMF (drawn from WITS based on HS 2017).

In 2021 an estimated 2,004 bilateral trade flows of intra-COMESA trade in environmental goods took place at the six-digit HS level.

These trade flows faced an average tariff rate of 2.6% with a minimum of zero and a maximum of 85%.

The frequency analysis shows that about 79.8% of the trade flows faced 0% average tariff rate, 5.3% of the trade flows faced an average tariff rate of 5%, about 2.8 % of the trade flows faced an average of 10% tariff rate and 4.4% of trade flows faced average tariff rate ranging from 20% to 85% in the same year.

It is important to note that the larger proportion of trade in environmental goods is not facing high tariffs.

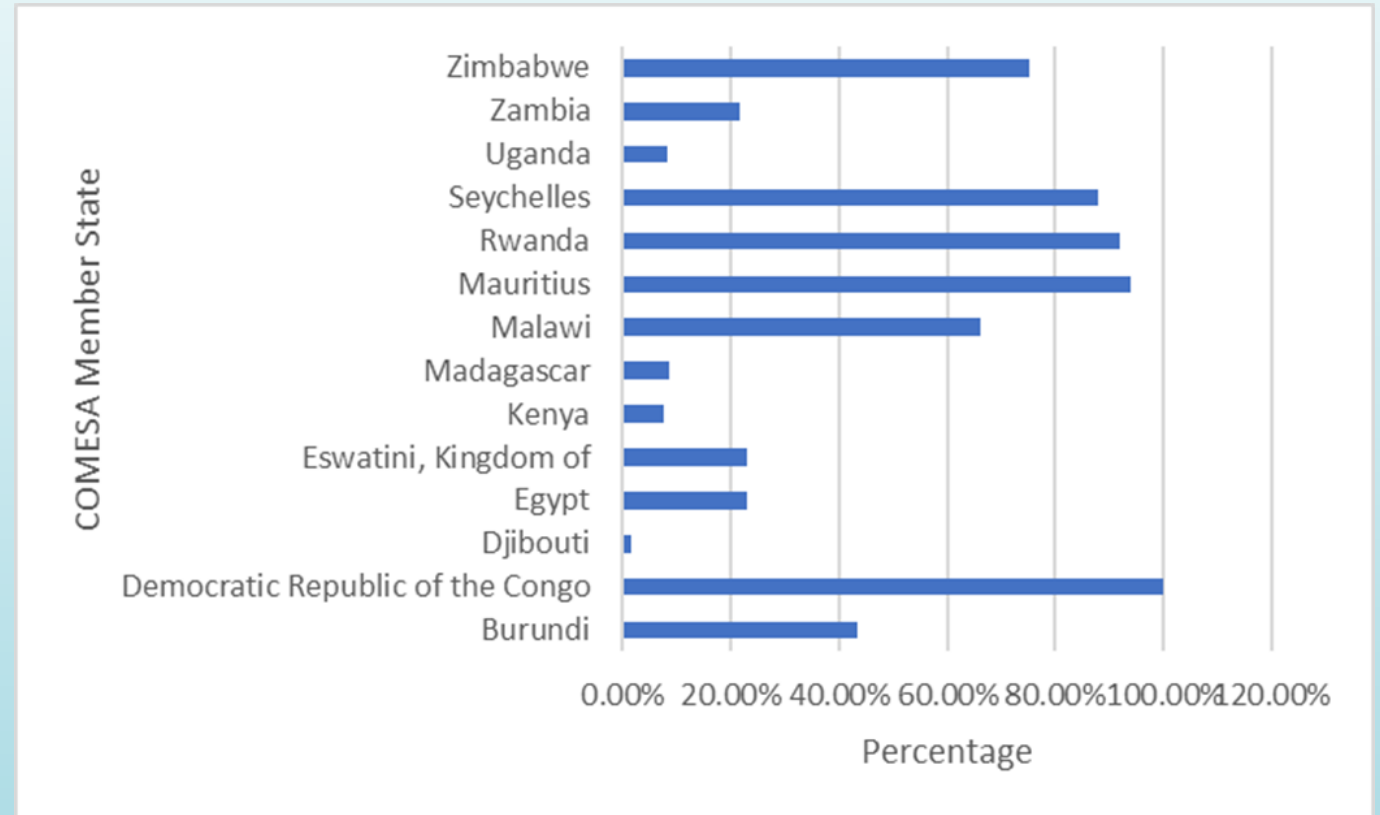
Average (high) Import Tax Rate on Environmental Goods by product and country (2020)

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World Trade Organization's Trade Facilitation Agreement (WTO TFA) Implementation Rates

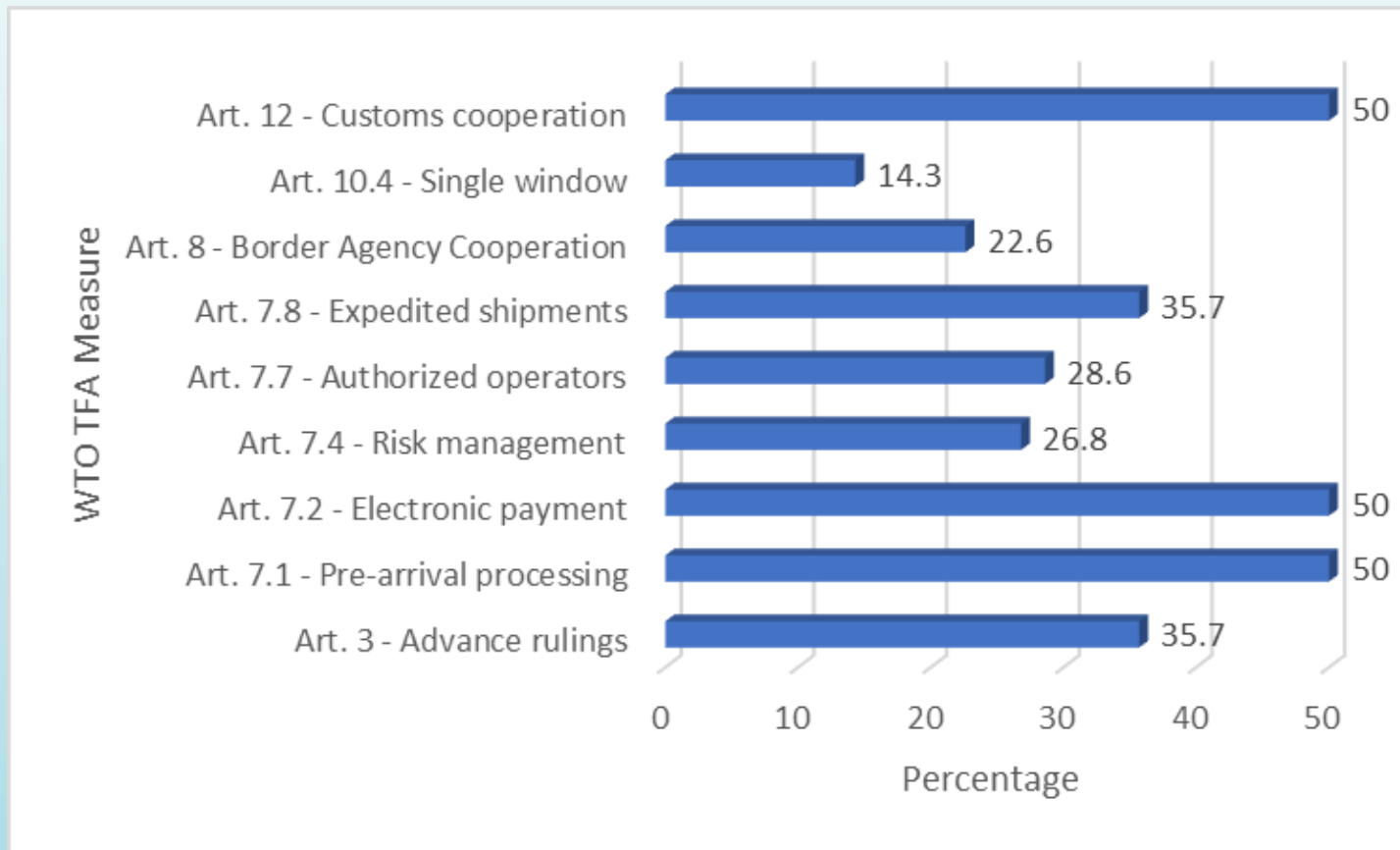
On average, the current rate of implementation of commitments of the WTO TFA measures within the COMESA region is 46.6% as illustrated in the Figure.

The Democratic Republic of the Congo (DRC), Mauritius, Rwanda, Seychelles and Zimbabwe have the highest rates of implementation at an average of 89.7%, while Djibouti, Kenya, Uganda, Madagascar, Zambia and the Kingdom of Eswatini have the lowest rates at an average of 9.7%.



Source: Author compiled. Data retrieved from WTO TFA database <https://tfadatabase.org/implementation/progress-by-measure>

Status of Implementation rate of WTO TFA measures related to environmental goods



Source: Author compiled. Data retrieved from WTO TFA database <https://tfadatabase.org/implementation/progress-by-measure>

The measures that have a fairly good rate of implementation are Customs Cooperation, Electronic payment and Pre-arrival processing at an average of 50%.

The rate of implementation of measures on Border Agency Cooperation, Authorised Operators and Risk Management are at an average of 26% showing that more work needs to be done in this area.

However, the rate of implementation of the Single Window measure is at 14.3% showing little progress has been made on the measure.



C. Practical Aspects of Implementation of WCO tools and instruments within the COMESA Member States in relation to Environmental Goods

Revised Kyoto Convention (RKC): Streamlined processes and procedures will secure the environmental goods clearance supply chain as the RKC is a blueprint for efficient, effective and modern customs procedures. Currently, 13 COMESA Member States are contracting parties to the RKC namely Democratic Republic of Congo (DRC), Egypt, Eswatini, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Tunisia, Uganda, Zambia and Zimbabwe. There is need for the non-contracting COMESA Member States to accede to the convention.

Authorised Economic Operator (AEO): Through use of the AEO programme, importers and customs agents with AEO status can help to secure the environmental goods supply chain through their compliance status, hence achieving reduced clearance times. Within the COMESA region, concerted efforts are underway towards implementing the regional Authorized Economic Operators (AEO) programme for COMESA with the Regional AEO Guidelines adopted by the 40th Meeting of the Council of Ministers in November 2019, and the AEO training materials, AEO implementation roadmap and the Terms of Reference (ToR) for the AEO TWG adopted at the 42nd Council of Ministers Meeting held in November 2021. The Secretariat is currently working to develop Standard Operating Procedure manuals for the AEO programme and updating the adopted AEO guidelines.



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Harmonised System (HS) Convention: The HS is a standardized commodity nomenclature system whose use of specific codes enables customs officials to identify environmentally sensitive items that are imported and exported. This is an important tool as proper classification will ensure correct collection of duties and taxes and reporting on environmentally sensitive goods for statistical purposes. Further, the HS can be used to further break down the classification of environmental goods for example for dual use goods or for the creation of HS codes for new and emerging environmentally sensitive goods. Within COMESA, as of April 2022, 12 Member States have notified the WCO of their HS 2022 implementation (WCO, 2022), namely Burundi, Comoros, Democratic Republic of Congo (DRC), Eswatini, Ethiopia, Kenya, Malawi, Madagascar, Mauritius, Rwanda, Seychelles and Uganda. In addition, the region is currently in the process of adoption of the transposed COMESA CET/CTN to HS 2022 by Member States.

Coordinated Border Management (CBM): Enhanced coordination and collaboration between customs and cross border agencies can result in moving and clearing environmental goods faster and cheaper. Further, adoption of One Stop Border Posts (OSBPs) further expedites this clearance. COMESA's CBM programme is supporting the implementation of CBM principles through border upgrade projects at targeted border posts and provides the framework for assistance to Member States on a coordinated approach to border management. The CBM guidelines and implementation strategy developed under the programme are awaiting adoption by Member States and will provide impetus to having a common regional approach.



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Single Window: This is an important tool to ensure that the requisite environmental or related permits and any other regulatory requirements are dealt with in a timely manner under one platform through a single point of entry. The countries within the COMESA region currently implementing national operational single window systems are 11: Comoros, Kenya, Mauritius, Rwanda and Tunisia at full operation; DRC, Egypt, Ethiopia, Madagascar, Uganda and Zambia at partial operation; and, Burundi, Zimbabwe and Djibouti at pilot phase. Therefore, there is need for other Member States to implement the same, as well as for implementation of a regional single window platform.

Risk Management & WCO Risk Management Compendium: Intelligence based risk management will greatly aid in the timely clearance of environmental goods as it will flag out high risk consignments while ensuring those with minimal or no risk gain green channel clearance. As the COMESA Member States have automated customs management systems (mostly ASYCUDAWorld) an inbuilt risk management system does this. However, their versatility and dynamism need to be in line with advancing technological changes. In addition, use of the WCO Risk Management Compendium assists customs administrations in instituting a comprehensive risk management framework within their administrations.



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Digital Customs: The WCO Digital Customs Initiative aimed at replacing paper with electronic processes and utilizing digital systems in the administration of customs operations will help in ensuring the secure cross border movement of environmental goods. Within COMESA efforts are underway to test and pilot a regional electronic certificate of origin (eCoO) under the auspices of the Digital Free Trade Area (DFTA) trade facilitation instruments. Once rolled out and operationalized, this will enhance the rules of origin to make issuance and processing of the environmental goods covered under the same easier and faster.

Customs Enforcement: Whilst national customs authorities undertake customs enforcement within their respective jurisdictions, use of regional or global platforms helps to rationalize efforts, share resources and build on capacities. The WCO CEN is a database of seizures and offences as well as pictures required for the analysis of illicit trafficking in the various areas under Customs' competence. Use of the platform by COMESA to regionally collate data on environmentally sensitive goods will greatly push enforcement for intelligence gathering and corrective actions.

<http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/cen-suite/cen.aspx>



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WCO Framework of Standards to Secure and Facilitate Trade (SAFE): The goal of SAFE to enhance security and facilitation in global trade resonates with the objectives of MEAs and indeed efforts on promotion of green trade. Use of the recommendations in the three pillars of Customs-Customs network, Customs to business partnerships, and customs to other government agencies such as use of advance electronic information on goods; joint targeting, screening and verification of consignments; and, use of risk management approaches, to mention but a few, will enhance trade in environmental goods within the region.

Overall, the use of the above-mentioned tools and instruments will ensure the timely clearance of environmental goods and the correct capture of data for statistical purposes. Nevertheless, there is need to increase customs resources to better manage these for more efficient and faster environmental goods processing and release.

7. Summary of Key Findings

The policy paper sought to provide insights and propose ways on how to strengthen the role of customs administrations in fostering environmental sustainability within the COMESA region. The key findings are:

- a) A majority of the COMESA Member States (18 of 21) have ratified the main trade related MEAs. This indicates a need for the focus to be on national implementation and it also illustrates the base for regional approaches towards more effective implementation.
- b) Within the COMESA region, a small proportion of environmental goods are levied with high taxes.
- c) The low rates of implementation of the WTO TFA shows need for enhancement at both the national and regional levels.
- d) Already existing WCO tools and instruments can greatly aid in the processing and clearance of environmental goods, with the use of enforcement tools for any corrective action .

8. Policy Implications

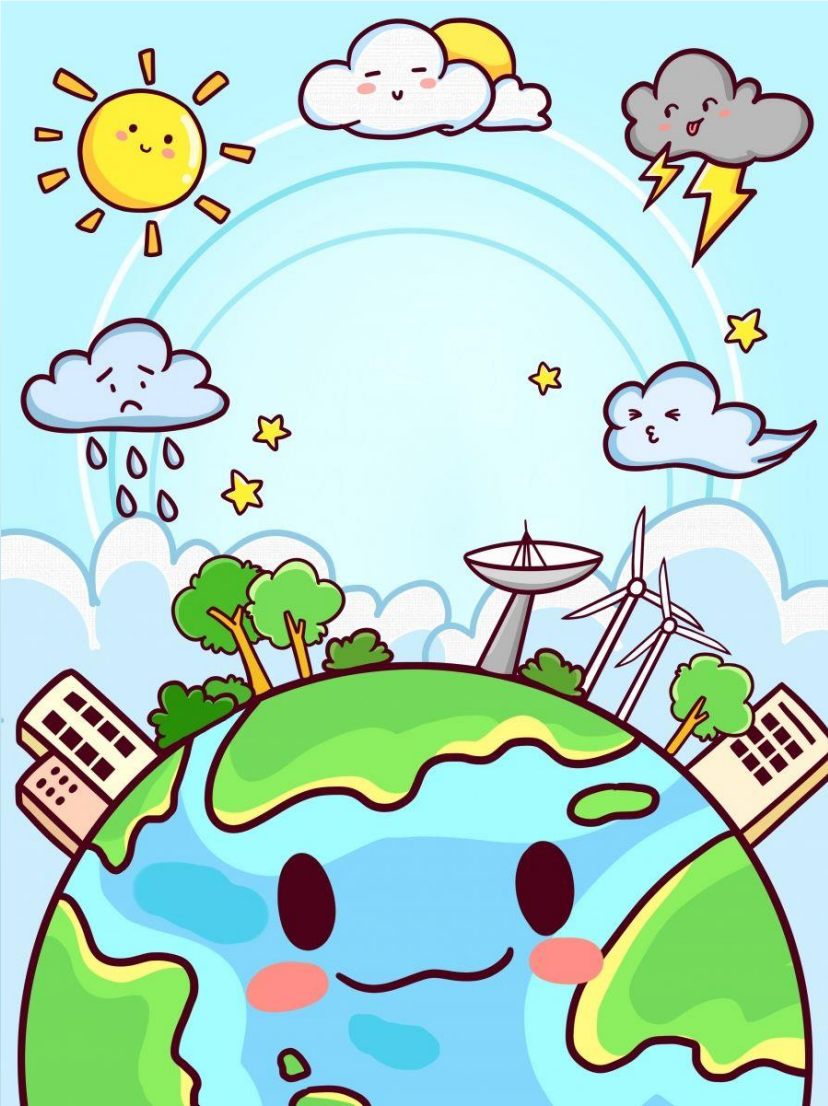
From the foregoing, Customs Administrations in COMESA Member States could consider the following:

- a) DRC, Egypt, Eritrea and Somalia to ratify the Minamata Convention; Comoros and Egypt the Rotterdam Convention; and, whilst Egypt the CWC;
- b) All Member States to consider needs assessments and where necessary training of customs officials on enforcement of MEAs;
- c) Member States to consider enhancing support to the implementation of their WTO TFA trade facilitation commitments; and,
- d) Increased use by Member States of the WCO CEN network, amongst other WCO tools and instruments, for customs enforcement related action and reporting on MEAs.

Policy Implications cntd...

The COMESA Secretariat should consider undertaking the following:

- a) Spearhead the development and coordinate the implementation of a regional approach to implementation of MEAs in the region;
- b) Enhance support to Member States (capacity building) on implementation of WTO TFA measures;
- c) Develop and implement a regional enforcement mechanism to collate regional actions and corrective action on the MEAs for enhanced regional implementation; and,
- d) Fast track Implementation of the digital trade facilitation tools, namely, electronic certificate of origin and the electronic single window to enhance the clearance supply chain.



Question & Answer

Thank you !