FAQs ON THE TRIPARTITE FREE TRADE AREA AGREEMENT (TFTA AGREEMENT)

1.0 Introduction

1. Out of the initial 26 member States (South Sudan, Tunisia and Somalia have since joined the Tripartite FTA), 23 have signed the TFTA Agreement. Mozambique, Eritrea and Lesotho are yet to sign it. The Agreement will come into force once ratified by 14 member states. Thus far Egypt, Uganda, Kenya and South Africa, have ratified the TFTA Agreement. Sudan, Comoros, Rwanda, Tanzania, Eswatini, Namibia, Botswana, Burundi, Malawi and Zambia have set in motion, the process of ratification.

2.0 Can Trading Commence once Ratification Threshold is Achieved?

2. The TFTA is ready for implementation. All the **10** Annexes to the Agreement have been subjected to legal scrubbing and are ready for implementation. **91.55** percent (**4932 of the 5387 tariff lines, HS 2017 version**) of the rules of origin have been agreed and are ready for use and so is the manual for implementation of the rules. Tripartite Guidelines on Implementation of Trade Remedies has been developed and the exchange of tariff offers is near complete, with most member states, opting to extend to the TFTA, their respective REC offers. Tripartite trade facilitation instruments such as certificate of origin and customs declaration documents are ready for use.

3. The continuing negotiations on the remaining **8.45** percent of the Rules of Origin are taking place within the provisions of the transitional arrangements and their outcomes shall therefore automatically be part of the already agreed **Annex IV** on Rules of Origin**.**

4. Implementation of select priority Tripartite instruments and programs, which don't require ratification including the online mechanism on non-tariff barriers, the SMS based NTBs reporting system and the transport facilitation and infrastructure programs, are on-going.

5. The Tripartite Agreement on Movement of Business Persons has been concluded and subjected to legal scrubbing. The Tripartite Master Plans for Surface and Air Transport, Energy and ICT have been finalised. The Tripartite Industrial Development work program, operationalization of risk-based approaches so far developed to reduce the cost of compliance with SPS documents and procedures are all ready and awaiting implementation.

3.0 **What Makes the TFTA Different?**

6. TFTA brings together countries that are already in FTAs. They therefore have the benefit of building on the gains achieved in their respective RECs but on a much larger and more dynamic market space.

7. The TFTA is based on a development integration approach that combines market integration, industrial development and infrastructure development. This is borne out of the realization of the complementarity existing between trade liberalization, competitive industrial production and infrastructure development.

8. As Member states liberalize trade, they also need to strengthen their industrial capacity, diversify their production base, and raise their levels of competitiveness. Competitiveness in the

region is compromised by the high costs of trading with each other, hence the need for infrastructure programmes.

9. To take care of vulnerabilities in member states' economy, the TFTA implements infrastructure programmes to reduce the cost of physical connectivity and Industrial development programmes to address problems of competitiveness and enhance development of value chains in the region.

10. The ratification request only relates to the trade liberalisation element of the TFTA Agreement. The industrial development and infrastructure development pillars do not require ratification.

4.0 What are the Potential Benefits Arising from the TFTA?

11. The TFTA Agreement would facilitate development of regional infrastructure programmes to reduce bilateral costs of trade, lead to harmonization of trade regimes of member states and allow for free movement of business persons, provide access to new and dynamic markets (some of the TFTA countries are among the fastest growing economies in the continent), stimulate industrial development through creation of value chains, increase cross border flow of investment and increase job creation.

12. Implementation of the TFTA will also lead to creation of more jobs by boosting intra-regional trade. Simulations done by credible institutions show positive net real income gains for all TFTA countries, and an increase of 20% in the volume of intra-tripartite trade. Sectors projected to benefit the most are the high impact ones including; heavy and light manufacturing, processed foods and textiles and apparel.

5.0 Does TFTA Agreement Address Potential Threats to Member States?

13. There are potential threats that Member States have to be vigilant about such as transhipment (i.e. third party imports gaining access through neighbouring countries) and dumping of sub-standard goods into the domestic markets.

14. The TFTA Agreement provides for measures to mitigate such potential threats. Among these are, effective customs cooperation (as transhipment would undermine regional productive capacity and benefits for all participating countries) and enforcement of agreed rules of origin to ensure that preferential access is granted only to products that meet the rules.

15. Once the TFTA Agreement comes into force, the Member States will implement preferential tariff treatment. All signatory member states will follow similar procedures to afford our country's exports preferential treatment in their markets. This will make our goods cheaper in other member states and therefore more competitive. This will increase incomes for our exporting companies and create more jobs in our economies as these firms expand and use up more labour and raw materials produced in our country.

16. The TFTA Agreement has specific rules and procedures to cover anti-dumping. Besides, member states have anti-dumping rights under the World Trade Organization (WTO). There are therefore legal protections under domestic and international law. The TFTA has provisions for infant industry protection in the event that they are negatively affected by imports. Member states can therefore invoke the protection if need be.

17. On job losses happening due to foreign goods being imported thereby affecting local industries, it is notable that trade

liberalization is based on reciprocity. Our country would therefore only open up to countries that have also opened up to it, in which case we will export to these markets, (create as many jobs) as much as we can produce.

18. The TFTA Agreement contains provisions for protecting sensitive sectors in our country. These include the infant industry clause and the anti-dumping measures. In the event of import surges, specific provisions of the TFTA Agreement could be invoked. Besides, liberalisation is to be phased over a long period.

19. The anticipated loss of tariff revenue arising from trade liberalization in the TFTA will be minimal. First, all countries except 4, have already liberalized under their respective RECs. Second, studies estimate tariff revenue from the Tripartite region at only 6% of the total tax revenue accruing to the region owing to the low intra-tripartite trade. Much of the tariff revenue in the region arises from imports from EU and East Asia.

6.0 Is there Interface between TFTA and AfCFTA?

20. There is a strong interface between the TFTA and the AfCFTA. The AfCFTA Agreement provides for the principle of acquis, meaning that the levels of integration already achieved at the regional levels, will all be preserved and where possible improved. The AfCFTA Agreement further explicitly provides that the higher levels of integration achieved by the RECs will not be rolled back.

21. Since 2012 when the Tripartite negotiations were launched, the African Union has been adopting decisions welcoming the Tripartite and calling upon West, Central and North Africa to emulate the Tripartite. The AU Decisions have stated that the Tripartite serves as a launchpad for continental integration. The Tripartite covers half of Africa and what it achieves amounts to

already doing the bulk of the job or the heavy lifting at the continental level.

22. The text of the Tripartite instruments was used in negotiating the AfCFTA and the two sets of texts are similar and in most cases identical especially for the Annexes. So, there is a significant interface in terms of principles, text, process and architecture.

7.0 Should a country that has ratified the AfCFTA still ratify the TFTA

23. The TFTA and the AfCFTA are two separate legal instruments. A country ratifying the AfCFTA should therefore still ratify the TFTA. Kenya, Uganda and South Africa, for instance, have taken this approach of ratifying both the AfCFTA and the TFTA.

24. The TFTA is ready to go. The AfCFTA on the other hand, has long transition periods, of up to **10, 13** or even **15** years. This means that it will be a while before the AfCFTA actually becomes effective and operational on the ground.

25. In the TFTA, the level of ambition is **100** percent. Upon entry into force of the TFTA Agreement, member states will apply the REC acquis to the other countries subject to reciprocity, and where there were negotiations at least **60** to **85** percent of the tariff lines will be liberalised up front. The rest will be liberalised over **5** to **8**-year transition periods. The principle of variable geometry will apply to allow those that can move faster to go ahead.

26. In the case of the AfCFTA, even after it enters into force, it will not cover the levels of liberalisation that the Tripartite aims for. Under the AfCFTA, **90** percent of the tariff lines will be liberalised, **7** percent (**377** tariff lines) will be sensitive and **3** percent (**161** tariff lines) will be excluded. Negotiations on the products to be covered by the **7** percent and **3** percent respectively, are yet to start. This is

bound to be a long and complex process as experience of the TFTA has shown.

28. The Tripartite Programs and levels of ambition will therefore remain relevant even after the AfCFTA comes into operation. The ratification and implementation of the TFTA is thus important even if a country ratifies the AfCFTA.