
REGIONAL INTEGRATION AND COOPERATION IN AFRICA



**CROSS-BORDER
INITIATIVE**

**Eastern and Southern Africa
and Indian Ocean**

Volume 2

*Country Papers and Progress Reports for the Initiative to Facilitate
Cross-Border Trade, Investment and Payments
in Eastern and Southern Africa and the Indian Ocean*

Co-sponsored by

African Development Bank

European Commission

International Monetary Fund

World Bank

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Initiative to Facilitate Cross-Border Trade, Investment and Payments
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January 1995

The initiative to facilitate cross-border trade, investment and payments in Eastern and Southern Africa and the Indian Ocean island states aims to improve the foundations and preconditions for successful economic integration in the region. In 1992, most of the countries in this region established Technical Working Groups comprising high-level representatives of the private and public sector. These groups took to the task of identifying the practical obstacles to increased regional trade, payments and investment for each country. They also made recommendations on how to overcome these constraints. The reports of these groups were reproduced in a first summary volume documenting the Cross-Border Initiative (CBI).

The initiative was developed under the aegis of four co-sponsors: the African Development Bank, the European Commission, the International Monetary Fund and the World Bank, in collaboration with the Secretariats of the Common Market for Eastern and Southern Africa, the Indian Ocean Commission and the Southern African Development Community, as well as the Organisation of African Unity and the United Nations Economic Commission for Africa. It has benefited from the support of the governments of Canada, Switzerland and the United States.

At a workshop held in Harare in December 1992, representatives of the Technical Working Groups agreed on a proposed Common Programme of Action based on their recommendations. Following the Harare meeting most of the working groups undertook to produce more detailed reports on the situation in their respective countries with respect to the Common Programme of Action. These second technical reports are included in this volume.

The country reports are reproduced in their original language, English or French. Other relevant texts are included in both languages whenever possible. While apologising for any remaining errors, it should be stressed that the editing of country reports was strictly limited to stylistic matters. The co-sponsors can therefore not guarantee the accuracy of the information and data contained in this volume nor accept any responsibility whatsoever for the consequences of its use. The findings, interpretations and views contained in this volume are those of the authors in each case, and do not represent official positions of the co-sponsors or of the governments, institutions or organisations mentioned in any part of the report.

FOREWORD

In response to the requests of African heads of state, at the launching of the Global Coalition for Africa at the Maastricht Conference on African Development in July 1990, the European Commission undertook to explore ways for the donor community to be more supportive of African regional economic integration. We are pleased that this mandate has resulted, amongst other activities, in the Initiative to Facilitate Cross-Border Trade, Investment and Payments in Eastern and Southern Africa and the Indian Ocean (CBI).

I am particularly pleased at the partnership that has been displayed in developing and implementing the CBI. The CBI is the result of private/public sector collaboration at the national level and the coordinated efforts of national governments, regional organisations (COMESA/PTA, IOC and SADC), pan-African organisations (OAU and UNECA) and the four co-sponsors: the African Development Bank, the European Commission, the International Monetary Fund and the World Bank. These efforts resulted in a Common Programme of Action (CPA) based on national recommendations. The co-sponsors then prepared a draft Concept Paper based on the CPA and indicating how donor support could be mobilised to facilitate its implementation. The Concept Paper was reviewed with senior officials from most of the countries in the COMESA/IOC/SADC region and endorsed at a ministerial meeting in Kampala in August 1993. I am pleased that we are now well on our way to see the implementation of the Common Programme of Action.

The CBI offers a pragmatic approach to promote regional integration, while also helping the participating countries to gradually integrate their economies into the world economy. The initiative aims to address the regional dimension of structural adjustment while supporting the efforts of the countries of the region to achieve closer economic integration. Moreover, the flexible approach allows countries to implement regional measures on the basis of reciprocity at their own pace (variable geometry). The emphasis on the private sector should facilitate the process of making the economies of the region more competitive within the region and internationally. The importance attached to openness (to both neighbours and third parties) under the CBI aims at maximising economic benefits in the form of: trade creation, increased investment flows, and the encouragement of efficient regional trade among countries which trade

intensively with developed partners. Peer pressure for reform and the stress on reciprocity (to regional partners) under the CBI should help to lock in policy reforms. The benefits are also, and maybe more importantly in the African case, of a non-economic kind, notably providing a basis for better policy coordination and the defusing of national lobbying pressures.

The CBI is noteworthy for its innovative approach to capacity building. The external support includes the financing of local consultants offering the services of a secretariat to the national Technical Working Groups (TWGs) and carrying out occasional special studies. The framework contract for handling such assistance has also been awarded to a regional firm. The supporting policy package reflects to a large extent the needs of the domestic private sector.

The CBI is not at all an attempt to create alternative regional groupings. Rather it seeks to complement the efforts of COMESA/PTA, SADC and IOC. While the CPA was being formulated, the PTA had an extensive agenda on regional trade and investment issues. It is, therefore, not surprising that the Technical Working Groups drew heavily from this agenda to formulate the Common Programme of Action. However, the CBI offers a flexible framework within which assistance can be provided to all the countries in the region to implement the regional integration agenda that they define for themselves as members of relevant regional organisations. Thus, with the transformation of SADCC into an economic community and the recent reactivation of the East African Community, the CBI could be used as a vehicle for channelling support in favour of the policy measures to be adopted at the sub-regional level by these groupings. This is again compatible with the flexibility (variable geometry) promoted under the CBI.

It is expected that this reference volume will be released to the second ministerial meeting being held under the auspices of the CBI. It is a positive sign that within two years of meeting in Kampala, ten out of fourteen countries have formulated and begun implementing the initiative. We would expect that by the end of 1995, and following the progress we anticipate at the second ministerial meeting, implementation will be well underway in most of the other countries and geographical coverage of the initiative will continue to expand. This would be in the true spirit of variable geometry according to which fast reformers bring others along rather than leaving them behind.



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GLOSSARY OF ABBREVIATIONS

ADB	African Development Bank
AEC	African Economic Community
ARSO	African Regional Standards Organisation
ASYCUDA	Automated System for Customs Data
BAD	Banque Africaine de Developpement
CBI	Cross Border Initiative
CCE	Commission des Communautés Européennes
CCZEP	Chambres de Compensation de la ZEP
CEAO	Communauté Economique de l'Afrique de l'Ouest
CEMAC	Communauté Economique et Monétaire de l'Afrique Centrale
CEC	Commission of the European Communities
CEPGL	Communauté Economique des Pays des Grands Lacs
CMA	Common Monetary Area (Rand zone)
COI	Commission de l'Océan Indien
COMESA	Common Market for Eastern and Southern Africa
CPA	Common Programme of Action
EAC	East African Community
EADB	East African Development Bank
EC	European Community
ECA	Economic Commission for Africa
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EPZ	Export Processing Zone
ESAMI	Eastern and Southern African Management Institute
EU	European Union
GCA	Global Coalition for Africa
GTT	Groupe de Travail Technique
HS	Harmonised System of Tariff Tarification
ICSID	International Center for the Settlement of Industrial Disputes
IMF	International Monetary Fund
IOC	Indian Ocean Commission

ISO	International Standards Organisation
ITC	International Trade Center/UNCTAD/GATT
L/C	Letter of Credit
LPA	Lagos Plan of Action
MIE	Multinational Industrial Enterprises
MIGA	Multilateral Investment Guarantee Agency
MMA	Multilateral Monetary Area
NTB	Non-tariff Barrier
OAU	Organisation of African Unity
OECD	Organisation for Economic Cooperation and Development
OGEL	Open General Export Licence
OGIL	Open General Import Licence
OPIC	Overseas Private Investment Corporation
PAEC	Pan-African Economic Community
PIC	Project Implementation Committee
PME	Petites et Moyennes Entreprises
PTA	Preferential Trade Area for Eastern and Southern Africa
PTA Bank	Eastern and Southern African Trade and Development Bank
PTACH	PTA Clearing House
PTA FCCI	PTA Federation of Chambers of Commerce and Industry
RCTD	Road Customs Transit Declaration
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCC	Southern African Development Coordination Conference
SAP	Structural Adjustment Programme
SITC	Standard International Trade Classification
SRBC	SADC Regional Business
SSA	Sub-Saharan Africa
SYDONIA	Système Automatisé des Données Douanières
TINET	Trade Information Network
TWG	Technical Working Group
UAPTA	Unit of Account of the PTA
UDEAC	Union Douanière et Economique de l'Afrique Centrale
UEMOA	Union Economique et Monétaire Ouest Africaine
UMOA	Union Monétaire Ouest Africaine
UNCITRAL	United Nations Commission on International and Trade Law
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
ZEP	Zone d' Echanges Préférentiels pour les Etats de l'Afrique de l'Ouest et de l'Afrique Australe

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THE CROSS BORDER INITIATIVE: AN OVERVIEW AND THE WAY FORWARD

1. ORIGIN AND JUSTIFICATION

The Maastricht Conference on African development in July 1990 demonstrated that despite a general agreement on the desirability of more regional integration and cooperation, the results remain disappointing. The Conference recommended the development of a practical approach that would also give more weight to the involvement of the private sector. Around the same time reflections began on the regional dimension of structural adjustment. Given the small size and openness of African economies, it was felt that, in order to increase the chances of success, adjustment programmes should integrate cross-border issues. The African Development Bank (ADB), the European Commission (EC), the International Monetary Fund (IMF) and the World Bank decided to collaborate as co-sponsors on developing a pragmatic approach in this area. The approach was meant to be relevant for different sub-regions in Africa. However, it was felt that circumstances were more conducive for initiating such work in Eastern and Southern Africa and the Indian Ocean.

The resulting initiative aims to improve the foundations and preconditions for successful regional economic integration in Eastern and Southern Africa, and the Indian Ocean. It involves the identification of major constraints to intra-regional trade, investment and payments and the development of measures to overcome them. All countries within this region, defined as member States from the Indian Ocean Commission (IOC), the Preferential Trade Area or Common Market for Eastern and Southern Africa (PTA/COMESA) and the Southern African Development Community (SADC) were invited to participate in this initiative. The initiative is not meant to duplicate the work of the regional organisations, but

rather to formulate and help to implement policy measures in conjunction with these organisations and their member states, with a view to achieve their own objective of effective regional integration .

2. OVERVIEW STUDY AND TECHNICAL LEVEL WORKSHOPS (1992)

The first step consisted of an overview study that was finalised at the beginning of 1992. The study documented the practical constraints in the region that prevent the private sector operators to engage in beneficial cross-border operations. One of the main conclusions of that study, was that the most important bottlenecks on moving towards more regional coherence are to be addressed at the national level. And moreover, that the role of external support would be critical. This follows from the costs of intra-regional liberalisation being immediate and concentrated, while the benefits are spread over time and diffused. An inventory of measures that had already been agreed in principle in the context of the main regional organisations (PTA/COMESA, SADC and IOC), but that, mostly because of specific country level issues, were not yet implemented, was also presented.

The conclusions of the overview study were transmitted and raised in the regular discussions of the regional organisations (PTA/COMESA, SADC and IOC). At the same time, ministers were invited to select Technical Working Groups (TWGs) involving the private sector, to carry out more detailed work at the national level. Fifteen countries in the region reacted favourably and nominated such working groups: Burundi, Comoros, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Reunion, Rwanda, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. The TWGs comprise private and public sector participants, and a local consultant to act as a secretariat. Representatives of the TWGs agreed on detailed terms of reference at a workshop in Mauritius in June 1992. Although Seychelles had planned to attend the workshop, it was prevented from attending due to flight cancellations. PTA, SADC, IOC, ECA and OAU also participated. It was made clear that the measures which the initiative would promote were in line with the objectives put forward by these organisations.

The TWGs were given five months to produce their first reports, which were discussed at a second technical level workshop in December 1992 in Harare. The latter workshop agreed on a proposed Common Programme of Action (CPA), which in essence is a synthesis of the policy recommendations in the national TWG reports. The national papers, as well as the synthesis and the CPA, have been reproduced in a documentation and reference volume that

has been made available to all contributors. Until stocks last, it is still available upon request from the EC to those interested in the subject matter.

Because of the importance of the South African economy in the region, it was considered desirable to carry out similar work as was done by the TWGs of the participating countries. It was therefore decided to ask a private consultant to prepare a report for South Africa. Consultations took place with the ANC and the Development Bank of Southern Africa (DBSA) during the preparation of this report. A South African delegation was present at the Mauritius and Harare workshops. The active participation of this delegation in the discussions was much appreciated by the other participants. In the case of Ethiopia, the government nominated participants for the Mauritius workshop, but since then there has not been an active TWG. Nevertheless, a private consultant prepared a report on Ethiopia. The South African and Ethiopian reports are included in the above mentioned reference volume.

3. MINISTERIAL MEETING (1993)

Following the Harare workshop, parallel letters were sent by the co-sponsors: ADB, EC, IMF and World Bank, to the relevant Ministers in each country which had established a TWG. Copies of the CPA were transmitted, and the countries were invited to express their interest in principle in implementing the measures identified at the technical level. By the end of May 1993, most of the countries had responded positively.

As had been requested at the Harare workshop, the EC agreed to finance some further activities to be undertaken by the national TWGs. A framework contract to coordinate this work was awarded to Imani Development (based in Zimbabwe and Mauritius). The work to be undertaken by the TWGs was subdivided into a number of immediate specific tasks and complementary medium term tasks, for the countries that explicitly indicated their interest in moving towards the implementation of the Common Programme of Action (see annex A for the terms of reference). Sub-contracts were issued to the national consultants continuing to act as Secretariats to the TWGs in the following countries: Burundi, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Uganda, Zambia and Zimbabwe.

Further activities undertaken by the TWGs covered three main areas: promoting the initiative, building a consensus within the country on the CPA, and undertaking further research which would help governments to determine the implications and costs of implementing the CPA. A sub-contract was also issued for a consultant in South Africa to

complement earlier work. The TWG reports prepared in the course of 1993 for the above mentioned ten countries are reproduced for information and as a reference in this volume.

Also in 1993, the government of Mauritius offered to host a workshop on improving the financial framework for regional integration. It was generally felt that the specialised issue of regional cooperation among financial institutions justified separate attention. The workshop was held in Mauritius in June 1993 and was attended by participants from financial institutions of Mauritius, Swaziland, South Africa, Zimbabwe, Uganda, Kenya, Namibia and Madagascar as well as representatives from the PTA Bank, PTA Clearing House, the IMF, IFC, ITC/UNCTAD/GATT, World Bank and the EC. The workshop accomplished its objective of developing recommendations on specific measures to improve the financial framework for intra-regional economic activity.

In order to launch a debate on the initiative at the political level, the staff of the co-sponsors prepared a draft Concept Paper (CP) describing the minimum package of measures. This draft paper was based on the Common Programme of Action that had been agreed at the technical level. The CP also outlined possibilities for donor support. The recommendations of the financial sector workshop were annexed as an integral part of the CP. The CP was discussed and amended at a meeting with senior officials in Brussels (21-24 June 1993). The Concept Paper is included in this volume.

At the invitation of the Government of Uganda, a Ministerial meeting took place in Kampala on 27 August 1993 to discuss the approach. The following countries were represented at the Kampala meeting: Burundi, Comoros, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Tanzania, Uganda, Zambia and Zimbabwe. In addition, the following organisations were represented by senior officials: Indian Ocean Commission (IOC), Preferential Trade Area for Eastern and Southern African States (PTA/COMESA), Southern African Development Community (SADC), Economic Commission for Africa (ECA), Organisation of African Unity (OAU), Global Coalition for Africa (GCA) and the US Agency for International Development, as well as the four co-sponsors.

The Ministerial meeting expressed a general endorsement of the Concept Paper as worked out by the senior officials meeting. A number of issues relating to the implementation of the measures were raised, such as the effect on the government budget and the balance of payments, and the danger of de-industrialisation. The question of compensation for transitional costs was also raised by the governments. The co-sponsors agreed to contribute funding towards compensating the participating countries for the net losses incurred during the transitional phase (between the implementation of liberalisation

measures and the response in economic activity). They also indicated that existing instruments would be capable of handling the type of assistance required. Assistance would be tailored to individual country needs.

The country level support will mainly take the form of balance of payments assistance, that should be additional to what is foreseen under national structural adjustment programmes. At the regional level, the complementary support activities should be concretised in the form of projects. Special attention should be paid to financial sector issues and to direct support of the private sector, to facilitate the repositioning of firms on the regional market.

The agreed minutes of the Kampala meeting are attached as Annex B (in French and English). The list of participants is in Annex C. The Kampala meeting agreed that it would be up to the individual countries to formally request the co-sponsors to initiate negotiations on the package to be implemented and financed under the initiative. Furthermore, interested countries would be expected to establish a Project Implementation Committee (PIC) to deal with the negotiations. The PIC is meant to bring together the key Ministers involved in preparing Government decisions on the policies covered by the Concept Paper.

Usually, the PIC would comprise the Minister of Finance, the Minister of Commerce and Industry and one or more other Ministers. In some countries existing structures for coordinating economic decisions would logically fulfill the role of the PIC. It was expected that the key Minister for economic policy matters would chair the PIC. The PIC or equivalent structure is meant to ensure consistency of decision-making on matters that cut across a broad policy area. More specifically, it is envisaged that in countries where there are ongoing structural adjustment programmes, the measures to be implemented under the initiative will be brought within that framework. Lack of national level policy consistency had earlier been identified as one of the main reasons for the lack of progress towards regional integration objectives.

As regards the TWGs, the Kampala meeting agreed that they should continue to act as a technical advisory body to help and guide the PIC Ministers. The TWGs should also maintain their representation of the private sector. Again, as in the case of the PICs, it is possible that in some countries, the TWG role would be taken by an existing structure. However, without such an existing structure, the TWGs should continue to function.

4. TOWARDS IMPLEMENTATION (1994)

Following the Kampala meeting, over a period of approximately one year, fourteen countries confirmed their interest in moving towards implementation and requested the co-sponsors to initiate discussions on a support package. These countries are Burundi, Comoros, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. Most of these countries also indicated the composition and the chairman of the PIC.

As regards assistance for the Technical Working Groups, the approach was changed in 1994, in view of the burden sharing among the co-sponsors. While the EC maintained a facility to respond to specific requests of the TWGs, the organisation of support for the secretariat function was gradually taken over by the World Bank. It was later decided, however, that countries could also request the EC to provide such support if so they wished.

Under the EC financed activities several countries held national seminars and undertook other promotional activities to publicise the initiative. There have also been some subregional level coordination meetings for the Indian Ocean and East Africa (see section 5). In addition, the EC has supported work of national lawyers on the laws and regulations in participating countries which would need to be amended in order to give effect to the policy measures in the Concept Paper. So far, such legal work has been carried out for: Kenya, Malawi, Mauritius, Seychelles, Swaziland, Uganda, Zambia and Zimbabwe.

Anyone familiar with economic policy reform in Africa will be aware that the situation is constantly evolving, to a large extent in view of the implementation of adjustment programmes. In the course of 1994, most of the TWGs have continued to monitor the country situation as regards the specific administrative and/or legislative arrangements necessary to implement the measures in the Concept Paper. A summary in a comparative matrix format of the country level situation is reproduced elsewhere in this volume.

Also in the course of 1994 several countries embarked, with the support of the TWGs, on the elaboration of an official position and timetable for the implementation of the measures in the Concept Paper. This position has been described in a letter of CBI policy. The co-sponsors have indicated that such a letter would be needed to initiate implementation of the country level support to compensate for the transitional cost of the measures. The content of the letter should be consistent with the more general policy framework paper that is prepared for countries carrying out an adjustment programme.

Zambia was the first country to officially transmit its letter of CBI policy to the co-sponsors in July 1994. A few other countries (Malawi, Mauritius, Madagascar, Seychelles Uganda and Zimbabwe) have already prepared a draft letter for discussion of CBI policy. In some cases, technical assistance has been requested and received to facilitate the preparation of this letter. In January 1995, Malawi officially transmitted its letter to the co-sponsors.

The approach of the Cross-border Initiative has also been discussed in other fora. In April 1994, a presentation was made by the co-sponsors to the group of donors of the Special Programme of Assistance for Africa (SPA). The information document prepared for that meeting is included in this volume. The initiative was well received and it is expected that several donors apart from the co-sponsors would be willing to contribute to mobilise the necessary support to implement CBI. The CBI was also put on the agenda of the meeting of the sub-committee on regional integration of the Global Coalition of Africa (GCA) in Dakar, in May 1994. The GCA meeting recommended the application of the CBI approach to other sub-regions in Africa.

5. INVOLVEMENT OF THE REGIONAL ORGANISATIONS

As mentioned above, the CBI has been developed in collaboration with the relevant regional organisations (PTA/COMESA, SADC and IOC). The policy measures endorsed by the Ministers of the participating countries as summarised in the Concept Paper and in the letters of CBI policy generally correspond to those put forward by the regional organisations. Therefore, the CBI directly supports the integration agenda of the regional organisations. Nevertheless, several practical problems arise, mainly from two sources: not all the members of a particular organisation participate in the CBI and in some cases there is a lack of harmonisation between different regional organisations. As regards the first point, it should be stressed that CBI is open to all the members of the organisations (PTA/COMESA, SADC and IOC). However, examination of the policy agenda will make it clear that only countries that have embarked on a road of economic reforms will be in a position to effectively implement the measures. The CBI approach is consistent with an approach of variable geometry where a sub-group of members of an organisation carry out certain policies for which they are ready. Other member states can implement these policies as soon as the circumstances make it possible and desirable. Variable geometry is a pragmatic approach that avoids progress towards regional integration to be determined by the slowest moving member state. The aim is for faster moving members to encourage other

member states to enter into closer economic integration. It is not to exclude countries that find it more difficult to move. The regional organisations have a critical role to play in helping the slower-moving countries to understand the aims and objectives of the initiative and to embark on the implementation of the programme of action.

More generally, the regional organisations have a role as well in follow-up of the implementation of the initiative. The role of the regional organisations in the CBI has already comprised the provision of technical and other assistance for the design and implementation of the country programmes. In the future, they could be expected to monitor implementation, deal with disputes and help achieve harmonisation of policies on trade, taxation and investment.

The Indian Ocean Commission has been explicitly involved in the follow-up of the CBI for its member states. In this regard two coordination meetings were organised in the course of 1994. In addition, the IOC Secretariat has collaborated with the Secretariat of PTA/COMESA on helping some of its member states with the preparation of the letters of CBI policy.

In December 1994, the summit of the PTA/COMESA in Lilongwe, Malawi, endorsed the approach of the CBI. A EC-financed support project for the Secretariat of PTA/COMESA on the promotion of regional integration and implementation of CBI in the member states is under preparation.

Contacts have also been maintained with the SADC Secretariat. It has been recognised that the SADC Secretariat needs to be strengthened in order to deal with an agenda of regional integration that is added to the on-going work on sectoral and thematic project coordination. A project to strengthen the capacity of the SADC Secretariat to deal with regional integration, including the agenda of the CBI is under preparation by the EC.

In view of the revitalisation of East African cooperation, a meeting was organised by the World Bank between the Technical Working Groups of Kenya, Uganda and Tanzania and the co-sponsors in August 1994 in Nairobi. The East African TWGs indicated their desire to link the work on CBI to the revitalisation of East African cooperation. They agreed on a rotating chairmanship for coordination at the level of the three countries. Another meeting of the three TWGs, funded through the EC framework contract, took place in Jinja in October 1994. The Communiqué of the East African summit in November 1994 explicitly recommends the adoption and implementation of the provisions of the CBI.

6. CONCLUSION

The Cross-Border Initiative has contributed to a new momentum on regional integration in Eastern and Southern Africa and the Indian Ocean. The detailed work at country level, involving the private sector, has strengthened the “constituency” in favour of realistic regional integration.

The measures envisaged by the CBI aim at helping achieve the objectives of COMESA, EAC, IOC, and SADC. Indeed the core of the Common Programme of Action consists of several measures that will help implementation of proposals of the regional organisations that have been agreed, but not yet implemented by their member states. It should be stressed that the initiative is practical and is not at all concerned with the issue of the institutional division of labour between regional bodies. However, the relevant expertise and work of the regional organisations is taken on board and complementary activities are designed to support them dealing with their regional integration agenda.

The limitations and in some cases negative cross-border effects of adjustment that disregard the regional context are now widely recognised. It is also recognised that regional integration cannot be a substitute for national adjustment. The approach outlined is a way to deal with the regional dimension of adjustment so as to strengthen and increase the chances of success of national level adjustment.

It should be reminded that the initiative is not meant to establish regional integration, but only to promote regional integration. The distinction is important. The practical measures that are envisaged are of the nature of pre-conditions towards regional integration. The measures to be carried out will greatly facilitate beneficial cross-border economic activities. Such activities are the fundamental objective of the initiative. Full-fledged integration is a more ambitious and long-term political and economic endeavour that can only take off when the pre-conditions are met and when the political will is sufficiently strong and sustained.

L'INITIATIVE TRANSFRONTALIERE: APERÇU DU PROCESSUS ET PERSPECTIVES

1. ORIGINE ET JUSTIFICATION

La Conférence de Maastricht sur le Développement en Afrique qui s'est tenue en juillet 1990 a démontré que malgré l'existence d'un consensus sur la nécessité d'approfondir l'intégration et la coopération régionales, les résultats demeurent décevants. La Conférence a recommandé le développement d'une approche concrète qui donne plus de poids à la participation du secteur privé. Des réflexions sur la dimension régionale de l'ajustement structurel ont commencé à la même époque. Étant donné la dimension réduite des économies africaines et leur extraversion, il a semblé important que les relations transfrontalières fassent partie intégrante des programmes d'ajustement pour augmenter leur chances de succès. La Banque Africaine de Développement (BAD), la Commission Européenne (CE), le Fonds Monétaire International (FMI) et la Banque Mondiale ont décidé, en tant que co-sponsors, de collaborer à cette initiative qui se veut pragmatique. L'initiative était supposée être applicable à différentes sous-régions africaines. Cependant, le contexte paraissait plus propice en Afrique Australe, Orientale et dans l'Océan Indien, pour concrétiser un tel travail.

L'initiative a pour objectif d'améliorer les fondations et les préconditions pour parvenir à une intégration économique régionale en Afrique Australe, Orientale et dans l'Océan Indien. Elle implique l'identification des obstacles majeurs au commerce, aux investissements et aux paiements intra-régionaux. Tous les pays de la région, membres de la Commission de l'Océan Indien (COI), de la Zone d'Échanges Préférentiels ou Marché Commun de l'Afrique de l'Est et Australe (ZEP/COMESA), ainsi que de la Communauté de Développement de l'Afrique Australe (SADC), ont été invités à participer à cette initiative. Celle-ci ne vise pas du tout à reproduire le travail déjà entrepris par les organisations

régionales, mais plutôt à formuler des mesures de politique économique, puis à les mettre en oeuvre, conjointement avec ces organisations et leurs États membres dans l'objectif de les aider à réaliser leurs propres objectifs d'intégration régionale.

2. ÉTUDE GÉNÉRALE ET ATELIERS TECHNIQUES (1992)

La première étape, qui s'est terminée au début de 1992, a consisté à faire une étude présentant une vue d'ensemble. Cette étude faisait état des véritables entraves auxquelles est confronté le secteur privé de la région pour entreprendre des opérations transfrontalières bénéfiques. Une des conclusions principales de l'étude concernait la nécessité de trouver en premier lieu au niveau national, une solution aux principaux obstacles qui ralentissent la cohésion régionale. Le rôle de l'aide extérieure était capital dans la mesure où les coûts d'une libéralisation intra-régionale sont immédiats et concentrés, tandis que les bénéfices s'étalent plutôt sur le long terme et sont plus diffus. L'inventaire des mesures qui parfois faisait déjà l'objet d'un accord de principe entre les principales organisations régionales (ZEP/COMESA, SADC et COI), mais qui n'ont pas encore été exécutées pour des raisons internes, a été dressé.

Les conclusions de l'étude générale ont été transmises aux organisations régionales (ZEP/COMESA, SADC et COI), et soulevées à l'occasion de plusieurs rencontres. En même temps, les Ministres ont été invités à constituer des Groupes de Travail Techniques (GTT), impliquant le secteur privé, dont la tâche serait de réaliser des études plus détaillées au niveau national. Quinze pays de la région ont réagi de façon favorable et ont nommé les GTT (à savoir, le Burundi, les Comores, l'Éthiopie, le Kenya, Madagascar, le Malawi, l'île Maurice, la Namibie, la Réunion, le Rwanda, le Swaziland, la Tanzanie, l'Ouganda, la Zambie et le Zimbabwe). Les GTT sont composés de représentants du secteur privé et public, et assistés d'un consultant local pour assurer le secrétariat. Les GTT ont approuvé leurs termes de référence lors d'un atelier qui s'est tenu à l'île Maurice en juin 1992. Les Seychelles, qui avaient prévu d'envoyer un représentant, n'ont pu assister à cet atelier. La ZEP, le SADC, la COI, la CEA et l'OUA étaient également présents. On a pu s'assurer que les mesures préconisées par l'initiative correspondaient bien aux objectifs présentés par ces organisations.

Les groupes de travail techniques ont eu cinq mois pour produire leur premier rapport, qui a été discuté lors d'un deuxième atelier technique, en décembre 1992 à Harare. Un Programme Commun d'Action (PCA), élaboré à partir des principales mesures de politique

économique contenues dans les rapports des GTT, a été approuvé. Les rapports nationaux, ainsi que la synthèse et le PCA, ont été regroupés dans un document servant de référence, et distribué à tous les participants. Il est encore disponible pour tous ceux qui sont intéressés par ce sujet et qui en font demande à la CE.

Vue l'importance de l'économie sud-africaine dans la région, il était considéré souhaitable de faire une étude semblable à celle réalisée par les GTT dans les autres États. Un consultant privé a été chargé de préparer un rapport sur l'Afrique du Sud. L'ANC et la Banque de Développement d'Afrique du Sud (DBSA) ont été consultés pendant la préparation de ce rapport, et une délégation sud-africaine était présente aux ateliers techniques de l'île Maurice et de Harare. L'intervention active de cette délégation a été très appréciée par les autres participants. Concernant l'Éthiopie, le gouvernement a nommé une délégation à la conférence de Maurice, mais le GTT n'a pas été actif depuis cette occasion. Cependant, un consultant privé a préparé un rapport sur l'Éthiopie. Les rapports sur l'Éthiopie et l'Afrique du Sud sont inclus dans le volume de référence mentionné ci-dessus.

3. RENCONTRE MINISTÉRIELLE (1993)

Suite à l'atelier technique de Harare, les co-sponsors (BAD, CE, FMI et Banque Mondiale) ont envoyé une lettre aux Ministres de chaque pays ayant établi un GTT, accompagnée d'un exemplaire du PCA. Les États ont été invités à exprimer leur intérêt à mettre en oeuvre les mesures préalablement identifiées au niveau technique. La plupart des États ont répondu de manière favorable avant la fin du mois de mai 1993.

La Commission Européenne, conformément à ce qui lui avait été demandé lors de l'atelier technique de Harare, a décidé de financer des travaux complémentaires devant être réalisées par les GTT nationaux. Un contrat-cadre a été signé avec Imani Development (établi au Zimbabwe et à Maurice). Le travail des GTT a été divisé entre des tâches spécifiques et immédiates, et des tâches complémentaires à réaliser dans le moyen terme (voir annexe A pour les termes de référence). Les contrats des consultants nationaux ont été renouvelés pour leur permettre de continuer leur service de Secrétariat dans les pays suivants: au Burundi, au Kenya, à Madagascar, au Malawi, à Maurice, en Namibie, au Rwanda, en Ouganda, en Zambie et au Zimbabwe.

Les travaux réalisées par les GTT ont couvert trois domaines principaux: la promotion de l'initiative; la recherche d'un consensus sur le PCA à l'intérieur des pays; et la réalisation de plus amples recherches visant à aider les gouvernements à déterminer les implications et les coûts de la mise en oeuvre du PCA. Un contrat à aussi été attribué à un consultant d'Afrique du Sud, pour compléter le travail précédent. Les rapports des GTT, préparés en 1993, concernant les dix pays mentionnés ci-dessus, sont inclus dans ce volume.

En 1993, le gouvernement de l'île Maurice a pris en charge l'organisation d'un atelier technique sur l'amélioration du cadre financier de l'intégration régionale. Il a semblé important de porter une attention particulière à la coopération régionale entre les institutions financières. L'atelier, qui s'est tenu en juin 1993, a réuni des participants venant d'institutions financières de l'île Maurice, du Swaziland, de l'Afrique du Sud, du Zimbabwe, d'Ouganda, de Kenya, de la Namibie et de Madagascar, de même que des représentants des organisations suivantes: ZEP, Chambre de Compensation ZEP, FMI, CFI, CI/CNUCED/GATT, Banque Mondiale et CE. L'atelier a proposé des recommandations sur des mesures spécifiques, visant à améliorer le cadre financier de l'activité économique intra-régionale.

Pour lancer le débat sur cette initiative au niveau politique, les co-sponsors ont rédigé un projet de Document de Réflexion (DR), dans lequel se trouvent l'ensemble des mesures minimales à adopter. Ce projet se fonde sur le Programme Commun d'Action approuvé au niveau technique et fait état des possibilités d'appui de la part des donateurs. Les recommandations de l'atelier au niveau du secteur financier ont été intégrées dans le DR. Le DR a fait l'objet d'un débat et d'amendements lors d'une réunion de hauts fonctionnaires qui s'est tenue à Bruxelles (21-24 juin 1993). Le Document de Réflexion est aussi inclus dans ce volume.

À l'invitation du Gouvernement d'Ouganda, une réunion Ministérielle, s'est tenue à Kampala le 27 août 1993 pour discuter de cette approche. Les pays suivants étaient représentés: le Burundi, les Comores, le Kenya, Madagascar, le Malawi, l'île Maurice, la Namibie, le Rwanda, les Seychelles, la Tanzanie, l'Ouganda, la Zambie et le Zimbabwe. De plus, les organisations suivantes étaient représentées par des hauts fonctionnaires: la Commission de l'Océan Indien (COI), la ZEP/COMESA, la Commission Economique pour l'Afrique (CEA), l'Organisation de l'Unité Africaine (OUA), la Coalition Globale pour l'Afrique (CGA) et l'Agence des États Unis pour le Développement International (USAID), de même que les quatre co-sponsors.

La Réunion Ministérielle a donné son adhésion au Document de Réflexion produit par les hauts fonctionnaires. Différents aspects concernant la mise en oeuvre des mesures y ont

été discutés, tels que leur effet sur le budget du gouvernement et sur la balance des paiements, et les dangers de la dé-industrialisation. La question de la compensation des coûts de transition à également été soulevée par les gouvernements. Les co-sponsors ont accepté de contribuer à la compensation des pertes nettes encourues pendant la phase de transition (entre la mise en oeuvre des mesures de libéralisation et l'augmentation de l'activité économique). Ils ont aussi indiqué que les instruments existants seraient en mesure de fournir ce type d'assistance nécessaire, et qu'elle serait adaptée aux nécessités de chaque pays.

L'aide par pays sera surtout une assistance à la balance des paiements, s'ajoutant à l'aide prévue par les programmes d'ajustement structurel nationaux. Au niveau régional, les aides complémentaires devraient prendre la forme de projets. Une attention particulière devrait être portée au secteur financier et à l'appui direct pour le secteur privé afin de faciliter le repositionnement des entreprises sur le marché régional.

Le compte-rendu approuvé de la réunion de Kampala se trouve dans l'annexe B (en version française et anglaise), et la liste des participants se trouve dans l'annexe C. Il a été décidé à la réunion de Kampala qu'il appartient à chaque pays, individuellement, de demander officiellement aux co-sponsors qu'ils entament les négociations sur l'ensemble des mesures à mettre en oeuvre, et qu'ils financent l'initiative. De plus, il serait nécessaire que les pays intéressés établissent un Comité d'Exécution du Projet (CEP), chargé des négociations. Le rôle du CEP serait de réunir les Ministres chargés de prendre les décisions gouvernementales quant à l'application des politiques préconisées dans le document de réflexion.

Normalement, le CEP serait composé du Ministre des Finances, du Ministre du Commerce et de l'Industrie et de un ou plusieurs autres Ministres. Certains pays disposent déjà de structures aptes à coordonner les décisions économiques et qui pourraient agir en tant que CEP. Le Ministre chargé des affaires économiques présiderait le CEP. Le CEP ou la structure équivalente serait chargée d'assurer que les décisions prises soient compatibles avec les autres mesures de politique économique, notamment celles des programmes d'ajustement structurel. Il est envisagé d'incorporer l'ensemble des mesures à mettre en oeuvre sous l'initiative dans ces mêmes programmes. En effet, le manque de prise en compte des politiques économiques nationales a été l'une des causes principales de la faible réalisation des objectifs d'intégration régionale.

A l'issue de la réunion de Kampala, il a été également décidé que les GTT devraient poursuivre leur rôle d'unité de conseil technique pour guider et aider les ministres du CEP et continuer de représenter le secteur privé. Comme dans le cas du CEP, des structures

existantes pourraient remplir le rôle des GTT. Cependant, en l'absence de telles structures, les GTT continueraient d'assurer leur fonctions.

4. VERS LA MISE EN OEUVRE (1994)

Au cours de l'année suivant la réunion de Kampala, quatorze pays ont confirmé leur intérêt à mettre progressivement en oeuvre les mesures préconisées, et ont demandé aux co-sponsors d'entamer les négociations sur un appui approprié. Ces pays sont le Burundi, les Comores, le Kenya, Madagascar, le Malawi, l'île Maurice, la Namibie, le Rwanda, les Seychelles, le Swaziland, la Tanzanie, l'Ouganda, la Zambie et le Zimbabwe. La plupart d'entre eux ont déjà fait connaître les noms des membres et du président du CEP.

En ce qui concerne l'assistance destinée aux GTT, une nouvelle approche a été développée en 1994, en vue de répartir les contributions des différents co-sponsors. La CE doit répondre aux besoins spécifiques des GTT; la Banque Mondiale prenant en charge l'organisation de l'aide pour les secrétariats. Cependant, les pays, s'ils le désirent, peuvent encore s'adresser à la CE pour obtenir un tel appui.

La CE a financé dans plusieurs pays des séminaires nationaux et autres activités de promotion de l'initiative. Des réunions de coordination au niveau sous-régional se sont également tenues dans l'Océan Indien et en l'Afrique de l'Est (voir section 5). De plus, la CE a soutenu le travail des juristes nationaux consistant à reformuler certaines lois et réglementations dans les pays participants en vue de permettre la mise en oeuvre des mesures contenues dans le Document de Réflexion. Pour l'instant, ce travail a été effectué dans les pays suivants: au Kenya, au Malawi, à l'île Maurice, aux Seychelles, au Swaziland, en Ouganda, en Zambie et au Zimbabwe.

Tous ceux qui s'intéressent aux réformes économiques mises en oeuvre en Afrique savent que la situation change constamment, notamment sous l'influence des programmes d'ajustement structurel. Au cours de l'année 1994, la plupart des GTT ont continué de suivre l'évolution de la situation administrative et législative de chaque pays en ce qui concerne la mise en oeuvre des mesures contenues dans le Document de Réflexion. Un résumé, sous forme de matrice comparative pour chaque pays, est contenu dans ce volume.

En 1994, plusieurs pays ont élaboré, avec le support des GTT, une position officielle et un calendrier de mise en oeuvre des mesures contenues dans le Document de Réflexion. Cette ligne de conduite est décrite dans une "Letter of CBI Policy". Les co-sponsors ont indiqué que cette lettre était une condition préalable à leur aide sous forme de compensation des coûts transitoires. Le contenu de la lettre doit être cohérent avec les politiques économiques à mettre en oeuvre pour chaque pays sous ajustement.

La Zambie a été le premier pays à transmettre officiellement la "Letter of CBI Policy" aux co-sponsors, en juillet 1994. Quelques autres pays (Maurice, Madagascar, les Seychelles et l'Ouganda) ont déjà préparé un projet de lettre. Dans certains cas, une assistance technique a été requise, et satisfaite, pour faciliter sa préparation. En janvier 1995, le Malawi a officiellement présenté sa lettre aux co-sponsors.

L'approche de l'Initiative Transfrontalière (ITF) a également été discutée dans d'autres enceintes. En avril 1994, elle a été présentée, par les co-sponsors, au groupe de donateurs du Programme Spécial d'Aide à l'Afrique (SPA). Le document d'information, préparé pour cette occasion, a été inclus dans ce volume. L'initiative a été bien reçue, et plusieurs donateurs, en plus des co-sponsors, ont exprimé leur intérêt à participer à la mobilisation de l'aide nécessaire à sa mise en oeuvre. L'initiative a fait partie des thèmes à discuter lors de la réunion du sous-comité sur l'intégration régionale de la Coalition Mondiale pour l'Afrique qui s'est tenue à Dakar en mai 1994. Cette réunion a préconisé la mise en oeuvre d'une approche similaire dans les autres régions africaines.

5. L'IMPLICATION DES ORGANISATIONS RÉGIONALES

Comme mentionné ci-dessus, l'initiative s'est développée en collaboration avec les organisations régionales concernées (ZEP/COMESA, SADC et COI). Les mesures de politique économique approuvées par les Ministres des États participants, et résumées dans le Document de Réflexion et dans les "Letters of CBI Policy", correspondent généralement à celles préconisées par ces organisations. L'initiative supporte donc activement les programmes d'intégration des organisations régionales. Cependant, deux problèmes se posent: tous les membres d'une même organisation régionale ne participent pas à l'ITF, et il existe un manque de coordination entre ces organisations. En ce qui concerne le premier aspect, il est important d'insister sur le fait que l'ITF est ouverte à tous les membres des organisations (ZEP/COMESA, SADC, et COI). Si l'on examine le programme des politiques économiques à mettre en oeuvre dans le cadre de l'initiative, il apparaît

clairement que seuls les pays qui se sont engagés dans un processus de réforme économique sont à même de mettre en oeuvre efficacement ce programme. L'approche de l'ITF envisage la possibilité d'une géométrie variable: cette dernière permet à un sous-groupe de membres d'une organisation régionale de mettre en oeuvre les mesures de politique économique dont ils se sentent capables. Les autres États membres suivront le pas dès que les circonstances le permettront. La géométrie variable est une approche pragmatique qui évite que les progrès dans le processus d'intégration économique régionale soient fonction de ceux réalisés par le pays le plus lent. L'objectif consiste donc à ce que les États les plus avancés encouragent leurs partenaires à s'intégrer plus rapidement dans ce processus, et non pas à exclure ceux qui ont du retard. Les organisations régionales ont un rôle fondamental à jouer en aidant les pays plus lents à comprendre les objectifs de l'initiative, pour qu'ils s'engagent dans le programme d'action.

Plus généralement, les organisations régionales devraient s'impliquer dans le suivi de la mise en oeuvre de l'initiative. Leur rôle a déjà pris la forme d'une assistance technique pour aider la planification et la mise en oeuvre des programmes nationaux. Dans le futur, elles devraient veiller à la bonne application des programmes, gérer les éventuels conflits et aider à atteindre l'harmonisation des politiques commerciales, fiscales et d'investissement.

La Commission de l'Océan Indien a participé activement au suivi de l'ITF dans ses États membres. Deux réunions de coordination ont été organisées durant l'année 1994. De plus, le Secrétariat de la COI a collaboré avec le Secrétariat de la ZEP/COMESA pour que certains de ses États membres puissent élaborer leur Letter of CBI Policy.

En décembre 1994, le sommet de la ZEP/COMESA qui s'est tenu à Lilongwe, au Malawi, a approuvé l'approche de l'ITF. La Commission Européenne est en train de préparer un projet d'appui au Secrétariat ZEP/COMESA, ayant comme objectif la promotion de l'intégration régionale et la mise en oeuvre de l'ITF dans ses États membres.

Les contacts avec le Secrétariat SADC se sont également poursuivis. Celui-ci a besoin d'être renforcé pour lui permettre d'élargir ses capacités de gestion de l'intégration régionale, parallèlement à son travail de coordination des projets thématiques et sectoriels. La Commission Européenne prépare actuellement un projet allant dans ce sens.

Dans l'optique d'un renforcement de la coopération en Afrique de l'Est, la Banque Mondiale a organisé en Août 1994 une réunion à Nairobi entre les Groupes de Travail Techniques du Kenya, de la Tanzanie et de l'Ouganda et les co-sponsors. Les GTT d'Afrique Orientale ont indiqué à cette occasion qu'il désiraient rapprocher les activités de l'ITF de celles concernant la relance de la coopération dans leur région. Ils ont aussi

convenu de la nécessité d'une présidence rotatoire chargée d'assurer une coordination entre les trois pays. Une réunion ultérieure des trois GTT, financée par l'accord-cadre avec la CE, s'est tenue à Jinja (Ouganda) en octobre 1994. De plus, le Communiqué du Sommet des pays d'Afrique de l'Est qui s'est tenu en novembre 1994 a explicitement recommandé l'adoption et l'application des mesures préconisées par l'ITF.

6. CONCLUSIONS

L'Initiative Transfrontalière a contribué à la relance de l'intégration régionale en Afrique Orientale et Australe et dans l'Océan Indien. Les travaux préparatoires entrepris au niveau national avec l'implication du secteur privé, ont renforcé l'opinion publique en faveur d'une intégration régionale plus réaliste.

Les mesures envisagées par l'initiative ont comme but d'aider la COMESA, la CAE, la COI et la SADC à réaliser les objectifs qu'ils se sont fixés. En effet, le noyau du Programme Commun d'Action consiste en un ensemble de mesures visant à faciliter la mise en oeuvre des programmes des organisations régionales. Ceux-ci ont été approuvés, mais pas encore mis en oeuvre, par les États membres. Il est important de rappeler que l'initiative a un but opérationnel et ne vise pas la division institutionnelle des tâches entre les organisations régionales. Cependant, l'expertise pertinente et le travail de ces organisations ne sont pas laissés de côté, et des actions complémentaires sont prévues pour les aider à gérer leurs programmes d'intégration régionale.

Les limites, et parfois les effets négatifs sur les voisins, d'un ajustement structurel qui ignore le contexte régional sont désormais reconnues. L'intégration régionale ne peut se substituer à l'ajustement national. L'approche détaillée ci-dessus vise donc à aborder la dimension régionale de l'ajustement dans l'objectif de renforcer et augmenter les chances de succès de l'ajustement national. Il convient aussi de rappeler que l'initiative ne veut pas établir l'intégration régionale, mais seulement la promouvoir: la distinction est importante. Les mesures pratiques envisagées sont à considérer essentiellement comme des préconditions à l'intégration régionale, qui faciliteront de bénéfiques échanges économiques transfrontaliers. Ces échanges sont l'objectif fondamental de l'initiative. Une véritable intégration implique des efforts politiques et économiques beaucoup plus soutenus et des objectifs plus ambitieux. Pour cela, les préconditions à l'intégration régionale doivent être remplies de même que l'impulsion politique doit être effective et maintenue.

CONCEPT PAPER

on the INITIATIVE TO FACILITATE CROSS-BORDER PRIVATE INVESTMENT, TRADE AND PAYMENTS IN EASTERN AND SOUTHERN AFRICA AND THE INDIAN OCEAN

as agreed at the Senior Officials meeting in Brussels, 24 June 1993

BACKGROUND

1. The proposed Initiative is a pragmatic step towards economic integration in the PTA/SADC/IOC sub-region. It is jointly sponsored by the Commission of the European Communities (CEC), African Development Bank (ADB), International Monetary Fund (IMF), and World Bank (WB). In targeting the inter-linked areas of cross-border trade, investment and payments through a comprehensive approach, the Initiative constitutes a substantial step forward towards economic integration. The aims of the Initiative are in accordance with the objectives of PTA, SADC, Indian Ocean Commission (IOC) and the Abuja Treaty. Obviously, continued cooperation with the regional institutions will be essential for the success of the Initiative.

2. The reduction of obstacles to cross-border economic activity as envisaged under the Initiative would help create efficient patterns of growth with economies of scale and opportunities for vertical and horizontal integration. The Initiative argues for accelerated economic liberalization with respect to external payments and domestic regulatory environment so that scarce investment capital could pursue differential factor prices and thus create efficient growth. The underlying hope is that the private sector will no longer feel constrained to the national market; rather it will consider widening opportunities of a sub-regional rather than a national market, and develop an investor culture to exploit such opportunities.

3. The Initiative seeks to build on the progress achieved under the national structural adjustment programs and to strengthen the momentum generated by PTA, SADC and IOC towards regional integration. It could be seen as providing an avenue for the participating countries and donors to address issues which constitute an integral part of the regional dimensions of adjustment.

4. The Initiative is also distinguished by its emphasis on national action, and self-selection. Most of the policy requirements are matters of national decision. For example, the deregulation of domestic private sector is a desirable national objective. When extended to potential foreign investment, cross-border or otherwise, such deregulatory measures help create output, exports and employment for the recipient country. A quid pro quo by the country from which investment is originating is, of course, desirable for all countries concerned, but the recipient country would still gain even if it had to act alone.

5. Over the last two years, this Initiative has been the subject of detailed discussions among the co-sponsors and with the regional institutions (i.e., PTA, SADC, IOC, OAU, and ECA) and most importantly, with the representatives of most of the Eastern and Southern African States. The countries participating in these discussions were: Burundi, Comoros, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Reunion, Rwanda, Swaziland, South Africa (in observer status), Tanzania, Uganda, Zambia, and Zimbabwe. Other institutional participants were: Global Coalition for Africa, Commonwealth Secretariat, International Trade Centre, USAID, CIDA, and Swiss Development Corporation. It should be emphasized that the Initiative does not constitute an attempt to promote a de facto grouping of participating countries; rather it supports the objectives and programs of the regional organizations in the area of regional integration. Moreover, it is open to all countries in the PTA/SADC/IOC region that choose to pursue a substantial liberalization of their economies as defined below.

6. Most of the countries invited to join the Initiative appointed Technical Working Groups (TWGs) to cooperate with the co-sponsors. The TWGs, consisting of private sector representatives and public officials, have been instrumental in building a sub-regional consensus on the underlying approach and in lending a sense of urgency to its implementation. As an important externality, the TWGs now constitute forums for constructive debate on regional integration and national economic policies.

7. Two technical level Workshops have been held, interspersed with consultations of various forms. These have resulted in proposals for a Common Program of Action (CPA). It is now time for implementation. Building upon the CPA, the Concept Paper suggests, in general form, the core policy and institutional requirements (as described below)' of the

Initiative. It also addresses the possible modalities of financial assistance from the co-sponsors. This Concept Paper has been approved at a meeting of senior officials in Brussels on June 24, 1993. The meeting was attended by representatives of: Burundi, Comoros, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe, and officials from ADB, CEC, IMF, World Bank, IOC, USAID, OAU, ECA, GCA, PTA, and a delegation from South Africa. Once the underlying principles, as reflected in the Concept Paper, are endorsed by the concerned governments, these would constitute the basis for elaborating country-specific programs.

CORE MEASURES

8. These consist of measures in the areas of: i) Trade; ii) Payments and Exchange Systems; iii) Investment; and iv) Institutional Development. Actions on all four areas are a general feature of structural adjustment programs (SAPs) and the programs of PTA, SADC and IOC. In the context of the present Initiative, there would be a case for enhancement and/or acceleration of some of these measures. These measures should be on a Most Favored Nation (MFN) basis. Where this is not possible, for a transitional period the measures will be adopted on the basis of reciprocity with the participating countries. The details of the required policy and institutional framework are as follows:

A. TRADE

9. Subject to the overall requirements of SAPs with respect to trade liberalization, efforts will be made to hasten the process of liberalization in the participating countries through:

A.1. Import Liberalization.

In accordance with PTA member states' decision to abolish the Common List, the following intra-regional trade liberalization measures will apply across the board. The

measures being envisaged in regard to non-tariff barriers will apply to imports from all countries. As for tariff actions, the envisaged measures are in line with the PTA's long term integration strategy and GATT regulations. More specifically, the following actions are envisaged:

- ❑ The participating countries will undertake practical steps to dismantle import licensing and similar non-tariff barriers (NTBs) on a Most Favored Nation (MFN) basis. There could be a short "negative list" for reasons of security and health.
- ❑ Participating countries would immediately exempt imports from other participating countries from the above restrictions. Furthermore, for those participating countries which may not be in a position to immediately implement the removal of the NTBs under MFN terms, they will agree with the IMF on a timetable to achieve this.
- ❑ The participating countries will be encouraged to eliminate tariffs on intra-regional trade on a reciprocal basis by 1996. Where this is not feasible, the countries will, as a minimum, be required to adhere to the agreed PTA timetable for intra-regional tariff reduction. Moreover, to avoid trade diversion and to facilitate the creation of the common market envisaged by the PTA, SADC and IOC, the participating countries will build on the progress that is being made under country-specific structural adjustment programs. Specifically, the participating countries should aim at moving towards a common external tariff by lowering their external tariffs vis-a-vis other countries to the level of the member with lowest tariffs. It is recognised, however, that in some cases strategic and revenue considerations could require adopting a higher level of protection than the lowest tariff.

A.2. Export Liberalization.

Except for a small negative list, all quantitative restrictions on exports to all countries will be eliminated.

A.3. Liberalization of Trade in Services.

Actions relating to imports and exports of services will parallel those for merchandise trade. Such liberalization would extend to financial services, insurance, transport (passenger and freight), consultancy and tourism.

A.4. Facilitating Intra-Regional Trade.

The following measures are envisaged on the basis of reciprocity and in consultation with the PTA:

- The PTA harmonized transit charges should be implemented. A coupon system for such payment in UAPTA would be developed and implemented.
- The PTA Road Customs Transit Document (RCTD) would replace all other documents of similar nature.
- A single goods declaration document covering export/import/transit trade would be developed.
- A regional Bond Guarantee Scheme would be implemented.

B. PAYMENTS AND EXCHANGE SYSTEMS.

10. A major objective of the Initiative is to significantly improve the functioning of the intra-regional payments and exchange systems in four areas: a) domestic payments and settlement systems; b) exchange systems; c) foreign exchange markets; and d) PTA Clearing House (PTACH). Improvements in these fields will, of course be underpinned by sustained progress in structural/macro-economic reforms and reinforced by progress in other areas. In particular, the improvements in the payments system should be supported by abolition of non-tariff barriers and rationalization of tariff structure (see A above), and reform of the investment incentives packages (see C below).

B.1. Domestic Payments and Settlements Systems.

- Participating countries will undertake to complete any on-going financial sector reform programs. The reform agenda should, where appropriate, be strengthened to require respective central banks to strengthen their regulatory and prudential functions so as to encourage development of the commercial banking sector and other financial institutions. Additional measures, including those identified at the June 10-11 workshop in Mauritius—see appendix 1—should be implemented with a view to developing foreign trade financing instruments and establishing correspondent banking relationships within the region.

- ❑ Participating countries without financial sector reform programs will, where necessary, be encouraged to adopt measures aimed at strengthening their financial sectors on the same lines as above.
- ❑ Participating countries will facilitate entry and increase competition in the financial sector by, inter alia, liberalizing cross-border activities of financial institutions and promptly eliminating impediments to entry by regional and extra-regional financial institutions. In this regard, special emphasis will be placed on regulatory changes aimed at enabling specialized financial institutions active in the region, including “off-shore banking facilities”, to participate in providing equity capital and export credit facilities.

B.2. Exchange Systems.

- ❑ The participating countries will aim at complete, non-discriminatory elimination of restrictions on current account transactions and relaxation of certain types of capital account transactions described below. Progress on this front is being pursued in the context of the SAPs at disparate speeds; convergence towards the medium term goal would in some cases require a reinforcement of ongoing structural adjustment efforts.
- ❑ Liberalization of direct investment and investment in regional equity markets are priorities.

B.3. Foreign Exchange Markets.

The objective will be to establish unified, inter-bank, spot exchange markets in all participating countries by 1996. The IMF will assist the participating countries in undertaking practical steps in this regard. Progress on this front will help pave the way for the development of forward markets for domestic currencies. In the period immediately ahead such markets will not, however, be considered in those cases where substantial overvaluation persists.

B.4. PTA Clearing House (PTACH).

Recent progress in liberalizing trade and payments has decreased the clearing role of PTACH. In the expectation that such progress will continue, the PTACH could usefully focus on (1) serving as a forum for economic consultations; and (2) facilitating payments associated with:

- ❑ the Regional Bond Guarantee Scheme, coupon system for harmonized transit charges, and the yellow card system for insurance coverage.
- ❑ regional air transportation of passengers and freight.

C. INVESTMENT

11. A major objective underlying the proposed measures is the reform of the regulatory environment and the progressive harmonization of investment incentives. The measures under this heading could be implemented in the context of adjustment programs and of special technical assistance initiatives. Wherever such programs are not in place, the deregulatory measures proposed below will need to be undertaken. These measures will apply to domestic as well as foreign investment.

12. For purpose of this Initiative, the most important measures affecting the investment process are those relating to the structure of investment incentives. Most of these measures have been covered in the sections on Trade and Payments. There are also other measures that should receive emphasis:

C.1. Regulatory Environment

C.1.1. Investment Approval Process.

- ❑ Participating countries should simplify and liberalize the approval procedures. Investment Codes and other regulatory instruments (e.g., environmental regulations, municipal restrictions, etc.) should be consolidated in a single, short document which will be published and publicized.

- ❑ There should be a statute of limitation on the period taken for approval of the investment application. A maximum 45 day period is proposed for this purpose. Investment applications should be made to Investment Centers where they exist. In cases where they do not exist, participating countries would either establish such institutions or charge an existing Government organ with the function and necessary authority.
- ❑ Approvals would be deemed to be automatically granted if no objections are raised within the stipulated period as referred above. In any case, objections can only be raised for demonstrable non-conformity to the provisions of the Investment Code. Under exceptional circumstances (e.g environmental considerations) the government would, within the 45 day period, indicate to the investor the reasons for any necessary extension of the time limit and specify the time frame within which the final decision would be made.
- ❑ To the extent that any participating country is unable to implement the above measures globally, it would be required, as a minimum, to implement these measures on a reciprocal basis with other participating countries.

C.1.2. MIE Charter (PTA).

A framework such as a suitably amended version of the MIE Charter could provide an useful instrument in furtherance of the implementation of measures under C.1.1. The PTA would undertake to promote these amendments and oversee the ratification of the amended charter by the member states. The Charter will be amended to:

- ❑ remove the equity restriction and open it to any regional firm;
- ❑ remove the minimum investment requirement; and
- ❑ ensure that the revised approval procedures are applied to investments conforming to the Charter requirements.

The amended Charter will be publicised through appropriate channels like the TWGs.

C.1.3. Immigration, Residence and Employment.

- ❑ Participating countries would sign, ratify, and implement both phases of the PTA protocol on relaxation and eventual elimination of visas.
- ❑ Within a four-week period after submission of necessary applications, arrangements for residence and employment permits will be processed by the Investment Center where it exists. In cases where such centers do not exist, participating countries would either establish such institutions or charge an existing Government organ with the function and necessary authority.
- ❑ Entry procedures would also be amended to allow freer movement of persons in the border areas, for example on the basis of short-term entry permits of at least 24 hours (on presentation of some identification) for border residents of participating countries.

C.2. Other Measures

- ❑ Investment Guarantees. Participating countries would become members of the Multilateral Investment Guarantee Agency (MIGA) and, where necessary, of bilateral investment guarantee agencies such as OPIC.
- ❑ Dual Taxation Agreements. Participating countries would conclude such agreements on a bilateral basis.
- ❑ Stock Exchange Activities. Stock Exchanges will be authorized to list and trade in equities from other stock exchanges in the region.

D. INSTITUTIONAL DEVELOPMENT

13. The successful implementation of this Initiative requires adequate institutional structures, both at national and regional levels. While rationalization and harmonization of the regional institutions fall outside the scope of the Initiative, continued cooperation with the regional institutions so as to avoid overlap, will be necessary for successful implementation of the Initiative. The specific measures proposed are:

- ❑ The national TWGs would continue to function as advisory committees to respective governments on regional integration issues. The TWGs should be integrated into existing policy making machineries.
- ❑ National and regional chambers of commerce and industry, trade development organizations including regional centres for commercial arbitration and other similar private sector bodies would be strengthened to enable them to play a more constructive role in relation to regional integration.
- ❑ The participating countries would develop mechanisms for reinforcing the participation of the private sector in the decision-making process of PTA/SADC/IOC as relevant.
- ❑ PTA, SADC and IOC will take the appropriate steps to ensure that their programmes for the facilitation of intra-regional trade and investment will contribute to a timely implementation of the initiative. They will support the efforts of those of their members currently participating in the Initiative to implement the Common Programme of Action (CPA) while encouraging their other members to implement the CPA as soon as practicable.

MODALITIES FOR DONOR SUPPORT

I. Financial and Technical Assistance^{1/}

14. Assistance will be provided primarily to individual participating countries. However, a separate assistance package for the PTA Bank and other regional institutions that could play an important part in promoting the objectives of this Initiative will be devised.

15. A multi-track approach to financial assistance will be followed by the co-sponsors based on specific country needs:

- ❑ Additional Balance-of-Payments support (inter alia, to help finance the transitional costs of intra-regional economic liberalization) from CEC/ADB/WB.

^{1/} Financial support will be provided in accordance with the specific procedures of each of the co-sponsors.

- ❑ Credit Lines/Investment Operations (i.e., to provide targeted long term capital to incoming equity) from ADB/WB.
- ❑ Complementary Support Activities from IMF/WB/CEC.^{1/}

16. All of the above components (para.15) could form part of the same program, but would be cofinanced through parallel operations.

17. A Steering Committee consisting of representatives from the co-sponsors will be formed, to provide overall coordination among donors. The Steering Committee will liaise with regional organisations.

18. A Project Implementation Committee (PIC) will be formed at country level to help develop, negotiate and coordinate the implementation of the various elements as described above. The PIC will consist of concerned Ministers and their senior officials and will receive reports and recommendations from the TWG which has the representation of the Private Sector and Public Sector Officials.

19. The Steering Committee shall appoint a Lead Agency for each of the country programs which will coordinate the activities of the co-sponsors and liaise with the PICs.

II. Sources of Funding and Project Costs

20. Funding for the proposed initiative will be from: CEC, African Development Bank, and World Bank Group including IFC. Although IFC will not participate in providing either the balance of payments support or the lines of credit, it will contribute through direct investments and its African Enterprise Fund and the African Project Development Facility which is co-sponsored with the African Development Bank. The support of the IMF will be limited to technical assistance, including the elaboration of requisite macroeconomic and structural frameworks. Such assistance from IMF will also be complementary to assistance from CEC/ADB/WB.

21. It is anticipated that a certain amount of bilateral funding will also be available. To date, support for preparatory activities has been received from the Governments of Canada, USA, and Switzerland. Such support is expected to be extended to the implementation phase.

^{1/} See Appendix 2 for further elaboration of these activities.

22. For planning purposes, an average of US\$30 million per country could constitute a reasonable amount to support the Initiative. Individual country allocations would be based on a more careful assessment of needs during appraisal of the operations.

23. It is unlikely that cross-border private investments will be firmly established with the conclusion of these operations. Realistically, it will be a lengthy process, since a new investor culture and policy culture on the part of Governments are called for. Donor support for follow-up operations would thus be necessary to sustain the momentum. Donors would need to assure that accelerated implementation of country programs would receive corresponding support.

24. It is anticipated that a significant part of the available funding will be in concessional form. To the extent that some of the potential participants are not IDA-eligible, there will be scope for non concessional funding which could be used to provide a suitable blend. Consultation among the co-sponsors and other possible donors will be held to determine the volume of available funding for the initial operations.

III. Access and Eligibility

25. A critical mass of countries will be necessary for launching this Initiative. Indications are that such a critical mass exists. After endorsement of the concept paper by the concerned governments, participating countries will be eligible to benefit from resources earmarked for the implementation of this initiative. Access to donor support will depend on the participating country's adoption and implementation of the policy package and institutional framework as described above.

NEXT STEPS

26. The meeting of senior officials stressed the importance of an early convening of the Ministerial meeting to consider and approve this Concept Paper in order to move to early implementation of the Initiative. In this connection, the Government of Uganda offered to host the Ministerial meeting, with a financial contribution from the CEC, in Kampala during late July/August. This offer was accepted by the meeting.

27. It was recommended that, at the Kampala meeting, the Ministers should indicate the timetable, for their respective country, for starting discussions with the co-sponsors on the activities relating to project identification and formulation. The Ministers should also appoint PICs as soon as practicable.

APPENDIX 1

FINANCIAL SECTOR ISSUES

Proposals from the Workshop (Mauritius, June 10 to 11 1993)

1. Implement comprehensive trade finance facilities built on national schemes with a regional component. These facilities should include pre-shipment financing as a priority and could provide export credit insurance and guarantees against all risks involved in trade finance. This could build on the work of ITC based on successful schemes in Lesotho and Swaziland.
2. The PTA Bank, together with interested commercial banks, should develop proposals for a Trade Finance Fund Support (TFFS) that could attract donor support. The objective of the Fund would be to leverage commercial bank financing of trade and investment amongst the participating countries.
3. Develop programmes to harmonise (1) prudential regulation and supervision of financial institutions; (2) documentation required for trade and investment transactions — the national Chambers of Commerce will be responsible; and (3) regulations relating to equity markets.
4. Develop a programme to strengthen the domestic payments system in participating countries.
5. Liberalise exchange controls on cross-border direct investment. The PTA Bank and PTA Clearing House will look into this matter to come up with specific proposals to facilitate this including, inter alia, exploring the possibilities of using national currencies.
6. Develop specialised financial institutions and services such as leasing, merchant banking and bill discounting; the PTA Bank in collaboration with the Association of Commercial Banks of the PTA should elaborate specific proposals to this end.
7. Elaborate a training programme in banking practices and financial instruments, especially in the area of international trade and investment; the Association of Commercial Banks of the PTA should elaborate specific proposals to this end. Provision will also be made for necessary training, on a regional basis, of Central bank staff.

8. In the renegotiation of the Financial Protocol of the Lome Convention, efforts should be made to improve provision for trade financing.

9. The Charter of the PTA Bank should be amended to allow non-PTA member states to subscribe to the capital of the Bank.

10. A programme should be developed to improve the dissemination of information on financial services and financial specialists in the region, building on the TINET system. The PTA Bank will pursue these proposals.

11. Set up an information base that could be used to assess the soundness of commercial banks operating in the region; the PTA Bank will take responsibility for assembling the required background information that could be used by a separate entity for this purpose.

APPENDIX 2

COMPLEMENTARY SUPPORT ACTIVITIES

1. The implementation of the proposed Initiative will also require, an extensive program of complementary support activities. The following are identified:

- ❑ **Financial Services.** Assistance to the PTA Bank needs to be considered to develop, in cooperation with the PTA Clearing House and commercial banks active in the region, new financial instruments to support cross-border private investment and trade. Such instruments should ensure, inter alia, availability of pre- and post-shipment export credit at market rates, and possibly a guarantee fund for absorption of non-commercial risk.

Assistance could also be provided to develop duty drawback and/or temporary admissions schemes and to strengthen the cooperation between regional and commercial banks to ensure availability of foreign currency trade financing and provision of foreign exchange guarantees.

- ❑ **Intra-Regional Export Promotion.** The donors may also consider a fund to finance measures for promoting intra-regional exports.
- ❑ **Support to TWGs.** The TWGs have been of considerable impact in creating an intra-regional consensus on trade liberalization and investment deregulation. Among other things, they now constitute a forum for national debate on issues related to regional integration. The TWGs should be encouraged to sustain their activities in the following areas:
 - i) reporting on the implementation of the CPA and convey the business community's complaints to the respective government and regional organizations;
 - ii) publicizing the CPA and its implications for economic agents, particularly the new instruments that will be made available to facilitate regional economic activity; and
 - iii) mobilizing political support for intra-regional and multilateral trade liberalization.

- ❑ Other Support Activities. These could be in the form of technical assistance and studies:
 - i) accelerating settlement of claims under the PTA Yellow Card Scheme;
 - ii) preparing double taxation agreements;
 - iii) training of customs and trade promotion officials in implementation of the provisions of the PTA RTCD and improving the movements of the “third copy”;
 - iv) encouraging the use of ASYCUDA or similar systems in all participating countries;
 - v) harmonizing standards;
 - vi) preparing tax reforms to reduce dependence on taxation of international trade and to compensate for any revenue loss under this initiative; and
 - vii) reviewing the different incentive regimes with a view to progressive harmonization.

DOCUMENT DE REFLEXION

INITIATIVE VISANT A FACILITER LES INVESTISSEMENTS PRIVES, LES ECHANGES ET LES PAIEMENTS TRANSFRONTALIERS D'AFRIQUE ORIENTALE, AUSTRALE ET DE L'OCEAN INDIEN

adopté par les hauts fonctionnaires au cours de leur réunion, du 24 juin 1993 à Bruxelles

Cadre général

1. L'initiative, parrainée conjointement par la Commission des Communautés Européennes (CCE), la Banque Africaine de Développement (BAD), le Fonds Monétaire International (FMI) et la Banque Mondiale (BM), constitue un pas pragmatique vers l'intégration économique de la sous-région ZEP/SADC/COI en se focalisant simultanément sur ces domaines interdépendants que sont les échanges, les investissements et les paiements transfrontaliers. Les objectifs poursuivis par l'initiative sont dans la ligne de ceux que poursuivent la ZEP (Zone d'Echanges Préférentiels des Etats de l'Afrique de l'Est et de l'Afrique Australe), la SADC (Communauté de Développement de l'Afrique Australe), la COI (Commission de l'Océan Indien) et le traité d'Abuja. Il ressort à l'évidence que la poursuite de la coopération avec les institutions régionales est une des clés du succès de l'initiative.

2. Telle que l'initiative l'envisage, l'élimination des obstacles qui entravent l'activité économique transfrontalière aiderait à mettre en place des structures efficaces de croissance porteuses d'économies d'échelle et de possibilités d'intégration verticale et horizontale. L'initiative plaide en faveur d'une libéralisation économique accélérée des paiements extérieurs et de l'environnement législatif intérieur afin que les rares capitaux disponibles puissent s'investir en fonction des écarts entre les coûts des facteurs et créer ainsi une croissance soutenue. Elle se fonde ainsi sur l'espoir que le secteur privé ne se sente plus cantonné dans un marché national, mais s'éveille plutôt aux possibilités offertes par un marché subrégional et développe une culture d'investissement pour les exploiter.

3. L'initiative veut prendre appui sur les progrès réalisés dans le cadre des programmes nationaux d'ajustement structurel et renforcer le processus d'intégration régionale lancé par la ZEP, la SADC et la COI. Elle donne aux pays participants et aux donateurs un moyen d'aborder des questions qui font partie intégrante du processus d'ajustement régional.

4. L'initiative se distingue également par l'importance qu'elle accorde à l'action nationale et à l'autosélection. La plupart des exigences politiques concernent le niveau national. Par exemple, la déréglementation du secteur privé intérieur est un objectif souhaitable dans un contexte national. Une déréglementation qui s'étendrait aux investissements étrangers, transfrontaliers ou autres, aiderait en outre à générer de la production, des exportations et de l'emploi pour le pays bénéficiaire. Il est évidemment souhaitable, pour tous les pays concernés, que le pays d'où émanent les capitaux investis applique la même déréglementation, mais le pays qui reçoit l'investissement resterait gagnant même s'il devait agir en solitaire.

5. L'initiative a, ces deux dernières années, été discutée de façon approfondie par ses co-sponsors, au sein des institutions régionales (ZEP, SADC, COI, OUA et CEA) et, surtout avec des représentants du Burundi, des Comores, de l'Ethiopie, du Kenya, du Malawi, de Madagascar, de l'île Maurice, de la Namibie, de la Réunion, du Rwanda, du Swaziland, de l'Afrique du Sud (avec statut d'observateur), de la Tanzanie, de l'Ouganda, de la Zambie et du Zimbabwe, c'est-à-dire de la plupart des Etats d'Afrique de l'Est et d'Afrique australe.

Les autres organismes qui ont participé à ces discussions sont la Coalition Mondiale pour l'Afrique, le secrétariat du Commonwealth, le Centre du Commerce International, USAID, CIDA et la coopération au développement suisse. Il convient de souligner que l'initiative ne tend pas vers un groupement de facto des pays participants et qu'elle soutient au contraire les objectifs et les programmes des organisations régionales en matière d'intégration régionale. Elle est en outre prête à accueillir tous les pays de la région ZEP/SADC/COI qui mènent une politique de libéralisation économique semblable à celle qui est décrite ci-après.

6. La plupart des pays invités à se joindre à l'initiative ont chargé des groupes de travail techniques (GTT) de coopérer avec les co-sponsors. Les GTT, qui rassemblent des représentants du secteur privé et des fonctionnaires, ont aidé à forger un consensus subrégional sur les idées qui sous-tendent l'initiative et à conférer une aura d'urgence à sa mise en oeuvre. Ces GTT constituent désormais des forums de débats constructifs sur l'intégration régionale et les politiques économiques nationales.

7. Les deux ateliers "techniques" qui se sont déroulés ont été précédés et suivis de consultations de différents types. Ces ateliers et ces consultations ont débouché sur l'élaboration d'un projet de programme commun d'action (PCA) qu'il est temps maintenant de mettre en oeuvre. Le présent document de réflexion, qui s'appuie sur ce projet de programme commun d'action, présente, en termes généraux, l'esprit et les exigences institutionnelles de l'initiative et évoque les formes que peut prendre l'assistance financière des co-sponsors. Il a été adopté à Bruxelles, le 24 juin 1993, lors d'une réunion des hauts

fonctionnaires du Burundi, des Comores, du Kenya, de Madagascar, du Malawi, de l'île Maurice, de Namibie, du Rwanda, du Swaziland, de Tanzanie, de l'Ouganda, de Zambie et du Zimbabwe ainsi que de la BAD, de la CCE, du FMI, de la BM, de la COI, d'USAID, de l'OUA, de la CEA, du GCA, de la ZEP, en présence d'une délégation de l'Afrique du Sud. Les principes fondamentaux comme présentés dans le document de réflexion, constitueront, dès qu'ils auront été approuvés par les gouvernements concernés, l'assise sur laquelle s'appuiera l'élaboration des programmes nationaux.

MESURES PRINCIPALES

8. Ces mesures se situent dans le domaine a) du commerce, b) des systèmes de paiement et des régimes des échanges, c) des investissements et d) des développements institutionnels. Tous les programmes d'ajustement structurel ainsi que les programmes de la ZEP, de la SADC et de la COI prévoient des actions dans ces quatre domaines. Certaines de ces mesures pourraient être renforcées ou accélérées dans le contexte de la présente initiative. Elles devraient s'appuyer sur un régime de la Nation la Plus Favorisée (NPF) ou, si cela n'est pas possible, être adoptées à titre transitoire sur une base de réciprocité vis-à-vis des pays participants. La politique à suivre et le cadre institutionnel nécessaires se présentent comme suit :

A. COMMERCE

9. En dehors de la libéralisation des échanges qu'exigent par principe tous les programmes d'ajustement structurel, les pays participants s'efforceront d'accélérer le processus de libéralisation en usant des moyens suivants :

A.1. Libéralisation des importations.

Conformément à la décision des Etats membres de la ZEP de supprimer la liste commune, il y aura application généralisée des mesures suivantes de libéralisation des échanges intrarégionaux. Les mesures envisagées à l'égard des barrières non tarifaires s'appliqueront aux importations en provenance de tous les pays. Pour ce qui est des actions

tarifaires, les mesures envisagées s'inscrivent dans la stratégie d'intégration à long terme de la ZEP et des règles du GATT. Les mesures envisagées peuvent se résumer comme suit :

- ❑ Les pays participants démantèlent les régimes de licences d'importation et les autres barrières non tarifaires similaires sur la base d'un régime de la nation la plus favorisée (NPF). Une brève "liste négative" pourrait être maintenue pour des raisons de sécurité et de santé publique.
- ❑ Les pays participants exemptent immédiatement les importations des pays participants des restrictions précitées. Ceux qui sont incapables d'éliminer immédiatement les barrières non tarifaires sur la base d'un régime NPF fixent, avec le FMI, le calendrier à suivre pour y arriver.
- ❑ Les pays participants s'efforcent d'éliminer les droits tarifaires frappant les échanges intrarégionaux sur une base réciproque d'ici 1996. Ceux qui ne peuvent y arriver doivent au moins se conformer au calendrier de réduction des droits tarifaires intrarégionaux arrêté dans le cadre de la ZEP. Pour prévenir tout détournement des échanges et faciliter la création du marché commun envisagée par la ZEP, la SADC et la COI, les pays participants s'appuient sur les progrès réalisés dans le cadre des programmes nationaux d'ajustement structurel. Ils visent plus particulièrement à mettre en place un tarif extérieur commun en ramenant le niveau des droits dont ils frappent les marchandises des autres pays au niveau des pays participants dont les droits sont les plus bas. Il est toutefois admis que l'adoption d'un niveau de protection plus élevé que celui qu'assure le tarif le plus bas puisse se justifier pour des raisons d'ordre stratégique ou fiscal.

A.2. Libéralisation des exportations.

Toutes les restrictions quantitatives frappant les exportations à destination de tous les pays sont éliminées, abstraction faite d'une petite liste négative.

A.3. Libéralisation des échanges de services.

Les actions relatives aux importations et exportations de services s'alignent sur celles qui concernent les échanges de marchandises. La libéralisation s'étend aux services financiers, à l'assurance, aux transports (de marchandises et de voyageurs), à la consultance et au tourisme.

A.4. Facilitation des échanges intrarégionaux.

Les mesures d'un système régional de garantie des obligations.

B. SYSTEMES DE PAIEMENT ET RÉGIME DES ÉCHANGES

10. Un des principaux objectifs de l'initiative est d'améliorer de façon significative le fonctionnement des systèmes de paiement et des régimes des échanges intrarégionaux dans les quatre domaines suivants : a) systèmes de paiement et de règlement intérieurs, b) régimes des échanges, c) marchés des changes et d) chambre de compensation ZEP. Les améliorations réalisées dans ces domaines seront évidemment renforcées par les progrès accomplis par les réformes structurelles et macro-économiques ainsi que dans d'autres domaines. L'amélioration du système de paiement devrait ainsi être épaulée par l'élimination des barrières non tarifaires et la rationalisation de la structure des droits de douane (voir chapitre A) ainsi que par la réforme des mesures de stimulation des investissements (voir chapitre C).

B.1. Systèmes de paiement et de règlement intérieurs

- ❑ Les pays participants s'engagent à mener à bien le programme de réforme de leur secteur financier. Ils demandent à leurs banques centrales de renforcer leurs fonctions réglementaires et prudentielles afin d'encourager le développement des banques commerciales et autres institutions financières. D'autres mesures, notamment celles qui ont été étudiées à l'atelier qui s'est tenu à l'île Maurice les 10 et 11 juin (voir Annexe 1), devraient être mises en oeuvre en vue du développement des instruments de financement du commerce extérieur et l'établissement d'un réseau de correspondants bancaires dans la région.
- ❑ Les pays participants qui n'ont pas entrepris de réformer leur secteur financier sont, le cas échéant, encouragés à adopter des mesures destinées à renforcer ce secteur selon les principes décrits dans le paragraphe qui précède.
- ❑ Les pays participants facilitent l'accès à leur secteur financier et encouragent la concurrence entre les institutions financières en libéralisant les activités transfrontalières de ces institutions et en éliminant rapidement les barrières qui entravent l'accès des institutions financières régionales et extrarégionales. Ils

veillent plus particulièrement à modifier leur législation dans un sens tel que les institutions financières spécialisées opérant dans la région, y compris les banques "off-shore", puissent participer à la fourniture de capitaux et de facilités de crédit à l'exportation.

B.2. Régimes des changes

- ❑ Les pays participants s'appliquent à éliminer, de façon non discriminatoire, toutes les restrictions qui frappent les opérations courantes ainsi qu'à faciliter les types d'opérations en capital décrites ci-après. Ces actions sont menées, dans le contexte des programmes d'ajustement structurel, à des rythmes différents selon les pays. La convergence vers l'objectif à moyen terme pourrait, dans certains cas, nécessiter un redoublement des efforts d'ajustements structurels en cours.
- ❑ La libéralisation des investissements directs et des investissements sur le marché régional des capitaux sont des priorités.

B.3. Marchés des changes.

L'objectif est d'établir des marchés unifiés inter-banques de change au comptant dans tous les pays participants d'ici 1996. Le FMI aidera les pays participants à mettre en oeuvre les mesures concrètes qui s'imposent à cet effet. Les progrès accomplis dans ce domaine faciliteront la création de marchés à terme des changes. La création de tels marchés ne sera toutefois pas envisagée à court terme dans les cas où une surévaluation importante persiste.

B.4. Chambre de compensation ZEP.

Les progrès accomplis récemment dans la libéralisation des échanges et des paiements ont atténué le rôle de la Chambre de Compensation ZEP. Etant donné que ces progrès devraient se poursuivre, la Chambre de Compensation ZEP pourrait utilement jouer un rôle de forum de réflexion économique et s'appliquer à faciliter les paiements relatifs :

- au régime régional de garantie des obligations, au système de coupons pour redevances harmonisées de transit et au système de la carte jaune d'assurance,
- à la libéralisation du transport aérien intrarégional de passagers et de fret.

C. INVESTISSEMENTS

11. La réforme du cadre législatif et l'harmonisation des mesures de stimulation des investissements sont des objectifs majeurs des mesures proposées. Ces mesures pourraient être mises en oeuvre dans le contexte des programmes d'ajustement et de certains programmes spéciaux d'assistance technique. Dans les pays où il n'existe pas de programme de ce type, il faudra prendre les mesures de dérégulation des investissements tant intérieurs qu'étrangers décrites ci-après.

12. Aux fins de la présente initiative, les principales actions à mener sur le front des investissements sont celles qui concernent la structure des mesures de stimulation des investissements. La plupart de ces dernières ont été évoquées dans les chapitres relatifs au commerce et aux paiements. Il y en a cependant encore d'autres qui méritent l'attention :

C.I. Cadre législatif

C.I.1. Procédure d'approbation des investissements

- Les pays participants doivent simplifier et libéraliser les procédures d'approbation des investissements. Les codes des investissements et autres instruments législatifs similaires (réglementation sur la protection de l'environnement, restrictions municipales, etc.) devraient être réunis en un seul texte unique, assez court, qui devrait être publié et diffusé.
- Le délai de traitement des demandes d'investissement devrait être limité à 45 jours au maximum. Ces demandes devraient être adressées à des Centres pour les Investissements. Les pays participants qui n'ont pas de tels centres devraient soit en créer, soit investir un organisme officiel existant de cette fonction ainsi que des pouvoirs nécessaires à son exercice.
- Les demandes sont censées être approuvées si aucune objection n'a été formulée dans le délai précité. Les objections ne peuvent en tout état de cause être justifiées que par une non-conformité démontrée de la demande aux dispositions du code des investissements. Le gouvernement peut, dans des cas exceptionnels (par exemple, pour des raisons de protection de l'environnement), porter, dans le délai précité de 45 jours, à la connaissance de l'investisseur les raisons d'une éventuelle prorogation dudit délai ainsi que le nouveau délai dans lequel la décision finale sera prise.

- Les pays participants qui ne peuvent pas appliquer de façon globale les mesures précitées doivent à tout le moins les mettre en oeuvre sur une base de réciprocité avec les autres pays participants.

C.1.2. Charte des entreprises industrielles multinationales (ZEP).

Amendée dans le sens voulu, la Charte des entreprises industrielles multinationales pourrait utilement contribuer à la mise en oeuvre des mesures visées au paragraphe C.1.1. La ZEP doit s'engager à faire accepter ces amendements et à faire ratifier la Charte amendée par les Etats membres. La Charte sera amendée de façon à :

- mettre fin aux restrictions apportées aux prises de participation et ouvrir les possibilités de prises de participation à toutes les firmes de la région,
- supprimer l'exigence minimale du montant de l'investissement,
- rendre les nouvelles procédures d'approbation applicables aux investissements répondant aux conditions définies dans la Charte.

La Charte amendée sera diffusée par les voies appropriées comme les GTT.

C.1.3. Immigration, résidence et emploi

- Les pays participants devront signer, ratifier et mettre en oeuvre les deux volets du protocole ZEP sur l'assouplissement des conditions de délivrance et l'élimination à terme des visas.
- Les demandes de permis de séjour et d'emploi seront traitées par le Centre pour les Investissements dans les quatre semaines suivant la date de leur introduction. Les pays participants qui n'ont pas de centre de ce type doivent soit en créer un, soit investir un organisme officiel existant de cette fonction ainsi que des pouvoirs nécessaires à son exercice.
- Les formalités d'entrée seront également modifiées de façon à faciliter la circulation des personnes dans les zones frontalières, par exemple en autorisant la délivrance aux frontaliers des pays participants de permis de séjour de brève durée valables pour 24 heures au moins (sur présentation d'une pièce d'identité).

C.2. Autres mesures

- Garanties d'investissement. Les pays participants devront adhérer à l'Agence Multilatérale de garantie des investissements (AMGI) et, le cas échéant, à des agences bilatérales de garantie des investissements telles que l'OPIIC.
- Accord sur les doubles impositions. Les pays participants devront conclure de tels accords sur une base bilatérale.
- Bourses des valeurs. Les bourses seront autorisées à admettre à la cote et négocier des valeurs d'autres bourses de la région.

D. DÉVELOPPEMENT INSTITUTIONNEL

13. L'initiative ne peut réussir sans structures institutionnelles, nationales et régionales, adéquates. Quoique la rationalisation et l'harmonisation des institutions régionales se situent en dehors du champ d'application de l'initiative, la coopération continue avec les institutions régionales restera nécessaire pour éviter les doubles emplois et garantir une mise en oeuvre réussie de l'initiative. Les mesures proposées dans ce domaine peuvent se résumer comme suit :

- Les GTT nationaux continuent à conseiller leurs gouvernements en matière d'intégration régionale et devraient être intégrés dans les circuits existants de définition des grandes options politiques.
- Les chambres nationales de commerce et d'industrie et les organismes de développement des échanges, notamment les centres régionaux d'arbitrage commercial et les autres organismes privés similaires, sont renforcés de telle sorte qu'ils puissent jouer un rôle plus constructif dans le processus d'intégration régionale.
- Les pays participants mettent au point des mécanismes permettant de renforcer le rôle du secteur privé dans le processus décisionnel ZEP/SADC/COI.
- La ZEP, la SADC et la COI prennent les mesures requises pour que leurs programmes de facilitation du commerce et des investissements intrarégionaux contribuent à une mise en oeuvre rapide de l'initiative. Elles épaulent les efforts

accomplis par ceux de leurs membres qui participent à l'initiative en vue de mettre le Programme Commun d'Action (PCA) en oeuvre et encouragent les autres à rejoindre les rangs des premiers dans les meilleurs délais.

MODALITÉS DE L'ASSISTANCE

I. Assistance financière et technique⁽¹⁾

14. L'assistance sera avant tout fournie aux niveaux des pays participants. Une opération distincte en faveur de la Banque ZEP et d'autres institutions régionales qui pourraient jouer un rôle important dans la promotion des objectifs de l'initiative sera toutefois également mise sur pied.

15. Une approche différenciée de l'assistance financière sera adoptée par les co-sponsors en fonction des besoins spécifiques du pays :

- Soutien complémentaire à la balance des paiements (par exemple, contribution au financement des coûts transitoires de la libéralisation économique intrarégionale) par CCE/BAD/BM.
- Ligne de crédit/opérations d'investissement (i.e. fourniture de capitaux à long terme ciblés pour la prise de participations) par BAD/BM.
- Activités complémentaires de soutien par FMI/BM/CCE⁽²⁾.

16. Tous les éléments susvisés (point 15) pourraient être regroupés dans le même programme, mais seraient cofinancés par des opérations parallèles.

17. Un comité de pilotage composé de représentants des co-sponsors sera constitué afin d'assurer la coordination générale au niveau des donateurs. Il travaillera en liaison avec les organisations régionales.

I/ Chacun des co-sponsors de l'initiative s'en tient aux procédures d'octroi de l'assistance financière qui lui sont propres.

2/ Voir Annex 2 pour le détail de ces activités

18. Un comité d'exécution du projet (CEP) sera constitué au niveau national afin d'aider au développement, à la négociation et à la coordination de la mise en oeuvre des différents éléments décrits. Le CEP regroupera les ministres et hauts fonctionnaires concernés. Il recevra les rapports et les recommandations du GTT au sein duquel les secteurs public et privé sont représentés.

19. Le comité de pilotage désignera une agence chef de file pour chaque programme national qui coordonnera les activités des co-sponsors et travaillera en liaison avec le CEP.

II. Sources de financement et coûts du projet

20. L'initiative proposée sera financée par la Communauté Européenne, la Banque Africaine de Développement et le groupe de la Banque Mondiale, y compris la SFI. Cette dernière ne participera pas au financement du soutien à la balance des paiements ou des lignes de crédit, mais elle apportera sa contribution par des investissements directs, son African Enterprise Fund et son African Project Development Facility qui est cofinancée par la BAD. Le soutien du FMI se limitera à l'assistance technique, y compris l'élaboration des cadres macro-économique et structurel indispensables. Cette assistance du FMI sera complémentaire de celle de CCE/BAD/BM.

21. On escompte également un certain montant de financement bilatéral. Pour l'instant, un soutien aux activités préparatoires a été obtenu des gouvernements du Canada, des Etats-Unis et de la Suisse. Ce soutien devrait être élargi au cours de la phase de mise en oeuvre.

22. Aux fins de la programmation, on peut estimer qu'un montant moyen de 30 millions d'USD par pays représenterait un montant raisonnable de soutien à l'initiative. La dotation individuelle de chaque pays serait fondée sur une évaluation plus précise des besoins lors de l'instruction des opérations.

23. Il est peu probable qu'à la fin de ces opérations, la pratique des investissements privés transfrontaliers soit déjà bien ancrée. Il faut être réaliste et savoir qu'il s'agira d'un processus de longue haleine nécessitant de la part des gouvernements l'acquisition d'une culture nouvelle en matière d'investissement et de politique. Le soutien des donateurs pour des opérations de suivi serait donc nécessaire afin de garder le momentum. Les donateurs devront donner l'assurance que la mise en oeuvre accélérée des programmes nationaux bénéficiera d'un soutien correspondant.

24. Une part importante des ressources devrait sans doute être accordée à des conditions de faveur. Dans la mesure où certains des participants potentiels ne sont pas éligibles à l'IDA, il y aura une possibilité de financement aux conditions normales du marché qui pourrait être utilisée afin d'opérer un dosage approprié. Les co-sponsors et autres donateurs éventuels devront se consulter afin de déterminer le volume des ressources disponibles pour les opérations initiales.

III. Accès et éligibilité

25. Une masse critique de pays sera nécessaire pour lancer l'initiative. Il semblerait que cette masse critique existe. Dès l'approbation du document de réflexion par les gouvernements concernés, les pays participants seront éligibles pour bénéficier des ressources affectées à la mise en oeuvre de l'initiative. L'accès au soutien des donateurs dépendra de l'adoption et de la mise en oeuvre du pays participant des mesures de politique économique et du cadre institutionnel décrits ci-dessus.

ETAPES SUIVANTES

26. La réunion des hauts fonctionnaires a souligné qu'il importe de faire approuver rapidement le document de réflexion au cours d'une réunion ministérielle afin de pouvoir traduire l'initiative dans les faits sans délai. Le gouvernement ougandais s'est offert à accueillir cette réunion ministérielle, avec le soutien financier de la CCE, fin juillet/août à Kampala. Les participants ont accepté cette offre.

27. Les participants ont demandé qu'à Kampala, les ministres présentent le calendrier des négociations que leurs pays mèneront avec les co-sponsors de l'initiative en vue d'identifier et d'élaborer les projets. Ils ont également demandé aux ministres de constituer les CEP aussi rapidement que possible.

ANNEXE 1

PROPOSITION DE L'ATELIER SUR LE SECTEUR FINANCIER

(île Maurice, 10-11 juin 1993)

1. A partir des systèmes nationaux, instaurer des moyens complets avec un volet régional pour le financement du commerce. Ces moyens devraient en priorité comprendre le financement avant exportation et pourraient fournir des assurances pour les crédits à l'exportation et des garanties contre tous les risques. Cela pourrait se fonder sur le travail de l'ITC sur les systèmes qui ont réussi au Lesotho et au Swaziland.

2. La banque de la ZEP, ainsi que les banques commerciales intéressées devraient formuler des propositions pour un fonds de soutien au commerce extérieur qui pourrait attirer l'aide extérieure. L'objectif du fonds serait de produire un effet de levier pour le financement par les banques commerciales du commerce et de l'investissement entre pays participants.

3. Développer des programmes pour harmoniser (1) le règlement et la surveillance prévoyant des établissements financiers; (2) la documentation requise pour les transactions commerciales et d'investissement - les chambres de commerce nationales seront responsables; et (3) les règlements relatifs aux marchés secondaires.

4. Développer un programme pour renforcer les systèmes de paiement à l'intérieur des pays participants.

5. Libéraliser les contrôles des changes pour les investissements directs transfrontaliers. La banque et la chambre de compensation de la ZEP étudieront le problème et proposeront des solutions, notamment des formules qui permettraient l'utilisation des monnaies nationales.

6. Développer des institutions et des services financiers spécialisés tels que le "leasing", le "merchant banking" et l'escompte; la banque de la ZEP devrait, en collaboration avec l'association des banques commerciales de la ZEP, élaborer des propositions spécifiques à cet effet.

7. Élaborer un programme de formation relatif aux pratiques bancaires et aux instruments financiers; en particulier dans le domaine des échanges internationaux et de l'investissement; l'association des banques commerciales de la ZEP devrait élaborer des propositions spécifiques à cet effet.

8. Améliorer, au moment où elles seront renégociées, les dispositions du protocole financier de la convention de Lomé relatives au financement du commerce.

9. La charte de la banque de la ZEP devrait être modifiée pour permettre aux Etats qui ne sont pas membres de la ZEP de souscrire aux capitaux de la banque.

10. Un programme devrait être développé, sur base du système TINET, pour améliorer la diffusion d'informations sur les services financiers et les spécialistes financiers dans la région. La banque de la ZEP s'occuperait du suivi de ces propositions.

11. Établir une base d'information qui pourrait être utilisée pour évaluer la solidité des banques commerciales fonctionnant dans la région; la banque de la ZEP en prendrait la responsabilité.

ANNEXE 2

ACTIVITÉS COMPLÉMENTAIRES DE SOUTIEN

1. La mise en oeuvre de l'initiative proposée nécessitera également un programme étendu d'activités d'appui complémentaire. Les activités suivantes ont été identifiées:

- Services financiers. Il faut envisager une assistance en faveur de la Banque ZEP afin qu'elle développe, en coopération avec la Chambre de Compensation ZEP et les banques commerciales qui opèrent dans la région, de nouveaux instruments financiers destinés à soutenir les investissements privés et les échanges transfrontaliers. Les instruments devraient notamment permettre d'obtenir des crédits à l'exportation avant et après expédition aux taux du marché et prévoir éventuellement un fonds de garantie pour la prise en charge des risques non commerciaux.
- Une assistance pourrait également être fournie afin de développer la ristourne des droits et/ou les régimes d'admission temporaire et de renforcer la coopération entre les banques régionales et commerciales de manière à garantir le financement des échanges en devises et la fourniture de garanties de change.
- Promotion des exportations intrarégionales. Les donateurs peuvent également envisager de constituer un fonds afin de financer les mesures de promotion des exportations intrarégionales.
- Soutien aux GTT. Les GTT ont puissamment contribué à l'émergence d'un consensus intrarégional sur la libéralisation des échanges et la dérégulation des investissements. A présent, ils constituent notamment une enceinte au sein de laquelle se déroule le débat sur les problèmes liés à l'intégration régionale. Les GTT devraient être encouragés à poursuivre leurs activités dans les domaines suivants :
 - a) faire rapport sur la mise en oeuvre du PCA et saisir les gouvernements et organisations régionales respectifs des plaintes des milieux d'affaires;
 - b) faire connaître le PCA et ses implications pour les agents économiques, en particulier les nouveaux instruments qui permettront de faciliter l'activité économique régionale;
 - c) mobiliser le soutien politique en faveur de la libéralisation intrarégionale et multilatérale du commerce.

- autres activités d'appui. Il pourrait s'agir d'une assistance technique et d'études visant à :
 - a) accélérer le règlement de contentieux dans le cadre du système ZEP de carte jaune (d'assurance);
 - b) préparer des accords sur la double imposition;
 - c) former les douaniers et les fonctionnaires responsables de la promotion du commerce à l'application des dispositions relatives à la déclaration de transit par route de la ZEP et à l'amélioration de la circulation de la "troisième copie";
 - d) promouvoir l'utilisation de SYDONIA (système douanier automatisé) ou de systèmes analogues dans tous les pays participants;
 - e) harmoniser les normes;
 - f) préparer une réforme des régimes fiscaux allant dans le sens d'une moindre dépendance vis-à-vis de la taxation des échanges internationaux et compensant la perte consécutive de recettes fiscales par d'autres moyens;
 - g) harmoniser progressivement les différents régimes d'incitations.

INFORMATION NOTE FOR SPA MEETING

CROSS-BORDER INITIATIVE TO FACILITATE PRIVATE INVESTMENT, TRADE AND PAYMENTS IN EASTERN AND SOUTHERN AFRICA AND THE INDIAN OCEAN (CBI)

(Presentation on April 20, 1994)

This note is intended to provide the SPA partners with background information on a regional initiative in Eastern and Southern Africa—the Cross-Border Initiative (CBI)—that is being co-sponsored by the African Development Bank (AfDB), the Commission of the European Communities (CEC), the IMF, and the World Bank. The CBI is primarily aimed at promoting cross-border trade and investment among the participating countries.

Background

The development community has recently revived its interest in economic integration issues in Sub-Saharan Africa (SSA). The Long Term Perspectives Study (LTPS) argued that given the economic fragmentation of the continent, regional cooperation and economic integration are key ingredients for the next stage of development policy in SSA. The Maastricht Conference on Africa (July 1990) came to a general consensus on the desirability of more regional integration and cooperation in SSA, while at the same time noting that previous integration schemes had achieved limited progress in promoting cross-border trade and investment. Moreover, in the context of the SPA, there has been a growing recognition of the importance of the regional dimension of adjustment and a realization that the implementation of structural adjustment reforms over the past decade has created an improved basis for cross-border economic activity in SSA.

Genesis of the CBI

Against this background, and following the Maastricht Conference, the CEC, World Bank, IMF and AfDB began to collaborate on developing a new practical approach to promoting economic integration that could be supported actively by the donor community. The new approach reflected a shift away from regional industrial planning and selective tariff cuts on intra-regional trade with high protective barriers vis-à-vis the rest of the world, which were the foundations of most of the previous integration schemes in SSA. Instead, the emphasis would be on measures that promote the mobility of factors, goods and services across national boundaries in the region with relatively low tariff barriers against third parties. These efforts led to the Cross-Border Initiative in the PTA/SADC/IOC region, where, as a result of adjustment reforms, there has been progress towards flexible exchange rate policies, trade liberalization and macro-economic stability as well as a particularly strong resolve to strengthen financial and economic linkages among the countries. The US, Canada and Switzerland also financed some of the preparatory activities of the initiative.

Based on past experience with regional integration schemes and the lessons of a decade of adjustment in SSA, the co-sponsors observed the following guidelines in promoting the CBI. First, the program to implement the initiative had to be truly nationally conceived to ensure ownership. This has entailed a preparation process involving the public and private sector representatives of the countries in identifying the constraints to cross-border activity and the measures to overcome them. Second, the CBI-supported program of action had to be consistent with the adjustment priorities of the participating countries, be anchored in an outward-oriented policy framework, and have added value compared to the reforms supported under the ongoing variety of adjustment programs, by accelerating the reform process.

Third, the CBI should contribute to capacity building by relying primarily on local resources to design the program. Fourth, the CBI should not lead to the creation of a new regional institution to implement the program and should continue to emphasize national action in the context of each country's policy framework. Fifth, the CBI supported reforms should be consistent with the long term vision of an African economic community. This would be ensured through consultation with the relevant regional institutions (PTA, SADC, IOC, ECA, OAU). The dialogue with these institutions has led to a mutual understanding of how the CBI fits in the ongoing process of regional integration in Africa. The CBI's focus is on helping to create the conditions for economic integration among those selected countries which volunteer to implement the proposed reform agenda. Therefore, the initiative is seen as a "building block" in the long term process of creating an African economic community. Finally, the CBI should support the efforts of the relevant sub-regional organizations in so far

as they are consistent with the objectives of eliminating obstacles to cross-border economic activity. This would imply the involvement of and support to the PTA, SADC and IOC.

Main Features of the CBI

The CBI aims at channeling the aspirations of the participating countries for greater economic integration towards a new integration paradigm that is based on the promotion of competition and efficiency in the domestic product and factor markets of participating countries with low effective protection vis-à-vis third parties. It has several special features, including: voluntary participation by a willing sub-set of countries; implementation of reforms based on the principle of reciprocity among the participating countries, thereby encouraging action which countries would likely hesitate to take if they were acting alone; harmonization of economic policy reforms across the countries so as to facilitate cross-border economic activity. In addition, the CBI has the potential for the kind of peer pressure for reform that is not always present in the context of adjustment dialogue between individual countries and the donors. Moreover, the CBI provides the participating countries with a visible vehicle for mobilizing donor assistance and for attracting direct foreign investment. Taken together, these features should facilitate successful implementation of the envisaged reforms.

Under the CBI, the participating countries have agreed on the following key provisions in order to ensure that their efforts are welfare improving:

- The move to greater regional integration should be accompanied by external trade liberalization to minimize inefficient investment and trade diversion.
- Efficient intra-regional trade and investment creation requires:
 - enhanced intra-regional factor mobility through deregulation of investment and labor flows;
 - MFN removal of intra-regional trade barriers;1 and
 - Dismantling of payments, transport and other barriers that have traditionally tended to favor relationships with countries outside the region.
- Given that not all countries are equally ready to act upon the above provisions, progress requires voluntary participation by a willing sub-set of countries rather than unanimity (as in the case of previous integration schemes) so as to allow the fast adjusters to set the pace.

The broad objective of the CBI is to help reduce the obstacles to cross-border activity so as to promote efficient patterns of growth with economies of scale and opportunities for vertical and horizontal integration among the participating countries. It argues for accelerated economic liberalization with respect to external payments and domestic regulatory environment so that scarce investment capital could pursue differential factor prices and thus create efficient growth. The underlying premise is that the private sector would no longer be constrained to the national market; rather it would be encouraged to exploit the emerging opportunities in the sub-regional markets. The expansion of the "internal" market and reduction of impediments to investments would also help foster investment flows from abroad to the participating countries.

To achieve the objectives outlined above, the CBI calls for an acceleration of the pace and a deepening of the scope of the structural adjustment effort in the participating countries in the following areas:

- ❑ trade liberalization, including immediate abolition of remaining non-tariff barriers, removal of tariffs on trade in goods and services among the reciprocating countries by 1996, and, to minimize the risk of trade diversion in the context of the freeing of intra-regional trade, movement towards a common external tariff by end-1998, by lowering external tariffs vis-à-vis third countries to the level of the member with the lowest tariffs, etc.;
- ❑ liberalization of the exchange system, including elimination of restrictions on current account transactions and the attainment of current account convertibility by end-1996, relaxation of restrictions on capital account transactions associated with the liberalization of direct investment and investment in regional equity markets, and establishment of unified, spot exchange markets by end-1996, etc.;
- ❑ deregulation of investment, including adoption of simple and liberal investment approval procedures, and recognition of a special category of "regional enterprise," which would enable enterprises with cross-border capital investment to operate in any participating country on the same basis as national firms, etc.;
- ❑ strengthening of financial inter mediation in support of cross-border trade and investment, and facilitating entry and increasing competition in the financial sector by, inter alia, promptly liberalizing cross-border activities of financial institutions and eliminating impediments to entry by regional and extra-regional financial institutions, etc.;

- ❑ facilitating the movement of goods and persons, including harmonization of disparities in transit charges and documentation for goods in transit, facilitation of movement of labor by processing residence and employment permits within a short time period, and relaxation and eventual elimination of visas among the participating countries.

Evolution of the CBI

Over the past two years, the CBI has evolved in four phases of extensive discussions by the co-sponsors with the regional institutions and the representatives of most of the Eastern and Southern African countries. The countries participating in these discussions were: Burundi, Comoros, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Reunion, Rwanda, Seychelles, Swaziland, South Africa (in observer status), Tanzania, Uganda, Zambia and Zimbabwe.

The first phase of the initiative started following the Maastricht Conference and consisted of a desk study. The latter identified the constraints on intra-regional trade, investment and payments in SSA on the basis of existing documentation and recommended the establishment of national working groups and their terms of reference (TOR). This phase culminated in an invitation to the countries in the sub-region to participate in a workshop to discuss the initiative. The second phase started in June 1992, when representatives from interested countries gathered at a workshop in Mauritius. The country representatives agreed on the establishment of country specific Technical Working Groups with public and private sector participation (TWG).

In December 1992, the third phase was initiated when, at a second workshop held in Harare, the TWGs agreed on a synthesis of their various proposals in the form of a common program of action. On that basis, the co-sponsors prepared a draft Concept Paper (CP), which proposed how the interested governments could implement the core measures with donor support. In June 1993, the draft CP was discussed and amended in Brussels, at a meeting of the co-sponsors and senior country officials. On August 27, 1993, at a ministerial meeting in Kampala, the representatives of thirteen countries as well as several sub-regional and regional institutions endorsed the Concept Paper.

Since the Kampala meeting, the interested countries and the co-sponsors have moved to the current implementation phase of the CBI. The respective responsibilities and roles of the participating countries and the co-sponsors and the proposed essential modalities for implementation are described below.

The participating countries are expected to: (i) confirm in writing their intention to implement the CBI supported reforms; (ii) set up Project Implementation Committees (PIC) at the ministerial level to serve as focal points to coordinate the implementation of the CBI; and (iii) identify with the help of the co-sponsors the specific measures based on the Concept Paper that each country would propose to implement and which could serve as a basis for donor assistance. To date, nine countries (Kenya, Malawi, Mauritius, Namibia, Rwanda, Swaziland, Uganda, Zambia, and Zimbabwe) have confirmed their intention to participate in the CBI and have established PICs. The co-sponsors have set up a Steering Committee to coordinate their respective activities in support of the CBI and have, inter alia, agreed on several principles as explained below.

Role and responsibility of co-sponsors. The co-sponsors will jointly assume responsibility for ensuring effective implementation of the CBI, but with individual sponsoring institutions focusing more specifically on their respective areas of competence. It is anticipated that a single lead agency would take on the responsibility of coordinating CBI related work at the country level. Where adjustment programs are in place or planned, the World Bank would normally act as the lead agency, while the CEC would normally assume leadership for the other countries. A lead agency's primary responsibility would be to coordinate the preparation/negotiation process on behalf of and in cooperation with the other co-sponsors and to ensure that steps are taken by the country PICs in preparing specific action programs to implement the CBI-supported reforms. Moreover, implementation of the CBI will require involvement of the sub-regional organizations. The CEC will on behalf of and in consultation with the other co-sponsors coordinate with the sub-regional organizations.

Requisite documentation. In countries that are still under adjustment, the general policy provisions related to the CBI reform agenda would be incorporated in the PFP, as the "regional dimension of adjustment." Nevertheless, the PFP would retain its trilateral character, and the attendant negotiations would continue to be confined to the IMF, the World Bank, and the concerned country authorities. Country commitments with regard to specific actions under the CBI would be reflected in a "side letter" to other operational documents of the co-sponsors (e.g., letters of intent, credit agreements, etc.). The AfDB, CEC and the World Bank would each decide on their own specific disbursement criteria from the actions contained in the "side letter." In this context, an important consideration for all participating countries is that they would be carrying out a sustainable adjustment effort and that policy intentions relating to the CBI would be implemented on time.

Financing requirements. An important aim of external assistance envisaged under the CBI will be to help individual countries cope with the possible negative effects of the

proposed measures (e.g., loss of budgetary revenue as a result of reduction/elimination of import tariffs, etc.,) during the transition period before the full benefits of the reforms have come on stream. The financing requirements associated with the implementation of the CBI-supported reforms are tentatively estimated at about US\$ 30 million on average per country. For any given country, the amount of “additional” assistance would be determined flexibly, taking into account, among other things, the short term impact of the measures undertaken, the degree to which these measures enhance the country’s overall adjustment effort, the level of reserves, and the magnitude of external financing already in the pipeline. Efforts to mobilize donor support would be made in the context of country specific donor meetings (e.g., CBI was recently discussed during the Consultative Group meetings on Malawi, Zambia and Zimbabwe and some donors expressed an interest in supporting the initiative). To the extent that financing involves balance of payments support, these requirements would be also considered in the framework of the SPA. Finally, some external financing would be required in support of related activities by sub-regional organizations.

Burden sharing. It is proposed that each interested donor would determine, subject to its own policies and country assistance programs, the most appropriate instrument (e.g., balance of payments assistance, credit lines, technical assistance, etc.,) for supporting an individual country’s efforts in the framework of the CBI. Most of the financing, however, is expected to be provided in the form of balance of payments support. The CEC has already earmarked ECU 60 million for balance of payments and ECU 20 million for project and technical assistance in support of the CBI. The AfDB is considering earmarking a portion of its ADF 7 in support of regional projects, including the CBI. The IMF has indicated its readiness to assist the participating countries in elaborating appropriate macro-economic frameworks, including the requisite technical assistance. The World Bank is considering technical assistance through its Institutional Development Fund as well as BOP and project support.

Next Steps

Initial discussions between the co-sponsors and the country authorities have already taken place in Malawi, Mauritius, Namibia, Rwanda, Uganda, Zambia and Zimbabwe with a view to identifying the specific measures to underpin the CBI-supported reform agenda. The PICs are preparing specific proposals with a view to negotiating external assistance in support of the CBI-related reforms in the coming months. In response, the co-sponsors are planning missions, which to the extent possible will include staff of the four co-sponsor institutions. These missions will also help to identify the country-specific financing

requirements of the CBI-supported reforms. The first country specific operations in support of the CBI are expected to be ready in the second half of 1994. Donors interested in co-financing the CBI-related operations are invited to indicate their interest to the participating countries and the co-sponsors. Another status report on the CBI could be presented to the next meeting of the SPA.

Additional Information

The present note summarizes the main features of the CBI. The following more detailed documents can be made available by the Co-sponsors on request:

- Concept Paper (in English or French);
- Minutes of the Kampala Meeting (27 August, 1993, in English or French); and
- Compendium of country reports (in original language) and synthesis (in English and French).

SUMMARY MATRICES PER COUNTRY

The state of progress on the implementation of the measures outlined in the Concept Paper for a number of participating countries is summarised below in the form of matrices, together with an overview. A simple coding system has been used for ease of reference. The information in the matrices is based on the reports provided by the Technical Working Groups. A first version of the matrices was worked out by Imani Development at the end of 1993. For the countries where more recent information became available (e.g. in the letters of CBI policy), this has been used to update this earlier version. The information represents the situation around the end of 1994. It should be repeated that the matrices are included as a summary reference on the country situation. The co-sponsors cannot guarantee the accuracy of the information nor accept responsibility for the consequences of its use.

Guide to the Codes Indicating Degree of Implementation

1. Fully implemented;
2. Partially implemented;
3. Administrative arrangements for implementation are in preparation;
4. (If applicable) legislative arrangements are in preparation;
5. Administrative arrangements are identified;
6. (If applicable) legislative arrangements are identified;
7. Administrative or legislative arrangements are not yet identified.

TABLE: SUMMARY OF COUNTRY MATRICES

SECTOR	AREA	MEASURE	Bur	Ken	Mad	Mal	Mau	Nam	Uga	Zam	Zim
TRADE	Foreign Trade Liberalisation	Abolish import licensing	2	1	1	1	1	2	2	1	1
		Abolish other NTBs	2	2	1	1	1	2	2	1	1
		Eliminate tariffs on intra-regional trade by 1996	2	2	3	2	2	5	2	2	2
		Abolish export licensing	2	1	1	2	1	5	2	1	2
		Open up trade in services	2	3	2	2	1	2	2	5, 6	2
	Trade Facilitation	Implement PTA harmonised transit charges	1	1	n/a	1	n/a	5	1	1	1
		Introduce RCTD document	1	1	n/a	1	n/a	5	1	1	1
		Introduce single goods declaration document	3, 4	1	n/a	1	n/a	5	1	3, 4	2
		Introduce bond guarantee scheme	5, 6	5, 6	n/a	1	n/a	7	2	3, 4	5
	PAYMENTS	Domestic Payments and Settlements	Complete financial sector reform programme	2	2	1	2	2	?	2	2
Develop foreign trade financing instruments			2	5	2	2	2	3	2	2	2
Establish correspondent banking relationships			2	1	7	2	2	2	3	2	1
Remove impediments to entry by foreign financial institutions			1	1	1	2	1	?	1	1	2
Introduce training of commercial bank staff			5	1	2	2	5	2	2	5	2
Exchange Systems		Remove all restrictions on current account transactions	1	1	1	1	1	2	2	1	2
		Relax certain capital account transactions (direct investment, regional equity markets)	2	2	7	2	1	2	2	1	2
				2	1	2	2	?	1	1	1
		Establish unified, inter-bank, spot exchange markets	7	2	3	2	1	3	2	2	1
		Increase utilisation of PTACH	2								

INVESTMENT	Investment Approval	Simplify and liberalise approval procedures	1	2	1	2	1	2	2	2	2
		Publish investment code and regulatory instruments	1	1	2	1	2	1	1	1	3
		Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	2	1	5	2	3	2	2	3	2
	PTA MIE Charter	Ratify and implement charter	3, 4	2	7	1	4	5	2	3, 4	2
	Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	2	2	3	1	5	2	1	5, 6	2
		Improve processing of residence and employment permits	2	2	n/a	1	5	2	1	1	6
Introduce short-term entry permits for border residents		5, 6									
OTHER		Join MIGA and similar bodies	5, 6	1	1	1	1	1	1	1	1
		Conclude double taxation agreements	7	3	3	3	2	2	3	3	2
		Develop cross-listings on regional stock exchanges	7	7	7	3	1	5	3	7	6
INSTITUTIONS		Continue TWG activities	1	1	1	1	7	1	1	1	1
		Strengthen national business organisations	2	2	3	2	2	2	7	5	2
		Give greater involvement to private sector in regional integration activities	2	2	7	5	2	2	2	2	2
		Establish PIC	1	1	1	1	1	5	1	1	1
PROJECT DEVELOPMENT		Write to co-sponsors expressing interest in negotiating a project	2	1	1	1	1	2	1	1	1
		Start negotiations with co-sponsors	7	5	3	1	1	5	3	1	3

BURUNDI

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	2	The import licenses remain, but the procedures have been simplified.
	Abolish other NTBs	2	
	Eliminate tariffs on intra-regional trade by 1996	2	Burundi follows the PTA timetable.
	Abolish export licensing	2	The export licenses remain, but the procedures have been simplified.
	Open up trade in services	2	No major obstacles exist. Liberalisation is ongoing.
Trade Facilitation	Implement PTA harmonised transit charges	1	Already implemented.
	Introduce RCTD document	1	Already introduced.
	Introduce single goods declaration document	3, 4	
	Introduce bond guarantee scheme	5, 6	The subject is being studied.
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	2	Financial sector reform programme ongoing under SAP.
	Develop foreign trade financing instruments	2	Foreign trade is financed by commercial banks.
	Establish correspondent banking relationships	2	Only existing links are with CEPGL member countries (Rwanda and Zaire)
	Remove impediments to entry by foreign financial institutions	1	No barriers.
	Introduce training of commercial bank staff	5	No training has been undertaken as of yet.
Exchange Systems	Remove all restrictions on current account transactions	1	No restrictions.
	Relax certain capital account transactions	2	Subject to Central Bank authorisation.

	- direct investment	7	Not yet.
	- regional equity markets	7	Not yet.
	Establish unified, inter-bank. spot exchange markets	2	Burundi is utilising the PTACH.
	Increase utilisation of PTACH		
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	1	Approval procedures have been simplified.
	Publish investment code and regulatory instruments	1	The Investment Code has already been published.
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	2	Applications are processed within one week.
PTA MIE Charter	Ratify and implement charter	3, 4	The Charter has not yet been ratified.
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	2	The second phase has not yet been implemented.
	Improve processing of residence and employment permits	2	Residence permit is granted automatically to investors. Work permit follows the obtention of visa.
	Introduce short-term entry permits for border residents	5, 6	Under study.
OTHER	Join MIGA and similar bodies	5, 6	Not yet, under study.
	Conclude double taxation agreements	7	If need be a double taxation convention can be established between Burundi and the rest of the PTA.
	Develop cross-listings on regional stock exchanges	7	Not yet, under study.
INSTITUTIONS	Continue TWG activities	1	Ongoing, strengthening is needed.
	Strengthen national business organisations	2	
	Give greater involvement to private sector in regional integration activities	2	
	Establish PIC	1	

PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	2	Ongoing
	Start negotiations with co-sponsors	7	

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	1	Abolished in May 1993.
	Abolish other NTBs	2	Used only for health, security and environmental reasons.
	Eliminate tariffs on intra-regional trade by 1996	2	Kenya is up to date with the PTA timetable.
	Abolish export licensing	1	Abolished in July 1994.
	Open up trade in services	3	Few restrictions exist
Trade Facilitation	Implement PTA harmonised transit charges	1	Implemented in July 1994.
	Introduce RCTD document	1	Implemented.
	Introduce single goods declaration document	1	Implemented.
	Introduce bond guarantee scheme	5, 6	The bond guarantee scheme is under consideration.
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	2	In 1989 Kenya embarked on a financial sector reform with World Bank support. The reform is questionable.
	Develop foreign trade financing instruments	5	Kenya established a pre-export financing scheme in 1990. Withdrawn in 1993 after it was misused.
	Establish correspondent banking relationships	1	Among ten Kenyan banks that were surveyed, 75% had correspondent or agency relationships with other banks in 12 of the countries in the region. The international banks operate through their networks in the region.
	Remove impediments to entry by foreign financial institutions	1	No barriers exist.
	Introduce training of commercial bank staff	1	Apart from training by individual banking has been set up.
Exchange Systems	Remove all restrictions on current	1	Exporters are allowed to retain

	<p>account transactions</p> <p>Relax certain capital account transactions</p> <ul style="list-style-type: none"> - direct investment - regional equity markets <p>Establish unified, inter-bank, spot exchange markets</p> <p>Increase utilisation of PTACH</p>	<p>2</p> <p>2</p> <p>2</p>	<p>100% of their foreign exchange earnings.</p> <p>Liberalised except participation in equity markets by foreigners.</p> <p>At present the premium on the inter-bank rate is 5%. The Government argues that for the two rates to converge financial and technical support is necessary to protect the shilling from speculative attacks.</p> <p>PTACH is used, but problems exist with UAPTA travellers' cheques</p>
INVESTMENT			
Investment Approval	<p>Simplify and liberalise approval procedures</p> <p>Publish investment code and regulatory instruments</p> <p>Introduce 45-day statute of limitation as investment applications and automatic approval mechanism</p>	<p>2</p> <p>1</p> <p>1</p>	<p>Investment procedures are liberal but may be hampered by unnecessary bureaucratic delays in provision of utilities. A one-stop Investment Authority has been set up.</p> <p>This has already been done by the Ministry of Justice.</p> <p>The IPC Act has been amended to reduce the number of days in which applications must be approved from 90 to 30 days.</p>
PTA MIE Charter	Ratify and implement charter	2	Ratified, not yet implemented.
Immigration	<p>Ratify and implement both phases of PTA protocol on elimination of visas</p> <p>Improve processing of residence and employment permits</p> <p>Introduce short-term entry permits for border residents</p>	<p>2</p> <p>5</p> <p>2</p>	<p>Kenya has ratified the first phase of the Protocol, and is awaiting action by the PTA Secretariat on the implementation of the second phase.</p> <p>The Government feels that free movement of persons across the borders require specific security agreements, preferably at a bilateral level. However, it is prepared to give special attention to investment related residence and employment permits.</p> <p>Has been done along Uganda and Tanzania borders.</p>
OTHER	Join MIGA and similar bodies	1	Kenya is a member of MIGA.

	Conclude double taxation agreements	3	Zambia is the only country in the region with which Kenya has a double taxation agreement.
	Develop cross-listings on regional stock exchanges	7	
INSTITUTIONS	Continue TWG activities	1	In the next phase the main tasks of the TWG will be to act as a link between the public and private sectors, and to act as an advisor to the Government.
	Strengthen national business organisations	2	National business organisations are technically and administratively weak. They should be trained and equipped during 1994/1995.
	Give greater involvement to private sector in regional integration activities	2	
	Establish PIC	1	
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	1	Letter was sent to the World Bank - with copies to the CEC, the ADB, and the IMF - on the 20th September, 1993.
	Start negotiations with co-sponsors	5	

MADAGASCAR

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	1	Imports have been liberalised through the introduction of the Liberalised Import System (SILI).
	Abolish other NTBs	1	Main NTBs are transport, standardisation, movement of people.
	Eliminate tariffs on intra-regional trade by 1996	3	Madagascar will follow the PTA timetable
	Abolish export licensing	1	
	Open up trade in services	2	Liberalisation has begun and is expected to apply to air services shortly. Consultancies and financial services are now liberalised.
Trade Facilitation	Implement PTA harmonised transit charges	n/a	
	Introduce RCTD document	n/a	
	Introduce single goods declaration document	n/a	
	Introduce bond guarantee scheme	n/a	
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	1	A financial sector reform was undertaken in 1988. New statutes for Central Bank in 1994
	Develop foreign trade financing instruments	2	A pre and post export credit system already exists, but its operations are hampered by the unavailability of foreign exchange.
	Establish correspondent banking relationships	7	So far no links exist. The establishment of a network is dependent on the monetary policy of the country. Madagascar has just joined the SWIFT network.
	Remove impediments to entry by foreign financial institutions	1	The new banking law of 1988 grants access to the financial

	Introduce training of commercial bank staff	2	sector to foreign financial institutions. Training of commercial bank staff members is available through national and international training institutes. Training focused on regional trade and payments could be useful.
Exchange Systems	Remove all restrictions on current account transactions	1	Since May 1994, payments for current account transactions are liberalised
	Relax certain capital account transactions - direct investment - regional equity markets	7	Cross-border investments are generally not allowed, except in special cases, and after thorough investigation. Permission is granted on a case-by-case basis.
	Establish unified, inter-bank, spot exchange markets	1	Operational since May 1994.
	Increase utilisations of PTACH	3	Madagascar will gradually use PTACH
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	1	The procedures have been simplified and a one-stop-window has been set up and has been operational since April 1994.
	Publish investment code and regulatory instruments	2	The Investment Code has already been published and it remains only to distribute it to the private sector.
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	5	At present the delay is 60 days according to the investment code, and 30 days for the Free Zone. The one-stop-window is prepared to reduce the delay to 45 days.
PTA MIE Charter	Ratify and implement charter	7	To be considered
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	3	Plans are made to relax visa regulations in accordance with IOC agreements. 24- hour entry visas to be issued at the airport for nationals of Mauritius and Republic of South Africa
	Improve processing of residence and employment permits	7	?

	Introduce short-term entry permits for border residents	n/a	
OTHER	Join MIGA and similar bodies	1	Madagascar is a member of MIGA since 1989
	Conclude double taxation agreements	3	Has an agreement with Mauritius
	Develop cross-listings on regional stock exchanges	7	Madagascar does not have a stock exchange yet.
INSTITUTIONS	Continue TWG activities	1	The TWG is continuing its operations.
	Strengthen national business organisations	3	The Chamber of Commerce and Industry will be restructured shortly.
	Give greater involvement to private sector in regional integration activities	7	
	Establish PIC	1	Done.
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	1	Done.
	Start negotiations with co-sponsors	3	Awaiting comments on draft letter from co-sponsors.

MALAWI

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	1	Fully liberalised 1991.
	Abolish other NTBs	1	
	Eliminate tariffs on intra-regional trade by 1996	2	Malawi will offer, on the basis of reciprocity, preference lending to zero tariffs by end 1996.
	Abolish export licensing	2	A limited number of products still require a license. Discussions are ongoing as to which agricultural products should be liberalised.
	Open up trade in services	2	Under discussion, partially achieved.
Trade Facilitation	Implement PTA harmonised transit charges	1	Implemented in 1992.
	Introduce RCTD document	1	Introduced in 1992.
	Introduce single goods declaration document	1	Done
	Introduce bond guarantee scheme	1	Was implemented in principle in August 1993.
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	2	Reform is ongoing but slow. The change in the Capital Development Act has made the new reforms easier.
	Develop foreign trade financing instruments	2	Established for small export-oriented enterprises.
	Establish correspondent banking relationships	2	Have been established only when necessary..
	Remove impediments to entry by foreign financial institutions	2	The Banking Act was amended in 1991 which facilitated some improvement. but it is still difficult to enter Malawi.
	Introduce training of commercial bank staff	2	An internal responsibility of individual banks.
Exchange Systems	Remove all restrictions on current account transactions	1	Attained January 1, 1995.

	Relax certain capital account transactions - direct investment - regional equity markets	2	Will do so on basis of reciprocity.
	Establish unified, inter-bank, spot exchange markets	2	To be completed by March 1995.
	Increase utilisation of PTACH	2	No need for Malawi as current account is free. But will use for other members imports.
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	2	Malawi Investment Promotion Agency was established formally as a one-stop investment organisation in September 1993. By July 1995 MIPA will act as one stop approval window
	Publish investment code and regulatory instruments	1	Published in June 1992.
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	2	By July 1995, MIPA will provide approvals within 45 days
PTA MIE Charter	Ratify and implement charter	1	On schedule.
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	1	Done. PTA nationals have visas automatically issued at point at entry.
	Improve processing of residence and employment permits	2	By April 1, 1995, MIPA will propose steps to allow processing within 4 weeks.
	Introduce short-term entry permits for border residents	1	Done.
OTHER	Join MIGA and similar bodies	1	Malawi is a member of MIGA.
	Conclude double taxation agreements	3	Agreements concluded with Kenya and South Africa.
	Develop cross-listings on regional stock exchanges	3	Under examination.
INSTITUTIONS	Continue TWG activities	1	TWG continues to operate.
	Strengthen national business organisations	2	The Chamber of Commerce is being revamped.

	Give greater involvement to private sector in regional integration activities	5	Malawi is reluctant to change.
	Establish PIC	1	Done.
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	1	A letter was written in September 1993.
	Start negotiations with co-sponsors	1	In process

MAURITIUS

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	1	Virtually eliminated. A few restrictions apply.
	Abolish other NTBs	1	Virtually eliminated. A few restrictions apply for reasons of health and safety.
	Eliminate tariffs on intra-regional trade by 1996	2	Prepared to implement this measure on a reciprocal basis to achieve zero by end 1996.
	Abolish export licensing	1	
	Open up trade in services	1	No impediments.
Trade Facilitation	Implement PTA harmonised transit charges	n/a	
	Introduce RCTD document	n/a	
	Introduce single goods declaration document	n/a	
	Introduce bond guarantee scheme	n/a	
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	2	Government policy to continue deregulating and modernising the financial sector.
	Develop foreign trade financing instruments	2	Mauritius will invest in the Africa Export Import Bank and Government actively supporting European Union study regarding feasibility of a regional Export Credit Guarantee and Insurance Scheme.
	Establish correspondent banking relationships	2	Established with Burundi, Kenya, Madagascar, Réunion, Seychelles, South Africa, and Zimbabwe.
	Remove impediments to entry by foreign financial institutions	1	No impediments but controlled.
	Introduce training of commercial bank staff	5	Association of Bankers of Mauritius prepared to collaborate on any programme to be elaborated by Association

			of Commercial Banks of PTA.
Exchange Systems	Remove all restrictions on current account transactions	1	Mauritius has moved for an IMF Article VIII status.
	Relax certain capital account transactions - direct investment - regional equity markets	1	Foreign investors may repatriate capital and capital gains without payment of capital transfer tax.
	Establish unified, inter-bank, spot exchange markets	2	Exchange rates are determined by a trade weighted basket of currencies. US\$ exchange market being set up
	Increase utilisation of PTACH	1	
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	1	Done in 1993 following the Industrial Expansion Act.
	Publish investment code and regulatory instruments	2	The Industrial Expansion Act 1993 provides a proper legal and institutional framework for industrial and technological advancement. No provision has been made for other sectors.
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	3	Recommendations to be considered.
PTA MIE Charter	Ratify and implement charter	4	Implications are being studied by the concerned ministries.
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	5	An Interministerial Committee on Free Movement, Right of Residence and Establishment in the PTA has been set up. This committee, chaired by the Secretary for Home Affairs, Prime Minister's Office, will submit a report to the Cabinet of Ministers shortly.
	Improve processing of residence and employment permits	5	
	Introduce short-term entry permits for border residents	5	
OTHER	Join MIGA and similar bodies	1	Mauritius is a member of MIGA.
	Conclude double taxation agreements	2	Double taxation treaties exist with Zimbabwe and South Africa, negotiations are underway with Botswana, Madagascar, Mozambique, Namibia, Tanzania, Uganda and Zambia.

	Develop cross-listings on regional stock exchanges	1	Allowed.
INSTITUTIONS	Continue TWG activities	7	The TWG has been disbanded. A replacement needs to be appointed to serve the Regional Cooperation Council.
	Strengthen national business organisations	2	The Mauritius Export Development and Investment Authority (MEDIA) and the Mauritius Chamber of Commerce carry out market surveys, participate in trade fairs and organise contact promotion missions in the region.
	Give greater involvement to private sector in regional integration activities	2	The Federation of Chambers of Commerce and Industry of the IOC usually hold meetings at the same time as the Comité Régional des Echanges Commerciaux of the IOC. Thereafter consultation meetings are held before recommendations are made to the Ministerial Council.
	Establish PIC	1	The Regional Cooperation Committee will act as PIC.
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	1	Already done.
	Start negotiations with co-sponsors	1	Mauritius is awaiting comments on a draft letter of CBI policy.

NAMIBIA

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	2	Potential conflict with SACU agreement is causing problems. Export licenses are still required?
	Abolish other NTBs	2	
	Eliminate tariffs on intra-regional trade by 1996	5	
	Abolish export licensing	5	
	Open up trade in services	2	
Trade Facilitation	Implement PTA harmonised transit charges	5	Namibia can implement the harmonised transit charges once it has ratified the PTA/ COMESA Treaty.
	Introduce RCTD document	5	The introduction of the RCTD would, unless agreed upon by SACU member countries, be in conflict with the SACU procedures.
	Introduce single goods declaration document	5	At present the Common Customs Area form number 1 is used to register trade between SACU countries. For trade with other countries a Bill of Entry is used.
	Introduce bond guarantee scheme	7	
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	?	The institutional framework and operational structure of an export financing scheme were to be established in 1993/94 and the scheme should be operational in 1995. The five commercial banks in Namibia have correspondent banking relations with Angola, Botswana, Malawi, Mauritius, Mozambique, South Africa, Zambia and Zimbabwe.
	Develop foreign trade financing instruments	3	
	Establish correspondent banking relationships	2	
	Remove impediments to entry by	?	

	foreign financial institutions		
	Introduce training of commercial bank staff	2	
Exchange Systems	Remove all restrictions on current account transactions	2	Export proceeds must be received in Namibia within six months of the date of the shipment.
	Relax certain capital account transactions - direct investment - regional equity markets	2	Foreign investors may repatriate capital and profit freely. Namibian investments outside the CMA require approval of the Reserve Bank of Namibia and the Reserve Bank of South Africa.
	Establish unified, inter-bank, spot exchange markets	?	
	Increase utilisations of PTACH	3	The Bank of Namibia is still in the process of establishing procedures that will enable it to function as a fully-fledged central bank. It is thus not yet in a position to utilise the facilities offered by the PTACH.
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	2	An Investment Centre was established within the Ministry of Trade and Industry in 1991 to promote and facilitate investments.
	Publish investment code and regulatory instruments	1	The Foreign Investment Act of 1990.
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	2	An investment approval is only necessary if applying for Certificate of Status Investment or for treatment under the special incentives package. The processing of the former takes approximately 7 days.
PTA MIE Charter	Ratify and implement charter	5	Some of the benefits granted to MIEs in the Charter are already provided for in the Namibian legislation. However, the clauses that allow the transfer of capital funds and import of capital goods from participating non-CMA/SACU countries are in conflict with the CMA and

			SACU agreements.
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	2	Bona fide travellers or business people from Angola, Botswana, Kenya, Mozambique, Tanzania, Zambia and Zimbabwe, as well as South African citizens, are exempted from visa requirements. Namibia has therefore, to some extent, already implemented the spirit of Article 2 of the PTA Protocol on Visa Relaxation, although it is not a party to the Protocol. Citizens of Lesotho and Swaziland still need a visa to enter Namibia.
	Improve processing of residence and employment permits	7	
	Introduce short-term entry permits for border residents	2	See above.
OTHER	Join MIGA and similar bodies	1	Namibia is a member of MIGA.
	Conclude double taxation agreements	2	A pre-independence double taxation agreement with South Africa is being revised.
	Develop cross-listings on regional stock exchanges	5	There is no stock exchange
INSTITUTIONS	Continue TWG activities	1	
	Strengthen national business organisations	2	
	Give greater involvement to private sector in regional integration activities	2	
	Establish PIC	5	
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	2	The letter has been drafted together with a cabinet memorandum. As soon as cabinet has discussed this, which should be in the next two weeks, the letter will be sent to the co-sponsors.
	Start negotiations with co-sponsors	5	

UGANDA

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	2	Import licensing will be removed completely as soon as ASYCUDA system is installed.
	Abolish other NTBs	2	The only items subject to quantitative controls are the importations of beer, soft drinks and automobiles batteries.
	Eliminate tariffs on intra-regional trade by 1996	2	Reduce the outstanding rates as of end-october 1993 by 60% by end-October 1994; the remainder should be reduced by 50% by July 1, 1995; and eliminated by July 1, 1996.
	Abolish export licensing	2	A small negative list, based on environmental concerns, still exists. No plans for its removal.
	Open up trade in services	2	Steps have already been taken to open up trade in tourism and consultancy services and are being extended to transportation (notably railways) and financial services.
Trade Facilitation	Implement PTA harmonised transit charges	1	Done.
	Introduce RCTD document	1	Has long been in use.
	Introduce single goods declaration document	1	Was introduced on 8 September 1993.
	Introduce bond guarantee scheme	2	In process of implementation
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	2	Programme began in 1993, to be completed in 1996.
	Develop foreign trade financing instruments	2	Limited financial instruments exist at the moment, development is being made through the financial sector reform programme.
	Establish correspondent banking relationships	3	Few correspondent relationships exist, commercial banks are being encouraged to expand existing links to other countries.

	Remove impediments to entry by foreign financial institutions	1	Free entry and exit.
	Introduce training of commercial bank staff	2	Training of staff is done periodically. This training should be intensified in order to equip staff with modern operational and management techniques during 1994.
Exchange Systems	Remove all restrictions on current account transactions	2	Continue efforts to reduce bureaucratic delays and red tape.
	Relax certain capital account transactions - direct investment - regional equity markets	2	Outward capital movement for direct investment in the CBI region and for portfolio investment in regional equity markets have been liberalised. The remaining de jure restrictions on outward movement of capital will be progressively relaxed, effective January 1, 1996, on a reciprocal basis.
	Establish unified, inter-bank, spot exchange markets	1	Effective since November 1993.
	Increase utilisation of PTACH	2	The use of PTACH will depend on the progress being made by the CBI countries toward attaining current account convertibility, and the effectiveness of the PTACH in speeding up the settlement of payments.
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	2	In addition to the establishment of a one-stop Investment Authority and the simplification of investment procedures, related legislation will be revised by end-1995
	Publish investment code and regulatory instruments	1	Done by the Ministry of Justice
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	2	The current 60 day statute has been reduced to 45 days. It should be reduced to 2 weeks by June 1995.
PTA MIE Charter	Ratify and implement charter	2	Charter ratified, not

			implemented.
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	1	Government abolished visas for the countries in PTA region
	Improve processing of residence and employment permits	1	Done
	Introduce short-term entry permits for border residents	1	These are already being issued to border residents. Plans are made to grant free access on production of inter-state passes (1996/97).
OTHER	Join MIGA and similar bodies	1	Uganda is a member of MIGA.
	Conclude double taxation agreements	3	At present double taxation agreements only exist with Zambia. Should be concluded with all CBI countries by end of 1996.
	Develop cross-listings on regional stock exchanges	3	The Kampala Stock Exchange has been introduced by end-October 1994. In addition, Uganda will cooperate with countries in the region to develop an effective regulatory framework for equity markets, including the supervision of the primary participants in these markets.
INSTITUTIONS	Continue TWG activities	1	On-going.
	Strengthen national business organisations	7	National business organisations are technically and administratively weak. Should be trained and equipped during 1994/95.
	Give greater involvement to private sector in regional integration activities	2	Sensitisation of private sector on regional integration issues is on-going.
	Establish PIC	1	PIC already established.
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	1	Done
	Start negotiations with co-sponsors	3	Awaiting comments from co-sponsors on draft letter of CBI policy.

ZAMBIA

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	1	Done.
	Abolish other NTBs	1	Licenses, quotas and permits abolished.
	Eliminate tariffs on intra-regional trade by 1996	2	Further reductions are planned on the basis of reciprocity to achieve zero tariffs by end 1996.
	Abolish export licensing	1	Done.
	Open up trade in services	5, 6	Major restrictions are immigration and employment permits. Progress slow.
Trade Facilitation	Implement PTA harmonised transit charges	1	Already implemented.
	Introduce RCTD document	1	Already introduced.
	Introduce single goods declaration document	3, 4	The introduction is being planned.
	Introduce bond guarantee scheme	3, 4	Being planned.
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	2	Financial sector reform programme under review. Exchange controls abolished in January 1994.
	Develop foreign trade financing instruments	2	Export Board of Zambia and Zambia Export and Import Bank in place and functioning. More resources required.
	Establish correspondent banking relationships	2	Links exist through central and commercial banks. Strengthening is required, especially in countries where trade links are weak.
	Remove impediments to entry by foreign financial institutions	1	No restrictions.
	Introduce training of commercial bank staff	5	Training has been suggested. no local initiative as of yet.
Exchange Systems	Remove all restrictions on current account transactions	1	Done.

	Relax certain capital account transactions - direct investment - regional equity markets	1	Exchange controls abolished
	Establish unified, inter-bank, spot exchange markets	1	No exchange controls.
	Increase utilisation of PTACH	2	PTACH is used by Zambia. However, this may decline due to liberalisation.
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	2	Procedures are being liberalised and simplified by the Investment Centre. Liaison with other bodies such as Ministry of Lands, councils, and other line ministries could be improved.
	Publish investment code and regulatory instruments	1	The Investment Code has been published.
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	3	Will be introduced as soon administrative capacity to deliver is in place.
PTA MIE Charter	Ratify and implement charter	3, 4	Not yet ratified due to the ongoing review of the Companies' Act. PTA MIE is suggested but it is not known if it will be included in the final Act.
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	5, 6	Ministry of Home Affairs not in favour.
	Improve processing of residence and employment permits	2	Not difficult for Commonwealth citizens. Control has been tightened recently. Working on proposals to provide approval within 4 weeks.
	Introduce short-term entry permits for border residents	1	Being practised for border residents.
OTHER	Join MIGA and similar bodies	1	Zambia is a member of MIGA.
	Conclude double taxation agreements	3	No further effort is being made apart from existing ones (South Africa and Tanzania. application from Mauritius was turned down).
	Develop cross-listings on regional stock exchanges	7	Not considered a priority. Could be considered once the local stock exchange is

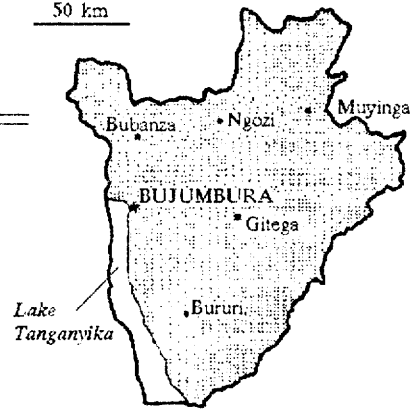
			functioning.
INSTITUTIONS	Continue TWG activities	1	TWG activities have been weak due to an original design fault. The group is being reorganised to include members after interest, not position.
	Strengthen national business organisations	5	Business organisations are weak. ZACCI resists government support.
	Give greater involvement to private sector in regional integration activities	2	ZACCI is active and committed. More members are required to take an interest.
	Establish PIC	1	
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	1	Letter has been sent.
	Start negotiations with co-sponsors	1	Well underway

SECTOR	MEASURE	Code	Comments
TRADE			
Foreign Trade Liberalisation	Abolish import licensing	1	Virtually all goods, except for a small negative list, are importable without a permit.
	Abolish other NTBs	1	PTA import licences have been abolished.
	Eliminate tariffs on intra-regional trade by 1996	2	Zimbabwe follows the PTA timetable
	Abolish export licensing	2	Export licenses are only required for a limited number of goods (food and minerals).
	Open up trade in services	2	
Trade Facilitation	Implement PTA harmonised transit charges	1	Zimbabwe is operating on the PTA harmonised tariff.
	Introduce RCTD document	1	Has become optional due to increase use of new Bill of Entry.
	Introduce single goods declaration document	2	A multiple Bill of Entry introduced in conjunction with ASYCUDA is being used as single declaration document. Exporters still have to complete CDI Form in addition.
	Introduce bond guarantee scheme	5	Zimbabwe signed the agreement but has not yet implemented.
PAYMENTS			
Domestic Payments and Settlements	Complete financial sector reform programme	2	Steps are underway to legislate for liberalisation of the financial sector.
	Develop foreign trade financing instruments	2	Private companies can now borrow up to US\$5m from off-shore sources without seeking approval.
	Establish correspondent banking relationships	1	A very well developed system is in place.
	Remove impediments to entry by foreign financial institutions	2	
	Introduce training of commercial bank staff	2	

Exchange Systems	Remove all restrictions on current account transactions	2	Exporters now retain 100% of their foreign exchange earnings in Foreign Currency Accounts. There are still a few restrictions on current account payments related to dividends. They are being looked into.
	Relax certain capital account transactions - direct investment - regional equity markets	2	Work is underway to relax certain aspects related to capital account transactions.
	Establish unified, inter-bank, spot exchange markets	1	A market determined exchange rate is now in place. Bureaux de Changes are also in operation.
	Increase utilisation of PTACH	1	The PTACH is in place and is being utilised by those who wish to do so. Foreign currency has been liberalised which might result in partial utilisation, mainly for settlements related to (RCTD) coupon system for harmonised transit charges and the yellow card system for insurance coverage.
INVESTMENT			
Investment Approval	Simplify and liberalise approval procedures	2	Obtaining of necessary operating licences much improved due to closer liaison with relevant departments.
	Publish investment code and regulatory instruments	3	There is no Investment Code in Zimbabwe. Guidelines for foreign investment are set out in <i>The Promotion of Investment: Policy and Regulations</i> , Zimbabwe Investment Centre (ZIC).
	Introduce 45-day statute of limitation as investment applications and automatic approval mechanism	2	For projects less than US\$ 10m and in preference areas, processing is done within 2 days. Others take 10 days, unless above US\$40 million in which case project is referred to government.
PTA MIE Charter	Ratify and implement charter	2	The MIE charter has been ratified but not implemented.
Immigration	Ratify and implement both phases of PTA protocol on elimination of visas	2	First phase is ratified and is implemented selectively. Bona fide business persons can obtain visas at major entry posts.

	Improve processing of residence and employment permits	2	Easy facilitation through ZIC
	Introduce short-term entry permits for border residents	6	Some preliminary work has been done to increase entry points at borders.
OTHER	Join MIGA and similar bodies	1	Zimbabwe is a member of MIGA.
	Conclude double taxation agreements	2	Zimbabwe has double taxation agreements with Mauritius and South Africa. Negotiations are underway to conclude agreements with Malawi, Namibia and possibly Zambia.
	Develop cross-listings on regional stock exchanges	6	
INSTITUTIONS	Continue TWG activities	1	
	Strengthen national business organisations	2	More support needed to strengthen functions of national business organisations.
	Give greater involvement to private sector in regional integration activities	2	The Confederation of Zimbabwe Industries and Zimbabwe National Chamber of Commerce are represented on the TWG.
	Establish PIC	1	
PROJECT DEVELOPMENT	Write to co-sponsors expressing interest in negotiating a project	1	A letter has been sent.
	Start negotiations with co-sponsors	3	

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Burundi

1.0 INTRODUCTION

Ce document du GTT présente la synthèse des phases I et II du Programme d'Action Commune qui est le document de base du travail des différents GTT sur la politique de l'intégration régionale.

Ainsi, la première phase porte sur l'évaluation des mesures contenues dans le Programme d'Action Commune (PAC). Elle renseigne donc sur les mesures déjà prises, les mesures en cours et les mesures dont l'application s'avère urgente.

La deuxième phase vise les objectifs du moyen terme et porte donc essentiellement sur l'identification et/ou l'évaluation d'un certain nombre de mesures dont l'application reste échelonnée dans le temps.

2.0 EVALUATION DE L'APPLICATION DES MESURES CONTENUES DANS LE PLAN D'ACTION COMMUNE.

2.1 Commerce

2.1.1 Mesures Commerciales

- Décret-loi n°1/04 du 31 janvier 1981 portant réforme de la taxe sur transaction.
- Décret-loi n°100/12 du 15 avril 1988 portant promotion des exportations.
- Décret-loi n°1/36 du 31 décembre 1988 portant instauration de la taxe de service à l'importation.
- Décret-loi n°1/008 du 25 mars 1989 portant modification des art.2 et 3 du Décret-loi n°1/36 du 31 décembre 1988 portant création de la taxe de service à l'importation et à la réexportation.
- Décret-loi n°1/19 du 29 juillet 1991 portant modification de certaines dispositions du Décret-loi n°1/01 du 15 janvier 1979 relatif aux sociétés commerciales.

- ❑ Décret-loi n°1/025 du 30 avril 1993 portant modification de l'article 10 du Décret-loi n°1/01 du 15 janvier 1979 relatif aux sociétés commerciales.
- ❑ Ordonnance Ministérielle n°710/222 du 8 mai 1992 portant libéralisation de l'achat, la commercialisation et la transformation des produits agricoles.
- ❑ Ordonnance Ministérielle n°710/221 du 8 mai 1992 portant libéralisation des prix aux producteurs pour les cultures industrielles.
- ❑ Décret-loi n°1/17 du 17 mai 1992 portant création du Bureau de Normalisation et de Contrôle de la Qualité.

2.1.2 Evaluation

a) Les licences d'importation sont toujours en vigueur mais les procédures d'obtention ont été fortement simplifiées de sorte qu'elles ne constituent plus une entrave à la libéralisation commerciale. Il importe de souligner néanmoins, que la dernière étape, en l'occurrence l'élimination totale de ces licences est subordonnée à un minimum de réciprocité de la part des partenaires du Burundi dans la région.

Concernant le problème des disponibilités de liquidités en monnaie convertible, le mécanisme de la PTACH est parfaitement fonctionnel pour le cas du Burundi. Mais il reste que les partenaires se refusent parfois de l'exploiter.

Le Burundi a également adopté parfaitement le calendrier des réductions des tarifs douaniers convenu dans la ZEP.

Les étapes suivantes comme l'abolition de la liste commune et la révision des règles d'origine seront à réaliser communément comme le souligne le plan d'action. Cela suppose un consentement qui n'est pas encore un acquis au niveau de toute la région.

b) Les licences d'exportation subsistent mais les procédures de leur obtention ont été simplifiées.

L'étape ultime qui est l'élimination totale des licences reste conditionnée comme pour les importations par la réciprocité des partenaires.

c) Jusqu'ici, le secteur des services est toujours réglementé au Burundi comme dans la plupart des pays ailleurs. Il n'y a donc pas à ce jour de dispositions particulières pour la ZEP.

Malgré que la politique de change du Burundi reste toujours réglementée, elle connaît une évolution plus souple que dans les pays voisins. L'exemple de la disponibilité des chèques de voyage en UAPTA est illustratif à ce sujet.

Les raisons de la réglementation des changes au Burundi tiennent essentiellement :

- à l'évolution de ses ressources en devises
- à l'absence de réciprocité chez ses partenaires.

d) La mise en application de l'harmonisation des changes de transit routier est déjà faite. Mais le système de coupons UAPTA est à développer de commun accord avec des partenaires de la ZEP.

- La carte jaune est déjà opérationnelle.
- Le RCTD de la ZEP est fonctionnelle.

Le Burundi envisage d'éliminer aujourd'hui les quelques documents encore exigés (le passavant à caution et le manifeste).

Le système régional de garantie est une initiative qui doit émaner du consensus des gouvernements respectifs.

- L'ASYCUDA est opérationnel.
- Le système harmonisé de la convention sur la classification des tarifs douaniers est d'orès et déjà retenu comme base du Tarif National des Douanes au Burundi.

e) Actuellement, le nouveau bureau de normalisation et de contrôle de la qualité du Burundi s'attèle à la tâche d'harmonisation des normes nationales avec les normes ISO/ARSO.

f) Au Burundi, l'amélioration des transports aériens, notamment les divers points énumérés dans le PAC n'est pas encore entreprise.

Les raisons sont multiples :

- le protectionnisme des pays de la région qui empêche l'application du droit de cinquième liberté de trafic dans la région.
- L'absence d'équipements performants de communication qui empêche l'amélioration de l'harmonisation des horaires de vol.

g) Si le gouvernement et les banques commerciales essaient de conjuguer leurs efforts pour développer le financement à crédit, jusqu'à présent, les institutions financières régionales, notamment la Banque de la ZEP ne s'y investissent que faiblement.

Au Burundi, l'exportation des produits non traditionnels bénéficie déjà de crédits très

favorables en matière de délais dans la région. Seuls les partenaires fixent parfois des délais assez contraignants.

(h) La Chambre de Commerce, d'Industrie, d'Agriculture et d'Artisanat du Burundi (CCIB) a déjà entrepris des programmes de formation sur le développement du commerce.

Le système d'aide à la couverture des dépenses pour développer de nouveaux marchés régionaux d'exportation est déjà établi et sera certainement plus fonctionnel dans l'avenir qu'il ne l'est actuellement.

Pour le commerce intrarégional, l'application des mesures contenues dans le PAC aura nécessairement un impact positif. A l'inverse, le commerce de contrebande baisserait progressivement. Actuellement un important flux de commerce frontalier existe entre le Burundi et ses voisins. Ainsi par exemple, des quantités considérables de produits burundais (le sucre, l'huile de palme, les tissus en coton, le poisson, la bière, le riz,...) sont exportés clandestinement vers le Rwanda.

En retour, des produits manufacturés, comme les concentrés de tomates, les biscuits, les pâtes dentifrices, les cigarettes, les pièces de rechange pour bicyclettes, viennent du Rwanda par la contrebande.

De même, la Tanzanie reçoit les friperies, la bière, les cigarettes, en échange du bétail, du riz, du haricot. Les transactions transfrontalières sont tout aussi importants (importations des minéraux et exportations des produits manufacturés comme le textile, la savonnerie, etc...).

2.2 Investissement

2.2.1 Mesures Pour L'investissement

- Décret-loi n°100/121 du 12 juin 1988 portant statut du Fonds National de Garantie.
- Ordonnance Ministérielle n°120/327 du 10 octobre 1991 portant classification des entreprises éligibles et fixation des critères à remplir pour bénéficier des avantages du Code des Investissements.
- Décret-loi n°1/23 du 23 juin 1992 portant ratification de la convention portant création des sociétés communes de la CEPGL, signée à Bujumbura le 10 mars 1991.
- Décret-loi n°1/30 du 31 août 1992 portant création d'un régime de Zone Franche au Burundi.
- Ordonnance Ministérielle n°750/415 du 28 septembre 1992 portant mesures d'exécution du Décret-loi n°1/30 du 31 août 1992 portant régime de la Zone Franche au Burundi.

- ❑ Décret-loi n°1/04 du 28 juin 1985 portant ratification du protocole relatif à la libéralisation et à l'élimination des formalités de demande et d'octroi de visa.
- ❑ Décret-loi n°1/007 du 20 mars 1989 relatif à la mise en application du protocole relatif à la libéralisation et à l'élimination des formalités de demande et d'octroi de visa.

2.2.2. Evaluation

2.2.2.1 Procédures et règlements actuels.

Le Cadre Réglementaire.

Les procédures administratives et réglementaires ont été fortement simplifiées au Burundi depuis l'instauration de la politique de déréglementation effectuée en 1990. Alors qu'avant cette période, les formalités de création des sociétés exigeaient un délai minimum de plus ou moins cinq mois, actuellement, les délais sont passés à seulement une semaine.

En effet, pour créer une entreprise, les formalités suivantes doivent être remplies :

a) Présenter les statuts de la société. Il est recommandé de confier ce travail aux bureaux spécialisés et aux cabinets d'avocats.

Délais : 2 jours.

b) Il faut ensuite passer l'acte notarié chez le notaire du gouvernement.

Barème :

- ❑ 5.000 FBu (20 \$) pour la correction des statuts
- ❑ 1.500 FBu (6 \$) par page des statuts authentifiés
- ❑ 3.000 FBu (12 \$) pour la passation de l'acte.

c) Publication des statuts et de l'acte notarié au Bulletin Officiel du Burundi (B.O.B.) (Département des Affaires Juridiques et du Contentieux du Ministère de la Justice).

Barème :

- ❑ 1.500 FBu (6 \$)/12 lignes indivisibles : frais de publication

Délais : 2 jours.

d) Les statuts et l'acte notarié sont ensuite déposés au Greffe du Tribunal de Commerce.

Barème:

- 250 FBu (1\$) la première page et 200 FBu (0,8 \$)/page pour le reste des pages
- 10.000 FBu (40 \$) de droit fixe
- 5.000 FBu (20 \$) pour l'obtention du registre de commerce
- 1,20% du capital social (ce droit n'est pas exigé pour les sociétés des personnes)

Délais : 2 jours.

e) Enfin, il faut acquérir une carte de commerçant auprès de la Direction du Commerce Intérieur au Ministère du Commerce et de l'Industrie.

Barème :

- 2.000 FBu (8 \$)

Délais : 1 journée.

Récapitulation

Délais : 1 semaine Frais : 28.450 FBu (113,8 \$)

Si les procédures de création d'entreprises ont été fortement réduites, elles pourraient l'être davantage par :

- la création des notariats privés (il existe un seul notaire pour tout le pays, le principe de privatisation de ce service étant acquis, il reste à être mis en pratique);
- la suppression de la carte de commerçant. On estime en effet que l'inscription au registre de commerce suffit pour avoir la qualité de commerçant;
- la réduction des frais de publication au BOB (Bulletin Officiel du Burundi);
- la réduction des frais de dépôt au Greffe du Tribunal de Commerce : il ne resterait plus à payer que le droit fixe.

Les instruments légaux de promotion des investissements.

A) *Le Code Des Investissements*

Ce code a été promulgué par la loi n°1/005 du 14 janvier 1987. Il a été amendé par le décret-loi n°1/125 du 30 septembre 1991. Il contient 41 articles.

Toutes les dispositions antérieures et contraires à la présente loi ont été abrogées, et notamment le décret-loi (code des investissements) du 30 juin 1991. Les principales dispositions sont résumées ci-après :

Quatre régimes sont prévus (art.2) : le régime de droit commun, l'agrément en qualité d'activité prioritaire, la convention, le régime d'entreprise décentralisée.

La liberté d'établissement est garantie (art.3). L'entreprise peut être à capitaux burundais, étrangers ou mixtes; les ressources mobilisées à l'étranger et appartenant à des nationaux burundais sont réputées être des capitaux burundais (art.4). Aucune discrimination n'est pratiquée en ce qui concerne le droit au transfert des capitaux et de leurs revenus, sous réserve du respect des dispositions en matière de réglementation des changes (art.7).

Pour les entreprises prioritaires, sont garantis les principes d'obtention auprès de la BRB des devises pour l'importation des matières et produits nécessaires au fonctionnement de l'entreprise, et pour le remboursement d'emprunts contractés à l'étranger et ayant eu pour objet un investissement dans le pays; les transferts des revenus professionnels des employés étrangers de l'entreprise sont autorisés en conformité avec la réglementation sur le contrôle des changes. Le transfert de la rémunération du capital investi, sous forme de dividende (et des capitaux étrangers, en cas de cession ou de cessation d'activité) est autorisé en totalité pour les sociétés à capitaux mixtes (art.8).

Le régime de droit commun (art.10 et 11) s'applique aux entreprises dont la valeur des investissements prévue est inférieure à un plafond fixé par ordonnance du Ministre du Plan qui a dans ses attributions l'exécution de la présente loi (art.41). Ces entreprises n'ont d'autre obligation que le respect des réglementations de droit commun et le dépôt d'une étude de pré-investissement au secrétariat de la Commission Nationale des Investissements (CNI).

Les entreprises désireuses de se livrer à une activité économique dans les secteurs agricole, industriel, artisanal, touristique et de transport, et/ou une activité d'exportation, et dont la valeur des investissements est supérieure au plafond ci-dessus, soumettent pour agrément leur projet au Ministre du Plan (art.12) pour agrément par la CNI (art.13).

Sont reconnues "prioritaires" par la CNI les entreprises qui remplissent un certain nombre de conditions, en concourant en particulier aux objectifs du Plan et à l'amélioration de la balance des paiements (art.15). Toute entreprise prioritaire peut bénéficier des mesures d'exonération totale ou partielle des impôts sur les bénéfices, mobilier et foncier (pour une durée maximale de 8 ans), des taxes à l'importation sur les équipements et sur les matières premières exportatrices, des droits, taxes d'entrée et fiscaux sur les biens intermédiaires (système de rebours, en anglais "drawback" art.18). Les PME de production pourront bénéficier de prêts bonifiés (art.19).

Un régime fiscal stabilisé en matière d'impôts directs, voire des avantages complémentaires peut être accordé à une entreprise prioritaire dans le cadre d'une convention (entreprise conventionnée), approuvée par décret, pouvant atteindre dix ans (art.22 et 23).

Les entreprises décentralisées sont les entreprises agréées ou conventionnées établies en dehors de Bujumbura et de ses environs. Pour elles, l'exonération fiscale peut atteindre 10 ans, le sur-coût de l'eau et de l'énergie par rapport au prix dans la capitale peut être pris en charge par l'Etat; les terrains peuvent être attribués gratuitement; le taux d'imposition sur les bénéfices est, après la période d'exonération, de 35% contre 45% dans le régime général art.25.

Toutes les dispositions concernant les régimes accordés aux entreprises agréées, conventionnées ou décentralisées peuvent être rapportées en cas de non-respect des clauses contractuelles (art.30 à 34).

Les entreprises admises au bénéfice des dispositions du code des investissements du 4 avril 1979 continuent à bénéficier pendant la durée prévue des avantages qui leur ont été accordés (art.40).

Actuellement, les critères à remplir pour bénéficier des avantages du code des investissements sont fixés par l'ordonnance n°120/284 du 23 juillet 1986; en particulier, pour les entreprises industrielles, 100 emplois permanents nouveaux et un milliard de FBu au minimum, et pour les entreprises agricoles et agro-industrielles, 150 emplois nouveaux et 500 millions de FBu au minimum. Parmi les ratios retenus pour l'analyse des dossiers soumis à la CNI figure l'investissement par poste de travail créé qui ne doit pas dépasser 2,2 Millions de FBu; des dérogations sont admissibles au vu des technologies spécifiques requises et des standards internationaux à respecter.

B) Le Régime De Zone Franche.

Créé par le décret-loi n°1/30 du 31 août 1992, le régime de zone franche offre un statut juridique particulier aux entreprises qui travaillent exclusivement pour l'exportation des produits non traditionnels. Il offre aux entreprises franches les avantages fiscaux suivants :

- exonération totale pendant 10 ans de l'impôt sur les bénéfices;
- paiement de l'impôt sur les bénéfices de 15% à partir de la 11ème année;
- exonération de l'impôt mobilier;
- exonération totale du paiement de tous les droits et taxes indirects et directs, actuels et futurs.

Par ailleurs, l'entreprise franche peut être titulaire d'un ou plusieurs comptes en monnaie étrangère dans des banques commerciales locales.

Le régime de zone franche accorde également des avantages aux investisseurs étrangers : toute personne physique ou morale, de nationalité étrangère peut créer une entreprise franche et/ou acquérir tout ou partie des actions, des parts ou autres titres d'une entreprise franche. Les dividendes distribués aux actionnaires étrangers, en rémunération du capital d'origine étrangère, peuvent être transférés sans restrictions et sans taxes.

2.2.2.2 Ratification et mise en place de la charte PTA MIE

Cette charte signée en 1990 n'est pas encore ratifiée par le gouvernement mais aucune objection n'est soulevée contre sa ratification. Fondamentalement toutes les dispositions favorables à l'implantation des entreprises étrangères au Burundi ont été prises. La ratification de cette charte constituera donc une condition de faveur supplémentaire pour accueillir les investissements ZEP au Burundi.

2.2.2.3. La facilitation des investissements d'un pays à l'autre.

- a) Publication des renseignements sur le code des investissements.

Le code des investissements ainsi que les avantages et mesures de promotion des investissements sont contenus dans une brochure intitulée "Guides des investisseurs". Sa publication dans les milieux professionnels de la ZEP contribuerait à faciliter les investissements de la ZEP au Burundi.

- b) L'adhésion à l'Agence de Garantie pour l'Investissement Multilatéral.

Il n'existe aucune entrave à l'adhésion à cette institution.

c) Accords sur la double taxation.

Il n'existe pas de convention sur la double imposition entre les pays membres de la ZEP et le Burundi, mais celui-ci ne pratique pas de double imposition à l'égard de ses ressortissants basés à l'étranger.

Par ailleurs, les avantages prévus par le code des investissements permettent :

- de supprimer l'imposition pour un délai déterminé, sur les investissements jouissant des faveurs offertes par le code;
- de supprimer la taxe de transaction sur le chiffre d'affaires et de n'imposer les bénéfices réalisés qu'à concurrence de 50%.

L'application de la convention ne pose pas de problème, mais ce qui est davantage important c'est le développement de l'investissement direct étranger.

d) Coter les transactions boursières dans les mêmes conditions

En l'absence de marché financier, cette mesure reste inapplicable.

2.2.2.4. Développement de nouveaux mécanismes pour le capital d'investissement.

Dans le cadre de la promotion du secteur privé, de nouvelles institutions ont été créées (exemple : le Fonds de Soutien à l'Investissement Privé, le Fonds National de Garantie,...). Néanmoins, il n'existe pas encore de mécanismes de financement spécialisés dans les activités frontalières. Celles-ci sont financées à travers le secteur financier classique.

2.2.2.5. Amélioration de la mobilité des personnes.

Le Burundi a déjà ratifié depuis 1985 (loi n°1/04 du 28 juin 1985) le protocole relatif à la libéralisation progressive et à l'élimination des formalités de demande et octroi de visas à l'intérieur de la ZEP (demande de résidence, visas de séjour, permis de travail,...).

Mis à part les contingences circonstancielles d'ordre politique (insécurité, instabilité politique), il y a au Burundi tout ce qu'il faut pour assurer la mobilité des personnes. C'est ainsi que la carte CEPGL qui était déjà opérationnelle a dû perdre de facto son efficacité, avec l'apparition des problèmes de sécurité au sein des Pays des Grands Lacs, mais cette situation peut être considérée comme transitoire.

Au niveau des flux d'investissement, l'impact des mesures du PAC n'est pas automatique. La croissance des flux d'investissement suppose en effet un certain nombre de préalables comme la sécurité, la stabilité politique, l'application réciproque des mesures du PAC (volonté politique) et l'existence des infrastructures physiques adéquates, etc.

En définitive, s'agissant des coûts à l'investissement, les procédures réglementaires et administratives ont été fortement simplifiées depuis 1990 et des mesures de promotion des investissements ont été prises. Il subsiste néanmoins quelques difficultés liées à la lenteur administrative dans l'exécution des opérations. Il s'agit notamment des coûts et procédures afférents à la lenteur des mécanismes d'octroi du crédit ou des bénéficiaires du Code des Investissements.

2.3 Paiements.

2.3.1. Mesures Concernant Les Paiements.

❑ Décret-loi n°1/024 du 16 septembre 1991 portant modification de certaines dispositions du Décret-loi n°1/037 du 27 novembre 1990 relatif à la réglementation de la profession d'importateur.

❑ Ordonnance Ministérielle portant mesures d'exécution du Décret-loi n°1/037 du 27 novembre 1990 et du Décret-loi n°024 du 16 septembre 1991 relatif à la profession d'importateur.

2.3.2. Evaluation

L'on a déjà montré (au point 1.1.) que la question des monnaies convertibles ne pose pas beaucoup de problème particulier au niveau des échanges du Burundi dans la région car il adhère parfaitement au fonctionnement du mécanisme de la PTACH.

Au niveau de la rapidité, le délai moyen d'une semaine est observé dans les transactions du Burundi avec la région.

Pour l'instant, le taux de change est fixé par la Banque Centrale, tout en accordant aux banques commerciales la latitude de fixer des taux situés dans des marges limitées. Mais les évolutions intervenues depuis un certain temps dans la politique de change du Burundi conduisent incessamment vers la détermination du taux de change par le marché.

La lettre de change en UAPTA n'est pas encore instaurée car cela résultera nécessairement d'un consensus régional.

Les propositions du PAC en son point 3.4. ne sont pas encore instaurées.

2.4 Institutions.

2.4.1. Le Renforcement des Institutions Nationales

Des institutions d'appui au développement du commerce, telles que la chambre de

Commerce et d'Industrie (CCIB), l'Agence de Promotion des Echanges Extérieurs (APEE) ont été renforcées ou créées. Mais des efforts supplémentaires doivent être déployés dans le sens de l'amélioration des acquis actuels.

2.4.2. Maintenir et Appuyer le GTT du Burundi

Les autorités politiques du Burundi ont déjà approuvé et encouragent le statut de comité-conseil du GTT pour le gouvernement en matière de politiques d'intégration régionale. Des relations de travail ont été entamées avec les organisations régionales du Rwanda et comptent se poursuivre dans les autres pays de la région.

2.5 Mesures Concernant L'organisation Regionale

Les mesures concernant l'organisation régionale sont du ressort des organisations inter-régionales. En tout état de cause, le Burundi souscrirait sans réserve à l'une ou l'autre mesure qui serait rendue effective.

3.0 CONSEQUENCES PREVISIONNELLES DE L'IMPLANTATION DU C.P.A SUR LES ECHANGES ET LES INVESTISSEMENTS.

Actuellement les flux des investissements intra-régionaux sont inexistants tandis que les flux commerciaux sont freinés par le non respect des clauses relatives à la réduction des mesures tarifaires et non tarifaires par certains partenaires du Burundi.

Au niveau des échanges, bien que les importations du Burundi soient libéralisées, les exportations vers les pays de la ZEP souffrent encore d'une certaine protection de la part des partenaires régionaux (non respect des conventions de réduction tarifaire et non tarifaire ZEP). Le respect de ces dispositions par ses partenaires accroîtrait nécessairement les exportations burundaises des produits manufacturés dans la sous-région.

Au niveau des investissements, les flux d'investissement devront nécessairement s'accroître une fois que toutes les mesures du PAC y relatives auront été instaurées. Mais il convient de souligner qu'à partir de ce moment, la fréquence des investissements dépendra principalement des critères comme l'étendu du marché et le coût de la main d'oeuvre, du pouvoir d'achat, de la monétarisation de l'économie et dans une certaine mesure des infrastructures physiques existantes.

Les pays de la région sont-ils intéressés à investir au Burundi ?

En principe, tous les pays de la région sont invités à investir au Burundi. Mais faute d'une étude approfondie sur la prospection du marché, il n'est pas possible de fournir des indications précises sur les investisseurs potentiels dans la sous région. Les avantages comparatifs du Burundi sont au demeurant de plusieurs ordres, nous pouvons citer notamment :

- une situation géographique qui le met en position de plaque tournante dans la sous région;
- des infrastructures physiques adéquats (aéroport, électricité, un réseau routier le plus dense d'Afrique, télécommunication, etc...);
- les conditions climatiques favorables : un climat doux et tempéré surtout une pluviométrie abondante (9 mois sur 12);
- une plus grande stabilité politique depuis la Constitution de 1992 et les élections de juin 1993;
- une main d'oeuvre abondante et bon marché (moins de 1 \$ par jour);
- un environnement juridique et réglementaire favorables à la promotion des investissements (avantages du Code des Investissements, le régime de zone franche, possibilité de tenue des comptes convertibles et de transfert des revenus,...).

Actuellement un important flux de commerce frontalier existe entre le Burundi et ses voisins. Ainsi par exemple, des quantités considérables de produits burundais (le sucre, l'huile de palme, les tissus en coton, le poisson, la bière, le riz,...) sont exportés clandestinement vers le Rwanda.

En retour, des produits manufacturés, comme les concentrés de tomates, les biscuits, les pâtes dentifrices, les cigarettes, les pièces de rechange pour bicyclettes, viennent du Rwanda par la contrebande.

De même, la Tanzanie reçoit les fripperies, la bière, les cigarettes, en échange du bétail, du riz, du haricot. Les transactions transfrontalières avec le Zaïre sont tout aussi importantes (importations des minéraux et exportations des produits manufacturés comme le textile, la savonnerie, etc...). Compte tenu de la nature même de ce commerce, il n'est pas facile de donner des précisions sur les ordres de grandeur en dollars mais d'après certaines estimations notamment de la Chambre de Commerce et d'Industrie, les transactions transfrontalières non recensées par les douanes représenteraient plus de 80 millions de dollars dont au moins 60 millions avec le seul Zaïre.

La structure du commerce transfrontalier est résumée dans le tableau ci-dessous.

Structure du commerce frontalier.

<i>Pays</i>	<i>Produits importés</i>	<i>Produits exportés</i>
Rwanda	<input type="checkbox"/> Concentrés de tomates	<input type="checkbox"/> Pâtes dentifrices <input type="checkbox"/> Cigarettes <input type="checkbox"/> Pièces de rechange pour bicyclettes · Sucre, Huile de palme, Tissus coton, Poisson, Bière, Riz
Tanzanie	Bétail, riz, haricot	Friperies, bière, cigarettes
Zaïre	Minéraux (or,...)	Tissus en coton, savonnerie

La libéralisation du commerce exercera un double effet : une augmentation du volume des échanges sur le plan formel et une restriction progressive du mouvement de la contrebande. Il n'est malheureusement pas possible de quantifier ces flux d'échanges commerciaux car les statistiques officielles ne renseignent ni sur la nature et ni sur la structure du commerce extérieur entre le Burundi et ses voisins.

Il y a de fortes chances que la libéralisation des échanges entrainera des investissements plus accrus de la part des promoteurs des pays voisins, essentiellement du Zaïre, du Rwanda et dans une moindre mesure de la Tanzanie. Les secteurs les plus susceptibles d'attirer les investisseurs potentiels des pays voisins sont les services (transport notamment, banques et assurances). Il est à signaler que ces secteurs font déjà l'objet d'intérêt de la part des investisseurs zaïrois et rwandais qui ont des participations dans les entreprises burundaises.

4.0 PROCEDURES REGLEMENTAIRES POUR CREER UN INVESTISSEMENT PRIVE A PARTIR D'UN EXEMPLE HYPOTHETIQUE.

Exemple hypothétique : Projet d'investissement¹ de 50 millions de FBu (200000\$)

4.1 Formalités de base

COMMENTAIRE :

Le tableau ci-dessus souligne les procédures réglementaires exigées pour démarrer un investissement au Burundi ainsi que les coûts y relatifs. Les procédures sont relativement les mêmes aussi bien pour investisseur national qu'un étranger, une fois que ce dernier se trouve à l'intérieur du pays en possession de la carte de résident.

ETAPES	DÉLAI	COUT
1. Présenter les statuts de la société.	2 jours	30.000 FBu ou 120 \$
2. Authentification des statuts :		
- correction des statuts	2 jours	5.000 FBu ou 20\$
- page authentifiée		22.500 FBu ou 90\$
- passation de l'acte		3.000 FBu ou 12\$
3. Publication au BOB (Bulletin Officiel du Burundi)	2 jours	22.500 FBu ou 90\$
4. Dépôt de l'acte au Greffe du Tribunal de Commerce	1 jour	318.050 FBu ou 1272\$
5. Acquisition de la carte de commerçant		2.000 FBu ou 8\$
Total	7 jours	399.550 FBu ou 1598\$

Nous avons pris un exemple fictif d'un projet d'investissement de 50 millions de Francs Bu (200.000 \$) financé à 50% par fonds propres. Dans un délai de 7 jours, la société existe juridiquement. Elle peut dès lors solliciter les avantages du Code des Investissements ainsi que les bénéfices du régime de Zone Franche, développés ci-haut (voir point 2).

4.2 Autres procédures réglementaires pour créer un investissement

4.2.1. Visa d'établissement pour les étrangers.

Un "Visa d'Etablissement" est une autorisation de séjourner d'une façon permanente au Burundi dans le but d'y exercer une activité productive et/ou commerciale. La demande d'un visa d'établissement doit contenir les éléments suivants :

- une lettre de demande adressée au Directeur Général de la PAFE (Police de l'Air, des Frontières et des Etrangers);
- une copie du curriculum vitae;
- une note sur la nature des activités à entreprendre;
- une attestation de non poursuite délivrée par le pays d'origine;
- verser une caution de US\$ 1250 si le visa sollicité est individuel ou US\$ 3000 si le visa est pour une famille.

(Téléphone de la PAFE 226266)

Délais requis : 24 heures.

4.2.2 Permis de travail pour les étrangers.

Un "Permis de Travail" est une autorisation accordée aux étrangers de travailler au Burundi durant une période déterminée et renouvelable. Le dossier de demande contient les éléments suivants :

- une lettre de demande adressée au Directeur d'Inspection du Travail;
- une copie du curriculum-vitae;
- une copie de la carte d'identité;
- si le demandeur travaillait ailleurs, une attestation de services rendus.

Le permis permanent est accordé à tout investisseur étranger ou à son représentant dont la présence est justifiée par le souci de suivre la gestion de ses capitaux. Le permis de travail des étrangers travaillant en Régime Zone Franche est renouvelée par tacite reconduction, par simple notification à l'inspection du travail.

Délais : 7 jours.

4.2.3 Demande de parcelle.

Adresser une lettre au Directeur Général de l'Urbanisme et de l'Habitat en lui précisant la future utilisation de la parcelle et la superficie souhaitée.

Délais : 6 jours.

4.2.4 Procédures pour rapatrier des capitaux étrangers

Les hommes d'affaires intéressés à investir au Burundi peuvent ouvrir des comptes convertibles dans une banque commerciale agréée. Les banques agréées sont autorisées à ouvrir des comptes étrangers en faveur de leurs clients.

Les demandes d'ouverture de comptes étrangers doivent donner les informations d'usage sur le demandeur et sur sa résidence habituelle. Un engagement conforme au modèle en annexe est souscrit pour chaque compte.

Les comptes en FBu convertibles peuvent être crédités du produit de la cession des devises librement convertibles ou par des FBu convertibles. Le banquier du bénéficiaire passe l'opération en indiquant l'origine et la nature exactes du crédit. Les comptes en monnaies étrangères ne peuvent être alimentés que par des monnaies étrangères convertibles ou par des FBu convertibles. Les comptes étrangers ne peuvent pas présenter un solde débiteur. Ils peuvent cependant être librement rémunérés.

4.2.5 Procédures pour le transfert des revenus professionnels des employés expatriés

L'autorisation de transfert des revenus professionnels est accordée aux personnes physiques étrangères qui exercent au Burundi une activité professionnelle rétribuée par un tiers en vertu d'un contrat de travail. (Article 26 du "Règlement général du contrôle de change", al.1.).

Avant toute demande d'autorisation de transfert, l'employeur doit remettre à la Banque de la République du Burundi, par l'intermédiaire d'une banque agréée, une "Fiche de Renseignements" visée par le Département de l'Inspection du Travail en quatre exemplaires pour chacun des employés (Cfr annexe 1), accompagnée du contrat de travail.

Après la décision, un exemplaire de la fiche de renseignements est transmis pour information au Département des Impôts du Ministère des Finances. Deux exemplaires sont renvoyés à la banque agréée, qui garde une copie pour s'en servir lors de l'analyse et de la validité des licences Modèle "A" y relatives, et remet l'autre copie à l'employeur.

Le quatrième exemplaire est conservé par la Banque de la République du Burundi qui se réserve le droit de vérifier, à tout moment, la conformité des opérations passées par les banques agréées aux données figurant sur les fiches de renseignements.

Toute modification du contrat de travail donne lieu à l'établissement d'une nouvelle fiche de renseignements; celle-ci doit être approuvée par la Banque de la République du Burundi avant son utilisation par les banques agréées.

Sur base des "Fiches de renseignements" approuvées par la Banque de la République du Burundi, l'employeur introduit auprès d'une banque agréée une demande de transfert pour l'ensemble de son personnel, accompagnée de l'annexe Modèle "A" n°1 "Demande de transfert pour employés", dûment visée par le Vérificateur des Impôts.

La banque agréée valide la licence Modèle "A" dans les limites de la quotité transférable déterminée par la Banque de la République du Burundi sur la fiche de renseignements. Après la validation, elle transmet les volets 3 et 4 de la licence Modèle "A" à la Banque de la République du Burundi pour émargement.

L'assiette retenue pour le calcul du revenu transférable est définie à partir des indications de la fiche de renseignements dûment visée par le Département de l'Inspection du Travail et approuvée par la Banque de la République du Burundi.

Le transfert annuel est fixé à 60% de l'assiette définie. Le transfert provisionnel est également fixé à 60% de l'assiette mensuelle.

Pour les expatriés oeuvrant dans une société qui réalise au moins 50% du chiffre d'affaires à l'exportation, le transfert annuel autorisé est fixé à 70% de l'assiette définie.

Lors du décompte des impôts en fin d'année, ou au moment de la cessation des activités

de l'employé si celle-ci survient avant la fin de l'année, le montant transférable est définitivement fixé compte tenu des transferts provisionnels déjà accordés.

La validation de la demande d'autorisation Modèle "A" destinée à couvrir le transfert de régularisation est exclusivement réservée à la Banque de la République du Burundi.

La demande doit être accompagnée :

- a) d'une copie du formulaire fiscal "Impôt professionnel sur les rémunérations de 19..." visée par le Département des Impôts, pour les assujettis, et
- b) du formulaire "Décompte définitif du montant transférable" en double exemplaire (Cfr annexe 1 bis).

Pour être prises en considération, les demandes d'autorisation Modèle "A" relatives aux transferts de régularisation doivent être introduites auprès des banques agréées et parvenir à la Banque de la République du Burundi au plus tard quatre mois à compter de la fin de la période au cours de laquelle la rémunération a été perçue.

5.0 LES ACTIONS DU PCA QUI REQUIERENT L'INTERVENTION FINANCIERE DE L'ETAT.

5.1 Au niveau des mesures commerciales, l'intervention de l'Etat serait indispensable pour les actions ci-après :

- Acquisition des équipements adéquats pour le Bureau Burundais de Normalisation et de Contrôle de la Qualité.
- Modernisation des équipements du transport aérien.
- Financement de la création des organismes des crédits à l'exportation.

5.2 *Au niveau des mesures d'investissement.*

Les actions qui requièrent une intervention financière de l'Etat se limiteraient à la question (2.4 point du PAC) Développement de nouveaux mécanismes du capital d'investissement.

5.3 *Au niveau des mesures concernant le paiement*

L'intervention de l'Etat pourrait se concevoir dans la mise en place du programme de formation préconisé pour le secteur bancaire.

5.4 *Au niveau des mesures institutionnelles*

L'appui financier de l'Etat serait requis pour le renforcement des capacités techniques des institutions de promotion commerciales existantes (formation, information) ainsi que la création de nouveaux organismes d'appui (financement avant et après l'exportation,...).

6.0 LES RAISONS EXPLICATIVES DE L'ABSENCE DE QUELQUES MESURES CONTENUES DANS LE PAC

Au Burundi, les raisons qui expliquent l'absence des quelques mesures non encore instaurées et préconisées dans le PAC sont essentiellement de deux ordres :

❑ Compte tenu du niveau général de développement de son économie (capacité de production, niveau de développement des institutions, etc...), certaines mesures doivent être appliquées progressivement.

❑ L'absence de réciprocité dans l'application des mesures d'intégration régionale. C'est ainsi que dans le cadre précis de la réduction des mesures tarifaires et non tarifaires, le Burundi fait souvent cavalier seul. L'application des mesures protectionnistes est souvent en vigueur chez certains partenaires commerciaux du Burundi de la région.

7.0 IDENTIFICATION DES MESURES DONT L'APPLICATION NECESSITE UNE ACTIVITE PREALABLE DE RECHERCHE

7.1 *Commerce*

7.1.1 Libéralisation des importations : la révision des règles d'origine est un impératif.

7.1.2 Libéralisation des exportations : les instances habilitées devront identifier le nombre de produits qui resteront soumis aux licences.

7.1.3 *Libéralisation des services : étudier dans quelle mesure il faut envisager la libéralisation des services.*

7.1.4 *Amélioration des transports aériens : entreprendre une étude commune (pour les partenaires ZEP) sur la faisabilité de l'amélioration des transports aériens.*

7.1.5 *Amélioration des facilités financières pour les échanges commerciaux : entreprendre une étude commune sur la réforme des institutions financières régionales dans le sens de l'amélioration des facilités financières pour les échanges intra-régionaux.*

7.2 Investissement

Facilitation des investissements d'un pays à l'autre : recherche sur l'opportunité de l'implantation d'un marché financier.

7.3 Finances et Paiements

Amélioration du secteur bancaire commercial : identifier les besoins en formation pour les banquiers des pays participants.

8.0 ARRANGEMENTS REGIONAUX

Actuellement, les arrangements régionaux tels qu'ils figurent dans le Traité instituant la ZEP (les protocoles ZEP) ont tous été ratifiés par le Burundi.

9.0 MISE EN PRATIQUE DES MESURES DU CPA ET ACTIONS COMPLEMENTAIRES

Le document sur l'évaluation de l'application des mesures du CPA (juillet 1993) montre que le Burundi est déjà très avancé dans le processus d'intégration régionale.

Il souligne néanmoins que quelques mesures ne sont pas encore entreprises du fait essentiellement de l'absence de réciprocité de la part des partenaires de la région.

Dans ce cas, le GTT du Burundi ne devrait entreprendre d'éventuelles actions complémentaires qu'une fois que les mesures régionales de base auront été réellement engagées (réciprocité) par les partenaires régionaux.

10.0 BESOINS EN RESSOURCES HUMAINES

Les institutions identifiées pour les besoins de formation sont les suivantes :

- La Banque de la République du Burundi (BRB)
- Le Ministère du Commerce
- La Police de l'Air, des Frontières et des Etrangers (PAFE)
- Les Sociétés d'Assurances
- La Direction des Douanes
- Les institutions financières et bancaires.

Le programme de formation peut notamment s'articuler autour des activités suivantes :

- Séminaire de formation sur les transactions financières et bancaires intrarégionales
- Information sur les Accords et Arrangements régionaux en matière de commerce
- Etude sur le rôle et les possibilités d'extension des mécanismes d'assurances dans les transactions régionales
- Information sur les mécanismes de financement et de paiement tels que prévus par le Plan d'Action Commune.

11.0 MAINTIEN DU CONTACT REGULIER

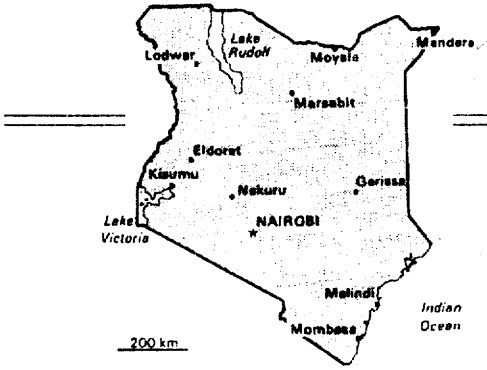
Des contacts permanents sont entretenus entre le GTT et les services publics et privés impliqués dans la mise en place des mesures du PAC. Le GTT pourra au besoin élargir sa composition à toute personnalité ou institution présentant un intérêt évident pour le processus d'intégration. Le programme de médiatisation de la mission du GTT a déjà été arrêté. Il incluait notamment l'organisation des forums de réflexion ainsi que des ateliers de travail. Les contingences d'ordre politique (élections législatives et présidentielles) de ces derniers mois ont entravé sa réalisation. A ce jour, ce programme doit normalement se poursuivre.

Un réseau d'information a été tissé entre le GTT du Burundi et celui du Rwanda; ainsi qu'avec les institutions régionales comme la CEPGL et la BDEGL. Le GTT du Burundi compte élargir son réseau à d'autres institutions et organisations de la région.

Le meeting des décideurs qui était prévu pour juin 1993 a été soigneusement préparé par le GTT. Les représentants du GTT du Burundi ont pris part aux travaux de Bruxelles.

3 Le projet est financé à 50% par fonds propres.

4 Nous supposons que les statuts sont de 15 pages.



Kenya

1.0 INTRODUCTION

This is a report of the activities of the Kenya Technical Working Group (TWG) during the Second Phase (1993) of the Cross Border Initiative to facilitate cross-border trade, investments and payments in Eastern and Southern Africa. The activities of the TWG were guided by the project's terms of reference of 25 February 1993.

The main tasks of the TWG during the second phase of the Initiative were:

- To prepare for the implementation of the Initiative by interpreting the measures recommended in the Common Programme of Action (CPA) into national actions.
- To build a consensus around the CPA; and undertake activities which would maintain the momentum of the initiative at national level.

The second phase was to start immediately after the Harare Workshop of December, 1992. However, because of political developments in Kenya the TWG could not meet early enough. The first meeting of the TWG was held on 18th February 1993. At that meeting the TWG resolved to develop a programme of action for the promotion of the CPA in Kenya. The first activity was the writing of a brief by the members who attended the Harare workshop. The brief emphasised the theme of the workshop, the recommendations and the practical steps which were required to implement the CPA. The brief therefore acted as a starting point for the second phase of the Regional Integration Initiative.

2.0 THE APPROACH

The Initiative was to be carried out in two stages. The first stage involved the implementation of tasks which needed immediate attention. The second stage, which was limited to those countries which had indicated willingness to implement the CPA, was

limited to the activities which could be implemented in the medium term.

Kenya indicated its willingness to implement the CPA at a very early stage. The TWG therefore decided to implement all the short and medium term tasks simultaneously. However, for the purposes of this report the chronology of the tasks given by the terms of reference is maintained.

3.0 SHORT-TERM TASKS OF THE TWG

The short-term tasks of the TWG mainly revolved around (1) soliciting government response on the willingness to implement the CPA; (2) maintaining the momentum of the Initiative and building up a consensus around the CPA; and (3) interpreting CPA measures into national action. To effectively interpret CPA measures into national actions required detailed analysis of some of the problems which hindered cross-border economic activities.

3.1 Soliciting Government Response on Willingness to Implement the CPA

Efforts to solicit government response on the willingness to implement the CPA started immediately after the first TWG meeting of 1993. The first step was to write a brief to the Vice-President and Minister of Planning and National Development on the regional initiative on cross-border trade, investments and payments. This was necessary because the Vice-President and his Permanent Secretary were both new in the Ministry at the time. The brief gave the history of the Initiative and outlined the objectives of the initiative, including expected benefits.

Letters requesting the Government to indicate its willingness to participate in the implementation of the CPA arrived from the IMF and the World Bank on February 23 and 24 respectively. The TWG wrote another brief to the Vice-President reminding him of the decisions of the Harare Workshop and bringing his attention to the letters from the IMF and the World Bank. The brief also requested him to reply to the letters and to indicate Kenya's willingness to participate in the implementation of the CPA.

The response to the letters from the sponsors of the Initiative was not immediate because they were not addressed to the Minister of Planning and Development who was responsible for international economic co-operation in Kenya. The letters were addressed to different ministers. For instance, letters from the IMF and CEC were addressed to the Minister of Finance, while that from the World Bank was addressed to the Minister of Commerce and Industry. This meant that there had to be inter-ministerial consultations before the Vice-President and Minister of Planning and National Development could respond to the different letters. The letters to the IMF and the World Bank were written on April 13, 1993 and the letter to the Commission of the European Communities was written on May 25, 1993.

In the letters to the co-sponsors of the Initiative, the Government of Kenya, thanked the sponsors for their role in supporting and promoting regional integration in Eastern and Southern Africa. The Government confirmed its commitment to regional integration and assured the sponsors of its willingness to participate in the CPA.

3.2 Maintaining the Momentum of the Initiative and Building up of Consensus on the CPA

The TWG went about this task mainly through its members. All members were encouraged to disseminate the activities of the TWG in their respective organisations. This was done by writing briefs, especially on the implications and objectives of the CPA. The private sector representatives, especially the Kenya National Chamber of Commerce and Industry and the Kenya Association of Manufacturers were urged to solicit the views of their members. The response to the CPA was positive. The enthusiasm of the private sector to the CPA was further demonstrated by their active participation in the workshop which was held to disseminate the information and ideas behind the CPA and the concept paper.

3.3 Interpreting CPA Measures into National Action

The CPA specifies broad measures for promoting cross-border trade, payments and investments in Eastern and Southern African States. It was therefore necessary for each TWG to interpret these measures into national action programmes. This was necessitated by the fact that economic conditions and policy stances differ among the participating countries.

3.4 List of Laws and Regulations to be Amended

Most of these laws and regulations were identified in the TWG report of October 28, 1992. However, in May 1993 major changes on trade and exchange control regulations were made. This annulled some of the recommendations the TWG had made in 1992.

However, a number of laws remain in the statute books which if amended would speed up the implementation of the CPA. These include:

Exchange Control Act CAP. 133, Section 32(4a). This continues to restrict investment flows to the sub-region by requiring that investors must seek a no-objection to foreign exchange before investing in the region. The same section of the Act restricts investors from buying securities in the sub-region.

Other restrictive sections of the Exchange Control Act are as follows:

- Sections 16, 30 and 32 which regulate the appointment of non-resident directors and management contracts involving non-residents.

- ❑ Section 32 (4a) which limits the amount non-resident individuals or firms/institutions can borrow from the Kenyan financial system.

Foreign Investment Protection Act CAP. 518 Section 3(1)(2) - which stipulates that foreign investments requiring to repatriate profits in foreign currency must be registered under this Act.

Several sections of the Companies Act CAP 486 would need to be amended for the purposes of implementing the MIE Charter.

- ❑ Sections 4-32 deal with approval of registration.
- ❑ Part X deal with approval to open or register a branch office of an overseas company.
- ❑ Section 50A (a)(2) deals with approval to issue shares to a body corporate which is not a company formed and registered under the Act.

The Immigration Act Cap 172 Section 567. This Act controls issue of visas and approves entry and work permits to foreign residents. The Act would need to be amended to speed up the protocol on visas.

Insurance Act Cap 487 Sections 30 and 31. These sections regulate the approval of Investment in the Industry.

3.5 Estimates of Intra-Regional Trade and Investment Flows

A survey of 100 investors and exporters was done to estimate the effect of the elimination of barriers to cross-border trade, investments and payments on intra-regional trade and investment flows. The response rate was 38 per cent. Most respondents however did not give specific and accurate information on trade and investment flows. However, the problems which limit intra-regional trade and investment flows are well documented. These can be used to predict the direction of the flows as a result of liberalisation.

Sixty per cent of the responding firms indicated that they had no investments in region. Of these 67 per cent reported that they had no intention of investing in the region. The main reasons given for not investing in the region were trade barriers (35 per cent), high taxes (25 per cent), political uncertainty (10 per cent), lack of incentives (10 per cent), price controls (5 per cent), small market (5 per cent) and shortage of skilled manpower (5 per cent). 73 per cent of the firms also reported that exchange controls had a negative impact on their investment decisions.

It is evident from these results that the implementation of CPA would contribute to increased cross-border investments. Relaxation and removal of trade barriers and exchange controls and provisions of incentives should be emphasised. Political uncertainty which is

not covered by the CPA appear to be a major determinant of investments.

The survey also provided a list of factors which affect intra-regional trade. These included exchange rates, interest rates, inflation, trade barriers and poor transport and communications. Of those responding 52 per cent indicated that exchange rate changes positively affected their exports to the region and 38 per cent indicated that the exchange rate changes had a negative effect. 52 per cent and 57 per cent of the firms indicated that interest rates and high inflation negatively affected their exports respectively. Trade barriers however remained as the major disincentive for exports. 70 per cent of the respondents listed this as the major constraint on their trade in the region. 45 per cent of the respondents also listed poor transport and communications as the major disincentive for trade in the region.

It is evident from these results that trade liberalisation would increase regional trade. The volume of trade could not be established from the survey results. However, one major producer of consumer goods estimates that 20 per cent of its output is exported to the neighbouring countries as unrecorded trade. Kenya's exports to these countries (Uganda, Tanzania, Somalia, Ethiopia and Sudan) amounted to US\$ 147 million in 1992. Hence total trade could be anywhere between US dollars 147 an 176 million.

The implementation of the CPA would reduce smuggling and therefore increase recorded trade. This would increase tax revenues and therefore offset the revenue lost through tariff reductions. Reductions in trade barriers would also increase trade. Furthermore, it would reduce the risks associated with illegal activities such as black market in goods and currencies and therefore would also increase trade.

We can therefore conclude that the implementation of the CPA would increase Kenya's regional trade by between 0 and 20 per cent. However, more work would be needed to establish a more accurate estimate of the change in trade flows resulting from the implementation of the CPA.

3.6 Regulations on Private Investments

With the establishment of the one stop "shop" for investments under the Investments Promotion Centre (IPC) Act of 1986 there is little difference in the requirements for the licensing of national and cross-border investments. Except for the purposes of foreign exchange controls and Foreign Investment Protection Act, all the other requirements are similar for both types of investments.

The amendment of the IPC Act in 1992 has created an environment for faster approval and implementation of investments. The Act empowers IPC to issue a General Authority (GA) for eligible investments. The application for GA is made on IPC Project Application Forms. The entire approval process including the special licenses should be completed within one month. Investments not requiring special licenses normally receive GA within seven days. However, investments requiring foreign share allocations by the Central Bank and those requiring special licenses should obtain full approval within the mandated 30

days. IPC does not charge any fees, but the Central Bank charges one thousand (1,000/=) Kenya Shillings.

The General Authority allows the investor to commence the implementation of the investments while waiting for the required licenses to be approved. These licenses will be given as a matter of compliance but should be provided within the stipulated 12 months. The eligible investments should not be for less than two million Kenya shillings and may be either local, foreign owned or joint-venture.

The licenses which are covered by the GA for 12 months include those necessary for:

- Industrial Registration under the Industrial Act
- Construction under the Public Health and Local Government Acts
- New business enterprises under Local Government Act and Regulations
- Registration under Agricultural Act
- Permits under Standards Act
- Licenses under Trade Licensing Act
- Registration under National Social Security Act
- Registration under Factories Act

Investments requiring foreign share allocation must be approved by the Central Bank of Kenya before a GA is issued. Special licenses are required for certain restricted businesses before a GA is also issued. These businesses include:

- Petroleum Operations
- Tourism
- Forest Produce
- Ferries
- Manufacture Under Bond
- Manufacture of Excisable Goods
- Insurance

- Banks, Financial Institutions, Mortgage and Finance Companies
- Export Processing Zone Enterprise

3.7 Cost of the Implementation of CPA

There are very few actions under the CPA which would require no immediate costs. Those which require low immediate costs are:

- Ratification of the MIE Charter
- Harmonised transit charges
- Single declaration document; and
- The PTA protocol on visa reduction and elimination

The last item has been difficult to implement because of the fear that it would increase domestic unemployment and for security reasons. The other policies could be implemented with minimal costs to the country. Policies whose implementation would involve considerable losses are tariff reduction, elimination of quantitative restrictions and foreign exchange liberalisation.

Tariff reduction will contribute to lower tax revenues, increased imports and lead to possible de-industrialisation. Elimination of quantitative restrictions would also increase imports and therefore cause de-industrialisation. To ameliorate these problems donor support in the form of balance of payments support and sectoral adjustment funds will be necessary. Foreign exchange liberalisation will also lead to balance of payments problems and will make foreign exchange management difficult. There will be a need for donor support to develop a viable foreign exchange market and to support the Shilling against speculative attacks. Technical support will also be required to develop an effective foreign exchange management system.

3.8 Aspects of CPA which have not been implemented

The following decisions which are useful for the implementation of CPA have not been implemented in Kenya:

- Ratification of the MIE Charter
- The second phase of the PTA protocol on visas
- Harmonised transit charges

- Single declarations document
- Regional bond guarantee scheme

The necessary Cabinet Paper for the ratification of the MIE Charter has been prepared and submitted to the Cabinet for approval and ratification. The TWG has not been able to establish why it has taken so long for the Cabinet to approve the Paper. Kenya has ratified the first phase of the PTA protocol on visas. However, the Government is awaiting action by the PTA Secretariat on the implementation of the Second Phase of the Protocol. A legal notice on the harmonised transit charges has been drafted by the Ministry of Transport and Communications. However, it has not been published. This is because it is being reviewed jointly by the PTA and SADC. The Government says that it is awaiting a decision by the PTA Council of Ministers before taking the necessary action. The single declaration document and the regional bond guarantee scheme are under consideration. The Government is studying the modalities under which the programmes could be implemented.

4.0 MEDIUM-TERM TASKS OF THE TWG

4.1 Measures in the CPA requiring elaboration

The Kenya TWG did not find any measures in the CPA which would require elaboration. Some of the most important issues have been elaborated upon in the Concept Paper.

4.2 Provisions of existing regional agreements to which Kenya is not Party

Kenya subscribes to all the provisions of the PTA treaty.

4.3 Review of implementation of existing regional programme in Kenya

The measures that Kenya is currently implementing under regional arrangements include:

- Tariff reductions
- Relaxation of quantitative restrictions
- Use of PTACH for regional trade
- Ratification of the MIE Charter
- Ratification of the PTA protocols on visas

- Harmonized transit charges
- Road customs and transit documents
- Single goods declaration document
- Regional bond guarantee scheme

Trade liberalisation in the form of tariff reductions has been implemented in Kenya from two fronts. The first is as part of the structural adjustment programmes which have been going on since 1980. The other is as a result of the PTA tariff reduction time table. It is however not clear that Kenya will completely remove tariffs on regional imports by 1996. It is true though that since Kenya is a major exporter to the region it would benefit most from regional tariff reductions. It might therefore be beneficial for Kenya to accelerate tariff reductions even if the other countries are not reciprocating. This would send a signal to the other regional partners that Kenya is serious about regional initiatives.

Quantitative restrictions (QRs) on all imports were removed in Kenya in May 1993. The exception is a short negative list for health, environmental and security reasons. Kenya has never had Quantitative Restrictions on exports, except for a short negative list.

Kenya encourages its exporters to use the PTACH. However, recent events have reduced the use of this facility and its major instrument, the UAPTA travelers' cheques. The introduction of retention accounts has clearly reduced the volume of transactions channeled through PTACH in Kenya. This is because the UAPTA is not recognized as a currency. Recent forgeries of UAPTA travelers cheques have also dented the credibility of the cheques in the Kenya banking system. These problems should be addressed if PTACH is to be effective as a means of promoting intra-regional trade.

Changes in investment policies in Kenya in recent years have more or less overtaken the MIE Charter. These policies have streamlined the investments licensing procedures including the removal of equity restrictions and maximum investment ceilings which are the pillars of the MIE Charter. For those countries which continue to impose punitive investment licensing requirements, the Kenya TWG supports the amendments to the charter proposed in the Concept Paper.

The policies on the PTA protocol on visas, harmonised transit charges, road customs and transit documents, single goods declaration document and regional bond guarantee scheme cannot be effective if they are not implemented at the regional level. We therefore suggest that the implementation of these policies be done at that level. The PTA secretariat should take a lead on this.

4.4 Institutional Support

The institutions which were established by the TWG as needed for institutional support are the Kenya National Chamber of Commerce and Industry (KNCCI) and the Kenya

Association of Manufacturers (KAM). Technical support to the Government and the training of senior government officials are also considered to be essential.

The support required by KNCCI and KAM is in the form of equipment and technical services necessary to do their work efficiently. These two organisations are very important as lobby groups in the area of regional trade and investments. They have and continue to play a vital role in the dissemination of the proposals of the Concept Paper.

4.4.1 Kenya National Chamber of Commerce and Industry

The needs of the Chamber are as follows:

- Computer system to computerise trade information and to process and store data.

Funds to:

- Develop an Exhibition and Trade Centre on a 10 hectare site donated by the Government.
- Upgrade a printing press
- Train members throughout the 42 branches in the country.
- Participate in international trade fairs.
- A soft loan programme to assist members improve their business.

Technical support in the form of:

- Trade expert to do desk and market research
- Management expert to assist members to develop management skills necessary in a dynamic business environment
- Accounting expert to assist new members to establish accounting systems and to assist old members to update their systems.

4.4.2 Kenya Association of Manufacturers

The specific needs of KAM are:

- Computer equipment, printer and software (US\$ 6448)

- ❑ Plain Paper copier and fax machine (US\$ 2000)
- ❑ Technical support in computer and information management. In the short to medium-term, services of a computer programmer, data analyst and information system analysts will be required.

4.5 Advocacy and Publicity of CPA Proposals

The Kenya TWG ensured that the CPA proposals received sufficient publicity. The activities of the TWG and the goals of the CPA were publicised through the newspapers. The TWG workshop which was held in Nairobi on 16th August, 1993 was also covered by the print media, radio and television.

The workshop was very successful. It was attended by over seventy participants from the public and private sectors and international organizations.

The workshop was opened by H.E. the Vice President of Kenya and Minister of Planning and National Development, Hon. Professor George Saitoti. It was closed by the Permanent Secretary, Office of the Vice-President and Ministry of Planning and National Development, Mr. F. Kuindwa.

Papers on Cross Border Trade, Investments and Payments were presented by the Head of Exchange Control Department, Central Bank of Kenya; the Director of External Trade, Ministry of Commerce and Industry; the Chief Executive, Kenya National Chamber of Commerce and Industry; the Chief Executive, Kenya Association of Manufacturers; and the Chief Executive, Nairobi Stock Exchange. An invited paper on International Trade and Finance was given by Mr. Marubu E. Munyaka, Chief Executive Officer, Midway Insurance International and a Lecturer in international Banking and Investments at the United States International University, Nairobi campus. Mr. Lucas Ojiambo, who represented the World Bank, made some remarks on the role of the Bank in support of economic reforms and closer economic co-operation among the countries in the region. Mr. Joseph Nyagah, Kenya's former Ambassador to the EC, also shared his experiences in dealing with the donors and on negotiations on regional co-operation.

The workshop was organised into four sessions: (1) the role of the PTA in cross-border trade, investments and payments; (2) cross-border trade; (3) cross-border investments; and (4) the role of donors in cross-border trade, investments and payments. There were lengthy discussions after every session. Some of the suggestions and recommendations from the discussions were incorporated in a brief which was prepared for the Kenyan delegation to the Kampala meeting of Ministers.

4.6 Flow of Information between TWG and Regional Organisations

The flow of information between the TWG and regional organisations was maintained throughout the project period. The TWG sought and obtained information and documents

from the PTA Secretariat and the PTA Bank. The Secretary General of the PTA and the President of the PTA Bank were invited to the TWG Workshop held in Nairobi in August, 1993. Unfortunately neither of them could attend the workshop.

4.7 Preparation for Policy-makers meeting

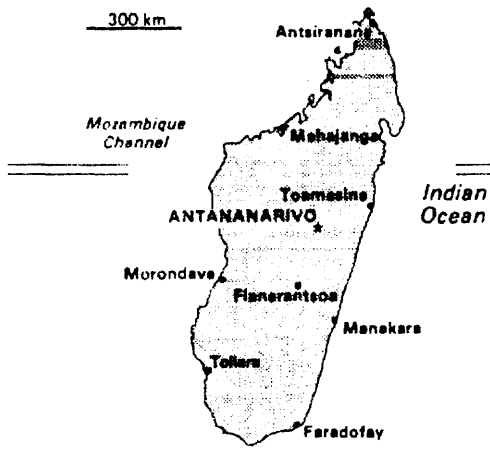
The TWG took a very active role in the preparation for the senior officials meeting of June 23, 1993 and the Ministers meeting of August 27, 1993. In both cases the TWG prepared briefing documents for the delegations and briefed the delegates. The TWG also made the travel arrangements for the delegates.

5.0 CONCLUSION:

The Kenya TWG has worked hard to promote the Cross Border Initiative. However, more work remains to be done. There is a need to:

- Carryout more research on the effects of trade liberalization, as suggested by the Concept Paper, at the individual country and the regional level.
- Draft specific amendments to the national laws which the TWG established as barriers to cross border trade, payments and investments.
- Assist both the public and private sectors to effectively analyse the implications of the policy changes elaborated by the concept paper.
- keep up the pressure on the respective governments to implement the policies suggested by the Concept Paper.

These could form the basis for the terms of reference for the Kenyan TWG in the next phase.



Madagascar

1.0 APPROBATION DU PAC PAR MADAGASCAR

A la demande des bailleurs de fonds, initiateurs de l'étude sur l'Intégration Régionale dont notamment la Banque Mondiale, la Commission de la Communauté Européenne, le Ministre de l'Economie, le Ministre des Finances et le Ministre de Budget et de Plan ont respectivement affirmé la position favorable de Madagascar à la mise en oeuvre de PAC.

2.0 ACTIONS DE SENSIBILISATION ET D'INFORMATION

La phase actuelle de la réflexion visera, rappelons-le, à traduire les mesures recommandées par le PAC en plans d'actions nationaux et à trouver un consensus sur ces propositions. Par ailleurs, chaque GTT a pour tâche de prendre toutes les dispositions requises pour maintenir élargie l'initiative au niveau national.

Afin d'entamer une diffusion plus élargie des résultats de la réflexion auprès d'opérateurs du Secteur Privé et de Hauts Responsables de Ministères, le GTT a étendu le groupe cible visé à travers un débat en juin dernier.

Ce débat se proposait non seulement d'informer l'assistance sur l'Initiative tripartite d'Intégration Economique Régionale et sur le contenu des programmes d'actions envisagés mais surtout de susciter la discussion pour dégager d'éventuelles observations et/ou recueillir d'autres recommandations le cas échéant.

Concernant le cadre général du processus d'intégration, l'objectif de sensibilisation et d'information a été plus ou moins atteint si on se réfère aux questions et aux problèmes soulevés par l'assistance lors du débat.

Dans ce cadre global, les principaux points soulevés ont été:

- Le Grand Public et le Secteur Privé en particulier souhaitent être informés sur

l'adhésion de Madagascar à la ZEP.

- ❑ Si Madagascar adhère au processus d'intégration, elle devra s'adapter aux réglementations en vigueur, dont le mécanisme d'échanges préférentiels: spécifiquement pour la ZEP, la politique tarifaire du pays devra s'harmoniser au programme de désarmement tarifaire déjà mis en oeuvre.
- ❑ Au niveau de la COI qui a ses spécificités par rapport à l'Afrique Australe et Orientale, l'on assiste plutôt à un commerce concurrentiel et non à une complémentarité entre les échanges.
- ❑ La réciprocité pour lever les barrières tarifaires et non tarifaires devrait être acceptée par tous les pays adhérant à l'intégration économique.

Pour le PNUD, l'objectif ne se limite pas à faire un constat sur les problèmes et les facteurs bloquants mais plutôt de créer des conditions favorables à l'intégration.

Enfin, concernant les points spécifiques sur les thèmes du débat, on peut relever les idées-forces suivantes:

- ❑ Comme préalable d'abord pour le cas de Madagascar les plans d'actions proposés ne pourraient être mis en oeuvre que si un environnement favorable à l'épanouissement de l'initiative privée ait été mis en place par l'Administration.
- ❑ Dans le domaine des Echanges Commerciaux
 - l'on assiste durant ces dernières années à un déficit chronique des exportations de Madagascar;
 - le Ministère du Commerce prend déjà des dispositions et mesures pour accroître le commerce extérieur;
 - Particulièrement pour les Douanes, le Directeur Général des Ressources Fiscales a mentionné que l'Administration Douanière doit procéder à des contrôles compte-tenu des textes réglementaires en vigueur;
 - Dans les ports et aéroports d'embarquement/débarquement, l'Administration Douanière procède seulement à la surveillance du mouvement des marchandises
 - Beaucoup d'opérateurs ne remplissent pas convenablement les procédures et formalités exigées: d'où pénalisation par le facteur "temps".
 - Des améliorations seront apportées avec les nouvelles dispositions de sécurisation des recettes douanières par le Bureau VERITAS.

- Pour le programme d'abaissement tarifaire, il dépendra de la politique des Finances Publiques.
- Autres réformes envisagées par le Ministère du Budget et du Plan.
- Promulgation de textes spécifiques sur les procédures douanières en Zone Franche;
- Réforme tarifaire sur la Taxe Unique de Transaction (TUT) et sur la Taxe de Consommation incessamment.
- Dans le domaine des Investissements, l'assistance a conforté et appuyé les remarques déjà soulevées par le GTT.
- Le Ministère de l'Economie a tenu par ailleurs à noter que le Guichet Unique des Investissements a été déjà mis en place et qu'il sera entièrement fonctionnel d'ici un mois.
- Le Ministère de l'Industrie et de l'Artisanat quant à lui, se déclare ouvert à recueillir toutes les observations tendant à améliorer la situation du climat des investissements à Madagascar: les textes ont un caractère évolutif et peuvent être révisés corollairement à l'évolution de la situation et de l'environnement qui prévaut.
- Pour le Ministère du Budget et du Plan, autorité de contrôle devant procéder à l'évaluation économique et financière des investissements réalisés qui ont été agréés dans le cadre du Code des Investissements ou de la Zone Franche, il a déclaré se trouver face à un dilemme. Le suivi et les contrôles à posteriori sont difficiles face à la faiblesse des moyens humains et financiers dont dispose l'Administration.
- Le Secteur Privé souhaiterait qu'à terme le code des Investissements et le Régime de Zone Franche relèvent du Régime du Droit Commun.
- Dans le domaine des Paiements
- La Banque Centrale a relevé que les obstacles aux paiements seraient partiellement levés par l'adhésion de Madagascar à la mesure où la ZEP prévoit déjà un certain nombre de dispositions: Chèque UAPTA, Chambre de Compensation etc...
- Enfin, le Secteur Privé estime que Madagascar pourrait évoluer dans un espace élargi d'intégration régionale si:
 - les opérateurs avaient la possibilité de détenir des avoirs en devises à l'extérieur de Pays.
 - les opérateurs pouvaient se déplacer librement: problème de visa et de devises.

L'accès aux marchés extérieurs dépend notamment de la libre circulation des hommes et de l'accès aux capitaux.

2.1 Problèmes rencontrés par les GTT

Mention doit être faite toutefois que, malgré la volonté exprimée par les membres du Groupe de poursuivre la réflexion, les travaux du GTT de Madagascar ont été quelque peu freinés par deux facteurs bloquants majeurs :

a) Le Statut Juridique du Groupe :

Dans la mesure où le GTT a été créé de manière informelle et a travaillé depuis en toute indépendance, la majorité des membres, dont surtout ceux provenant du Secteur Public, ont exigé que le GTT devrait jouir d'un cadre réglementaire de travail, régi par des textes officiels, eu égard à l'importance des décisions stratégiques à prendre pour la mise en oeuvre du PAC et à l'impact de cette mise en oeuvre sur la politique économique du pays.

A cet effet, un projet de texte, ayant pour objet d'entériner l'existence du GTT d'une part et de définir son rôle et son mode d'intervention d'autre part, a déjà été élaboré par quelques membres du GTT. Ce projet de texte aurait déjà dû être soumis aux autorités compétentes en vue de sa ratification et sa promulgation officielle.

b) La conjoncture socio-politique de Madagascar:

En cette période de fin de Transition où le pays est en train de mettre en place toutes les institutions de la III^{ème} République, l'implication des Ministères et des divers Départements Techniques pour la réalisation du PAC n'a pu être acquise totalement, au point de définir déjà les actions nationales qui devraient être faites pour concrétiser l'engagement de Madagascar vers le processus d'intégration régionale et la mise en oeuvre du PAC. Dans ce cas de figure, le GTT attend seulement que l'environnement politico-économique de Madagascar se stabilise pour poursuivre ses travaux.

2.2 Définition du rôle du GTT

Quoiqu'il en soit, nonobstant ces freins, le GTT a déjà défini le rôle qui lui est dévolu dans cette phase du processus.

Il s'agira notamment de:

- faire la promotion du PAC et des plans d'actions nationaux auprès des différentes parties prenantes concernées;
- informer et sensibiliser les opérateurs et les hommes d'affaires sur le processus d'intégration économique régionale;

- entreprendre ou initier une étude spécifique sur la concrétisation des plans d'actions:
 - a) traduction concrète et pratique des plans d'actions sur le plan technique et législatif, et les prioriser suivant un programme pluriannuel.
 - b) approfondissement de leur mise en oeuvre et étude de l'impact de cette application sur l'économie malgache.
- faciliter la réalisation du PAC et des plans d'actions nationaux;
- faire le suivi de leur mise en application et de leur mise en oeuvre;
- assurer la liaison avec les autres organisations impliquées dans le processus d'intégration régionale (COI, ZEP, SADC)

3. INTERPRETATION DES MESURES EN ACTIONS NATIONALES

3.1 Compilation de la législation et de la réglementation

Au stade actuel, et dans le cadre de ce rapport, le GTT de Madagascar ne peut encore présenter d'une manière précise et exhaustive, la liste détaillée des textes et lois qui doivent être soumis à des amendements afin de permettre l'application du PAC, compte-tenu des facteurs bloquants cités plus haut. Toutefois, le GTT travaille déjà dessus et cette liste de textes.

Il faut mentionner aussi que, dans le cadre de sa politique de libéralisation, Madagascar a déjà envisagé de procéder à une révision générale des textes en vigueur régissant le Droit des Affaires en général, textes qui sont devenus caduques et anachroniques face à la libre concurrence et à l'économie de marché: cette révision de textes a été mise en veilleuse dans la situation qui a prévalu ces dernières années mais elle devrait être re-étudiée incessamment.

Il faut souligner que le GTT de Madagascar a déjà brossé globalement la réglementation qui devrait être soumise à amendement/modification dans son rapport final de Juillet 1992.

3.2 Flux d'échanges régionaux: échanges commerciaux et flux d'investissements

La Commission de l'Océan Indien (COI) est encore la seule organisation régionale à laquelle Madagascar a souscrit jusqu'à maintenant. Néanmoins, Madagascar a déjà décidé en conseil de gouvernement d'adhérer à la Zone d'Echanges Préférentiels (ZEP/PTA): les

procédures et formalités pour l'adhésion officielle sont en cours actuellement.

3.2.1. Echanges commerciaux

D'après l'analyse des statistiques des échanges commerciaux que Madagascar effectue au niveau de la région (cf Annexe 6 - Rapport Septembre 1992: Tableau 3.1), il apparaît que les échanges sont plus importants dans l'espace Océan Indien qu'avec les pays limitrophes de la ZEP.

Pour Madagascar en particulier, on s'intéressera d'abord à cette sous-région "Océan Indien" sur la base des données disponibles

En 1991, les exportations régionales de Madagascar ont été de 20.706.498 ECU soit ~ 45 Milliards de FMG contre 1.393.948 ECU d'importations régionales.

Le quote-part de commerce régional que Madagascar fait avec les autres îles s'élève à 4,82% seulement en 1991 par rapport au commerce total avec le reste du monde.

D'après une étude faite dans le cadre d'un Programme Régional Intégré de Développement des Echanges (PRIDE) au niveau de la CO, avec des plans d'actions spécifiques visant à promouvoir les échanges, en éliminant les barrières tarifaires et non-tarifaires, les échanges inter-îles passeraient de 3,5% actuellement à 7% du commerce extérieur total de la sous-région d'ici cinq à dix années à venir: résultats relativement pessimistes attendus corollairement au désarmement tarifaire préconisé et à l'élimination des différents obstacles identifiés.

3.2.2 Flux d'investissements

Les flux d'investissements croisés, auront tendance également à accroître, mais l'on ne peut évaluer l'ordre de grandeur de cet accroissement.

En ce qui concerne les courants d'échanges que Madagascar fera avec les pays de la ZEP, les statistiques disponibles ne permettent aucunement de faire une quelconque extrapolation des tendances.

3.3 Réglementations régissant les Investissements-privés

Parmi les contraintes qui ont été identifiées dans le domaine des investissements, rappelons notamment:

- la lourdeur des procédures et démarches administratives;
- la non-coordination et l'incohérence entre les textes de base et leur mise en application.

Depuis, un “Guichet Unique des Investissements” a été créé et mis en place, dont le rôle serait notamment d’alléger les procédures et assurer la coordination d’une part et procéder surtout au suivi des réalisations des projets d’investissements d’autre part.

Dans le cadre du PAC la révision de la réglementation sur les investissements consistera alors à apporter des améliorations au niveau du fonctionnement de ce Guichet Unique.

Le Président du GTT étant le premier responsable de ce Guichet Unique des Investissements, les recommandations préconisées passeront plus aisément.

3.4 Actions à Court Terme

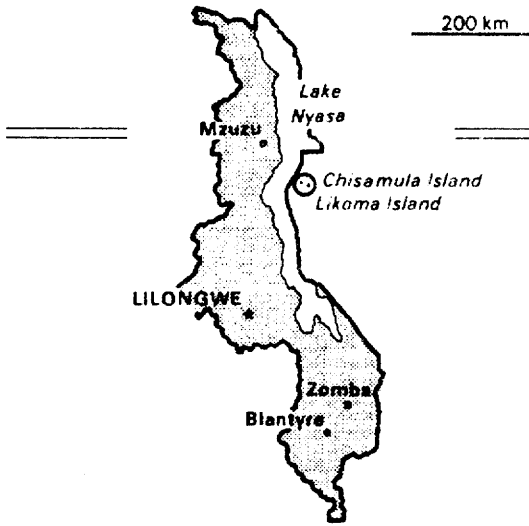
Dans la situation actuelle, le GTT n’a pu encore élaborer de programme d’actions précis eu égard aux problèmes auxquels il a dû encore faire face (cf. 2 du présent rapport).

3.5 Obstacles à la mise en oeuvre du PAC

D’une manière générale, malgré l’avis favorable émis par Madagascar pour la mise en oeuvre du Programme d’Action Commun, la mise en application des plans d’actions nationaux spécifiques n’a pu encore être déterminé suivant un programme bien défini.

Mais d’emblée, la ratification du PAC et des plans d’actions nationaux ne poserait pas de problème majeur de fonds eu égard aux grandes orientations politiques et économiques vers lesquelles Madagascar s’achemine.

Néanmoins, il faut noter que la ratification et la mise en place de la charte de la ZEP sur les Entreprises Industrielles Multinationales dépendront de l’adhésion effective de Madagascar à la ZEP, dans la mesure où il n’est pas encore membre à part entière.



Malawi

1.0 INTRODUCTION

Following the Harare workshop in December 1992 a Common Plan of Action (CPA) was drawn up by the TWGs, outlining measures to facilitate cross-border trade, investment and payments in Eastern and Southern Africa. In order to undertake this work further, funds were provided by the sponsoring agencies. This report has encompassed :-

- ❑ extra research to refine the Malawi country report;
- ❑ following the official affirmative response to continue with the initiative from the Minister of Finance in Malawi the TWG undertook to have the CPA implemented through continued research, dialogue with policy makers, Government Ministries, regional and international bodies and relevant institutions.

The TWG confirms that the PIC has been established and that the Minister has responded positively to the co-sponsors. We believe that the objectives of the Terms of Reference have been achieved given Malawi's political and economic climate during 1993. Further to this, Malawi has made positive and meaningful progress in its implementation of the CPA. Finally the TWG believes that it will continue to be a positive force in the liberalisation of Malawi's cross-border trade, investment and payments.

Malawi has been undergoing radical political change in 1993. However considering the difficult environment this year, Malawi has made remarkable progress in complying with and implementing the Common Plan of Action (CPA). The Government has shown tremendous willingness to comply with the spirit of the initiative and has together with the TWG and other committees and Statutory bodies shown commitment to this objective.

The CPA was not publicised nationally by the TWG but has been circulated to the government departments concerned, the Chamber of Commerce and to some of the key private sector companies. Comments and participation were asked for and a small

percentage of replies were received which have been incorporated in this report. A number of personal interviews of the private sector was carried out by the secretariat together with a considerable amount of independent analysis on the CPA , all of which is recorded in this report.

The TWG secretariat worked closely with Malawi Investment Promotion Agency (MIPA) and had considerable assistance from them. Some of the TWG members were involved in MIPA's workshops on Investment, Trade and the establishment of an EPZ. The TWG and MIPA have had many similar goals, which has allowed the pooling of, and efficient use of resources. These combined resources, created a large data base of information on which to draw. This all helped to implement and provide mechanisms for the implementation of the CPA.

2.0 PAYMENTS AND EXCHANGE SYSTEM

Malawi has been subject to political isolation since June 1992, which has severely affected the practical aspects of its trade and investment liberalisation initiative. Foreign donors cut off aid in protest against Malawi's human rights records and one party state. This drastically reduced the supply of foreign exchange and affected Malawi's ability to both trade in the region and internationally. This situation was further compounded by the worst drought in living memory. Notwithstanding these problems, Malawi has technically honoured the spirit of the Cross Border Initiative, in that it has made considerable progress to implement the changes recommended by the TWG report of 1992 and the subsequent CPA.

2.1 Foreign Exchange Allocations

The Reserve Bank of Malawi has further liberalised the allocation of forex for importation. The Commercial Banks are now responsible for the allocation of their own forex to pay for the imports of their respective clients. However the Reserve Bank has implemented an SGS certification system for imports over the value of USD5,000 which has transformed the system and effectively set up a NTB to efficient trade. The importation process is now as follows:

- ❑ Exchange Control approval is granted on presentation of documents to the commercial bank. These documents then have to be forwarded to the Reserve Bank to be given an SGS number. This number and the relevant documents are then submitted to SGS in Malawi, who in turn onward ship the documents to their associate offices in the country of origin of the import.
- ❑ The imports may only be shipped once SGS has given its certificate of clean report

of findings. The Reserve Bank will not allow payment to be made without the SGS certificate.

The political and drought situation in Malawi has led to a large decrease in donor funds on the one hand and a large increase in foreign exchange expenditure for the importation of drought relief food on the other hand. These combined effects led to severe foreign exchange shortages resulting in payment pipelines of up to 220 days. This situation has not helped the country in its implementation of this initiative. Malawi's credit rating internationally has gone down and is currently rated by the Burn Union at 2B which is almost a worst case scenario. The restrictions on access to foreign exchange, are therefore, largely due to externalities and not as a result of official economic policy. However there has been the emergence of some NTBs which have proved to be restrictive, (for example the SGS system is being used to delay approvals being granted.)

The commercial banks have made a recommendation that all the export receipts (and not just non-tobacco) should be channelled through them. They would then onward sell to the Reserve Bank. They estimate with their receipts from non-tobacco imports they would not need more than 25 per cent of the tobacco proceeds to fund their clients import base. The balance of the foreign exchange would have to be sold to Reserve Bank to fund their Malawi Kwacha requirements.

2.2 Payments for Foreign Services

The Reserve Bank has still not liberalised the payment for the use of foreign services. Prior Reserve Bank approval is required.

2.3 Foreign Currency Designated Bank Accounts

There is no move by the Reserve Bank to allow companies or individuals to hold bank accounts in foreign currency. They are however willing to consider the matter. In the case of an Export Processing Zone being established the Reserve Bank would consider giving an EPZ licence holder the right to have a bank account designated in foreign currency

2.4 Export Earnings Retention Scheme.

The Reserve Bank has made it clear that it is not in favour of such a scheme. Their fear is that it is too open to abuse.

2.5 Malawi's Progress with the CPA

2.5.1 Reduction of foreign exchange liquidity requirements

Usage of the PTA Clearing House (PTACH) has not greatly improved through 1993. The main reason for this can be attributed to the private sector not finding confidence in the

PTA clearing mechanisms. The Commercial Banks, with the exception of IndeBank, do not actively market the PTACH as they themselves do not have much confidence in it. Despite all the efforts of the initiative in the PTA region there is still a preference for cross-border financing where possible to be done in the hard currencies. Even if the awareness of the commercial banking sector is improved the banks will make decisions that improve the profitability of their bottom lines. Unless, therefore, attractive incentives can be offered in the region the commercial banks will continue to use the traditional methods of trading.

The solution to this problem rests with the PTA central banks setting up a regional protocol that will be unilaterally adhered to.

As soon as letters of credit and bills of acceptance become readily available within the PTA monetary frame work this situation may change.

Malawi's foreign exchange shortages this year have not helped to alleviate these problems.

2.5.2 Market determined exchange rates

Malawi's present severe shortages of foreign exchange and present economic downturn are not conducive to a market related exchange rate. This, coupled with the present political transition to a democracy, would, through expectations drive the value of the Malawi Kwacha down to an unrealistic level resulting in it being a disincentive to investment and trade as opposed to a positive economic attracting factor. This is with the exception of tobacco.

The parallel rate has shown a consistent premium of between 60 to 70 per cent over the past 12 months. Malawi does not as is the case in Zambia and Mozambique recognise this rate.

2.5.3 Forward Cover Market

This is not a practical possibility in Malawi until the Kwacha is allowed to float freely against both regional and foreign currencies.

2.5.4 Improvements in the Commercial Banking Sector

A mechanism should be created to allow the establishment and use of bankers acceptances. This would allow a bill to be floated on the open money markets, both regionally, where they exist, and internationally, thus providing 90 to 180 extra days of foreign credit. The major drawback to the success of this financial instrument is the very high stamp duty in Malawi. We recommend that:-

- the stamp duty be done away with all together;

- ❑ assistance should be sought from the donors and the PTA Bank to help guarantee these bankers acceptances and the professional expertise should be funded to research implement the relevant mechanisms required;
- ❑ the Reserve Bank's present system of selling futures in tobacco should be substituted for bankers acceptances, as the present system mortgages Malawi's future foreign exchange and subjects it to future shocks. A solution to this may be a futures market in the PTA.

2.5.5 Current Account Transactions

According to the Ministry of Finance all restrictions have been removed on current account transactions. The problem here is that the Reserve bank has too strong a control on the activities of the account. When the Bank receives foreign exchange it has used it according to its own priorities and has often attracted penalties for late payments in the past. The present foreign exchange crises has compounded this problem.

2.5.6 Capital Account Transactions

The capital account regulations have not been liberalised to allow the free flow of direct investment into the Malawian equity markets or to allow for the flow of Malawian investment out to the regional equity markets. The TWG has been informed that although this liberalisation problem is not at present tabled for reform, it will be part of Malawi's reform process.

2.6 Export Development Finance Scheme

This scheme was launched on 21 January 1993 and is an export credit guarantee and insurance scheme that aims at the small and medium sized exporter. Unfortunately this is the high risk end of the market. This scheme is administered through the commercial banks and has hardly been utilised to date. The Commercial Bank of Malawi informed us that only one transaction has been done through this mechanism since its inception in January 1993. No financial institution in the traditional money markets will finance cross border financial transactions for companies perceived to be a risk, even though 70 per cent of the amount is guaranteed through this scheme by the Reserve Bank. This fact notwithstanding, most of the cross-border trade is financed through confirmed, sight or usance letters of credit.

The second problem is that more than 95 per cent of Malawi's exports are dominated by the upper end and larger companies in the private sector. These combined factors make the above scheme all but useless.

We suggest that if this scheme is to have a positive effect on cross border trade then it should be made available to all the exporters in Malawi. This would then allow the Commercial Banks to finance exports within their usual lending criteria. If it is not possible to make this guarantee scheme more universal then some form of mechanism must be

provided to create forward contracts.

2.7 Liberalisation of the Banking Sector

The banking sector in Malawi is dominated by The Commercial Bank and National Bank which are majority owned by Press Corporation and quasi-Government institutions. The banking sector has been very traditional in its banking activities in the past and has only recently started to diversify. The recent changes in the Banking and the Capital Development Act has liberalised the Banking environment which resulted in the slow development of a secondary money market. This market is still very much in its infancy.

Any new prospective banker wishing to open a bank in Malawi has to apply to the Reserve Bank for a banking licence. The Reserve Bank is very strict in its criteria for the granting of such a licence. It will only consider institutions with a credible track record in the banking market.

The secondary money market has shown positive growth over the past twelve months. Other financial institutions that have traditionally concentrated in one area of the market are diversifying. For example:-

- Indebank is becoming the market leader in banking diversification with their entry into merchant banking. Their future plans are to move into the confidential invoice discounting and rentals markets.
- Leasing and Finance Company are going into factoring.
- The Commercial and National Banks have set up leasing and finance departments.
- Fincom is moving into merchant banking when they were traditionally in the trade financing market.
- Much study has been done on a unit trust market but as yet nothing has materialised.

3.0 INVESTMENT

The investment approval process has been greatly improved since the commencement of this regional initiative. Malawi Investment Promotion Agency has finally been fully set up. MIPA will act as a one stop shop window for any investor in Malawi.

3.1 Private Investment Climate and Procedure

The potential investor in Malawi will soon be supplied with a road map on how to invest in Malawi. The following are the steps necessary to invest in Malawi. By way of an example, an actual recent investment in the textile industry in Malawi was tracked and what actually happened is recorded together with the following investment requirements. For confidentiality the name Tex Industries is used:-

Registration of company:

- Application made to registrar of companies for use of the name Tex Industries.
- Approved within 10 days with pressure. Should not take longer than 20 days.
- Registration and incorporation of company together with the memorandum of articles took five working days.
- Total incorporation costs:- MK150 registration fee plus stamp duty charged on declared share capital.
- Average legal costs for registration ranges between MK 1,000 and MK2,000.
- For Tex Industries:- Cost; MK1,350 registration fee for declared share capital of MK250,000. Legal fees MK1,500.

Note: This procedure can take as long as three months. However with the recent opening of MIPA this time should be greatly reduced.

Open bank account:

As soon as the certificate of incorporation is received a bank account can be opened. This will take a maximum of 48 hours.

Registration with Reserve Bank:

Registration with the Reserve Bank must be made through the commercial banks submitting all the financial projections of the investment. The Reserve bank will then analyse the share capital, the loan capital and any management or technical contracts, make an assessment and grant the appropriate approvals. Provided that all the analysis is reasonable the approval is usually granted. This process takes between four to twelve weeks. However with the advent of MIPA this time frame should be drastically decreased. There are no major costs occurred here if this application is done directly through the banks. It is, however, often quicker to use one of the Auditing or Legal companies.

Tex was registered by a firm of accountants and was approved with in four weeks. The accountant's charges to Tex were standard professional rates.

The above two processes of registration with Reserve Bank and the incorporation of the company can be run concurrently. Provided that the name of the enterprise required is available. The bank will act on the investor's behalf with the knowledge that the account will be opened with them. This account can only be used for deposits and not withdrawals until the incorporation process is fully complete. Reserve Bank approval will mean a full repatriation of dividends, management fees and loan capital. National investors do not need Reserve Bank approval as local investors are not allowed to externalise profits, management fees or loans unless the loans or management were contracted offshore .

Identify a site for the investment:

This process is the longest , and requires good planning and management throughout. There are various alternatives available.

a) The quickest way to get an investment up and running is to identify an existing factory shell in an area zoned for the particular industry and either purchase it or rent it. This process can take between two to twelve weeks. Tex Industries located a factory shell and had it converted for garment manufacturing. This process took 10 weeks which was six weeks longer than anticipated.. This entailed:-

- The building of ablutions to cope with 300 staff.
- The building of a Generator room
- The conversion of their offices.
- The upgrading of the electrical supply to cope with the increased demand.
- Changes required to comply with the Bonded Factories Legislation.
- Cost incurred during this stage were:- legal = MK18,000; Rent = MK1.08 per Square foot. (This cost ranges from MK1.00 to MK3.00 per square foot depending on location. Utilities = MK 28 000.00 to upgrade switchboard to ESCOM requirements. ESCOM connection MK12,500 for the supply of 70 Kw.

The biggest problem was with the utilities. It took the entire 10 weeks for ESCOM to upgrade the power facility. This was considered by the investor to be the biggest barrier to him wishing to invest more in the future. The factory is still without telephones 12 weeks after initial processes. The application for the phone was made at the very initial stages of the investment.

It is hoped that with the recent advent of MIPA these non legislated barriers can be overcome.

This Tex option where a factory shell is available for lease is limited as there are few

facilities available to lease or to purchase

b) Where the Investor has to build his own facilities the following procedure applies. A free hold or 99 year lease hold site must be located.

- ▶ Lease hold properties are usually difficult to negotiate and will take time. Coupled with this is the fact that few lease hold properties are serviced by Utilities. The whole process could take up to one year. In the case of an investment by a foreign transporter the whole process has taken nearly three years. The company had to rent unsuitable premises in the short term. If this had been an industry dependant on the physical infrastructure of a factory site the investor would have taken his investment elsewhere.
- ▶ Freehold sites are usually better serviced and eliminate the long drawn out procedure of obtaining public land. The process of transfer of land and acceptance of building plans however can still be a very lengthy process. It can take up to six months. Again it is hoped that MIPA will alleviate these problem. .
- ▶ Further to this once the land is acquired it will take time to have factory plans drawn up and accepted. This process takes between two to three months. However in many cases this process can be run concurrently with the acquisition of the site.

It is hoped that with the enactment of the Export Processing Zone sufficient incentives will be given to developers so as to attract development of more industrial sites.

3.2 Utilities

It is advisable that applications for utilities be made right at the outset of the investment. Utility delays have been the single biggest aggravation factor for new investors and have led to long and costly delays. The laws, regulations and management of these services need to be overhauled and streamlined if they are not to act as a major disincentive to invest in Malawi. MIPA is very aware of this problem and is putting together a package of changes that will help to rectify the problem. This is considered to be a medium term objective.

3.3 Customs, Income Tax and Licences

Customs:-

If the Investment is for export purposes only, then a bonded factory needs to be applied for. This should be done in the initial stages of the investment so that all inputs required for the investment may have a duty free status. It will also allow for the statutory requirements of the bonded factories legislation to be fulfilled during the construction.

Tex Industries had their bonded factory approval officially granted within two weeks. However approval in principle was granted in 48 hours.

Bond fee = MK500.00

Income Tax:-

The firm must register with the department of Income Tax prior to the commencement of operations.

Business licences:-

Business licences are only necessary in a few areas where the Government has drawn up a short negative list and should therefore, be applied for before commencement of business.

NOTE:- Investments, whether cross border or national are subject to the same conditions, except in the area of repatriation of dividends. The Investment must be foreign-owned to be able to remit dividends, loan capital and management fees.

The Investment Act states reference to the above. Investors, both domestic and foreign, may invest in any sector of the economy, with no restriction on ownership, Further there are no restrictions on the size of the investment, the source of the funds or whether products are destined for export or for the domestic market. Domestic investors are encouraged to join with foreign investors to pursue investment opportunities in Malawi.

There are therefore no barriers for PTA member countries to invest in Malawi. In fact such investment would be actively welcomed by Malawi.

3.4 Changes in the Investment Climate

Further to the TWG's paper of 1992 considerable progress has been made towards further liberalising the investment climate and to removing those barriers identified during the second stage of the initiative.

MIPA was officially opened in September 1993 and has made good progress in the general marketing of itself. As was highlighted in the previous TWG paper, MIPA was only in secretariat form and both it and the Investment Act had no teeth. In fact, very little was known about either the Act or MIPA. However in the two short months that MIPA has been fully operational it has marketed itself well.

MIPA's present strengths and weaknesses are as follows:-

Weaknesses:-

- ❑ MIPA, although falling under the office of the President and Cabinet, does not have overriding decision making capabilities of the senior ministry. Although it is a one stop window for investment it does not have the abilities to make on the spot

decisions. With an incoming investment it must get clearance from:

- ▶ The Reserve Bank of Malawi
- ▶ Customs and Excise
- ▶ Registrar of companies.
- ▶ Department of Lands and Valuation.

Each of these departments are governed by their own Act and procedures that may and do contradict what MIPA considers to be of prime importance for Malawi. Their goals are bound to be different because they are serving different purposes. MIPA therefore should be given the tools and the backing to make the appropriate decisions as to what will comprise a suitable cross-border investment and what will not.

- ❑ The actual Investment Act needs to be broader and better defined. At present the Act and MIPA are given under Part II section 3 a paramount rating over other business in government. This needs more definition and clarification both to the other ministries and to the potential investors.
- ❑ The other ministries in Government do not know enough about either MIPA and /or the Investment Act to make a balanced investment decision. Their needs to be a general information transfer and reordering of the status quo with those ministries and organisations directly effected by the Act.

Strengths:-

- ❑ The management of MIPA is well organised and of a very high calibre
- ❑ They are presently engaged in a marketing campaign internationally, nationally and regionally. MIPA is creating very good ties with other government ministries and is informing them of its activities without alienating them.
- ❑ It has a sophisticated information gathering and data base.
- ❑ They are actively involved in identifying weaknesses in themselves and in the Investment Act in order to increase their efficiency and that of the Act.

MIPA has designed an action plan for its growth and activities.

MIPA has also been instrumental, together with other organisations in Malawi for the setting up of the provisions for an Export Processing Industries Act. This is still in its draft form. A very positive workshop was held in Mangoche on the 18 and 19 November to

discuss this act. Some of the members of the TWG were present.

3.5 Malawi's Progress on the CPA.

3.5.1 The domestic regulatory environment

Malawi has made substantial progress in the last 18 months. The whole investment process has been made much simpler:

- There is a one stop investment window in MIPA.
- The Investment Act has been gazetted and is working well.
- Bonded factories have been gazetted and are operating
- An Act for export processing Zones is on the drawing board with the implementation target date of 1 March 1994.
- MIPA wants to set a statute of limitation for the period of time taken for the approval of an investment application at 30 days. If not approved then an acknowledgement of the receipt of the application will be given and the reasons for the delay fully stated.

3.5.2 PTA MIE Charter

This charter has been ratified by Malawi. There are no preferences on the sources of investment. The investment climate in Malawi now has few statutory barriers and shows no preferences to the country of origin of the investment capital.

- There are no equity restrictions in Malawi.
- No minimum investment requirements.
- Approval procedures conform to the charter requirements.

3.5.3 Malawi's Progress in Facilitating Cross Border Investment

- Malawi has published details of its investment code, incentives and regulations.
- It is a member of MIGA.
- It has not entered into and does not have any short term itinerary to negotiate double taxation agreements within PTA. Malawi's situation therefore remains unchanged.

- ❑ While Malawi's currency is above market rates it would not be a viable option for it to contemplate a stock exchange.

3.5.4 Development of New Mechanisms for Provision of Investment Capital

There has been no progress in either the private or the government sectors to provide investment capital specifically for cross border activities.

3.5.5 Movement of Persons

The protocol which will eventually allow for the elimination of visas in the PTA region is still a sensitive area and is subject to the fear of indigenous employment being effected. There is however positive discussion on this regional protocol. Where the movement of persons is directly related to cross border investment there would be no problems under the policies that already exist. MIPA will be involved in the employment permit process but will not give a mandatory four weeks' commitment. Employment permits for new investment can usually be processed in four weeks anyway. There has been no change of status since December 1992. All inhabitants of border areas in Malawi have a 24 hour permit/pass system

3.5.6 Other Comments

The following problems will have to be addressed in the medium to long term:

- ❑ There is a severe shortage of land, serviced sites and factory space in the zoned Industrial areas. There is only one proposed project to rectify this situation and that is Maone Park Industrial Estate Development Project in Limbe.
- ❑ There is no ready framework within Malawi that encourages industrial development. The process of obtaining land for development is so cumbersome as to be a major deterrent to potential investment. This process seldom takes less than six months and can take as long as 18 to 24 months.

We recommend that the TWG in conjunction with MIPA, donors and the relevant ministries attempt to reform these policies in 1994 in line with both the regional initiative and the new national initiative to attract foreign investment.

4.0 TRADE

4.1 Import liberalisation

Malawi has one of the most liberal import regimes in the PTA region. Less than 1.5 per cent of Malawian imports need an import approval. The impediments to liberalised trade at present are not a statutory problem but can be directly attributed to economic and political problems. The result has been a severe shortage of foreign exchange. Even though the approvals to import are easily obtained it is now difficult to procure payment and/or establish cross border lines of credit. This has affected Malawi's volumes of imports both in the regional and international scenarios.

Malawi signed the PTA protocol which would allow for tariff reductions on products that have a minimum of 40 per cent local value added content at the PTA Ministers meeting in January 1993. The deadline for the first reduction of tariffs by 1996 on a reciprocal basis will be adhered to.

4.2 Export Liberalisation

There has been no change since December 1992. The main area of restrictions are still in the area of unprocessed foods. This situation is still subject to Malawi's food security worries.

4.3 Business and Leisure Travel

Leisure allowance has been set at MK 400 per year. Special application to the Reserve Bank is required for all amounts in excess to of MK400.

Business allowance has been set at a maximum of MK2,000 provided the business trip is six days or more. All extra requirements must be approved by the Reserve Bank. Provided that there is a reason to travel for business and the foreign exchange requirements are considered reasonable the approval is usually granted without question.

4.4 Comment on CPA "Facilitate Intra-regional Trade"

- PTA harmonised transit charges have been adopted. These have been designated in US dollars not in UAPTA.
- PTA yellow card system has been implemented.
- No single goods declaration document has been developed yet.
- ASYUDA has not been adopted but is still under consideration.
- Malawi adopted the harmonised system of tariff classification in 1988.
- It has also contracted partly to the GATT valuation code and the Nomenclature convention. There have been no new developments in 1993.

4.5 Improvement of Regional Transport

- Malawi's air line tickets can still only be purchased by a non resident in a hard and convertible currency. There are no plans in the short term to change this.
- The fifth Freedom Traffic right has not been implemented in Malawi.
- Airline tickets of other PTA countries cannot be automatically endorsed to other airlines except on a reciprocal arrangement by prior agreements.
- The TWG will undertake to further analyse the transport problems as it was unable to fully investigate this sector.

4.6 Trade Financing Facilities

Pre-shipment financing is available in Malawi through Fincom in the form of trade financing. This credit is extended for 90 to 180 days at a cost of between 7 and 15 per cent plus interest. External pre-shipment financing is also offered by offshore confirming houses at similar rates. This form of financing has been severely curtailed by the foreign exchange shortages and the increased perceived political risk in Malawi. The Malawi banks do not offer any open account facilities without adequate security. Traditional banking facilities cannot be readily defined under pre and post shipment financing.

Post-shipment financing can only be financed through the existing banking mechanisms. Factoring and confidential invoice discounting will be introduced in 1994 and this will allow for the discounting of future earnings at market related rates.

4.7 Trade Development Activities

It has been suggested that the Malawi Export Promotion Council be combined with MIPA to improve trade development activities. This strengthened body would then cover the whole range of investment and trade activities in one co-ordinated body.

4.8 Intra-regional Trade and Investment Flows

Malawi has increased its exports through a bilateral trade agreement with South Africa whereby, 25 per cent value added Malawian products will have duty free access to the South African market. This has generated roughly MK10 Million worth of exports in the past two financial years. Judged in the light of these figures and on some ad-hoc interviews with the private sector, the TWG firmly believes that as the cross border initiative takes hold there will be increased regional trade flows with Malawi.

No new PTA trade figures have been made available in 1993.

Recent regional investment has been minimal in Malawi owing mainly to the foreign exchange crises and the potentially unstable political scenario. However the majority of investment has been South African, which is driven by the advantages of the bilateral trade agreement. This agreement favours those sectors which attract high import duties in South Africa and where the sector is sufficiently enough developed to provide a base for value added manufacturing. The main sector invested in has been in the textile industries. There has been a limited interest from Zimbabwe, an example of which is the new NO. 1 Stores, which is a joint venture between Press Corporation and Truworths of Zimbabwe. There has been a recent joint venture between a trading house in Malawi and a manufacturer of batteries for both motor vehicles and electrical appliances from Tanzania. This is the only known joint venture outside of South Africa and Zimbabwe. The PTA agreement to reduce tariffs, will we believe, have an effect on trade and investment provided that the value added content to qualify the product as a Malawian product is reduced to 25 per cent. Malawi with its infrastructural constraints and small industrial sector will not be easily competitive with the likes of Kenya, Mauritius and Zimbabwe.

There has been literally no outward investment from Malawi in the last two years. The present shortages of foreign exchange make the outward movement of Malawian investment capital very restrictive indeed. This is an area that MIPA will have to address when it has fully established its inward investment policies.

5.0 INSTITUTIONAL MEASURES

5.1 National Institutions

The establishment of MIPA and the overhauling of The Chamber of Commerce has greatly improved the environment to achieve the goals of this initiative. Both organisations have competent and aggressive management and are adequately funded and geared to promote trade, investment and cross border financing. Both these organisations have offered their full backing for the national TWG. It has been proposed that the TWG will be co-chaired by the Ministry of Finance and MIPA in 1994.

5.2 Technical Working Group

The restructured TWG will be strategically well placed in 1994 to continue its work in facilitating this initiative on regional integration. It will have both a lateral lobby through government departments and the institutional bodies and a vertical lobby through its advisory capacity to the PIC. The private sector representation will give the TWG balance and will continue to strengthen its role in relation to regional integration. The TWG is regularly in contact with institutions and ministries through either its members or by an appointed TWG member to keep itself abreast of all developments which will help to

implement and make a success of this initiative. The TWG also keeps informed of studies that are complimentary to its objectives so as to avoid duplication of work and to assist in these studies were possible.

6.0 EXPORT PROCESSING ZONE

Members of the TWG are involved together with MIPA in the formulation of policy and in general research on the establishment of an EPZ in Malawi. Such a zone may be considered to be beneficial to the regional initiative especially when the tariffs are abolished in regional trade.

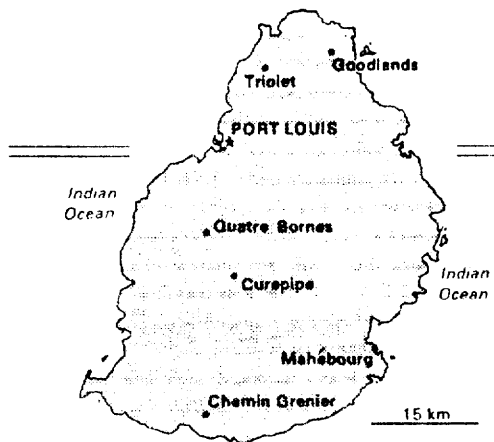
7.0 MALAWIAN LEGAL FRAMEWORK

A full study of the laws of Malawi and the required changes would we believe have been too exhaustive for the TWG given the professional expertise available in the group. A list of acts has been identified that have an impact on the cross border initiative.

The TWG wish put forward a proposal that funds be made available for professional lawyers to work with the TWG and/or MIPA to review and update these acts.

- African Immigration and Immigration Act
- Apprenticeship Act
- Bankruptcy Act
- Banking Act
- Business Licensing Act
- Capital Development Act
- Capital Markets Act
- Companies Act
- Control of Goods Act

- Customs and Excise Act
- Electricity Act
- Employment Act
- Employment of Women, Young Persons and Children's Act.
- Exchange Control Act
- Export Incentives Act
- Factories Act
- Fair Practices Act
- Forfeiture Act
- Immigration Act
- Industrial Development Act
- Industrial Training Act
- Investment Promotion Act
- Labour Legislation (Miscellaneous Provisions) Act
- Land Act
- Land Surveys Act
- Malawi Bureau of Standards Act
- Regulation of Minimum Wages and Conditions of Employment Act
- Taxation Act
- Town and Country Planning Act
- Trade Disputes (Arbitration and settlement) Act
- Trade Union Act
- Trust Incorporation Act.
- Workers Compensation Act



Mauritius

1.0 INTRODUCTION AND OBJECTIVE

The Cross Border Initiative (CBI) within the countries of Eastern and Southern Africa and the Indian Ocean, which aims in the long run for the establishment of a Common Market, proposes the introduction of measures for the increased flow of trade, investment and payments among these countries. This initiative, which was launched in June 1992, by the four sponsoring agencies, the Commission of European Communities, the World Bank, the African Development Bank and the International Monetary Fund gathered 16 participating countries from the region. It had the support of regional and pan-African organisations, the Preferential Trade Area, the Indian Ocean Commission, the Southern African Development Community, the Organisation for African Unity and the Economic Commission for Africa. It also had the financial support of the Canadian, US and Swiss governments for a number of preparatory activities.

The approach adopted by the CBI was to establish in each participating country a Technical Working Group (TWG) consisting of representatives from both the public and the private sector, assisted in their tasks by local consultants. Each TWG produced for its country a first report on the obstacles and constraints to increased trade, investment and payments as experienced by the economic operators of its country, as well as practical solutions to the problems. The reports were discussed at a TWG workshop held in Harare at the end of November 1992.

A Common Programme of Action (CPA) for economic integration in Eastern and Southern Africa and the Indian Ocean was proposed at this workshop for submission to governments of participating countries. Besides covering a range of measures to reduce barriers to intra-regional trade, investment and payments, the CPA included measures to improve import and export regulations, investment and exchange regulations, facilities for trade financing and commercial banking systems. Thirteen governments, including the Government of Mauritius, approved the CPA and agreed to its implementation in their country. A second stage of the CBI was then launched among participating countries. TWGs were required to gather national consensus on the CPA measures and to conduct a study on the preparation of the implementation of the CPA measures. Constraints, if any, were to be identified and recommendations were to be made. These are covered in Sections

3, 4 and 5 of our present report.

At the Ministerial meeting held in Kampala in August 1993, the Government of Mauritius endorsed the general approach of the Concept Paper which outlined the framework for the measures to be implemented by the participating countries and donor support for the implementation of the programme. The Government of Mauritius is committed to the Cross Border Initiative which aims to facilitate cross-border trade, investment and payments.

The Mauritius TWG, as requested by the Terms of Reference, carried out its assignment in two phases aiming at raising consensus around the proposals of the CPA and at preparing for the implementation of the initiative:

Phase 1: Immediate specific tasks

The report for this phase was submitted in June 1993. Further details are submitted later in this report.

Phase 2: Medium-term tasks

The recommendations of the TWG are given in Section 4.

2.0 APPROACH

After consultation with Imani Development, it was agreed that the approach of the Mauritius TWG would be as follows:

Phase 1: Undertaking the immediate specific tasks

This phase would consist of:

- Soliciting the Government's response on its willingness to implement the CPA.
- Maintaining the momentum of the initiative and building up a consensus around the CPA
- Interpreting the measures into national actions.
- Organising a workshop to disseminate information on the CBI.

Phase 2: Undertaking the medium-term tasks

This phase would consist of two tasks accomplished in parallel:

- ❑ Undertake specific activities aiming at preparing the national implementation of the CPA. The activities included:
 - a) any further research deemed necessary for actions to be carried out in the implementation phase
 - b) the review of measures, recommended by the CPA, that are already being undertaken and the identification of any complementary action which may be necessary
 - c) the collection of data on the likely needs, in terms of human resources, financial resources and access to information, of national and regional institutions for the implementation of parts of the CPA.
 - d) meeting with institutions and/or ministries which may have a key role to play in the initiative; advocating the proposals of the CPA.
- ❑ Elaborate projects which would, on the basis of reciprocity, benefit regional countries when implemented and which would be submitted to donor agencies for funding. These projects would concern each of the four areas of investment, trade, services and institutions and would aim at getting the regional integration initiative off the ground.

3.0 PHASE 1: IMMEDIATE TASKS UNDERTAKEN

3.1 Maintaining Momentum of the Initiative and Building Consensus Around The CPA.

The Mauritius Offshore Business Activities Authority (MOBAA) took the initiative to organise a Technical Meeting on improving the financial framework for regional integration in the overall context of the cross border initiative from 10 to 11 June 1993 in Mauritius. Participants to the workshop were:

- ❑ Representatives from donor agencies and international development finance institutions: the CEC, IMF, World Bank, ITC and the Commonwealth Development Corporation.

- ❑ Representatives from commercial banks operating in the region.
- ❑ Representatives from regional development banks: PTA Bank, PTA Clearing House, Development Bank of Southern Africa.

The workshop successfully produced a list of proposals which was included in the Concept Paper at the Senior Officials Meeting held in Brussels on 24 June 1993.

The TWG ran a half-day information session in the context of the 'Seminar on Industrialisation in Mauritius' organised by the Ministry of Industry and Industrial Technology, the Ministry of Economic Planning and Development and the National Economic Development Council in collaboration with the CEC, from 16 to 19 August 1993. The session entitled 'Industrial Development - Regional Integration' aimed at disseminating information on the Cross Border initiative among the decision-makers and leaders of the private and public sectors. Around 50 persons attended the workshop whose lead speaker was Richard Hess from Imani Development. A pamphlet giving information on the CBI and the main elements of the CPA was produced and distributed at the workshop.

The pamphlet was also distributed at the seminar on the Preferential Trade Area organised by the Mauritius Export Development and Investment Authority and held from 23 to 25 August 1993. The seminar which had as guest speakers, the Secretary General of the PTA, the Executive Secretary of the PTA Clearing House, and officers from the PTA Bank and the PTA TINET, was attended by close to 200 participants from the private sector.

It is envisaged to mount a one-hour documentary on regional integration in the context of the economic programmes broadcast by the Mauritius Broadcasting Corporation. The aim would be the sensitisation of a much wider general audience.

3.2 Interpretation Of CPA Measures Into National Actions

3.2.1 Laws and regulations

The list of laws and regulations which need to be amended in order to enable the implementation of the CPA has been worked on and is given in Appendix II. Specific amendments to be made to the legislation would have to be worked on as a separate study. In the meanwhile, the report of the study on the harmonisation of trade and investment laws in PTA countries, conducted for the PTA, could be consulted.

3.2.2 Order of magnitude of intra-regional trade and investment flows

3.2.2.1 Trade

The main countries of the Indian Ocean Commission (IOC) with which Mauritius trades are Madagascar and Réunion. These three countries together represent more than 90 per

cent of the total sub-regional trade of some USD165 million. Mauritius is the biggest exporter in the sub-region, accounting for 45.5 per cent of sub-regional exports in 1991 while Madagascar accounted for 37.2 per cent, Réunion for less than 15 per cent and Seychelles for slightly higher than 15 per cent. Mauritius is the second importer in the sub-region with imports constituting 26.1 per cent of total sub-regional imports in 1991, while those of Réunion constituted 65.3 per cent, Seychelles 5.8 per cent and Madagascar 2.9 per cent.

The Programme Régional Intégré du Développement des Echanges (PRIDE) which is a five-year programme currently being elaborated to develop trade and promote industrial co-operation within the five countries of the IOC, will aim to double regional trade over the five years' duration of the programme through the improvement of production and export know-how. Thus, regional trade is expected to increase from 2.5 per cent of the total trade of all member countries to 5 per cent over that period. The successful implementation of this programme, coupled with the development of the export processing zone of Madagascar which is striving to attract foreign investors and to enhance its natural resources, will enable Mauritius to increase its trade within the sub-region. Consequently, Mauritius which exported USD37.7 million in the sub-region in 1992, i.e. 3.09 per cent of its total exports, could export around 5 per cent of its total exports at the end of the five-year period and could increase its imports to the region from 0.96 per cent (USD15.8 million) in 1992 to 3 per cent of total imports over the same period.

Trade with PTA countries could be expected to increase as well as a result of the aggressive marketing being carried out by our trade development institutions on the PTA market, together with the increasing sensitisation of Mauritian businessmen on the trade potential of PTA countries and the mechanisms made available by PTA institutions such as the PTA Clearing House. The Mauritius Export Development and Investment Authority (MEDIA) has enabled, over the recent years, the participation of various exporters in several trade fairs held in African PTA countries and has organised contact promotion missions in selected countries after positive results from market surveys. These have resulted in positive contacts between Mauritian suppliers and African buyers who are now aware of the quality and range of our products. As Mauritian businessmen are encouraged to conduct marketing trips and as other PTA countries move towards increased liberalisation of trade (lifting of import/export licences, removal of price controls, liberalisation of exchange rates, etc.), it is expected that Mauritius which exported 0.73 per cent (USD8.9 million) of its total exports in 1992 to PTA countries, could increase this figure to 2 per cent.

Similarly, as other PTA countries improve their technical know-how in the processing and packaging of agricultural and sea products which constitute the main imports of Mauritius from PTA countries, besides petroleum oils and portland cement, it is expected that our 1992 sub-regional import figure of 1.87 per cent (USD30.7 million) of total imports could grow up to 3 per cent.

3.2.2.2 Inward investment

Foreign investment in the Export Processing Zone which is the sector that has so far

attracted a considerable share of foreign investment, has definitely slowed down over the three last years due mainly to the shortage of labour in Mauritius. This scarcity of labour has prompted several foreign investors and a number of Mauritian manufacturers to relocate in Madagascar, a labour-surplus country. In 1992, only one country of the region, Zimbabwe, invested in the EPZ (USD18,000). Réunion invested USD300,000 in the hotel sector and USD30,000 in other activities while South Africa invested USD200,000 in other activities as well (i.e. non-EPZ, non-ESZ and non-hotel).

The Government has taken steps to develop other activities for which Mauritius has a competitive advantage, namely its high literacy rate, bilingualism, relatively well developed financial services and infrastructure. Mauritius has thus emerged as an international offshore services centre in recent years. At the beginning of August 1993, 245 companies (out of which 12 were Mauritian) had been established to carry out offshore activities in sectors such as banking, insurance, fund management, trading, international consultancy services, data processing and other information-technology services.

Because of the exchange control existing in several of the countries of the region, companies from these countries could be interested by the offshore sector. It has not been possible to obtain investment figures on the offshore sector since such information is not accessible to the public.

Another sector which could attract inward investment from the region is the freeport services. The strategic location of Mauritius in the Indian Ocean, its long trading tradition and its good infrastructure have brought the Government to develop the country as a regional warehousing and distribution centre. This sector, integrated with the offshore sector, will be attractive to those in the trade between Eastern and Southern African countries and primarily Asian countries and will make increasing use of the PTA Clearing House.

3.2.2.3 Outward investment

Investment from Mauritius to Madagascar, the most likely country in the region which can attract investment at this stage because of its cheap and abundant labour and its new outward-oriented policies, amounted to USD318,900 in 1991 (1992 figures unavailable). If the local business community were encouraged to be more outward looking because of the existing situation in Mauritius (less investment opportunities in the EPZ, limited local market), and if the infrastructure in Madagascar were more developed and industrial buildings more readily available, it is expected that this figure could exceed USD637,000.

3.3 Costs to be incurred to obtain relevant permits and clearances

- Permission to invest: No processing fee.
- Permission to transfer shares: No processing fee.
- Work permit for expatriate (issued for three years): Processing fee of Rs200.

- Fee for work permit for employment in:
 - Any manufacturing industry for the domestic market or the Export Processing Zone: Rs1,000 per year (1st to 5th yr.) Rs10,000 per yr. (6th year and thereafter)
 - In any hotel or restaurant: Rs1,000 per yr. (1st to 5th yr.) Rs10,000 per year (6th yr. and thereafter)
 - By any construction firm or contractor who has been awarded a contract by the National Housing Development Co Ltd for the construction of housing units for the lower income group: Rs 1,000 per year (1st to 3rd year), Rs 10,000 per year (4th and 5th years), Rs 15,000 per year (6th year and thereafter)
 - Residence permit for expatriate: No processing fee. A bank guarantee or a cash deposit equivalent to the cost of the expatriate's return ticket is required from the company.
 - Other clearances required before starting operations: No processing fee.
 - Formation of company: Notary's fees for any deed of partnership, memorandum of association or articles of association of a company are given hereunder. A table detailing other costs for the formation of a company, including notary's fees, is given in Appendix II. Notary's fees for any deed of partnership, memorandum of association or articles of association of a company:

1 per cent on the first Rs50,000 of the share capital

3/4 per cent on the next Rs450,000

_ per cent on the next Rs500,000

_ per cent on the next Rs9,000,000

0.15 per cent on the next Rs10,000,000

0.05 per cent on the remainder.

(USD= Rs18)

As can be seen from information above, forming a company and having all the necessary permits and clearances prior to operating is not costly. Costs are mostly in terms of the time taken to obtain the permits and clearances. Suggestions have been made in the next part of the report on ways to shorten approval periods.

4.0 PHASE 2: MEDIUM TERM TASKS UNDERTAKEN

4.1 Trade Measures

4.1.1 Liberalise imports

4.1.1.1 Imports from participating countries would be exempt from import licensing, foreign exchange allocation and similar restrictions. Appropriate administrative and legal arrangements would be made to implement the necessary liberalisation on the basis of common concessions amongst participating countries. There would be a short negative list based on reasons of security and health. (NGs-ST)

No import licence is required and an import permit is required only in the case of a few controlled goods.

4.1.1.2 All participating countries would catch up with and strictly adhere to the timetable for agreed regional tariff reductions. The PTA Common List concept would be abolished, thereby allowing all goods which are produced in the region and which conform to the rules of origin criteria to receive preferential treatment. The rules of origin criteria would be further revised to reduce the required value added or regional content. Account shall be taken of the outcome of the studies and work currently being undertaken by the PTA Secretariat on this subject. (NGs/ROs-ST)

Mauritius is prepared to eliminate regional tariffs by 1996 on a reciprocal basis. It has, so far, adhered to the PTA timetable for tariffs reductions. A further 30 per cent reduction in tariffs will be implemented by the end of October 1994, as per the PTA timetable, thus bringing total tariffs reduction to 60 per cent.

As regards IOC countries, the PRIDE consultant who had a meeting with the TWG to inform members on the programme, will recommend that the four IOC members Comores, Madagascar, Mauritius and Seychelles two of which are already PTA members as well and two of which will soon become members, implement the proposed tariff measures of the CPA, or to eliminate regional tariffs according to the PTA timetable.

The Ministry of Trade and Shipping is awaiting the recommendations of the study carried out by the PTA Secretariat on the streamlining of the rules of origin.

4.1.2 Liberalise exports

4.1.2.1 Exports to participating countries (excluding transit goods) would be exempt from export licensing requirements, except for a short negative list. (NGs-ST)

No export licence is required. Export permits are necessary only in the case of a few controlled goods.

4.1.3 Liberalise payment of services

4.1.3.1 Payment for services, including but not restricted to financial (bank and non-bank financial intermediaries), insurance, transport (passenger and freight), consultancy and tourism, acquired in participating countries would be similarly liberalised. Specific exceptions could be agreed upon. (NGs-MT)

There are no particular procedures for the payment of services exported by Mauritians. In the case of payments for imported services, formalities are straightforward as long as they are current account transactions which have now been liberalised. A tax clearance certificate has to be obtained from tax authorities by the supplier of services before fees can be transferred. Should payment for certain services be considered as capital account transactions, a capital transfer tax of 5 per cent must then be paid.

4.1.3.2 Participating countries would liberalise access to foreign exchange for business and leisure travel within the region. The use of UAPTA travellers cheques should be encouraged. (NGs-ST)

Mauritians are allowed an amount of up to Rs100,000 (USD5,700) in convertible foreign currency, without exchange control permission, for any external travel. Permission from the Bank of Mauritius is required for any amount higher than this. Mauritians, therefore, do not need to use UAPTA travellers cheques.

4.1.4 Facilitate Intra-Regional Trade

4.1.4.1 The PTA harmonised transit charges would be implemented and all other similar charges abolished. A coupon system in UAPTA for payment of these charges would be developed and implemented. (NGs/PTA-ST)

4.1.4.2 The PTA Yellow Card system would be implemented and a quicker system developed for settlement of claims. (NGs-ST)

4.1.4.3 The PTA RCTD would replace all other documents of a similar nature. A system for introduction of a single Goods Declaration Document, covering export, import and transit traffic would be developed and implemented. A Regional Bond Guarantee Scheme would also be implemented. (NGs/PTA-S/MT)

The above three proposed measures are not applicable to Mauritius.

4.1.4.4 The ASYCUDA or a compatible system for customs data processing would be introduced. (NGs-ST)

4.1.4.5 The Harmonised System of tariff classification convention would be acceded to and its provisions introduced. (NGs-MT)

Mauritius has implemented the ASYCUDA since 1989 and the Harmonised System of tariff classification since 1988.

4.1.5 Improve standardisation procedures

4.1.5.1 All national standards would be developed in harmony with ISO/ARSO standards. Existing national standards bureaux and testing facilities would be strengthened. These facilities would be offered to those countries without adequate facilities. (NGs/ROs-MT)

The Mauritius Standards Bureau introduced in 1992, the ISO 9000 standard (which is not compulsory) and a National Laboratory Accreditation System which enables the certification of products made according to European standard.

The PRIDE will be making recommendations on a standardisation project to be implemented amongst the IOC countries. This project, which will require funding, will aim at providing appropriate basic facilities (laboratories, metrology equipment, trained staff and documentation) to standards bureaux of IOC countries, and at having pilot companies implement norms regarding products in which their countries are regional leaders and identified as having an important export potential both within and outside the IOC region.

The African Regional Standardisation Organisation (ARSO) has developed several standardisation projects which need funding to be implemented. Four of the projects could be considered for funding after a proper focus of their objectives:

- Elaboration of norms.
- ARSO Certification System (ARSO CERT).
- ARSO Network of Testing, Metrology and Instrumentation Centres (ARSO TMICNET).
- Training and information distribution.
- * Elaboration of norms

ARSO should adopt international norms that have already been defined by Western countries regarding goods produced both by Western countries and African countries. But in addition, ARSO should elaborate norms for the various typical goods which are produced and consumed primarily in Africa and for which no norms have been developed yet. The introduction of norms for such products would definitely encourage the production of goods of consistent quality and therefore their exports.

- * ARSO Certification System (ARSO CERT)

This project aims at providing a regional certification system for goods produced under the African Regional Standards issued by ARSO. It enables national standards bureaux

accredited by ARSO to grant the ARSO mark to products that are of standards defined by ARSO. Regular checks on the standards bureaux by ARSO ensure, in turn, that the formers are up to standard. The standards bureaux benefit from training and technical assistance programmes run by ARSO.

* ARSO TMICNET

This is a network of national TMIC centres of member states which have been accredited by ARSO. The centres benefit from programmes of comparison of national measurement standards of member states, of calibration of these national measurement standards, of training in the field of testing, metrology and instrumentation, and of technical assistance and information transfer.

The laboratories of accredited bureaux are given the resources to perform product tests and to specialise in the testing of a specific range of products. Specialisation enables laboratories to get updated more easily to keep up with technological changes.

* Training and Information Distribution

This project allows the sharing of international consultants among the member states. An on-line database is also available to members.

4.1.6 Improve Regional Transport

4.1.6.1 Participating countries would ensure that air tickets issued by regional airlines could be purchased in national currencies. (NGs-ST).

All air tickets purchased in Mauritius are paid in local currency .

4.1.6.2 The Fifth Freedom Traffic Right would be implemented in all participating countries, allowing national airlines to carry passengers between intermediate locations. (NGs/ROs-MT).

Mauritius has exchanged traffic rights with a number of countries within and outside the region to operate under the Fifth Freedom Traffic Right and has had its national airline negotiate commercial agreements (i.e. the number of flights it can operate and the number of passengers it can transport) with the countries' national airlines. Should there be a demand for flights on specific regional routes, it would be prepared to discuss with the relevant authorities.

4.1.6.3 National airlines would improve the harmonisation of their flight schedules building on regional initiatives. (NGs/ROs-ST)

The treaty establishing the Common Market for Eastern and Southern Africa has as an objective the promotion of better and efficient air transport through the co-ordination of the flight schedules of their designated airlines and the establishment of joint ventures for air

services by their designated airlines on intercontinental routes. Air Mauritius is negotiating a commercial agreement with Air Austral, Réunion which includes the harmonisation of the two airlines' flight schedules.

4.1.6.4 Airlines of participating countries would agree that their tickets could be automatically endorsed to carriers of other participating airlines. These measures will be implemented in consultation with AFRAA. (NGs/ROs-ST)

Endorsing its tickets, but after prior agreement, to carriers of other airlines is common practice at Air Mauritius. Automatic endorsement would be difficult since very often tickets are sold as part of specific packages and are not transferable.

4.1.6.5 In the short- to medium-term the objective is to establish a common maritime and inland-waters policy and to create or strengthen economically and financially viable shipping companies through regional co-operation.

The PTA Secretariat is currently undertaking a study for the setting up of a shipping company which will service the region. In the event that the study concludes that such a company would be viable, the project should be implemented jointly by the regional organisations without delay, with assistance from donor organisations.

In the meantime, considering the fact that the volume of trade in the region is low and that traders have to use existing shipping services, the chambers of commerce and industry of the region should continue to disseminate updated information on shipping routes and related services offered by shipping companies.

4.1.7 Improve Trade Finance Facilities

4.1.7.1 Governments of participating countries would work together with commercial banks and regional financial institutions to develop appropriate mechanisms to improve pre- and post-shipment export credit financing. (NGs/PS-MT)

Mauritius will invest in the African Export Import Bank (Afreximbank) which has, as its main objective, the financing of African trade (intra-African and with the rest of the world) through, amongst several activities, the provision of short-term export trade financing, particularly pre-shipment and post-shipment export finance to enhance the competitiveness of exporters, the provision of export credit guarantee and insurance facilities to serve as alternative to banks' requirements of collateral assets, and the provision of import finance for the procurement of inputs thus improving the inadequate availability of suppliers' credits.

The Ministry of Finance of Mauritius has also commissioned a pre-study for the setting up of an export guarantee and insurance scheme at the local level. It is expected that the report will be submitted at the end of the year.

4.1.7.2 In order to offer comparable credit terms with many exporting countries outside the region, monetary authorities of participating countries would allow at least 180 days' credit on exports to the region. (NGs-ST)

This proposal could be included in the terms of reference of the study to be carried out eventually for the setting up of a local export guarantee and insurance scheme.

4.1.8 Initiate Trade Development Activities

4.1.8.1 National trade development organisations in participating countries would organise intra-regional trade development and training activities. (NGs/PS-S/MT)

The Mauritius Export Development and Investment Authority (MEDIA) and the Mauritius Chamber of Commerce and Industry (MCCI) often participate together in trade fairs held in the region. They also work in collaboration with the Ministry of Industry and Industrial Technology and the Ministry of Trade and Shipping to select companies invited to participate in contact promotion missions organised and financed by MEDIA. They commission market surveys covering the region.

In future, it may be more effective for Mauritius to participate in specialised trade fairs rather than general trade fairs. After identifying products which have an interesting potential for export to regional markets, through market surveys, trade fairs for specific products such as the Zimbabwe International Book Fair could be identified and local manufacturers invited to participate in these fairs. Similarly, contact promotion missions involving the manufacturers of only a few products at a time, selected through market surveys for their export potential, should be organised.

MEDIA has recently organised a seminar on the Preferential Trade Area whereby presentations on the workings and objectives of the PTA, the PTA Clearing House, the PTA TINET and the PTA Bank were made by representatives of each institution. Presentations on selected PTA markets and on sea services were also made. Obviously, it will be difficult for MEDIA to invite several guests from abroad each year. A brochure on the PTA and the services offered by the different relevant institutions could be published to disseminate information widely on the PTA, but MEDIA could continue to organise a seminar every year. The next seminar of MEDIA could include a businessman from one of the regional countries who would share his experience as an importer in that country.

The PRIDE consultants will recommend that the IOC trade fairs be continued and that specialised fairs within the IOC be held as well. Financial assistance should be given to participating companies.

As regards training, MEDIA concentrates on the promotion of exports and investment and does not run training courses. The MCCI regularly runs short seminars and workshops of a general nature on Export Marketing, Shipping Documentation, Customs Procedures, and Trade Fairs. It conducted a seminar on foreign trade for participants in the region under

the Trainfortrade Programme organised by UNCTAD/GATT/ITC and has recently been commissioned by the ITC to prepare teaching materials for exporters in the PTA under the same programme.

- 4.1.8.2 A scheme would be established, under which assistance would be given to firms in participating countries to assist them with the costs of developing new regional export markets. This would cover costs of items such as market surveys, prospection visits, inward buyer visits, buyer-seller meetings and trade fair participation. (NGs/PS-ST)

So far, through financial assistance from the EEC under the Lome III Convention, MEDIA has borne the expenses incurred for rent and decoration of the Mauritian national stand at trade fairs, as well as for the forwarding and clearing of goods to be displayed both for trade fairs and contact promotion missions. MEDIA has in addition entirely financed the air fare and granted a per diem to businessmen participating in contact promotion missions. MEDIA has, as said earlier, commissioned market surveys to identify local products having an export potential. These activities have been fruitful because they have permitted traders to make their products known 'on-field' and to have direct contact with each other. They should continue to receive financial assistance from a regional fund to be set up by donor agencies, specifically for these purposes. The fund would enable participating countries to have access to financial assistance for market surveys followed by participation in specialised trade fairs and organisation of contact promotion missions.

4.2 Investment Measures

4.2.1 Domestic Regulatory Environment

- 4.2.1.1 The current investment approval procedures should be substantially simplified by shortening the periods for approval, as well as reducing, rationalising and harmonising existing regulations. The full inventory of current regulatory instruments should be established and specific recommendations made for simplification of current instruments.

A table detailing the different steps of the administrative procedures required for the approval of foreign investments is given in Appendix III. The current average of 38 to 45 days taken to obtain Permission to Invest could be shortened by about a week or two if step 5 could be eliminated since the Solicitor General has already checked on the legal implications of the investment at step 2.

The Industrial Expansion Act 1993 consolidates the various industrial incentive laws into a single reference legislation which provides a legal and institutional framework for sustained industrial and technological advancement.

Appendix I gives a list of laws and regulations which need to be amended to enable implementation of the CPA.

4.2.2 Ratify and implement PTA Charter on Multinational Industrial Enterprises

4.2.2.1 The PTA MIE Charter would be ratified and fully implemented by each participating country. Amendments would be made to national legislation and regulations to conform with the Charter. To overcome the bureaucratic delays in processing investment applications from regional investors, such applications, when conforming to the Charter, would be assumed to be approved, unless rejected, within 45 days. The Charter would be amended:

- to remove the equity restrictions and open it up to any regional firm;
- to remove the minimum investment requirement
- to ensure approval procedures are applied for investments conforming to the Charter requirements. (NGs/PTA-S/MT)

The implications of the MIE Charter are being studied by the ministries concerned. Recommendations are expected shortly.

4.2.3 Facilitate Cross-Border Investment

4.2.3.1 Each participating country would publish details of its investment code, incentives and regulations. (NGs/PS-ST)

As said earlier, the Industrial Expansion Act 1993, harmonises and consolidates the various incentive laws and regulations for the industrial sector. However, clearer criteria as to the activities for which special certificates will be issued should be defined. For example, the Strategic Local Enterprise Scheme stipulates that a certificate will be issued to 'a local industry which manufactures for the local market and which is likely to promote and enhance the economic, industrial and technological development of Mauritius as a whole' without listing the activities which will qualify for such a certificate.

Guidelines and criteria for other sectors of the economy in which foreigners can invest should be clearly determined as well by the ministries concerned.

A regional investment guide could be published to disseminate information on the various investment incentives offered in the countries of the region and the prevailing regulations.

4.2.3.2 Each country would become a member of the Multilateral Investment Guarantee Agency. (NGs- ST)

Mauritius is already a member of this Agency.

4.2.3.3 Double taxation agreements would be entered into between participating countries. (NGs-MT)

Mauritius has signed a double taxation treaty with Zimbabwe in 1992 and is currently reviewing the double taxation treaty existing with South Africa since 1961. Negotiations are under way with Botswana, Madagascar, Mozambique, Namibia, Tanzania, Uganda and Zambia.

4.2.3.4 Stock exchanges in participating countries would be authorised to list and trade in equities from the other regional stock exchanges. (NGs/PS-MT)

The Government is aiming to develop an international stock exchange in Mauritius and is, therefore, studying the possibility of developing cross listings on South African and Eastern African stock exchanges. This could involve listing mutual funds which are established to invest in the emerging economies of the region.

4.2.4 Develop New Mechanisms For Provision Of Investment Capital

4.2.4.1 Governments of participating countries would work with the private sector to facilitate the use of, and where necessary, develop appropriate mechanisms for, the provision of investment capital for facilitating cross-border activities. (NGs/PS/ROs-S/MT)

The Mauritius Fund which is a venture capital fund has been set up to provide Mauritian companies with risk capital in the form of equity and quasi-equity such as convertible loan stock or debt with warrants. The companies aimed at are young or established companies launching projects using technologies new to Mauritius and having a fast growth rate potential. On account of the risky nature of the projects, these companies may not be able to tap traditional sources of finance. The promoters of the fund are principally institutional investors and non-resident companies as well as the African Development Bank and the European Investment Bank. Local investors are the two major banks of the country, insurance companies and the Government which has a minority participation.

The Indian Ocean Offshore Fund is also being set up to attract foreign capital, mainly from the United States, for investment in countries of the Indian Ocean, Eastern and Southern Africa, and India. The promoters of the fund are The State Commercial Bank, the State Bank of India, the ADB and the IFC. It is expected that the fund will be operative in the first quarter of next year.

4.2.5 Improve movement of persons

4.2.5.1 Participating countries would sign, ratify and implement both phases of the PTA Protocol on Relaxation and Gradual Elimination of Visas, so as to remove the need for visas for citizens of participating countries. Arrangements would also be made for automatic approval of applications for residence and employment permits for staff in connection with cross-border investments. (NGs/PTA-ST)

The Government of Mauritius has not ratified this Protocol yet. However, Mauritius grants visas, residence and work permits to bona fide foreign investors and employees. An Inter-Ministerial Committee on Free Movement, Right of Residence and Establishment in the PTA has been set up to look into the implications of the Protocol. This committee chaired by the Secretary for Home Affairs and the Prime Minister's Office (PMO), consists of representatives from the PMO, Ministry of Economic Planning and Development, Ministry of Health, Ministry of Trade and Shipping, Ministry of Finance, Ministry of Employment, Passport and Immigration Office, Customs & Excise Department and Solicitor-General's Office. The committee will submit its recommendations to the Ministerial Cabinet shortly.

4.2.5.2 Immigration procedures would be amended to allow unimpeded movement of persons across borders. This could mean allowing short-term entry permits of at least 24 hours (on presentation of some form of identity, as for example in the case of the CEPGL arrangement) for residents of participating countries. (NGs-ST)

As recommended in the TWG's November 1992 report, a system could be established on a reciprocal basis whereby bona fide investors and traders having some form of identity from a recognised institution from their country, say the Chamber of Commerce and Industry, could be granted a 15-day permit at the airport, upon presentation of a return air ticket. This identity document would be valid for one year and its issue and renewal coupled with a short questionnaire to be filled in by applicants would enable the institution to have feed-back on business travel undertaken by businessmen.

4.3 Payments Measures

4.3.1 Reduce Foreign Exchange Liquidity Requirements

4.3.1.1 In the interests of minimising foreign exchange liquidity needs, the Central Banks of participating countries would, to the extent possible, channel payment transactions with other participating countries through the PTACH. This would be seen as an operation between Central Banks and arrangements would be instituted to guarantee prompt payment to the economic operators concerned in domestic currency. More specifically, within one week of proof of payment by the importer through his commercial bank, the exporter's commercial bank would be credited with the appropriate amount by the Central Bank. (NGs/PTACH-ST)

Economic operators in Mauritius are fully satisfied with the PTACH mechanism. The TWG recommends that the PTACH facilities be extended to countries of the region which are not members of the PTA.

4.3.2 Facilitate trade and investment payment transactions

4.3.2.1 Wherever possible, transactions relating to trade and investment would be

allowed to take place at market determined exchange rates. Moreover, efforts would be made to publicise official and parallel market rates. (NGs/PS-MT)

In Mauritius, exchange rates are determined by a trade weighted basket of currencies of our main trading partners. The official rates are publicised twice daily now instead of only once, thus giving bank customers the possibility to effect transactions when exchange rates are more favourable, that is, either in the morning or in the afternoon.

4.3.3 Improve Financial Instruments

4.3.3.1 New financial instruments to facilitate intra-regional trade such as UAPTA Bills of Exchange would be developed. A forward cover market for domestic currencies and the UAPTA would be established, wherever commercially viable. (PTA/NGs/PS-MT)

This should be possible as long as the exchange rate of the UAPTA can be determined with reasonable certainty against other currencies and traders feel that the value of their invoices are protected. A proper environment which will be conducive to the establishment of a market for UAPTA Bills of Exchange should be created. Traders should be confident about the mechanisms for the management of the exchange rate of the UAPTA. Governments could issue securities in UAPTA to build up confidence. Traders would then be prepared to accept UAPTA bills of exchange and banks prepared to discount them.

4.3.4 Improve The Commercial Banking Sector

4.3.4.1 A training programme would be developed for bankers in participating countries to improve the range and quality of financial services available and ensure international banking practices are employed and sustained. (ROs/PS-ST)

The Association of Bankers of Mauritius would be prepared to participate in any programme to be developed by the Association of Commercial Banks of PTA.

4.3.4.2 Commercial banks would be allowed to maintain working balances in their correspondent banks' books in other participating countries, which balances would be able to earn interest. Participating countries would allow the opening and operating of accounts in each other's currencies. (NGs/PS-ST)

It is not necessary for Mauritian commercial banks to have working balances in their correspondent banks' books because of the facilities provided by the PTA Clearing House.

4.3.4.3 Rules governing entry to the commercial banking sector would be modified and simplified to ensure transparency.

Under the Banking Act 1988, any foreign bank wishing to operate in the commercial banking sector of Mauritius needs to apply to the Bank of Mauritius to obtain a banking licence prior to operating. A licence will only be given after the Bank of Mauritius has been

satisfied as to:

- the technical knowledge, experience, financial condition and history of the applicant
- the adequacy of its capital structure
- the character of its business and its management
- the adequacy of its accounting and control systems and records
- the convenience and needs of the community or market to be served
- the ability and willingness of the applicant to comply with such other conditions as the central bank may impose pursuant to the act.

A decision upon any application is made within 90 days after the receipt of the application by the central bank and written notice is given to the applicant. An applicant to whom the central bank has refused to grant a licence may appeal to the Minister of Finance within 30 days after the receipt of the notice.

4.5 Institutional Measures

4.5.1 Strengthen National Institutions

4.5.1.1 National chambers of commerce and industry and trade development organisations would be strengthened to enable them to play more active roles. This would include increasing their technical capabilities and improving their services such as information and training. (PS/NGs/ROs-S/MT)

The Mauritius Chamber of Commerce and Industry (MCCI) and the Mauritius Export Development and Investment Authority (MEDIA) are very active in promoting trade and investment in the region.

However, additional resources would be required to enable them to disseminate information on opportunities and development in the region on a regular and wide basis, e.g. the publication of a newsletter.

The PTA TINET services are now available at both organisations but efforts should be made by the PTA Secretariat to update data rapidly. Instead of having local offices of TINET forward data to the Secretariat, the latter should send officers to collect information in each country of the sub-region.

4.5.2 Maintain TWGs

4.5.2.1 The national TWGs would continue to function in each participating country as advisory committees to their governments on regional integration issues. A programme would be developed for them to continue the work of facilitating regional integration. Provision should be made for the establishment of TWGs in countries of the region which are currently not participating in this initiative. Efforts should also be made to establish channels of communication for TWGs between each other and with other regional organisations. (NGs/PS-ST)

The TWG in Mauritius will continue to act as an advisory committee to the Government on regional integration issues. It should be assisted by a secretariat which will have the tasks of undertaking research work, interviews, surveys, etc. and produce information which will enable the TWG to make recommendations to policy makers. To be more effective, the TWGs should be given the financial means to meet with each other and sort out problems at the technical level so that recommendations will be more readily accepted when made to policy makers.

4.6 Regional Organisation Measures

4.6.1 Strengthen Regional Private Sector Institutions

4.6.1.1 The PTA FCCI and SRBC should be reorganised into one viable, independent organisation to cover all the membership business organisations within Eastern and Southern Africa. (ROs/PS-ST)

The reorganisation of the PTA FCCI and the SRBC into one independent organisation would give a boost to the strengthening of the private sector. This new organisation should be given financial autonomy and should be rigorous in the recruitment of its staff. Such an empowered organisation would give more confidence to businessmen to develop trade and industry.

4.6.1.2 The private sector should have adequate participation in the decision-making process of the regional organisations. (ROs/PS-S/MT)

The Federations of Chambers of Commerce and Industry of countries forming part of regional groupings should hold meetings before the meetings of technical committees of regional groupings so as to be able to submit recommendations to the technical committees which will, in turn, make recommendations to the policy organs of the regional groupings.

4.6.2 Strengthening Trade And Investment Promotion Activities

4.6.2.1 The IOC, PTA, SADC should publish investment guides and trade directories to their member states. (ROs-ST)

The IOC has published a trade directory which could be extended to include member countries of PTA and SADC and which could be published in French and English versions.

The directory, which should be publicised more aggressively and updated yearly, could also be made available on computer diskettes.

4.6.2.2 The PTA TINET system should be updated and expanded. It should be installed in all countries in places easily accessible to the business community, such as in Chambers of Commerce. The operating software and data diskettes should be available for sale to any interested firms or organisations. The information should also be made available in printed format as well as computer diskettes. (ROs/PS-ST)

The PTA TINET system is now available at the Mauritius Chamber of Commerce and Industry as well as at the Mauritius Export Development and Investment Authority. Information is available freely in printed format and could be made available on computer diskettes.

4.6.2.3 Regional organisations would continue to organise and co-ordinate intra-regional trade development activities such as trade fairs, buyer/seller meetings, etc. (ROs-S/MT)

So far, Mauritius has been present in all the trade fairs organised by the PTA and the IOC. Positive feedback has been obtained from traders who have participated in the fairs. These activities should be encouraged because they enable traders to establish contacts and eventually to secure orders. It should be noted however that buyer/seller meetings are more successful in enabling traders to secure orders.

4.6.3 Rationalise Regional Organisations

4.6.3.1 Account would be taken of on-going studies on the rationalisation and harmonisation of the regional institutions in Eastern and Southern Africa and the Indian Ocean. (ROs/NGs-ST)

The Government of Mauritius has set up a Regional Co-operation Committee which has as its objectives:

- to examine and debate issues of regional interest to Mauritius
- to foster generally the development of regional co-operation.

The Council will have representatives from the private and public sectors and will have the following office bearers:

- Chairman: the Minister of Economic Planning and Development
- Vice-Chairman: the Co-ordinator of the Joint Economic Committee

- Secretary: the Director of the Ministry of Economic Planning and Development.

4.6.4 Facilitate the Common Programme of Action

4.6.4.1 The regional organisations would facilitate the implementation of the CPA. This would include the possibility of extending special provisions to the non-member countries, e.g. allowing membership by all participating countries in the PTACH and the MIE Charter, and implementation of the RCTD and other trade facilitation schemes.

The TWG fully agrees with this proposal. In its November 1992 report, the TWG did recommend that non-PTA members be allowed to use the facilities of the PTACH, amongst others.

4.6.4.2 In order to broaden international support for the CPA, the proposals should be presented to the sub-committee of the Global Coalition for Africa on Regional Co-operation and Integration. (ROs-ST)

This will ensure that the Cross Border Initiative will gain political recognition and support at the highest level.

5.0 REGIONAL PROJECTS PROPOSED FOR FINANCING BY DONOR AGENCIES

Four projects could be submitted to donor agencies for financing in the areas of investment, trade, services and institutions. Proper studies should be carried out to elaborate the projects which would be open to all countries of the region wishing to participate in them.

5.1 Investment

Objective: To promote regional investment by setting up a fund which could be used for feasibility studies, equity capital and long-term loans for the implementation of regional projects.

Source of fund: Donor agencies, governments of participating countries, financial institutions.

The organisation managing the fund would participate in the equity capital required for the setting up of the regional projects. Funds would be replenished by the sale of the organisation's shares in the businesses to the promoters when the businesses become successful. The organisation should also have underwriting facilities from donor agencies to enable them to raise funds on the international capital market for long-term loans to

investors.

As far as possible, an existing institution should be given the responsibility for managing this fund so as to avoid duplication of institution and consequently, waste of resources. The terms and conditions and the viable rates at which funds should be made available for the financing of the feasibility studies and long term loans should be attractive.

5.2 Trade

Objective: To promote trade within and outside the region by providing finance to manufacturers and exporters/importers for trade activities. To set up a fund which will facilitate the availability of foreign exchange to traders.

Source of fund: Donor agencies, governments of participating countries, commercial banks and other financial institutions.

Only short term finance in foreign currency should be granted to traders to enable them to import raw materials for exports of goods. This financing should be available for the export of goods not only within the region, but also outside the region, to any country having a demand for the exporting country's goods and services, and having the foreign currency for the purchases, the aim being to have a strong inflow of foreign currency in the exporting country. It is important that a mechanism be put in place whereby close monitoring of borrowers of short term foreign currency loans, in each country, will ensure repayment of the loans.

The project for the establishment of the African Export/Import Bank (AFREXIM BANK), in which a number of regional countries will participate, seems to present the right institution for the above activities. The project should be backed by the World Bank and the CEC.

5.3 Services

Objective: To enhance utilisation of existing professional resources and to promote capacity building programmes in the region.

Source of fund: Donor agencies and governments of participating countries.

Facilities should be developed to promote the use and to enhance existing professional skills in the region. A database of existing consulting firms, universities, research and management institutions, professional associations, etc. should be set up, regularly updated and information disseminated so that businesses in the region can be informed of available services. Training programmes should also be implemented on a regional basis to encourage the development of trading/exporting skills and for improved delivery of services.

The institution that could be considered for these activities is the African Capacity Building Foundation in Harare, which presently aims at strengthening human and

institutional capacities in policy analysis and development management in Sub-Saharan Africa.

5.4 Institutions

Objective: To develop high standard institutions able to participate in policy making for regional economic development, to promote trade and encourage investment, and to establish linkages among the institutions.

Source of fund: Donor agencies and governments of participating countries.

Many institutions in this region are weak and lack the technical and human resources which would enable them to participate in the analysis and design of programmes promoting the economic development of their country as well as to provide support services to the economic operators of their country. They should be strengthened to enable them to:

- ❑ collect, maintain and disseminate information relating to trade and investment opportunities, including joint ventures (therefore, a need for computer equipment and trained computer staff)
- ❑ organise and multiply contacts among economic operators of the region through trade fairs, specialised buyer-seller meetings and investment promotion missions (therefore, a need for exhibition centres and funds for participation in parts, meeting and missions).

They should, furthermore, be rigorous in their recruitment and be autonomous to be effective.

6.0 CONCLUSION

The Common Programme of Action has been elaborated as a plan consisting of complementary actions which are mutually reinforcing so as to attain the stated objectives and results of the initiative. It is essential that the actions be implemented as a whole by each country even if at differing paces. Countries moving at a quicker pace will pull those developing more slowly because of disparity in levels of economic development. As the CBI comes to a decisive phase, the public and the private sectors are strongly urged to work together for the success of the initiative. Particular attention should be given to the framework for the implementation of the CPA. Regional organisations and co-sponsors are also urged to co-ordinate among themselves with a view to harmonising activities and to avoid duplication.

APPENDIX I

LEGISLATION TO BE AMENDED FOR IMPLEMENTATION OF CPA

1. IMMIGRATION

- a. Immigration Act 1973
- b. Immigration Regulation 1973
- c. Mauritius Citizenship Act 1968
- d. Mauritius Citizenship Regulations. 1968
- e. Non-citizens (Employment Restriction) Act 1973
- f. Non-citizens (Property Restriction) Act 1975
- g. Non-citizens (Validation of Transaction) Act 1984
- h. Passports Act 1969
- i. Passport Regulations 1969.

2. TAXATION

- a. Hotel and Restaurant Tax Act 1986
- b. Income Tax Act 1974
- c. The different Double Taxation Act Conventions
- d. Land (Duties and Taxes) Act 1984
- e. Registration Duty Act 1984

f. Sales Tax Act 1982

g. Stamp Duty Act 1990.

3. INVESTMENT

a. The Export Processing Zone Act 1970

b. The Export Service Zone Act 1981

c. The Export Service Zone Regulations 1981

d. The Development Incentives Act 1974

e. The Development Incentives (Tourism) Regulations 1984

f. The Pioneer Status Enterprises Regulations 1991

g. The Industrial Building Incentives Act 1986

h. The Small Scale Industries Act 1988

i. The Hotel Management Incentives Act 1982

j. The Companies Act 1984

k. The Mauritius Offshore Business Activities Act 1992

l. The Offshore Trusts Act 1992

m. The Trust Companies Act 1989

n. The Transfer of Shares and Debentures Act 1953

o. Partnership Law

p. The Banking Act 1988

q. The Bank of Mauritius Act 1966

r. The Bank of Mauritius Registrations 1968

s. The Insurance Act 1987

t. The Insurance (Exemption) Registrations 1975.

4. EXCHANGE CONTROL

- a. The Exchange Control Act 1952
- b. The E.C (Authorised Dealer's) Order 1952
- c. The E.C (General Exemption) Order 1966
- e. The E.C (Import & Export) Order 1966
- f. The E.C (Payments) Order 1966.
- g. The E.C (Exemption from Duty on Repatriation) Registration 1992

5. TRADE LAWS

- a. The Supplies Control Act 1974
- b. The Fair Trading Act 1980
- c. The Licences Act 1975
- d. The Local Government Act 1989
- e. The Merchant Shipping Act 1986
- f. The Sale of Goods Act
- g. The Hire Purchase Act 1964
- h. The Sale by Auction Act 1945
- i. The Bills of Exchange Act
- j. The Standards Act 1975
- k. The Weights and Measures Act 1978
- l. The Custom Act 1988
- m. The Pioneer Status Enterprise Act 1991
- n. Trade Mark Act 1868
- o. Trade and Business Enterprise Mergers Act 1991

- p. Ports Act 1976
- q. State Trading Corporation Act 1982
- r. Customs Tariff Act 1970.

IMMIGRATION AND CITIZENSHIP LAWS

Provisions that will have to be revised in order to provide for free movement of persons, labour and capital; right of residence and establishment:

1. The Immigration Act 1973

- Section 5: Persons who are residents.
- Section 7: Exempted Persons.
- Section 9: Residence Permit.
- Section 13: Refusal to admit.

The Immigration Regulations 1973: Regulation 3.

2. The Mauritius Citizenship Act 1968:

- Section 2: Interpretation.
- Section 3 to 10: Acquisition of Citizenship.
- Section 18: Registers.

The Mauritius Citizenship (Deprivation of Citizenship Rules) 1968.

The Mauritius Citizenship Regulations 1968: Regulations 3 to 9 (Part II).

3. The Non Citizens (Employment Restriction) Act 1973

- Section 3: Restriction on Employment of Non Citizens.

The Non Citizens (Employment Restriction) Regulations 1988

4. The Non Citizens (Property Restriction) Act 1975

- Section 2: Interpretation.
- Section 3: Non-citizen's property rights.

5. Non Citizens (Validation of Transactions) Act 1984

- Section 3: Validation of transactions.

6. The Passport Act 1969

- Section 12: Visa requirements and issue.

The Passport Regulations 1969: Regulation 20.

APPENDIX II

COST OF FORMATION OF A COMPANY (INCLUDING NOTARY'S FEES)

Rupees	25,000	50,000	100,000	200,000	500,000	1 Mn	1.2 Mn
Incorporation	250	450	950	1,950	4,950	6,000	6,100
Affidavit	100	100	100	100	100	200	200
Filing	400	400	400	400	400	400	400
Availability of Name	20	20	20	20	20	20	20
Reservation of Name	50	50	50	50	50	50	50
Allotment of Shares	50	50	50	50	50	50	50
Registration	50	50	50	15	15	50	50
Notary's Fees	250	500	875	1,625	3,875	6,375	6,875
Miscellaneous	1,380	1,380	1,380	1,380	1,380	1,380	1,380
TOTAL	2,550	3,000	3,875	5,590	10,840	14,525	15,125

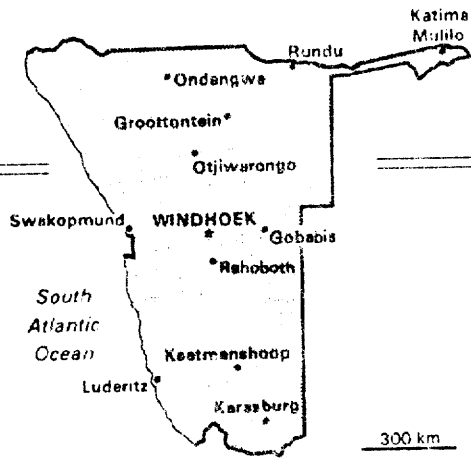
Rupees	1.5 Mn	2 Mn	2.2 Mn	2.5 Mn	5 Mn	20 Mn
Incorporation	6,200	6,450	6,550	6,700	7,950	15,450
Affidavit	100	100	100	100	100	100
Filing	400	400	400	400	400	400
Availability of Name	20	20	20	20	20	20
Reservation of Name	50	50	50	50	50	50
Allotment of Shares	50	50	50	50	50	50
Registration	15	15	15	15	15	15
Notary's Fees	7,625	8,875	9,188	10,125	16,375	43,875
Miscellaneous	1,380	1,380	1,380	1,380	1,380	1,380
TOTAL	15,840	17,340	17,753	18,840	26,340	61,340

APPENDIX III

APPLICATION FOR PERMISSION TO INVEST BY FOREIGNER

Foreign Investor	<p>Submits to Secretary for Home affairs (SHA) at the Prime Minister's office:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Application/ Under Non Citizens (Property Restriction) Act, for permission to acquire shares. <input type="checkbox"/> Copy of Certificate of Incorporation of Company. <input type="checkbox"/> Copy of Memorandum and Articles of Association of Company. <input type="checkbox"/> Information on Equity Capital structure.
Secretary for Home Affairs	<p>Issues 'letter of Intent' after</p> <ul style="list-style-type: none"> <input type="checkbox"/> Concerned Ministry has given its view on the project. <input type="checkbox"/> Solicitor General has checked on legal implications of the investment.
Foreign Investor	<ul style="list-style-type: none"> <input type="checkbox"/> Requests his commercial bank to issue a bank certificate to evidence the transfer of funds for the purchase value of shares, after the resident account of the company has been credited. <input type="checkbox"/> Submits a copy of bank certificate to SHA <input type="checkbox"/> A copy is sent to the Bank of Mauritius directly by the commercial bank
Secretary for Home Affairs	<ul style="list-style-type: none"> <input type="checkbox"/> Requests views of the Bank of Mauritius on whether foreign exchange regulations have been respected. <input type="checkbox"/> Submits a copy of bank certificate and a copy of 'letter of intent' to Solicitor General.
Solicitor General	<ul style="list-style-type: none"> <input type="checkbox"/> Checks on legal implications of investment and gives clearance to SHA.
Secretary for Home Affairs	<ul style="list-style-type: none"> <input type="checkbox"/> Issues 'Certificate of Authority' under the Non Citizen's (Property Restriction) Act to foreign investor, authorising him to acquire shares.
Foreign Investor	<ul style="list-style-type: none"> <input type="checkbox"/> Submits copy of 'Certificate of Authority' to commercial bank, requesting the bank to apply to the Bank of Mauritius for permission to issue shares and for 'Approved Status
Bank of Mauritius	<ul style="list-style-type: none"> <input type="checkbox"/> Gives exchange control permission to commercial bank for issue of shares and for subsequent transfer of funds should shares be sold or company liquidated (Approved Status)
Commercial Bank	<ul style="list-style-type: none"> <input type="checkbox"/> Informs foreign investor that exchange control permission has been granted for the investment and encloses copy of letter received from Bank of Mauritius.

Time taken to complete procedures: 38-45 days.



Namibia

1.0 INTRODUCTION

This report on the Cross Border Initiative to Facilitate Trade, Investments and Payments in Eastern and Southern Africa (the Initiative) is submitted by the Namibian Economic Policy Research Unit (NEPRU) acting as secretariat for the Namibian Technical Working Group (TWG), being responsible for co-ordinating and facilitating TWG activities in Namibia and for producing national reports referring to the Initiative. More specifically, according to the terms of reference, NEPRU and the Namibian TWG are to carry out a) immediate specific tasks under Phase 1 of the contract and b) medium-term tasks under Phase 2.

However, partly due to the fact that Namibia only became associated with the Initiative during the second half of 1992, partly because the Namibian TWG was inactive for a long period during the first half of 1993, it became problematic to differentiate between immediate and medium-term tasks. In fact, since Namibia formally joined the Initiative only at the workshop held in Harare in December 1992, where TWGs from the participating countries agreed on a proposal for a Common Programme of Action (CPA) to implement the Initiative, and the government of Namibia through the Minister of Trade and Industry as late as in April 1993 expressed its interest in implementing the CPA, it became necessary to simultaneously carry out tasks under both Phase 1 and Phase 2 to keep pace with the Initiative in its wider, regional context. It is against this background that the present report covers tasks under both phases.

This report should be read in conjunction with the Namibian country report to the Harare workshop in December 1992 (NEPRU: "Namibia's Trade and Investment Climate", September 1992).

Although a latecomer to the Initiative, the government of Namibia has strongly endorsed its objectives of liberalisation of cross-border trade, investments and payments in the Eastern and Southern African regions. Thus, less than six months after formally joining the Initiative, Namibia is about to form part of a group of participating countries - the so-called

critical mass - around which the Initiative initially could take off.

In a relatively short space of time since Independence in March 1990, Namibia has passed legislation, built institutions, drafted policy guidelines and hosted conferences that together support the objectives of the Initiative. For the purposes of this report, and in order to assess both Namibia's achievements and its limitations regarding trade liberalisation, it appears important to comment upon Namibia's achievements and its limitations regarding trade liberalisation. It is also necessary to comment upon Namibia's point of departure in the regional, post-independence context. These comments should be borne in mind when concrete tasks for the Namibian TWG are reported upon in the main text of this report.

After more than 20 years of armed struggle, Namibia gained political independence in March 1990. Pre-independent Namibia (South West Africa) had been ruled from Pretoria as a de facto province of South Africa. Here, political independence did not only, as in other countries participating in the Initiative, entail transition from colonial status to national sovereignty, but also the awesome task of breaking a vast territory with a small and underskilled population away from the almost all encompassing grip of the immediate neighbour and former ruler, South Africa.

Thus, at independence the Namibian economy was not only closely integrated with, and dependent upon, the highly regularised, monopolised and racially undemocratic South African economy, but the pre-independent provincial status had left the new nation without such basic and vital tools for economic planning and administration as proper national accounts, reliable statistics or even population figures. In March 1990, Namibia did not have a central bank, a statistics office, an economic planning administration, a customs and excise department, an auditor general, a democratic chamber of commerce and industry or a proper tertiary education institution. To create these institutions, train the manpower to staff them and build the necessary capacity for economic policy formulation and implementation were among the first tasks faced by the incoming Namibian government.

Today, Namibia has a Central Bank, a Central Statistics Office, a National Planning Commission, a National University and other vital institutions. A Population and Housing Census was carried out in late 1991, a Balance of Payments Survey in 1992 and a Household Income and Expenditure Survey will start in November 1993. The institutions are in place and the necessary data is being assembled and processed. At the same time, the government of Namibia has carried out a number of studies into strategic sectoral policy issues, submitted for discussion to the National Assembly in the form of White Papers, revised legislation inherited from the South African regime and introduced national consultative procedures into matters shunned by the former ruler, such as land reform and labour rights. In addition, several international conferences, seminars and workshops on investment and trade, inter alia regarding fisheries, industry, mining and petroleum, i.e. the main sectors of the Namibian economy have been held in Namibia during the hectic post-independence period.

When Namibia joined the Initiative towards the end of 1992, it had recovered a lot of ground lost during the South African regime. Compared to other participating countries,

Namibia does however, still suffer from its unique colonial legacy as an ex-province of apartheid South Africa. Thus, the basic data required for this report is not always available (e.g. regarding destination of exports) and although national economic institutions have been created and staffed there is a great need of staff development and training within these institutions, including exposure to and familiarisation with counterparts in the other participating countries of the Initiative. Due to the isolation of pre-independent Namibia, for years the object of international sanctions, this problem of insularity vis-à-vis Southern and Eastern Africa outside South Africa is often more manifest within the private sector than at the level of policy makers.

Thus, there is in Namibia a deep-rooted mistrust among many private business representatives against both foreign investors and investments abroad, i.e. outside South Africa. It could here be said that the Prime Minister of Namibia, Mr Hage Geingob, in April 1992 invited a number of private sector representatives to a Consultative Meeting on the Namibian Economy to inter alia discuss "the negative attitude of the business community to foreign investment and competition". In the case of Namibia, it is thus clearly the government that is supporting the objectives of the Initiative, not necessarily the private sector. This, in turn, partly explains the experienced inactivity of the Namibian TWG.

It should, however, be noted that the government of Namibia considers the private sector as the most important vehicle for the development of the economy. Thus, since independence, the Ministry of Trade and Industry has established a Board of Trade and Industry composed of representatives of the private sector. The purpose of the Board is to promote co-operation between the private sector and the government, to advise on the streamlining of economic legislation, rules and regulations, and to identify problems and propose solutions for economic growth.

Finally, while Namibia since independence in 1990 has laid the basis for a national economic policy, there are obvious limitations to this policy in the form of Namibia's birth into South Africa's main instruments for sub-regional economic domination, namely a) the Southern African Customs Union (SACU) and b) the Multilateral Monetary Agreement/the Common Monetary Area (MMA/CMA; hereinafter CMA). As they stand, the SACU and CMA agreements are not compatible with the objectives of the Initiative to liberalise cross-border trade, investments and payments in Eastern and Southern Africa. This is commented upon in the main body of the report below. As a statement of intent by the government of Namibia, it should, however, be borne in mind that Namibia in September 1993 introduced its own national currency, the Namibia Dollar, and that Namibia as the only member country of SACU/CMA which attended the ministerial meeting on the Initiative in Kampala in August 1993, endorsing the CPA and in principle joining the critical mass of participating countries that are willing and ready to start implementing the Initiative.

2.0 PHASE 1: IMMEDIATE SPECIFIC TASKS

2.1 Maintaining the Momentum of the Initiative

A national seminar on the regional initiative to facilitate cross-border trade and

investment in Eastern and Southern Africa took place in Windhoek on 17-18 June 1993. The seminar brought together officials from various Government departments, private sector representatives and officers from financial institutions like the Preferential Trade Area Clearing House (PTACH) and the African Development Bank (ADB). The seminar was convened by the Ministry of Trade and Industry in close co-operation with the Namibian Economic Policy Research Unit (NEPRU). The main objective of the seminar was to popularise and promote the Common Programme of Action (CPA) among interested parties in Namibia. The convening of the seminar can therefore be seen as part of the awareness campaign aimed at promoting intra-regional trade in the sub-region.

While the presentation of the CPA was the core of the seminar, a number of presentations on issues related to regional integration were also made. They ranged from regional groupings in Eastern and Southern Africa and ADB's role in regional economic integration to the investment climate and incentives package of Namibia.

The national seminar on regional integration was held in a good atmosphere. The occasion was marked by an exchange of views, opinions and proposals for change or amendment on a number of issues which the participants felt as impediments to the promotion of intra-regional trade and investment. This could be seen as a clear indication of the willingness of the majority of those present to move towards a more open economy. By open economy we specifically refer to the situation where the national economy diversifies its activities across the national borders into the rest of the region.

It would, however, be one-sided to conclude that the concept of regional integration was overwhelmingly supported during the seminar. The views of those who supported the idea with some reservations cannot go without being recorded. Indeed, there was a section of participants which felt that in a small economy like that of Namibia, there should be some measures to protect young, vulnerable and emerging business enterprises in certain fields of the economy.

The popularisation and acceptability of the CPA by the interested parties was one of the main objectives of the seminar conveyors. It was this topic which was expected to cause strong enthusiasm from the participants. However, the result was the opposite. There was less reaction than what was anticipated. This could be attributable to three main factors. Firstly, the private sector was represented by few participants, who in any case did not participate actively in the discussion. Secondly, the CPA was distributed to participants only six hours before it was presented at the seminar. Taking into account the time factor, many participants could not manage to look at the document until it was presented. Finally, many participants were not familiar with the various institutions and facilities referred to in the CPA (PTA, PTA Yellow Card, UAPTA, PTACH, PTA Bank, etc.). This handicap, it is assumed, could be one of the reasons for less involvement than expected.

In the final analysis the seminar provided a forum for both the public and private sectors to air their views and put forward proposals that would finally eliminate impediments which obstruct cross-border trade and investments in our sub-region.

As part of an awareness campaign, the chairman and the secretary of the Namibian TWG participated in the production of a commercial video programme with the aim of promoting the Initiative. The video is directed towards the private sector in Namibia and was shown at Namibian airports and various hotels in the country in July and August 1993.

In addition, an analytical article on the Initiative has been prepared by NEPRU for publication in *Namibia Review*, published by the Ministry of Information and Broadcasting.

Within the wider context of the Initiative, senior officials from the Ministry of Trade and Industry attended a meeting in Brussels on 21-24 June 1993. At this meeting, the so-called Concept Paper prepared by the co-sponsors of the Initiative was reviewed and amended.

Finally, representatives of the Namibian government attended the ministerial meeting in Kampala on 27 August 1993, bringing together policy makers from participating countries to discuss and approve the Concept Paper as amended at the Brussels meeting and to express their willingness to form a critical mass of countries around which the Initiative could initially take off. In both respects, the Namibian delegation endorsed the proposals. As a next step, the government of Namibia should approach the co-sponsors of the Initiative to request assistance in project formulation and begin discussions on a financial package for the implementation phase of the Initiative. NEPRU had discussed this requirement with senior officials in the Ministry of Trade and Industry.

2.2 Laws and Regulations to be Amended

Consultations were held by the secretary of the TWG with officials in the Ministry of Trade and Industry to ascertain which laws and regulations in force in Namibia would need to be amended in order to enable implementation of the CPA. In general, there is a dominant body of opinion in the ministry that there are no significant legal impediments in place in Namibia in this respect. However, the officials were unanimous regarding the negative effects of the CMA and SACU agreements on Namibia's ability to conduct business outside the framework of these arrangements.

The Common Monetary Area (CMA) includes South Africa, Lesotho, Namibia and Swaziland. The major consequence of CMA membership is that Namibia's foreign exchange control regulations must conform with those applicable in the rest of the CMA area, which to all intents and purposes are those in force within South Africa. The Southern African Customs Union (SACU) includes the members of the CMA and Botswana, which have a common external tariff with the outside world. Despite the principle that SACU should benefit all its members, its tariff structure is largely determined by South Africa and serves de facto to protect South African industry from outside competition. Although tariffs are not as high as in many developing countries, they do act as a considerable incentive for Namibia to procure goods from South Africa when it could otherwise import from other countries. As such, SACU acts as an obstacle to increased trade between Namibia and the non-Union countries participating in the Initiative.

Recent developments might, however, in the not too distant future affect Namibia's

relationship with both the CMA and SACU. Thus, on 15 September 1993, Namibia, still remaining within the Common Monetary Area, introduced its own national currency, the Namibia Dollar. Possibly for a period of two years or more, the Namibia Dollar will be kept at a par with the South African Rand and the Rand will be maintained as legal tender in tandem with the Dollar. Thereafter, several options will be available. The most likely development according to the Bank of Namibia is that Namibia will continue to belong to the Common Monetary Area and that the value of the Namibia Dollar will be linked to the Rand on a one-to-one basis, as is the case with Lesotho. However, if the Namibian economy develops more favourably than the South African economy, Namibia could either delink its Dollar from the par value of the Rand and remain within the CMA, as is the case with Swaziland, or follow the example of Botswana, i.e. leave the CMA, have only the Namibia Dollar as legal tender and freely manage the value of its currency. Finally, Namibia could go a step further and also abolish exchange control.

In the case of SACU, it is the South African government which has made it increasingly clear that it considers the format of the agreement inappropriate, arguing that the present formula of revenue sharing is too costly. It is, however, not known when and how the formula, or indeed the agreement as such, would be renegotiated.

It is the sub-regional CMA and SACU arrangements that set limits for Namibia's full participation in the Initiative, rather than Namibian laws and regulations. As stated, Namibia's future role vis-à-vis these two arrangements is, however, subject to imponderables ranging from the performance of the Namibia Dollar and the South African Rand (or, rather, the economies of the two countries) to the stance to be taken on regional economic matters by the interim government of South Africa after the elections in that country in April 1994. If one or both of these arrangements are revised, it follows that a series of Namibian laws and regulations also have to be amended, and fully-fledged government departments (eg customs and excise) created. It should in this connection be noted that the Namibian government together with two of the co-sponsors of the Initiative has initiated particularly relevant studies. Thus, the World Bank has recently finalised a draft study on the subject of "Reassessing Namibia's membership of the Southern African Customs Union", which will be discussed towards the end of 1993. A major exercise on Namibian trade policy reform, funded by the African Development Bank, will in addition get off the ground later in 1993. The findings of this study are expected by mid-1995.

Namibia is a political and economic formation in transition. Leaving its pre-independence status of a South African province and as a national entity entering into various international agreements, bodies and commitments, such as the General Agreement on Tariffs and Trade (GATT), of which Namibia became a member in September 1992, or the Generalised System of Preferences (GSP), within which Namibia over the last two years successfully has negotiated agreements with 12 preference-giving countries or economic communities, including the European Community, it goes without saying that amendments to inherited South African laws and regulations constantly have to be made. For the purpose of this report, it thus appears as less relevant to "compile a detailed list of laws and regulations which will need to be amended in order to enable the implementation of the Initiative". A sharp photo of the situation today will be blurred already tomorrow.

This said, there are revisions to be made to strikingly obsolete trade acts formally still in force, such as the Import and Export Control Act No. 45 of 1963, dealing with the South African War Continuation Act of 1956, or the Import Control Order of 6 March 1987, which inter alia restricts the importation into Namibia of goods from Sweden and Zimbabwe.

2.3 Intra-regional Trade and Investment Flows

2.3.1 Trade

Due to Namibia's historical isolation, it conducts very little trade with the rest of Africa, apart from South Africa. In fact, according to Namibia's Transitional Development Plan (March 1993), "there is no recorded trade with either SADC or PTA countries for the pre-Independence period".

In July 1993, the Bank of Namibia published a first ever report on Namibia's balance of payments, covering the period 1990 - 1992. The report contains detailed information on merchandise imports and exports, but gives very limited information regarding Namibia's trading partners. Nevertheless, it confirms the above quoted statement also for the period after independence in March 1990. Thus, merchandise imports from (or through) South Africa constituted not less than 89.7 per cent in 1991, whereas Namibia in the same year only imported 0.3 per cent from Botswana, Lesotho or Swaziland. The report does not contain corresponding data for exports. It is, however, elsewhere estimated that over two-thirds of Namibia's exports go to destinations outside the SACU area, mainly to the Central Selling Organisation (CSO; diamonds) in London, invoiced to Switzerland, to Germany and to the United States, while around 25 per cent - principally in the form of beef - are destined for South Africa.

Namibia's trade pattern is likely to remain largely unchanged in the short to medium term. The recent trade agreement between Namibia and Zimbabwe could in this respect, however, act as a catalyst for change in its regional economic relations. Since the agreement entered into force only in May 1993, there are no statistics available at this stage to assess the magnitude of change in trade between the two countries.

2.3.2 Investment

Namibia's investment pattern follows closely that of the trade pattern, with only negligible flows to and from the rest of Africa, apart from South Africa. Thus, the main component of Namibia's foreign assets, amounting to some 6.9 million Rand at the end of 1992, is in the form of pension funds and life assurance policies of Namibian residents, accounting for over three quarters of the total investment. These funds are invested in the South African money market. Foreign direct investment in Namibia amounted at the end of 1992 to 8.2 million Rand, exceeding Namibia's foreign assets by some 1.3 million Rand. This figure mainly reflects the substantial foreign direct investment in Namibia's mining industry, with considerable South African, British, Canadian and other overseas interests.

2.4 Regulations on Private Investment

In this section, the steps to be undertaken by a potential investor to obtain permission to invest in the Namibian manufacturing industry are reviewed. While the report takes a general approach, the example of a shoe-manufacturing company indicated in the terms of reference has been referred to.

Before presenting the schedules below, it should be noted that the Namibian Foreign Investment Act of 1990 provides for non-discrimination between Namibian and foreign investors with respect to legal and fiscal regulations. The Act does not require local participation in foreign investments, except in natural resource industries, where the government reserves the right to acquire an interest. Finally, the Act makes provision for the Minister of Trade and Industry to grant Certificates of Status Investment to foreign investors, which provide additional rights and duties where this is perceived to be in the national interest. However, since some of these rights were in conflict with the foreign exchange control regulations of the CMA, the Act was in 1993 amended to be "subject to the obligations of the government of Namibia under certain monetary agreements".

As a comment to the following schedules, it should also be noted that the procedures for obtaining land here presented are those applicable to Windhoek and its suburbs. Windhoek was chosen as it has the most expensive erven (plots) in Namibia. Land prices and formalities for obtaining land differ from municipality to municipality.

Applications for land for investment purposes in communal areas are processed by the Ministry of Regional and Local Government and Housing (MRLGH). Communal land is owned by the state and communally administered through traditional authorities. Any potential investor who wishes to establish a commercial undertaking in a communal area is required to contact MRLGH to obtain the required permission.

2.5 Procedures for Obtaining Permission to Invest in Namibia

ACTOR	ACTION	TIME	COST
Investor	Approaches a law firm to facilitate the registration of the company with the Registrar of Companies Memorandum and Articles of Association is submitted and the Certificate of Incorporation is issued by the Ministry of Trade and Industry	3-7 days	±R2,000
Investor	Applies for two Certificates at the Ministry of Finance, namely: <input type="checkbox"/> Sales Tax Registration Certificate <input type="checkbox"/> Income Tax Clearance Certificate	7 days 1 day	Free R10
Investor	Applies for two certificates at the Municipality, namely: <input type="checkbox"/> Certificate of Town Planning <input type="checkbox"/> Health Certificate	1 day 7 days	±R20 R10
Investor	Applies for two licences from the Ministry of Trade & Industry, namely: <input type="checkbox"/> Export Licence (only applicable if the product is meant for export) <input type="checkbox"/> Import Licence (applicable in case of external inputs)	1 day 1 day	Free Free
Investor	Applies for Certificate of Status Investment at the Ministry of Trade & Industry (only applicable if the company is more than 10% foreign owned)	7 days	Free
Investor	Applies for treatment under the special incentives package to the Ministry of Trade and Industry. The Investment Centre approves or disapproves.	N/A	Free
Investor	Applies for a Trade Licence from the Trading Court. The court only sits once per month.	1-2 months	R25
TOTAL			±R2,075

2.6 Procedures for Obtaining Land to Construct a Factory

Erven are owned by the government, the municipality or private individuals. Stands are in most cases serviced, i.e. water pipelines and electricity cables are laid before the actual development starts. In the following table it is assumed that the stand is serviced and that it belongs to the municipality:

ACTOR	ACTION	TIME	COST
Investor	Negotiates with the Municipality to acquire land.	1-2 days	R20,000 to R2,000,000 depending on size and locality ^[1]
Investor	Submits the plan to the Municipality Departments of Health, Fire Brigade, Refuse Removal and Building Control examine the plan	2-3 weeks	N/A
Chief Building Inspector	Issues the building permit (valid for one year)	1 day	R200-300
Contractor	Starts with construction work	Approx. 6 months	N/A
Contractor	Arranges for water supply (done before the construction commences) Municipality connects the water, arranges for electricity supply (done on the completion of the work) Municipality connects the electricity	N/A 1 day N/A 1 day	 R±2,500 R675
Investor	Applies for telephone and faxes at Namibia Post	1-2 months for direct line ^[2]	R177,70 (connection), R26,64 (monthly rent)
Building inspector	Inspects the building 3 times during construction	N/A	N/A
Law firm/special lawyer	Transfers the property in the name of the investo	On completion of building	1% on the first R60,000, 8% on the balance

1 Price applicable until 1/11/93

2. Depending on the availability of underground cable lines.

2.7 Procedures for Obtaining Work Permits for a Foreign Investor and Expatriate Staff

ACTOR	ACTION	TIME	COST
Investor	Undergoes a medical examination by a qualified medical practitioner	1 day	R40 (general practitioner), R80 (specialist)
Doctor	Issues the health certificate	2-3 days	N/A
Investor	Applies for a Police Clearance Certificate from the Namibian Police	6-8 weeks	R43
Investor	Fills in forms at the Investment Centre	1 day	Free
Investment Centre	<p>Forwards the forms to the Immigration Selection Board of the Ministry of Home Affairs</p> <p>The application form must be accompanied by the following documents or information:</p> <ul style="list-style-type: none"> <input type="checkbox"/> health certificate <input type="checkbox"/> police clearance certificate <input type="checkbox"/> motivation document <input type="checkbox"/> information on initial capital <input type="checkbox"/> number of employment opportunities to be created <input type="checkbox"/> sectoral linkages <input type="checkbox"/> benefits to the economic development of Namibia <input type="checkbox"/> transfer of technology <input type="checkbox"/> other information as defined in section 6 (3a-e) of the Namibian Foreign Investment Act of 1990 	1 day	Free
Selection Board ^[3]	<ul style="list-style-type: none"> <input type="checkbox"/> examines the application form plus all relevant documents attached <input type="checkbox"/> approves or disapproves the application^[4] 	Maximum one month	Free

3 The immigration Selection Board (ISB) consists of representatives from the Office of the President, Office of the Prime Minister, Ministry of Trade and Industry, Investment Centre, Ministry of Home Affairs, Ministry of Wildlife, Conservation and Tourism, Ministry of Labour and Manpower Development, and Ministry of Justice.

4 The Immigration Selection Board sits once per week.

2.8 CPA Proposed Actions Embarked upon by Namibia

2.8.1 Liberalisation of Trade

The only trade liberalisation initiative taken so far by the Namibian government is the signing of a bilateral preferential agreement with Zimbabwe in August 1992, which came into effect on 1 May 1993. The agreement makes provision that goods grown, produced or manufactured in the territory of either contracting party, subject to agreed rules of origin, can be imported into the territory of the other party free of customs duty.

2.8.2 Liberalisation of Payment Services

The exchange control policy of Namibia has to be consistent with that of the Common Monetary Area. This said, the administration of payment for services is comparatively liberal in Namibia, where all the commercial banks have been appointed as authorised dealers in foreign exchange. All applications to exchange control have to be made through an authorised dealer. At present, the authorised dealers/ commercial banks are authorised to administer the following applications:

- outward payments for merchandise imports and (within certain limits) services;
- all receipts from abroad in payment of exports and services;
- interbank transactions in commercial and financial Rands;
- outward transactions of up to 200,000 Rand via financial Rands; and
- inward transfers by immigrants through financial Rands for amounts of up to 500,000 Rand in total.

NB: The Financial Rand is a separate pool of currency created from the sale proceeds of South African and Namibian assets owned by non-residents. This pool may be used for certain approved capital investments, as opposed to the Commercial Rand, which is used for current transactions. The Financial Rand mechanism is required to be used for outward capital disinvestments and inward capital investments. It provides a significant incentive for investment by non-residents in Namibia, as assets can be acquired at a discount, presently (mid-September 1993) of some 40 per cent.

Where an authorised dealer is not empowered to approve the purchase or sale of foreign currency in terms of authorities set out in the Exchange Control Rulings, an application must be submitted to the Department of Exchange Control within the Bank of Namibia.

2.8.3 Introduction of ASYCUDA

Namibia has begun to plan for the introduction of the Automated System for Customs Data (ASYCUDA). Thus, the Ministry of Finance has drafted a new Customs Act, which has been submitted to the Cabinet Committee on legal drafting and to Namibia's fellow SACU member states for comments. A core ASYCUDA team of officials in the Directorate of Customs and Excise of the Ministry of Finance will be trained as from October 1993 and it is expected that the system will be operational by April 1994.

2.8.4 Trade Inspection and Standardisation

Namibia does not have a National Bureau of Standards. Instead, the government has signed an agreement with South Africa providing for the South African Bureau of Standards (SABS) to carry out standardisation and quality control and assurance on Namibian goods, particularly meat and fish products. For the export market, the SABS certification, which conforms with the standards of the International Standards Organisation (ISO), will assure foreign consumers of product quality. Finally, Namibia's own quality label has been approved by the government.

2.8.5 Improvement of Trade Finance Facilities

Namibia has undertaken a feasibility study on the establishment of an export financing scheme. It is envisaged that the institutional framework and operational structure of the scheme will be established in 1993/94 and that it will be operational in 1994/95.

2.8.6 Trade and Investment Promotion

With the lifting of sanctions, Namibia has organised international trade fairs since 1990. In 1993, the Namibian International Trade Fair Board was established, composed of experts from both the public and the private sectors. The objective of the Board is to co-ordinate and organise the activities of the annual Namibian International Trade Fair, held in Windhoek, and Namibia's participation in other trade fairs and exhibitions.

Over the last two years, Namibia has established several overseas trade offices, including those in Bonn, Brussels and London, to strengthen its links with its major trading partners.

Before 1990, Namibia's trade promotion infrastructure and commercial support services were mainly based in South Africa. In order to realise the foreign trade objectives of the country and to put in place the necessary trade promotion infrastructure, support services and measures, the Ministry of Trade and Industry is over the next years to embark upon a comprehensive Trade Development Programme.

With the promulgation of the Foreign Investment Act of 1990, a significant step towards specifying a regulatory framework for foreign investors was taken. Among other things, the

Act makes provision for the establishment of an Investment Centre. The Centre was established within the ministry of Trade and Industry in 1991 with the mandate to carry out multiple functions to promote and facilitate investments in Namibia. These include initiating and co-ordinating investment promotion activities of the government; identification and promotion of investment opportunities to potential investors in Namibia and abroad; and planning and directing promotional literature on investment opportunities and the general business environment in Namibia. An important objective of the Investment Centre is to serve as a "one-stop co-ordinating agency" for potential investors, with the aim of eliminating bureaucracy regarding such things as work permits and duty-drawbacks.

In April 1993, a special incentive package was introduced by the government in order to stimulate growth in the manufacturing sector. The package is applicable to both national and foreign investor. It contains the following:

- a 50 per cent tax rebate given on the taxable income for five years and continuous on a regressive basis for another ten years;
- reduction of location and relocation costs;
- accelerated write-offs for buildings;
- favourable loans for establishment, expansion or diversification;
- cash grant of 50 per cent of real costs on export promotion and marketing expenses;
- exporters' allowances as tax deduction of up to 75 per cent depending on the level of increase in export turnover;
- a 125 per cent training cost deduction (i.e. a contribution);
- a 125 per cent deduction of the production wage cost to encourage more labour intensive processes; and
- a 50 per cent rebate on feasibility studies undertaken by the government.

In addition, the package contains a list of incentives to encourage exports, eg on market research, exporters' visits to overseas markets, refund of customs and excise duties etc.. Incentives are also offered to promote regional development in Namibia, such as rebates or subsidies on transport, electricity and rents. There is also an incentive package component for small scale industries under development.

2.8.7 PTA Charter on Multinational Industrial Enterprises

Some of the benefits granted to Multinational Industrial Enterprises (MIE) in the PTA

Charter are already provided for in the Namibian legislation. Thus, equality of treatment is accorded to Namibian and foreign investors. Compensation in the event of nationalisation is guaranteed and is in accordance with international law. In this context, it should be noted that Namibia has been a member of the Multilateral Investment Guarantee Agency (MIGA) since 1990.

2.8.8 Visa Requirements

Bona fide tourists or business travellers from the following African countries are exempted from visa requirements to enter Namibia: Angola, Botswana, Kenya, Mozambique, Tanzania, Zambia and Zimbabwe. In addition, South African citizens can enter Namibia without a visa. However, citizens from Lesotho and Swaziland are at the time of writing still required to apply for a visa before entering Namibia, which is contrary to the spirit of the SADC Treaty adopted in Windhoek in August 1992 and ratified in Mbabane in September 1993.

2.9 CPA Proposed Actions yet to be Attended to by Namibia

In the following, some of the main measures within the Common Programme of Action that Namibia hitherto has not implemented or embarked upon are identified. This is due to either the infancy of Namibia's institutional framework or the nature of its sub-regional commitments (CMA and SACU).

2.9.1 Liberalisation of Trade

An investor is required to apply for an import licence, which is issued free of charge by the Ministry of Trade and Industry. It normally takes one day to get the licence, indicating that it is for registration purposes only. Thus, the government could decide to abolish the system of import licensing, except for certain goods on grounds of health or security, without any costs.

Namibia's export policy is at the full discretion of the government. It could decide to exclude exports to countries participating in the Initiative (excluding goods in transit) from licensing requirements, except for a small negative list. Once again, this would not involve any direct costs as export licences presently are issued free of charge.

2.9.2 Facilitation of Intra-regional Trade

Namibia determines its own transit charges. This implies that Namibia is in a position to implement the PTA harmonised transit charges policy once it has ratified the PTA Treaty, of which the country became a signatory in January 1993.

Namibian vehicles (including their consignments) operating between Namibia and SACU/PTA member countries are fully insured. Vehicles operated by the parastatal

TransNamib, for example, are covered by the standard insurance of Namibia. TransNamib is satisfied with the present arrangements.

The introduction of the PTA Yellow Card in Namibia would require the establishment of a National Bureau. Normally, the National Bureau has two functions:

- ❑ it is responsible for obtaining supplies of the Yellow Cards and for distribution of these to insurers of policy holders for issue;
- ❑ it deals with claims under the Yellow Card which occur inside the country. This includes investigations and negotiations with any Third Party. Full written reports are normally sent to the Issuing Agency by the National Bureau giving details of the nature and extent of material damage, bodily injuries or death and proposed settlement.

Namibia uses the Common Customs Area form Number 1 (CCA No.1) to register trade between SACU member countries. For the registration of trade between Namibia and non-SACU countries, a Bill of Entry is used. The introduction of the PTA RCTD (Road Customs Transit Declaration) form would, unless agreed upon by SACU member countries, be in conflict with the SACU procedures.

2.9.3 Regional Transport Issues

Namibia is presently in the process of formulating a comprehensive national transport policy, based on a draft White Paper on Transport Policy distributed for comments in May 1992. While the White Paper in general is positive to deregulation, the issue of the Fifth Freedom Traffic Rights has, according to the Ministry of Works, Transport and Communication, not been finally resolved. For the time being, the Ministry is of the opinion that the granting of such rights for international operations within the Southern African region needs further investigation.

Air Namibia, the national air carrier, supports the proposal in the Common Programme of Action that air tickets issued by regional airlines (i.e. of the participating countries) may be purchased in national currencies, but only on condition that these currencies are freely convertible.

Furthermore, Air Namibia supports the concept of harmonisation of flight schedules built on regional initiatives. However, it does not support the implementation of the Fifth Freedom Traffic Rights, opening Namibia's skies to foreign competition on an equal footing, as it considers such a policy contrary to the best interest of the national carrier.

2.9.4 PTA Charter on Multinational Industrial Enterprise

In addition to what was stated on MIE above, it should be noted that the clauses in the PTA Charter that allows the transfer of capital funds and import of capital goods from

participating non-CMA/SACU countries are in conflict with the CMA and SACU agreements.

2.9.5 Foreign Exchange Liquidity Requirements

The Bank of Namibia is still in the process of establishing procedures which will enable it to function as a fully-fledged central bank. In this context, Namibia is not yet in a position to utilise the facilities offered through the PTA Clearing House. Thus, in a letter to the PTA Clearing House, dated 12 April 1993, the Bank of Namibia requested to be exempted from taking up membership in the Committee of PTA Central Bank Governors

3.0 PHASE 2: MEDIUM-TERM TASKS

As was stated above, after the government of Namibia in April 1993 expressed its interest in implementing the CPA it became necessary to simultaneously carry out tasks under both Phase 1 and Phase 2 to keep pace with the Initiative in its wider, regional context

In the case of Namibia, the remaining medium-term tasks will still require background data, reflection and co-ordinated policy formulation before they can be meaningfully reported upon. As has been emphasised in this report, less than four years ago Namibia for all intents and purposes treated by South Africa as a fifth province. It has now not only reached nationhood, but is already in the forefront of those countries in Southern and Eastern Africa who are supporting the Initiative to Facilitate Cross-Border Trade, Investments and Payments in the region, forming part of the so-called initial critical mass of countries. As a next step, the government of Namibia should approach the co-sponsors of the Initiative to request assistance in project formulation and begin discussions on a package of financial and technical assistance for the implementation phase of the Initiative. To facilitate this step, NEPRU and the Namibian TWG were requested to inter alia a) identify proposed measures in the Common Programme of Action which may require further elaboration and/or background research and b) carry out an assessment of those national institutions that are likely to need assistance in terms of human resources and access of information for the successful implementation of the Initiative.

These issues have been discussed in the Namibian TWG and will also be covered in several of the studies initiated by the government of Namibia on trade and trade related matters. Thus, the above mentioned trade reform study funded by the African Development Bank will specifically look into the question of support to and strengthening of the Investment Centre in the Ministry of Trade and Commerce. The findings of this important study will, however, not be available until mid-1995. Other studies under implementation will also be finalised in 1994 or 1995.

In the meantime, issues that require further elaboration have been identified by NEPRU and assignments to carry out the tasks have been agreed to via the Namibian TWG. At the time of writing, it is still too early to report on the findings of these tasks. The issues/areas and the responsible agents are, however, as follows:

- Liberalisation of payment services (after the introduction of the Namibia Dollar) - Bank of Namibia;
- Facilitation of intra-regional trade - Ministry of Transport, Works and Communication;
- Regional transport - TransNamib/Air Namibia;
- Trade finance - Bank of Namibia and the authorised dealers/ commercial banks operating in Namibia;
- Export financing scheme - Directorate of International Trade in the Ministry of Trade and Industry;
- Visa requirements - Ministry of Home Affairs;
- Foreign exchange liquidity requirements - Bank of Namibia;
- Commercial banking - the commercial banks operating in Namibia; and
- Regional agreements - Ministry of Trade and Industry, Ministry of Finance and Bank of Namibia.

4.0 CONCLUSION

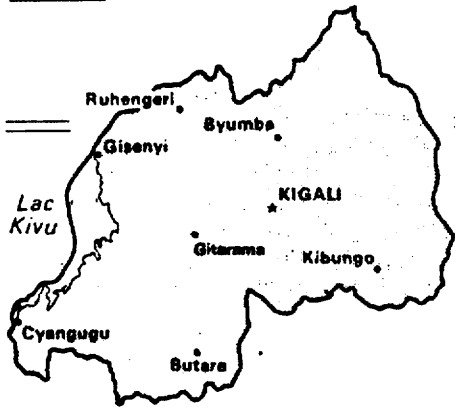
This report has tried to emphasise both the concrete measures implemented by the government of Namibia in the wider area of international trade and the dependencies, presently governed by imponderables, in the Southern African context. There can be no concluding findings to this report. This is also the position of the government of Namibia. Thus, in the opening paragraph to the chapter on "External Trade Policies and Strategies" in the Namibian Transitional Development Plan, issued by the National Planning Commission in March 1993 and covering the period 1991/2 - 1993/94, it is stated: "The whole Southern African region is in a state of flux and new regional trading relationships are in the process of being developed. This situation hinders the formulation of a clear long-term trade policy

(...). Namibia is at present not in a position to implement an independent trade policy, even if this were the best option” (p. 106).

Via the Initiative Namibia is, however, at the same time clearly re-orienting itself towards Southern and Eastern Africa. Principled commitments made at the Brussels and Kampala meetings in June and August 1993 testify to this effect. At the SADC Heads of State Summit in Swaziland in the beginning of September 1993 it was a Namibian, Dr Kaire Mbuende, presently Deputy Minister of Agriculture, Water and Rural, who was appointed to the position of Executive Secretary of the Southern African Development Community (SADC). This should vouch for an increased Namibian presence in the new Southern Africa in the making.

1. Price applicable until 1/11/93.
2. Depending on the availability of underground cable lines.
3. The Immigration Selection Board (ISB) consists of representatives from the Office of the President, Office of the Prime Minister, Ministry of Trade and Industry, Investment Centre, Ministry of Home Affairs, Ministry of Wildlife, Conservation and Tourism, Ministry of Labour and Manpower Development, and Ministry of Justice.
4. The Immigration Selection Board sits once per week.

50 km



Rwanda

I. MESURES COMMERCIALES.

1.1. Libéralisation des importations.

I.1.1. Constat.

a) Licences d'importation.

Dans le cadre de la libéralisation du commerce extérieur préconisée par le Programme d'Ajustement Structurel PAS adopté dès novembre 1990, un vaste programme de libéralisation du régime des importations a été entrepris depuis mai 1991, avec l'introduction d'un système transitoire de libéralisation des licences d'importation et d'allocation de devises en fonction des ressources disponibles. Pour assurer l'équilibre entre l'offre et la demande de devises, une commission de licence de 5% non remboursable devait frapper toute demande de devises adressée à la Banque Nationale du Rwanda, en vue de décourager les demandes spéculatives.

A partir du 1er juillet 1992, le système transitoire d'octroi de licences a été remplacé par un système ouvert d'octroi de licences d'importation. En conséquence, la commission de licence de 5% a été supprimée. Dans le cadre du nouveau PAS actuellement en cours de préparation, le Gouvernement Rwandais compte poursuivre ce système de libéralisation progressive des importations, de façon à rendre le système de moins en moins tracassier et beaucoup plus transparent.

La loi portant organisation du commerce extérieur (loi n°34/91 du 05 août 1991) stipule, en son article 3, que "toute importation de marchandises en République Rwandaise, dépassant un montant que détermine le Ministre ayant le commerce extérieur dans ses attributions, est soumise à l'obtention d'une licence d'importation ou tout autre document en tenant lieu, délivré par la Banque Nationale du Rwanda avant que le requérant n'ait pris un quelconque engagement envers son fournisseur".

En principe, toute demande de licence est honorée; mais la pratique montre que cette formalité constitue toujours une certaine entrave à la libéralisation des échanges, dans la mesure où la licence demeure une autorisation d'importation (pouvant être refusée). Par ailleurs, les délais d'obtention des licences peuvent empêcher le bon déroulement des opérations d'importation.

Pour une libéralisation totale des échanges, cette disposition de la loi portant organisation du commerce extérieur devrait être purement et simplement supprimée, du moins pour les opérations se rapportant aux échanges régionaux, sauf pour une catégorie de marchandises dont la liste serait arrêtée par voie de règlement par le Ministre ayant le commerce extérieur dans ses attributions; le suivi des importations et l'établissement des statistiques devant se faire sur base des déclarations douanières.

En conséquence les dispositions de la réglementation du change traitant des conditions et procédures dans lesquelles sont délivrées les licences d'importation devraient être fondamentalement amendées.

La section I de ce règlement indique les différents éléments devant être portés sur une licence d'importation, à savoir notamment la description de la marchandise, la valeur CIF, la monnaie de paiement, le pays d'origine, le pays de provenance, le mode de transport (terrestre, maritime, aérien) etc... Tous ces éléments se retrouvent pourtant sur la déclaration douanière; celle-ci donc suffit pour l'exploitation de ces données. Toute erreur dans la transcription de ces données sur la licence entraîne automatiquement le rejet de cette dernière, ce qui retarde le processus d'importation.

La section I du règlement V précise aussi toute une série de documents devant être annexés à la licence d'importation en vue de sa validation. Il s'agit des factures proforma pour les marchandises, délivrées par au moins 2 fournisseurs de deux pays différents, des factures proforma pour le transport, celles des autres frais tels que les commissions, les frais de financement, etc... Pour certaines marchandises telles que les tissus, le règlement exige que soient annexés à la licence des échantillons des produits à importer (bien que dans la pratique, cette exigence ne soit pas actuellement respectée). Ces formalités sont tracassières et ne font qu'allonger les formalités d'importation.

Enfin, la section I du règlement V de la réglementation du change indique que la commande ferme des marchandises doit intervenir, sous peine de nullité de la licence, dans les deux mois suivant la validation de la licence. Cette exigence est contre le principe de la liberté commerciale. Il se trouve qu'elle est même inutile, étant donné que le contrôle par l'Administration de l'état de passation des commandes est pratiquement impossible, puisque aucun document ne matérialise systématiquement cet acte. Toute la section I du règlement V devrait être supprimée.

Il faut enfin noter que toutes les barrières non tarifaires à l'importation, autrefois utilisées pour décourager certaines importations, ont été complètement supprimées dès le mois de juin 1991.

b) Conditions d'allocation de devises.

La section II du règlement V de la réglementation du change traite des conditions d'exécution des paiements par les banques.

Compte tenu de ce qui est indiqué ci-dessus, concernant la suppression de la licence d'importation, les articles 25 et 26 de cette section de la réglementation sont à supprimer.

En effet, l'article 25 ordonne aux banques agréées de refuser d'exécuter tout paiement prévu par une licence

d'importation puisqu'il apparaît que:

- la marchandise a été expédiée avant la validation de la licence;
- le mode de transport n'a pas été respecté;
- la commande ferme des marchandises n'est pas intervenue dans les deux mois suivant celui de la validation de la licence.

L'article 26 précise que les banques agréées ne peuvent exécuter les paiements qu'à concurrence des montants prévus par licence et conformément aux modalités prévues par celle-ci. Cela suppose que toute modification à la hausse de la facture d'importation nécessite l'introduction d'une nouvelle autorisation de paiement, dans les conditions prévues par l'article 38 de la même réglementation), ce qui rallonge les délais de paiements. Les articles 26 et 38 sont à supprimer en vue de permettre une certaine souplesse dans l'allocation des moyens de paiement.

c) Réduction des tarifs douaniers régionaux.

En matière de tarif douanier, le Rwanda a pour objectif de réduire les droits de douane jusqu'au niveau minimum de protection tarifaire indispensable aux entreprises industrielles, mais également suffisamment bas pour décourager la fraude douanière.

Le Rwanda a procédé à la publication des tarifs ZEP initiaux et de la première tranche des réductions tarifaires. La non publication des autres réductions tarifaires a été occasionnée par des difficultés considérables pour les entreprises industrielles rwandaises, du fait que le tarif ZEP prévoit beaucoup d'exonérations ou d'impositions inférieures à 10% sur la plupart des produits manufacturés en provenance des pays de la ZEP au moment où le tarif normal impose des droits d'entrée d'au moins 10% sur les matières premières, conformément au Programme d'Ajustement Structurel conclu avec les Institutions de Bretton Woods.

Les organes Directeurs de la ZEP ont demandé au Secrétariat Général de la ZEP d'étudier la question avec le Gouvernement Rwandais afin qu'une solution soit trouvée. Une étude visant à minimiser les effets négatifs de la réduction tarifaire au niveau régional s'impose. Toutefois en attendant cette étude, le Rwanda s'est engagé à préparer les instruments juridiques nécessaires pour se conformer au nouveau calendrier des réductions tarifaires tel que décidé par le conseil des Ministres de la ZEP en janvier 1993.

Ce calendrier se présente comme suit:

Octobre 1993	Octobre 1994	Octobre 1996	Octobre 1998	Octobre 2000
60%	70%	80%	90%	100%

La publication de la loi y relative devrait intervenir avant la fin de l'année 1993. Le taux de référence des droits de douane sur lequel reposera le nouveau tarif unique de réductions tarifaires est le tarif commun. Toutefois, les taux du tarif ZEP qui sont déjà inférieurs à ceux résultant de l'application de la réduction de 60% devront être maintenus comme tels.

Il importe de noter au'au courant du mois d'août 1993 une mission technique de la ZEP a séjourné au Rwanda dans le but de recueillir des informations devant permettre aux organes de la ZEP de mieux apprécier la requête du Rwanda. Le rapport de mission sera examiné dans la réunion du comité des Douanes et du Commerce, prévue du 04 au 08 octobre 1993.

d) Abolition de la liste commune.

L'article 3 de l'Annexe I du Traité de la ZEP stipule que pour qu'un produit puisse être inscrit à la liste commune, les Etats membres doivent préalablement indiquer que ce produit présente pour eux un intérêt à l'exportation et à l'importation.

Toutefois, compte tenu des difficultés pratiques d'inclusion de nouveaux produits sur la liste commune et afin d'accélérer le rythme de libéralisation des échanges commerciaux, le Conseil des Ministres a estimé qu'il serait souhaitable de supprimer la liste commune.

Comme l'ensemble des pays de la ZEP, le Rwanda a donné son accord pour la suppression de la liste commune. Cet accord devra toutefois être officialisé avec la publication du tarif ZEP suivant le nouveau calendrier de réduction tarifaire.

1.1.2. Actions à court et moyen termes.

- supprimer le caractère systématique d'octroi préalable d'une licence d'importation dans les opérations d'importation;
- établir une liste de marchandises devant nécessiter une autorisation spéciale d'importation et se contenter d'une simple déclaration douanière;
- réviser la loi du 5 août 1991 portant organisation du commerce extérieur;
- accélérer la révision de la réglementation du change;
- Opérer une nouvelle réduction tarifaire portant le taux maximum de 100% à 60%;
- lancer la préparation des instruments juridiques nécessaires au respect du nouveau calendrier de réductions tarifaires à opérer dans le cadre de la ZEP;
- matérialiser la décision prise d'abolir la liste commune dans le cadre de la publication du tarif ZEP;

1.2. Libéralisation des exportations.

1.2.1. Constat.

Le Gouvernement Rwandais a déjà décidé que soient supprimées les licences d'exportation. Toutefois, il reste à modifier la loi relative à l'organisation du commerce extérieur, notamment en son article 5, qui stipule que "toute exportation originaire et/ou en provenance du territoire national est soumise à l'obtention d'une licence d'exportation...".

Cette disposition est à supprimer, les titres d'exportations n'étant nécessaires que pour une liste de produits (café, thé, minerais, etc...) dont il est exigé le rapatriement des devises et devant être établi par Arrêté du Ministre chargé du commerce extérieur.

Les dispositions de la réglementation du change relatives à la licence d'exportation, notamment les chapitres I, II et III (c'est-à-dire les articles 1 à 12) du Règlement VI sont également à modifier.

1.2.2. Actions à court terme.

- concrétiser la décision déjà prise par le Gouvernement de supprimer les licences d'exportation;
- établir une petite liste des produits devant nécessiter une autorisation spéciale d'exportation;
- effectuer le suivi des exportations et l'établissement des statistiques y relatives sur base des déclarations douanières.

1.3. Facilitation des échanges commerciaux intra-régionaux.

1.3.1. Constat.

Actuellement, le RWANDA applique un tarif de 152 \$US par camion aux 100 Km au titre des péages de transit routier. Toutefois, le RWANDA a déjà communiqué au Conseil des Ministres de la ZEP son accord pour l'application des tarifs harmonisés, qui sont de 8 \$US aux 100 Km en ce qui concerne les poids lourds munis de plus de trois essieux, et 3 \$US aux 100 Km en ce qui concerne les poids lourds à chassis rigides munis de trois essieux au maximum.

Cependant, pour mettre en oeuvre ces tarifs harmonisés, le RWANDA exige que les autres pays de la ZEP (principalement les pays de transit de ses marchandises), les adoptent également.

Le système de carte jaune de la ZEP fonctionne plus ou moins normalement; mais il connaît deux problèmes majeurs dans les Etats membres:

- difficultés de transfert des fonds de règlement de sinistres couverts par la carte jaune;

- refus d'indemnisation de certains sinistres.

Pour résoudre ces problèmes, il faudrait que les banques centrales institutionalisent le transfert automatique des fonds de règlement de sinistres par les banques commerciales via les Chambres de Compensation. La liste des transferts qui n'ont pas été effectués devrait, pour question de suivi, être communiquée régulièrement au Secrétariat de la ZEP.

Par ailleurs, il importe de souligner qu'il faudrait une certaine harmonisation des législations de la région en matière "d'assurance responsabilité automobile".

Le document de transit douanier par route (DTDR) a été mis en place et fonctionne normalement. Il n'a pas encore été introduit le système de document unique pour la déclaration de biens couvrant les importations, les exportations et les transits. Toutefois, de nouvelles déclarations douanières (Déclarations de mise en consommation, déclarations d'exportation, déclarations de Transit) basées sur le Système Harmonisé, ont été introduites. Il reste donc à rassembler ces déclarations en un document unique englobant tous les aspects Importation, Exportation et Transit.

Le système de traitement des données douanières (SYDONIA) est déjà opérationnel. Le personnel a été formé à l'utilisation des applications informatiques et la saisie des données se fait régulièrement. Il reste à décentraliser la saisie auprès des différents bureaux de douane.

1.3.2. Actions à court et moyen termes.

- Institutionnaliser, au niveau de la BNR, le transfert automatique des fonds de règlement des sinistres (couverts par la carte jaune) par les banques commerciales, via la Chambre de Compensation de la ZEP;
- Communiquer régulièrement à la ZEP la liste des transferts non effectués;
- Adoption du système ZEP de redevances harmonisées de transit et instauration du système de coupons libellés en unités de compte ZEP pour le paiement de ces redevances (ce système de coupons devant être proposé par la ZEP);
- Rassembler, pour des besoins de facilité et de rapidité d'exploitation, les déclarations de transit douanier par route (DTDR) en un document unique englobant tous les aspects (importation, exportation et transit);
- Adoption du système régional de garantie des prêts (à être proposé par les organisations régionales);
- compléter l'étude déjà disponible au niveau de la ZEP et relative à l'harmonisation des tarifs de transit routier de façon à l'étendre à tous les pays couverts par le PCA;

- harmoniser les législations relatives à l'assurance responsabilité civile et, à cette fin, trouver les ressources nécessaires pour mener une étude appropriée;
- décentraliser la saisie des données douanières auprès des différents bureaux de douanes.

1.4. Libéralisation des échanges de services

1.4.1. Amélioration des transports régionaux.

1.4.1.1. Constat.

La 5ème édition sur le Droit de Liberté de Trafic Aérien n'est pas encore appliquée au niveau régional. En effet, la plupart des Etats de la ZEP protègent encore leurs lignes et droits de trafic.

Cette situation ne peut être évitée ou combattue uniquement sur le plan national; elle doit l'être sur le plan régional, en effectuant les actions suivantes :

- exécuter des opérations de vols conjoints;
- échanger les droits de la 5ème liberté sur base de la réciprocité;
- pour les lignes qui ne sont pas desservies ou qui sont desservies faiblement, les autres compagnies de la ZEP devraient automatiquement bénéficier des droits de la 5ème Liberté.

Par ailleurs, les pays de la ZEP devraient adhérer à l'accord sur les services aériens internationaux de transit qui a été signé à CHICAGO le 7 Décembre 1944, et qui stipule que chaque partie contractante accorde aux autres parties contractantes les droits de trafic ci-après:

- le privilège de survoler son territoire sans atterrir;
- le privilège d'atterrir à des fins non commerciales.

S'agissant de la coordination des horaires de vol, l'on constate que chaque compagnie a ses horaires.

Sur le plan du transport routier et ferroviaire, l'on constate une faiblesse des infrastructures au niveau régional. La ZEP et les autres organisations régionales devraient donc, en collaboration avec les pays concernés, procéder à l'élaboration d'un programme concret d'amélioration des infrastructures existantes pour les différents modes de transport. De plus, en vue d'une meilleure desserte maritime dans la sous-région, il est également important qu'une étude soit faite dans l'objectif de renforcer la coopération régionale à travers une politique maritime commune. Bien que n'ayant pas d'accès direct à la mer, le Rwanda adhérerait ou soutiendrait cette politique, dans la mesure où cela pourrait également contribuer, en partie du moins, à la diminution du coût du transport de nos marchandises importées.

1.4.1.2. Actions à court et moyen termes.

- étendre progressivement l'achat de billets d'avion en francs rwandais aux compagnies aériennes internationales desservant le Rwanda;
- organiser une réunion des compagnies aériennes devant examiner les modalités d'endossement automatique des billets d'avion;
- harmoniser les réglementations relatives au transport aérien de façon à libéraliser le droit de trafic;
- prendre les mesures nécessaires pour adhérer à l'accord de Chicago sur les services aériens internationaux de transit;
- mettre en place une structure d'harmonisation des horaires de vol. Cette action se situerait dans le cadre du comité de coordination des horaires de l'AFRAA;
- réaliser les actions préconisées par la politique africaine en matière d'aéronautiques (déclaration de Yamoussoukro).
- exploiter rapidement le terrain mis à disposition du Rwanda par la Tanzanie à Isaka en y installant des infrastructures de stockage et rechercher à cette fin un financement extérieur;
- trouver un financement pour la réalisation des projets retenus dans le cadre de la IIème Décennie des transports et communications pour l'Afrique.
- Bien que cette action ne relève pas directement du Gouvernement Rwandais, les infrastructures portuaires de Mpulungu (Zambie) et de Bujumbura (Burundi) devraient être améliorées;

1.4.2. Amélioration des facilités financières pour les échanges commerciaux.

1.4.2.1. Constat.

Dans le cadre du programme de promotion des exportations du RWANDA, il est prévu de mettre sur pied un organisme de financement et d'assurance-crédit à l'exportation. Les actions suivantes sont nécessaires.

Actuellement, la réglementation du change (Règlement VI, chap. I, art. 3) précise que toute exportation commerciale réalisée implique pour l'exportateur l'obligation de recevoir le paiement en monnaie convertible dans les délais ci-après:

- 30 jours après la date de sortie de la marchandise, pour les exportations à destination du KENYA, du BURUNDI, du ZAIRE, de la TANZANIE et de l'UGANDA;
- 120 jours après la date de sortie de la marchandise, pour

les exportations à destination des autres pays.

1.4.3.2. Actions à court et moyen termes.

- adapter le cadre réglementaire pour permettre l'établissement d'un système d'assurance-crédit;
- mettre en place une structure administrative d'un organisme d'assurance-crédit;
- établir des liaisons avec des organismes d'assurance-crédit à l'étranger;
- permettre un crédit d'au moins 180 jours sur les exportations entre les pays de la sous-région et modifier en conséquence l'article 3 du Règlement VI de la réglementation du change.

1.5. Instauration d'activités pour le développement des échanges commerciaux.

1.5.1. Constat.

Actuellement, la Chambre de Commerce et d'Industrie du Rwanda organise des sessions de formation des opérateurs économiques en matière de commerce international. Il a été mis sur pied un comité pédagogique à cet effet.

Toutefois, ces sessions de formation mériteraient d'être redynamisées. Il faudrait à cet effet:

- entamer la restructuration de la CCIR, de façon à déboucher sur un centre autonome chargé de la promotion commerciale, c'est-à-dire s'occupant des aspects formation, information et foires commerciales;
- équiper ce centre de promotion des échanges extérieurs en matériel de traitement de l'information (ordinateur) et de communication (fax, télex, etc...);
- développer le traitement, l'analyse et la diffusion de l'information sur le commerce intra-régional. A cet effet, le système TINET devrait être suffisamment vulgarisé auprès des opérateurs économiques.

L'on constate que, sur le plan régional, très peu d'études de marchés sont réalisées, et qu'il n'y a que peu de contacts entre les hommes d'affaires pour des réunions acheteurs-vendeurs et des foires régionales.

1.5.2. Actions à court et moyen termes.

- mettre à la disposition des opérateurs économiques des informations sur les opportunités d'affaires au niveau régional;
- mettre sur pied un fonds pour la promotion des échanges extérieurs du Rwanda au niveau de la région. Ce fonds

serait alimenté par des subventions du Trésor, mais également par les cotisations des opérateurs économiques via leurs organisations professionnelles (comme la Chambre de Commerce, l'Association des Industriels du Rwanda,...);

- procéder à une expertise en vue d'une restructuration de la Chambre de Commerce et d'Industrie du Rwanda, de façon à déboucher sur un centre autonome chargé de la promotion commerciale, c'est-à-dire s'occupant des aspects formation, information et foires commerciales;
- équiper ce centre de promotion des échanges extérieurs en matériel de traitement de l'information (ordinateur) et de communication (fax, télex, etc...);
- développer le traitement, l'analyse et la diffusion de l'information sur le commerce intra-régional à l'intention des opérateurs économiques rwandais. A cet effet, le système TINET devrait être suffisamment vulgarisé auprès des opérateurs économiques.

1.6. Amélioration des procédures de normalisation.

1.6.1. Constat.

Actuellement, le RWANDA n'est pas doté d'un système de normalisation et de contrôle de la qualité, à part quelques laboratoires qui existent dans certains organismes publics et ministères.

Une étude a été faite par la Société Générale de Surveillance et a recommandé la mise sur pied d'un bureau national de normalisation et de contrôle de la qualité. Le RWANDA est en train de chercher un financement pour la création de ce bureau.

En attendant que ce bureau soit créé, certaines actions peuvent être faites, sous la coordination de la Division "Normalisation et Contrôle de la Qualité" du Ministère de l'Industrie, du Commerce et de l'Artisanat.

1.6.2 Actions à court et moyen termes.

- finaliser le projet de loi portant organisation des activités de normalisation au RWANDA et du projet de loi portant création du Bureau Rwandais de Normalisation;
- chercher, en conséquence, un financement pour la mise en place du bureau national de normalisation recommandé par l'étude de la SGS;
- adhérer aux organisations qui élaborent les normes internationales (ISO, OFI, ORAN, etc...);
- élaborer les normes nationales en harmonie avec les normes internationales et, le cas échéant, recourir à une expertise spécialisée;

- renforcer les laboratoires déjà existants et disposant d'un équipement de contrôle de la qualité. Il s'agit des laboratoires de microbiologie de l'ISAR, d'analyse physico-chimique de l'ISAR, de l'U.N.R et du Ministère du Commerce, de l'Industrie et de l'Artisanat, d'analyse de résistance des matériaux du Ministère des Travaux Publics et de l'Energie;
- prospector les possibilités de coopération régionale en vue de la rationalisation des moyens disponibles en matière de contrôle de qualité;
- chercher un financement pour l'acquisition d'équipements pour les laboratoires de métrologie, étant donné qu'ils n'existent pas actuellement au RWANDA;
- ouvrir le contrôle de qualité à plusieurs sociétés de contrôle, et, ainsi, permettre une saine concurrence dans ce domaine.

1.7. POTENTIALITES D'ECHANGES COMMERCIAUX AVEC LES PAYS DE L'AFRIQUE DE L'EST ET DE L'AFRIQUE AUSTRALE.

Les échanges commerciaux du Rwanda avec les pays de l'Afrique de l'Est et de l'Afrique Australe restent limités et connaissent un accroissement faible. Les importations se situent autour de 115.000 tonnes par an, pour une valeur d'environ 40 Millions \$ US (composées essentiellement par les achats de carburant au KENYA et en TANZANIE). Quant aux exportations, elles sont très irrégulières et varient entre 900 Tonnes et 1.800 Tonnes par an, pour une valeur inférieure à 1 Millions \$ US.

Pourtant, les potentialités d'échanges sont relativement importantes; une enquête menée au courant du mois d'Août 1993 auprès des principales entreprises intéressées par le marché des pays de l'Afrique de l'Est et de l'Afrique Australe a révélé que ces potentialités existent effectivement. Cependant elles ne pourraient être exploitées que si certaines contraintes étaient levées. Il s'agit notamment des niveaux élevés des droits de douane, de l'existence d'autres taxes à l'importation, de l'existence des formalités administratives tracassières, de l'exigence d'effectuer les paiements en devises fortes, du mauvais état de certains axes routiers, des ruptures de charge à MPULUNGU et à BUJUMBURA, et du niveau généralement élevé des prix des produits de la région.

La consultation des entreprises ci-haut mentionnées a montré que si ces contraintes étaient levées, les importations du Rwanda en provenance des pays de l'Afrique de l'Est et de l'Afrique Australe passeraient de leur niveau actuel estimé à 40 Millions de \$ US à environ 47 Millions de \$ US, soit une augmentation de 18%. Quant aux exportations, elles passeraient de 1 Million de \$ US à environ 1,4 Millions de \$ US, soit une augmentation de 40%.

Il est à noter que les contraintes vécues affectent plus les exportations que les importations. En effet, pour ces

dernières, la contrainte majeure, à savoir le niveau des droits de douane, ne joue pas tellement dans la mesure où le tarif appliqué par le RWANDA pour les produits originaires de la ZEP est assez bas.

Les produits qui se prêtent le plus aux potentialités d'échanges sont, à l'exportation, les concentrés de tomates, les tôles, les tubes en PVC et les bières; et à l'importation, les cartons d'emballage, les feuillets en acier, les clous et les treillis.

II. MESURES RELATIVES A L'INVESTISSEMENT.

2.1. Procédures et Règlements nationaux.

2.1.1. Constat.

2.1.1.1. Liste des principaux textes législatifs et réglementaires régissant les activités économiques au Rwanda et objet à modification.

1. La Législation fiscale

Cette Législation comprend les textes suivants:

- Impôt sur les revenus (Loi du 2 juin 1964);
- Arrêté Ministériel n° 10/071/FIN du 29 décembre 1973 portant mesures d'exécution de la loi du 2 juin 1964 relative aux impôts sur le revenu;
- Annexes à l'Arrêté Ministériel n° 10/071/FIN du 29 décembre 1973;
- Impôt personnel (décret-Loi du 28 décembre 1973);
- Arrêté Ministériel n° 11/071/FIN du 29 décembre 1973 portant mesures d'exécution du décret-Loi du 28 décembre 1973 relatif à l'impôt personnel;
- Droit de patente et ses annexes;
- Impôt sur le chiffre d'affaires;
- Régime douanier;
- Arrêté Ministériel n° 08.09/FIN 4 du 2 juillet 1968 portant mesures d'exécution de la loi du 17 juillet 1968 relative au régime douanier;
- Code des investissements (5 Août 1987).

Certains textes repris dans la liste ci-avant viennent d'être modifiés dans le cadre de la réforme fiscale qui vient d'être approuvée par le Gouvernement Rwandais. Il s'agit de :

- la loi du 2 juin 1964 relative à l'impôt sur les revenus;
- la loi n° 11/81 du 19 juin 1981 relative au droit de patente.

Les textes dont il est question sont:

- le Décret-Loi relatif au droit de patente;
- le Décret-Loi portant code général des impôts indirects;
- le Décret-Loi portant code des procédures fiscales.

Ces textes ont été conçus de façon à favoriser les investisseurs. De même, la fiscalité locale est en étude. La loi portant organisation communale (1964) et la loi portant création de la Préfecture de la Ville de Kigali (1990) seront modifiées pour solutionner le problème de la double imposition.

La loi n° 1/1986 du 1er Avril 1986 telle que modifiée à ce jour relative à l'impôt sur le chiffre d'affaires devrait aussi être revue. Cette loi a introduit un taxation en cascade. Outre ce problème, les produits de première nécessité sur lesquels le taux de l'ICHA doit s'appliquer ne sont pas encore déterminés.

Le Ministère des Finances a entrepris une étude en vue de remplacer l'impôt sur le chiffre d'affaires par un impôt sur la valeur ajoutée.

S'agissant du Code des investissements, la loi du 5 août 1987 portant code des investissements a été suspendue depuis novembre 1990 en ce qui concerne les nouveaux candidats.

L'essentiel des avantages du Code des investissements consistant en exonération fiscales, la réforme fiscale a décidé la suppression du Code des Investissements et l'insertion des mesures fiscales incitatives dans la législation fiscale.

En ce qui concerne l'impôt foncier et l'impôt personnel des projets de loi sont initiés par les départements ministériels concernés. Ces impôts ont aussi concernés par la réforme fiscale.

Pour conclure, on peut noter que le Rwanda a déjà entrepris de grandes réformes en matière fiscale et que ces réformes permettront l'application du PCA.

2. La Législation commerciale

En ce qui concerne la législation commerciale, il importe de souligner ce qui suit:

- la loi n°36/91 du 05 août 1991 relative au registre de commerce renferme une taxation différenciée par catégories commerciales et par activités. L'article 19 de cette loi en est le fondement légal. L'arrêté ministériel contenant les différentes textes devrait être abrogé pour être remplacé par un autre contenant une taxe rémunératoire unique. Au sujet du délai de réponse à la requête du demandeur du registre, il n'y a pas de difficultés car la loi prévoit que passer le délai d'un mois sans réponse, la demande est considérée comme agréée.
- la loi n° 06/1988 du 12 février 1988 portant organisation des sociétés commerciales pose le problème du droit proportionnel de 1,2 % payable par la société pour se faire immatriculer au registre de commerce. Ce montant est exigé en plus des frais de publication des statuts au Journal Officiel, des frais d'authentification et des frais d'immatriculation.

L'article 17 de cette loi, telle que modifiée et complétée à ce jour, devrait être modifiée à nouveau pour éviter que l'investisseur ne soit découragé par beaucoup de frais de dossiers. Le droit proportionnel de 1,2% serait supprimé en l'absence d'une justification convaincante de son institution. Dans le cas où elle aurait une justification, ce taux serait abaissé à un niveau à convenir.

- la loi n° 43/90 du 1 octobre 1990 portant promotion des exportations est incitative. Elle renferme cependant deux dispositions qui méritent d'être améliorées. Il s'agit

d'une disposition qui parle d'une remise d'impôt de 10 % du chiffre d'affaires à l'exportation. Dans un premier temps, il faut rendre effective cette disposition quite à le revoir en hausse ultérieurement. Une autre concerne le montant à verser au compte convertible de l'exportateur. Ce pourcentage qui est actuellement de 2 % des recettes de l'exportateur est à augmenter. Il y a actuellement des propositions dans ce sens au niveau des services techniques des départements concernés.

- la loi portant organisation du contrôle du change devrait être revue en vue de permettre la libéralisation de ce secteur et permettre les facilités nécessaires pour le transfert des revenus à l'extérieur par les investisseurs étrangers ainsi que permettre l'éclosion des bureaux de change tenus par des privés à des conditions moins tracassières. La réglementation du change en étude actuellement par les instances habilitées devraient tenir compte de cet esprit.

3. La Législation du travail

La législation du travail s'inspire des principes du droit du travail de l'Organisation Internationale du Travail (OIT). Elle est actuellement en révision pour l'adapter au contexte actuel de libéralisation de l'emploi.

4. Les procédures et les formalités administratives relatives à l'investissement

Ces procédures et formalités administratives touchent l'immigration, le Registre de Commerce, le permis d'exportation (l'enquête de commodo et incommodo), l'enregistrement du projet industriel, l'octroi du terrain et l'autorisation de bâtir, la déclaration d'ouverture de l'entreprise, le permis de travail, l'autorisation préalable au recrutement des étrangers, les licences d'importation et d'exportation, etc... Il serait souhaitable qu'un certain délai soit prévu au niveau des textes respectifs pour que l'autorité habilitée à délivrer une quelconque autorisation réponde dans le délai faute de quoi le refus d'octroi de l'autorisation non justifiée serait à sanctionner. Certains textes de loi prévoient le délai à l'intérieur duquel l'autorité habilitée à donner telle ou telle autorisation doit intervenir. Cependant le principe de fixer un délai ne dépassant pas deux mois pour satisfaire une demande est à instituer et insister sur le fait que des textes particuliers puissent prévoir un délai moins long à l'instar de ce qui est consigné dans la loi sur le registre de commerce à savoir qu'un mois après réception de la lettre de demande, le greffier est tenu de répondre à la personne qui requiert l'immatriculation faute de quoi après ce délai, la personne est réputée commerçante.

Les procédures et formalités précitées s'accomplissent auprès des autorités de départements ministériels différents. La création d'un Centre de Promotion des Investissements auprès duquel toutes ces formalités peuvent être centralisées s'impose.

2.1.1.2. Coût des facteurs de production

Le coût de la main-d'oeuvre est excessivement élevé comparativement aux Pays de la sous-région. Le marché du travail devrait être libéralisé. Les coûts des consommations d'énergie sont excessifs. Une étude devrait être menée en vue d'examiner les voies de mettre en place une politique des coûts comparables à ceux des autres Pays de la sous-région.

2.1.1.3. Ordre de grandeur des flux d'investissements intra-régionaux

Les contrôles administratifs et réglementaires auxquels les opérateurs nationaux ont été longtemps soumis ont créé chez-eux une grande méfiance envers l'Administration. Il en est résulté que ces opérateurs ont tout fait pour donner le moins d'informations possible sur les flux d'investissements qu'ils pratiquaient à l'étranger.

Lorsqu'on observe, cependant, le nombre de séjours prolongés qu'effectuent à l'étranger et surtout dans certains pays spécifiques (Kenya, Belgique, France, Grande Bretagne, Burundi, Uganda) les grands hommes d'affaires rwandais et que l'on sait par ailleurs la solidarité qui lie certaines communautés d'hommes d'affaires étrangers, notamment les indo-pakistanaïsi, l'on peut affirmer que d'importants flux d'investissements existent entre le Rwanda et les pays de la sous-région et d'outre-mer.

Une enquête menée auprès des opérateurs économiques en vue de savoir le volume des investissements en provenance du Rwanda, le volume des investissements vers le Rwanda, des produits ou les secteurs d'investissement si toutes les contraintes étaient levées et si toutes les mesures du CPA étaient appliquées révèle ce qui suit:

a) Volume des investissements en provenance du Rwanda

Pour les entreprises qui ont répondu au questionnaire, ce volume se situe à 2.400.000.000 FRW. 50 % des entreprises seulement ont réagi si bien qu'une extrapolation peut être faite de façon à porter ce volume jusqu'à 5 milliards.

b) Volume des investissements vers le Rwanda

Pour les entreprises qui ont réagi au questionnaire, le volume s'élève à 3 milliards. 50 % des entreprises ont répondu si bien qu'une extrapolation peut être faite de façon à porter ce volume à 6 milliards.

c) Les produits ou secteurs d'investissement

Les entreprises pensent investir dans les produits suivants:

- matériaux de construction;

- produits électro-ménagers;
- fabrication du mobilier métallique;
- papier et ses dérivés;
- emballage;
- imprimés divers;
- textiles;
- savons, confiseries et cosmétiques.

En clair, le monde des opérateurs économiques entend augmenter les échanges intra-régionaux et s'intéresser aux investissements transfrontalières après l'élimination des obstacles juridiques ou physiques.

Néanmoins, cela ne sera possible que si des facilités réciproques sont envisagées dans des accords de coopération commerciale et de paiement ainsi que dans des accords de coopération touchant le transport, la douane, l'investissement, etc... Un préalable sera donc nécessaire à savoir la volonté politique de s'engager au service de la promotion des échanges commerciaux ou la création d'une communauté économique.

Au niveau de la sous-région, il y aura bientôt une nouvelle institution, le COMESA. Sa création permettra l'application du PCA sans difficultés.

2.1.1.4. Etude d'un cas hypothétique: Investissement dans la filière

"production et vente de viande bovine"

L'exploitation d'un projet de "production et vente de la viande bovine" implique :

a) pour un national ou une personne morale de droit rwandais:

- une étude de rentabilité;
- la présentation du projet à l'administration pour enregistrement;
- obtention du permis d'exploitation;
- obtention de l'autorisation de bâtir;
- obtention du registre de commerce;
- publication des statuts au Journal Officiel s'il s'agit d'une personne morale de droit rwandais.

b) pour un étranger ou une personne morale de droit étranger:

Outre les points ci-dessus, il faut un permis de séjour pour les étrangers.

En ce qui concerne le temps requis pour chaque étape et les coûts y afférents :

- la demande du permis de séjour peut-être satisfaite dans un délai d'un mois sans frais;
- la demande d'enregistrement du projet requiert le seul délai d'accusé de réception;
- la demande d'immatriculation peut-être satisfaite dans un délai n'excédant pas un mois. Les taxes d'immatriculation sont différenciées selon les activités et les catégories;
- les frais de publication des statuts au Journal Officiel de

la République Rwandaise varient selon la grandeur du texte.
La prix des insertions est de 1.200 FRW pour douze lignes
indivisibles

2.1.2. Actions à court et moyen termes.

- Création d'un Centre de Promotion pour Investissements;
- accélérer la publication des textes légaux en matière fiscale
- Revoir les lois sur l'ICHA, sur le Registre de Commerce sur les Sociétés Commerciales et sur la Promotion des Exportations;
- Libéraliser l'emploi par des textes légaux appropriés;
- Mener une étude en vue de la réduction des coûts de l'énergie
- Publier un Guide de l'Investisseur.

2.2. Ratification et mise en place de la Charte ZEP MIE.

2.2.1. Constat.

Globalement les réglementations et les législations nationales ne sont pas en contradiction avec les clauses de la Charte ZEP MIE sauf pour ce qui est de l'exonération des intrants prévue par la Charte pendant que le P.A.S. impose des droits d'entrée minimaux de 10%.

Les négociations avec les bailleurs de fonds devraient être menées en vue d'obtenir l'autorisation de cette exonération à titre d'incitation à l'Investissement.

La Charte ZEP MIE n'a pas encore été ratifiée par le Rwanda; elle ne semble même pas avoir fait l'objet d'un examen approfondi par les services techniques.

2.2.2. Actions à court et à moyen terme.

- Obtenir des bailleurs de fonds l'accord de principe pour pouvoir exonérer les intrants;
- Soumettre à un examen approfondi des services techniques la Charte ZEP MIE en vue des propositions d'amendements pour ensuite y adhérer.

2.3. Facilitation des investissements d'un pays à l'autre.

2.3.1. Constat.

. Notre Pays n'a pas encore examiné, en vue de son adhésion, les Statuts de l'Agence Multilatérale de Garantie pour l'Investissement.

. Notre Pays n'a pas encore conclu des accords bilatéraux sur les doubles impositions.

. Il n'existe pas encore de place boursière au Rwanda.

. Le manque d'un Guide de l'Investisseur est un frein à la promotion des investissements.

2.3.2. Actions à court et moyen termes.

- Publier un Guide de l'Investisseur;
- Examen des Statuts de l'AMGI en vue d'y adhérer;
- Conclusion d'accords bilatéraux sur la double imposition lorsque les cas se présenteront;
- Mener une étude de faisabilité des places boursières au RWANDA.

2.4. Développement de nouveaux mécanismes pour les dispositions concernant le capital d'investissement.

2.4.1. Constat.

Il n'existe pas à proprement parler des mécanismes mis en place pour fournir ou stimuler le développement des capitaux d'investissement transfrontaliers.

2.4.2. Actions à court et à moyen terme.

- Favoriser des échanges d'informations entre les pays de la sous-région sur les expériences de développement du capital-risque et de l'investissement transfrontalier;
- accorder une assistance technique et/ou financière aux initiatives en matière de développement de l'esprit entrepreneurial et de capital-risque;
- favoriser les rencontres d'hommes d'affaires de la sous-région;
- accorder une assistance dans la recherche de partenaires en vue de créer de joint-ventures;
- identifier des secteurs d'activités transfrontalières à proposer aux investisseurs couverts par le Programme Commun d'Actions (P.C.A.).

2.5. Amélioration de la mobilité des personnes.

2.5.1. Constat.

- . Le Protocole de la ZEP sur l'assouplissement et l'éventuelle suppression des visas a été ratifié par le Rwanda.
- . Les formalités relatives aux permis de séjour et d'emploi sont accomplies respectivement auprès du Ministère de l'Intérieur et du Ministère du Travail et des Affaires Sociales.
- . Les séjours de brève durée dans les pays limitrophes nécessitent les documents d'usage.

2.5.2. Actions à court et moyen termes.

- Faire traiter par le Centre de Promotion pour Investissements les demandes de permis de séjour et d'emploi de manière à ce que satisfaction soit obtenue dans un délai ne dépassant pas 4 semaines.
- Délivrer aux frontaliers des pays participants des permis de séjour de brève durée valables pour 24 heures au moins (sur présentation des pièces d'identité).

III. MESURES CONCERNANT LES PAIEMENTS

Un projet de réglementation des changes est en gestation depuis 2 ans à la Banque Nationale du Rwanda. C'est le résultat d'une concertation entre cette dernière et les institutions financières, les associations professionnelles de commerce et les départements ministériels concernés. Il a en outre reçu des améliorations de la part du Fonds Monétaire International.

C'est dire qu'une action globale consiste en ce que la BNR actualise le projet en fonction du PCA et du concept paper, avant de le mettre en vigueur. Des mesures spécifiques doivent en outre être entreprises.

3.1. Réduction des exigences en liquidités en monnaie convertible.

3.1.1. Constat.

Les transactions du Rwanda avec les pays membres de la ZEP passent par le canal de la PTACH (Chambre de Compensation de la ZEP). Mais souvent certains exportateurs de certains pays facturent leurs exportations en monnaies convertibles, sans que cette pratique soit découragée par les gouvernements de ces pays.

Il ne semble pas y avoir d'autre difficulté à étendre les procédures à tous les pays participant à l'initiative. Il pourrait néanmoins se poser un problème institutionnel: utiliser la PTACH sans adhérer pleinement à la ZEP.

Le schéma normal comprend 7 intervenants: l'importateur, l'exportateur, la Banque Commerciale de l'exportateur, la Banque Commerciale de l'importateur, les 2 banques centrales et la chambre de compensation.

La longueur des délais observés a généralement pour origine le transfert matériel des documents d'embarquement, de l'exportateur, via sa banque vers le correspondant de cette dernière (la banque de l'importateur). Les différentes étapes étant incontournables, les délais ne peuvent être réduits que par l'usage du télex et du téléfax pour demander et confirmer la couverture à la chambre de compensation, sans attendre les originaux des documents. Ces derniers poursuivraient leur cheminement par la poste.

Il importe de noter que les mécanismes de rétention d'une proportion des devises provenant de l'exportation se généralisent dans la ZEP dans le cadre des programmes de promotion des exportations. Le programme d'harmonisation monétaire de la ZEP prévoit un renforcement de l'utilisation de la PTACH comme une étape transitoire vers la convertibilité des monnaies. Un objectif général devrait être l'élimination des marchés parallèles, car ces derniers ont tendance à drainer la détention des devises en dehors des circuits officiels.

3.1.2. Actions immédiates.

- généraliser l'usage du télex et du téléfax pour demander et confirmer la couverture à la chambre de compensation sans attendre les originaux des documents d'embarquement.
- vulgariser les mécanismes de fonctionnement de la PTACH.

3.1.3. Actions à court et moyen termes.

- Passer progressivement à une convertibilité totale des monnaies de la sous-région entre elles;
- respecter le calendrier du programme d'harmonisation monétaire;
- Etudier la mise en place d'un marché des changes des monnaies de la sous-région.

3.2. Faciliter les transactions financières et commerciales.

3.2.1. Constat.

Le PCA prévoit que les transactions relatives au commerce et à l'investissement se fassent à des taux déterminés par le marché et que des efforts soient consentis pour publier les taux de change parallèles.

Dans un pays à taux de change fixe, cela signifie un transfert sur le marché parallèle, de ces transactions. Ou alors, adopter un régime de flottement de la monnaie nationale.

Au Rwanda, à coté du marché officiel (parité fixe entre le FRW et le DTS depuis 1983, ajustements en 1990 et 1992), il existe un marché parallèle relativement important, surtout depuis le milieu de l'année 1990.

Plusieurs monnaies étrangères sont cotées chaque jour sur ce marché, mais les transactions les plus importantes concernent l'USD, le BEF et le FRF.

Il est difficile d'estimer l'importance de ces transactions. Mais de facto, beaucoup de transactions commerciales et de services sont effectuées au taux du marché. Des demandes ont été officiellement introduites pour l'ouverture de bureaux de change privés, mais il se posait le problème des cours applicables. Le projet de réglementation des changes n'est pas précis sur les conditions à remplir en la matière.

Par conséquent, on se trouve dans un système où l'autorité monétaire se refuse à accorder aux bureaux de change privés l'autorisation de pratiquer des cours libres sans étendre cette autorisation aux banques agréées afin d'éviter des distorsions. Cette orthodoxie est mise en échec cependant, puisque l'ampleur du marché parallèle est la première et principale causé de distorsions. Le problème n'est donc plus d'éviter ces dernières, mais d'en atténuer les effets, si l'on ne peut les éliminer. En conséquence, une plus grande transparence et une concurrence accrue pourraient rendre le marché de change plus efficient.

Une solution transitoire serait de transférer certaines transactions en devises vers le marché parallèle afin de réduire la prime accordée à ce marché (ou la stabiliser à un certain niveau). A terme, l'objectif serait d'arriver à un régime de change avec flottement du FRW. Les réflexions en cours penchent pour un marché interbancaire, qui a donné de bons résultats dans beaucoup de pays en voie de développement.

Un calendrier d'unification des taux de change doit être conçu avec l'assistance du FMI dont l'expérience en la matière est vaste. Les réunions de Bruxelles et de Kampala ont choisi l'année 1996 comme l'horizon de l'unification. Entre-temps, il faudrait procéder par une démarche empirique et à titre transitoire, transférer certaines transactions sur le marché parallèle, en commençant par les secteurs où la réalité est déjà en conflit avec le règlement, à savoir: le tourisme et les voyages (plus généralement, les services). On maintiendrait dans le circuit officiel les transactions de l'Etat et les transactions interbancaires.

3.2.2. Actions immédiates.

- inclure dans le nouveau projet de réglementation des changes des dispositions autorisant l'ouverture de bureaux de change privés et préciser les conditions à remplir pour être agréé.
- Solliciter auprès du FMI l'assistance technique nécessaire pour:
 - . étudier les implications du transfert au marché parallèle des transactions non sujettes au rationnement comme les investissements et le commerce.
 - . déterminer les étapes et les actions devant conduire à l'établissement d'un marché des changes unifié de type interbancaire
 - . estimer les besoins en réserves de change nécessaire à la B.N.R dans le cadre de la politique monétaire.

3.3. Amélioration des instruments financiers.

3.3.1. Constat.

Il n'existe pas, au niveau local, de réflexions sur les nouveaux instruments financiers qu'il convient d'introduire, ni sur les obstacles qui empêchent leur émergence. Un des problèmes semble être l'absence au niveau régional, d'un

mécanisme de garantie contre les risques commerciaux et le risque souverain, ce qui rend aléatoire l'utilisation des lettres de crédit (pour diverses raisons, la banque centrale peut bloquer les transferts de fonds). D'un autre côté, dans un environnement où les pays procèdent régulièrement à des dévaluations, l'incertitude qui en résulte n'est pas de nature à encourager l'usage de ces instruments. Une stabilisation macro-économique concertée est donc nécessaire.

La création de la PTACH a permis une convertibilité partielle des monnaies de la ZEP. La création et l'animation d'un marché des changes à terme conduirait à une convertibilité totale. On observe en effet au niveau de la sous-région, des monnaies de grands pays comme le Kenya, le Zimbabwe et l'Afrique du Sud qui sont cotées sur les marchés parallèles de plusieurs pays, bien au-delà des voisins immédiats.

3.3.2. Actions à court et moyen termes.

- demander l'appui des bailleurs de fonds pour mettre en place une structure de garantie contre le risque souverain auquel font face les flux financiers transnationaux.
- étudier la possibilité de confier au Fonds de Réserve en création au sein de la ZEP, la gestion de certains risques commerciaux.
- étudier et développer de nouveaux instruments financiers à la lumière de la pratique internationale
- étudier la faisabilité d'un marché des changes à terme des monnaies locales et de l'UAPTA.

3.4. Amélioration du secteur bancaire commercial.

3.4.1. Constat.

Il n'existe pas de programme de formation pour les employés des banques commerciales, bien que des possibilités existent pour une formation de bon niveau par correspondance et ateliers, comme le Centre International de Formation Bancaire de Paris (mais avec des centres régionaux).

Une collaboration pourrait également être instaurée avec les universités et instituts locaux pour des programmes précis. De même, des programmes d'échanges de stagiaires, des colloques, des séminaires, etc.... pourraient être initiés sous l'égide de l'Association des Banques Commerciales de la ZEP.

Le Programme d'Ajustement du Secteur Financier prévoit une formation de base pour les agents de la Banque Centrale et un renforcement de la fonction prudentielle et réglementaire de cette dernière. Le département ayant le contrôle des banques est progressivement étoffé pour satisfaire les exigences minimales en ressources humaines.

La réglementation des changes et le projet de révision n'interdisent pas aux banques commerciales de détenir des soldes

en compte courant auprès de leurs correspondants. Le projet va même plus loin puisqu'il autorise les banques à utiliser leur position de change pour effectuer des transactions telles que gérer librement pour le marché extérieur leur trésorerie en devises (placement, arbitrage, etc...), la Banque Nationale pouvant en limiter le plafond.

Les banques sont libres de payer les frais et commissions aux correspondants dans les limites du tarif de ces derniers. Cependant, le projet ne prévoit pas la possibilité d'ouvrir des comptes dans les monnaies autres que celles qu'elle cote sous la forme de billets de banque.

Les dispositions réglementaires relatives à l'entrée dans le secteur bancaire méritent une amélioration afin qu'elles soient transparentes et que des interprétations subjectives ne soient pas possibles. Il faut pour cela que tout candidat sache exactement les conditions à remplir pour être admis dans la profession bancaire. Certains critères de l'article 8 de la loi bancaire pourraient à cet égard être l'objet de précision dans la mesure du possible:

- honorabilité du (des) promoteur (s): elle doit être entendue dans son sens strictement juridique (n'avoir pas encouru une peine privative de libertés ni subi une condamnation pour escroquerie, usage de faux, n'avoir pas été l'objet d'une faillite, d'un concordat, etc...);
- expérience professionnelle des dirigeants: il s'agit moins de leur formation académique que de leur capacité à diriger une institution financière (IF). Ainsi une expérience professionnelle de 5 ans à un niveau de direction d'une IF pourrait suffire;
- impact de l'implantation de l'institution financière sur le fonctionnement du système financier: en dehors des règles bien connues sur le contrôle des monopoles, il est difficile d'en trouver d'autres qui soient objectives. Ainsi une nouvelle institution bancaire peut accroître la pression concurrentielle dans le secteur comme elle peut ébranler les institutions financières existantes en provoquant une migration des dépôts et des clients sans, nécessairement, remettre en cause fondamentalement la stabilité du système. L'essentiel est donc la sauvegarde des intérêts des déposants. C'est pourquoi ce critère ne devrait pas être pris en considération.

3.4.2. Actions immédiates.

- procéder à l'évaluation des ressources humaines des banques commerciales par rapport aux standards requis (spécifier les références). Sur base du rapport d'évaluation, formuler un programme de formation;
- encourager la formation continue, notamment avec ITB et Brevet Bancaire; étudier l'avantage matériel à attacher aux certificats et diplômes obtenus;
- supprimer toutes dispositions pouvant conduire à une interprétation subjective dans les textes régissant

l'entrée dans le secteur bancaire. Préciser tous les critères au niveau le plus élevé possible de détails.

- hâter l'exécution du Programme d'Ajustement du Secteur Financier.

3.5. Libéralisation des services.

3.5.1. Constat.

D'une manière générale, le nouveau projet sur la réglementation du change considère les paiements afférents aux services comme les plus sensibles. Aussi ce domaine est-il encore soumis à des contrôles tracassiers (preuves et documents à fournir) à cause d'une obsession persistante de revente sur le marché parallèle des devises obtenues au marché officiel.

En réalité, l'efficacité du régime actuel du change passe par l'instauration d'un régime ouvert où le taux de change est déterminé par le marché. La peur d'une ruée sauvage sur les devises pour des transferts fantaisistes, des voyages d'agrément et des sorties de capitaux disparaîtrait si les devises coûtaient suffisamment cher et cela est inévitable eu égard au déséquilibre actuel entre l'offre et la demande.

Le projet ne libéralise pas les divers services de la même façon:

- a) Services financiers: les paiements sont libres, même dans la réglementation actuelle.
- b) Revenus professionnels: le forfait transférable de 60% du salaire net est de nature à obliger certains employeurs à gonfler les rémunérations brutes.
- c) Assurances et Transports: la réglementation actuelle soumet le transport de marchandises à une assurance obligatoire à conclure par le canal d'une société d'assurances de droit rwandais. Un séminaire (Hôtel Méridien, Gisenyi) a traité en détail la problématique des assurances et des transports. Ses conclusions et recommandations n'ont cependant pas encore été mises en application. Le principe retenu est qu'il convient de libéraliser ces branches après avoir assuré dans la mesure du possible l'égalité des conditions avec les concurrents étrangers.

Le projet dispose que "les sociétés d'assurance de droit rwandais peuvent effectuer des transferts pour payer des primes de réassurance et des indemnités d'assurance et de réassurance". En clair, les transporteurs rwandais ne peuvent pas souscrire à une assurance auprès de sociétés d'assurance étrangères dans la mesure où le transfert de primes (en devises) est interdit. La libéralisation, dans l'esprit du PCA, signifie pour les transporteurs internationaux opérant au Rwanda un libre choix entre les sociétés locales et les sociétés étrangères. Réciproquement, elle signifie que des transporteurs étrangers puissent payer des primes en devises aux assureurs rwandais.

Le domaine du transport connaît les mêmes problèmes que celui des assurances. Il n'y a pas de liberté pour les entreprises rwandaises ou les importateurs rwandais de faire transporter leurs marchandises par des sociétés étrangères qui sont souvent moins chères. Le transfert et les assurances devraient être mis sur la liste restreinte des services dont la libéralisation serait graduelle.

d) Expertise-conseils

Rien n'est prévu dans le projet sur la réglementation du change, à moins de les assimiler à des prestations de service par des indépendants.

e) Tourisme: le projet prévoit, pour les voyages dont le motif est la distraction ou les affaires familiales des facilités de change limitées à l'achat d'un billet d'avion payable en FRW et des frais de séjour pour un délai ne dépassant pas quinze (15) jours par an à raison de 150 US\$ par jour. Les pratiques religieuses, les conférences et les événements sportifs sont considérés aussi comme des voyages pour raisons personnelles, à assimiler au tourisme.

Au demeurant, ce début de libéralisation est intéressant. Cependant, la libéralisation totale des paiements au titre du tourisme se heurte au fait que le Rwanda ne constituerait pas vraisemblablement une destination fréquentée dans la sous-région.

3.5.2. Conséquences de la libéralisation.

Les assureurs et transporteurs rwandais éprouvent déjà de sérieuses difficultés, car les opérateurs étrangers, surtout kenyans, offrent de meilleures conditions et la libéralisation multilatérale n'offre aucune garantie de réciprocité. Dans un premier temps, le Rwanda pourrait conclure des accords bilatéraux avec les pays voisins comme le Burundi, l'Ouganda, la Tanzanie et le Kenya.

En réalité, les différences de prix s'expliquent surtout par le volume d'activités et un meilleur cadre de travail (fiscalité, réglementations) prévalant chez la plupart des partenaires du Rwanda.

La seconde conséquence est qu'il sera difficile de suivre les dossiers d'assurance et de transport dans le cadre du contrôle de change si des sinistres se produisent à l'étranger.

En troisième lieu, les sociétés rwandaises, avant qu'elles ne puissent s'aligner sur les prix de la concurrence, verront leurs dépenses en devises augmenter. De même, le suivi des dossiers litigieux occasionnera également des dépenses en devises. De surcroît, il n'est pas évident que les transferts des primes de réassurance seront réduits de façon significative.

Enfin, on peut prévoir que le signe des mouvements nets des devises occasionnés par la libéralisation des voyages

dans la sous-région devrait être négatif dans un premier temps. Mais si les transactions en la matière sont transférées au marché parallèle, cette inquiétude serait allégée.

3.5.3. Actions immédiates.

- Le projet de réglementation des changes devrait concrétiser l'orientation vers un contrôle indirect des changes. Il s'agit de préciser les règles applicables (i.e. les conditions à remplir) et de laisser les banques commerciales s'occuper de l'examen des demandes de transfert; ce qui implique que les autorisations préalables de la BNR deviendraient des exceptions. En revanche, la BNR devrait se doter des moyens humains suffisants pour effectuer le contrôle sur pièces et sur place des opérations de change.
- Supprimer, dans le projet de réglementation des changes, le régime du forfait de salaire net transférable au niveau des revenus professionnels, ainsi que les nombreuses formalités administratives qu'il implique.
- Libéraliser l'accès aux monnaies convertibles pour les affaires et les loisirs;
- Encourager davantage l'utilisation des chèques de voyage en UAPTA.

3.5.4. Actions à court et moyen terme.

- étudier les conditions d'une saine concurrence dans le cadre de la libéralisation des assurances et des transports; intégrer dans la mesure du possible les conclusions et recommandations d'autres ateliers;
- harmoniser, en conséquence, les lois et règlements en matière d'assurance et de transport au niveau de la sous-région.

3.6. Actions nécessitant des recherches supplémentaires.

1. Libéralisation des paiements au titre des assurances et des transports.
2. Régime de change ouvert approprié au Rwanda ainsi que le volume des réserves de change nécessaires pour stabiliser le marché.
3. Faisabilité d'un marché de change à terme pour les monnaies de la sous-région et l'UAPTA.
4. Développement de nouveaux instruments financiers.
5. Structure sous-régionale de garantie contre le risque souverain et les risques commerciaux.

IV. MESURES INSTITUTIONNELLES.

4.1. Renforcement des institutions nationales.

4.1.1. Constat.

Il existe une Chambre de Commerce et d'Industrie du Rwanda qui est un organisme de droit public et qui couvre tous les domaines d'activités économiques. Cependant, avec le vent de la libéralisation, d'autres organismes professionnels sont nés.

On peut citer:

- l'association des industriels du Rwanda;
- l'association pour le transport en commun (taxis);
- l'association des propriétaires de taxes;
- l'association des transporteurs et des transitaires du Rwanda;
- le Conseil provisoire des chargeurs du Rwanda;
- etc ...

Tous ces organismes manquent de moyens logistiques (services d'information-documentation), humains et financiers suffisants pour pouvoir réaliser leurs objectifs efficacement.

4.1.2. Actions à court et moyen termes.

- hâter la restructuration de la Chambre de Commerce et d'Industrie du Rwanda;
- aider à la constitution de centres de documentation et d'information;
- appuyer les programmes de formation des membres et staffs de ces organismes;
- faciliter les rencontres des organismes nationaux avec les organismes similaires de la sous-région.

4.2. Conserver le GTT et constituer un Comité d'Exécution du Projet.

4.2.1. Constat.

Le Groupe Technique de Travail du Rwanda (GTT) a été mis en place depuis le début de l'année 1992. Il a contribué grandement à la préparation technique des documents nationaux qui ont enrichi les discussions au cours des réunions tenues à l'Ile Maurice (mai-juin 1992), HARARE (novembre - décembre 1992), Bruxelles (juin 1993) et Kampala (août 1993).

Actuellement, le GTT du Rwanda n'est pas encore doté d'un cadre légal et réglementaire. Il fonctionne sous la coordination du Ministère du Plan. L'absence d'un cadre réglementaire et incitatif n'est pas de nature à garantir un travail efficient.

Lors de la réunion des hauts fonctionnaires tenue à Bruxelles et celle des ministres organisée à Kampala, il a été recommandé que les GTT nationaux soient maintenus et même renforcés pour continuer à conseiller leurs gouvernements respectifs sur les questions d'intégration régionale. De plus les GTT devraient être intégrés dans les circuits existants de définition des grandes options politiques.

En vue d'assurer une cohérence entre le PAS et l'initiative régionale d'une part et de permettre la représentation des services de la Présidence de la République et du Premier Ministre, la restructuration suivante du GTT est proposée:

- Les membres du Comité de Suivi du PAS
- Le Chef de Service Affaires Economiques et Financières à la Présidence de la République
- Le Chef de service Affaires Economiques et Financières à la Primature
- Le Directeur des Douanes au MINIFIN
- La Directeur du Commerce Extérieur au MICOMART
- Le Directeur de l'Industrie au MICOMART
- Le Directeur du Change à la BNR
- Le Directeur de la Politique Monétaire à la BNR
- Le Directeur des Transports au MINITRANSCO
- Le Directeur de l'Immigration/Emigration au MININTER
- Le Représentant de la Chambre de Commerce et d'Industrie du Rwanda
- Le Représentant de l'Association des Industriels du Rwanda
- Le Représentant de l'Association des Banques du Rwanda
- Le Représentant des Sociétés d'Assurances
- Le Représentant de l'Association des Transporteurs et des Transitaires du Rwanda
- Le Représentant du Conseil Provisoire des Chargeurs du Rwanda.

Pour garantir une mise en oeuvre réussie de l'initiative au Rwanda, un Comité d'Exécution de Projet devra être constitué en vue d'aider au développement, à la négociation et à la coordination de la mise en oeuvre des différentes mesures préconisées par l'initiative. Le CEP regroupera les ministres et hauts fonctionnaires concernés.

Au niveau ministériel, le CEP devrait être constitué par les personnalités suivantes: le Ministre du Plan (qui en sera le responsable), le Ministre des Finances, le Ministre de l'Industrie du Commerce et de l'Artisanat, et le Gouverneur de la Banque Nationale du Rwanda et le Directeur de Cabinet du Premier Ministre. Le Président de la CCIR, le Président de l'AIR, le Président du GTT et le Consultant National participent aux réunions à titre consultatif. Le Consultant National en assure le secrétariat

S'agissant des techniciens et hauts fonctionnaires, le CEP devrait être limité aux personnes suivantes pour des raisons pratiques:

- le Président du Comité Technique de Suivi du PAS (Président du GTT)
- le Consultant National
- le Secrétaire Permanent des Organes de Suivi du PAS
- un Représentant de la Présidence de la République
- un Représentant de la PRIMATURE
- un Représentant du MINIFIN
- un Représentant du MICOMART
- un représentant de la BNR
- un Représentant de la CCIR
- un Représentant de l'AIR

Le Consultant National en assure le secrétariat.

L'équipe technique de négociation avec les bailleurs de fonds serait choisie au sein du GTT et du ZEP suivant la spécificité des dossiers sous examen. Le Président du GTT et le Consultant National en font d'office partie.

4.2.2. Actions à court et moyen termes.

- mettre au point un cadre réglementaire régissant le fonctionnement du GTT afin de lui permettre de jouer véritablement son rôle de comité-conseil pour le Gouvernement en matière d'intégration régionale;
- restructurer la composition du GTT en fonction des propositions faites précédemment;
- donner des moyens de travail au GTT national pour la tenue des réunions, le secrétariat, les communications, etc;
- constituer le Comité d'Exécution du Projet dans les meilleurs délais afin d'amorcer le dialogue avec les bailleurs de fonds pour la mise en oeuvre de l'initiative au Rwanda.

Compléments au rapport final du GTT du RWANDA, envoyé au bureau d'études IMANI le 30 septembre 1993

Les éléments complémentaires qui suivent répondent aux commentaires du bureau IMANI, contenus dans son fax du 24 novembre 1993.

1. Liste des lois et règlements nécessitant des révisions

1.1. Législation fiscale

- Loi du 2 juin 1964 relative à l'impôt sur les revenus (révision déjà approuvée par le Gouvernement).
- Arrêté ministériel n°10/071/FIN du 29 décembre 1973 portant mesures d'exécution de la loi du 2 juin 1964 relative aux impôts sur les revenus + annexes à cet arrêté ministériel.
- Décret-Loi du 28 décembre 1973 relatif à l'impôt personnel.
- Arrêté ministériel n°11/071/FIN du 29 décembre 1973 portant mesures d'exécution du décret-loi du 28 décembre 1973 relatif à l'impôt personnel.
- Loi n°11/81 du 19 juin 1981 relative au droit de patente (révision déjà approuvée par le Gouvernement).
- Loi n°1/1986 DU 01 avril 1986, telle que modifiée à ce jour et relative à l'impôt sur le chiffre d'affaires.
- Loi du 17 juillet 1968 relative au régime douanier.
- Arrêté ministériel n°08-09/FIN du 02 août 1968 portant mesures d'exécution de la loi du 17 juillet 1968 relative au régime douanier.
- Loi du 05 août 1987 portant Code des Investissements.

1.2. Législation commerciale

- Loi n°36/91 du 05 août 1991 relative au registre de commerce
- Arrêté ministériel n°18/MINICOM/91 du 17 septembre 1991 portant fixation des taxes rémunératoires à percevoir pour l'immatriculation, l'inscription complémentaire et la radiation volontaire au Registre de Commerce
- Loi n°06/1988 du 12 février 1988 portant organisation des sociétés commerciales
- Loi N°34/91 du 05 août 1991 portant modification de la loi n°22/1989 du 23 décembre 1989 portant organisation du Commerce Extérieur
- Loi n°32/91 du 05 août 1991 modifiant la loi n°43/93 du 01 octobre 1990 portant promotion des exportations
- Loi portant organisation du contrôle du change
- Décret-Loi n°07/81 du 28 avril 1981 portant réglementation des Institutions Financières.

2. Actions qui peuvent être mises en oeuvre avec peu ou pas de coûts immédiats

2.1. Domaine des exportations

- étude relative à l'harmonisation des législations en matière d'assurance responsabilité civile;
- décentralisation de la saisie des données douanières auprès de différents bureaux de douanes.

2.2. Amélioration des facilités financières pour les échanges commerciaux

- étude relative à l'établissement d'un système d'assurance-crédit;
- étude relative à la réduction des coûts des facteurs de production particulièrement dans les domaines de l'énergie et des télécommunications;
- étude de mise en place d'un marché monétaire au Rwanda;
- étude sur la convertibilité entre les monnaies de la sous-région;
- étude de faisabilité d'un marché des changes à terme des monnaies de la sous-région et de l'UAPTA;
- évaluation des besoins en formation du personnel des banques commerciales.

2.3. Actions nécessitant des recherches supplémentaires

- libéralisation des paiements au titre des assurances et des transports;
- régime de change ouvert approprié au Rwanda ainsi que le volume des réserves de change nécessaires pour stabiliser le marché;
- développement de nouveaux instruments financiers;
- structure sous-régionale de garantie contre les risques souverains et les risques commerciaux.

3. Actions nécessitant une injection de ressources

- Financement des infrastructures de stockage à ISAKA (TANZANIE)
- Financement des projets retenus dans le cadre de la IIème Décennie des Transports et Communications pour l'Afrique
- Financement d'une banque de données économiques et commerciales sur les opportunités d'affaires dans les pays de la sous-région
- Financement d'une expertise pour la restructuration de la CCIR en vue de mieux répondre aux besoins des opérateurs économiques
- Financement d'un Centre National de normalisation et de contrôle de qualité

- Financement d'un laboratoire national de métrologie y compris son équipement
- Financement d'un Centre de Promotion des Investissements et du Commerce
- Financement de rencontres entre hommes d'affaires de la sous-région et entre ces derniers avec les hommes d'affaires des pays industrialisés
- Financement d'une assistance technique pour:
 - . étudier les implications du transfert au marché parallèle des transactions non sujettes au rationnement comme les investissements et le commerce;
 - . déterminer les étapes et les actions devant conduire à l'établissement d'un marché des changes unifié de type interbancaire;
 - . estimer les besoins en réserves de change nécessaires à la Banque Nationale du Rwanda dans le cadre de la politique monétaire;
- Financement d'un Fonds International de garantie contre les risques souverains
- Financement des activités du Comité d'Exécution du Projet et du GTT dans le cadre de l'initiative régionale.

4. Besoins des institutions nationales en organisation, équipement, ressources humaines et informations pour la mise en oeuvre du Programme Commun d'Action

4.1. Chambre de Commerce et d'Industrie du Rwanda

Les besoins de la C.C.I.R. se situent à 2 niveaux à savoir le niveau organisationnel et le niveau institutionnel.

Au niveau organisationnel, un projet de texte permettant la création de Chambres privées a été présenté par le Ministre du Commerce, de l'Industrie et de l'Artisanat au Premier Ministre pour examen à une réunion prochaine du Conseil du Gouvernement.

Au niveau des équipements, la C.C.I.R. s'occuperait du volet Promotion des Investissements, du Commerce et du Secteur Privé. A cette fin, les besoins actuels sont:

- la construction d'un Palais des Foires et Expositions à vocation internationale: un palais du genre est un instrument de promotion du commerce intrarégional et international;

- la construction d'un Institut Supérieur du Commerce: il est aujourd'hui une réalité que le développement du Rwanda repose sur le développement du Secteur Privé. Celui-ci implique des acteurs suffisamment formés et dont la maîtrise des rouages du commerce international est fondamentale.

L'Institut Supérieur du Commerce permettrait donc de former le futur entrepreneur et le conseiller pour entreprise industrielle et commerciale. Il viendrait prolonger les efforts de plusieurs écoles secondaires privées qui ont investi dans la formation comptabilité et commerce.

- La construction d'un Centre de Formation Professionnelle. Le Centre est utile pour la formation et le perfectionnement du personnel d'entreprise.

- La constitution d'une Banque de Données sur le Secteur Privé (BDSP).

La C.C.I.R. dispose d'un centre de documentation et a besoin de l'enrichir par sa connexion à plusieurs réseaux d'information (TINET et autres).

Pour le niveau organisationnel, il n'y a pas de coût ni de besoins en ressources humaines.

* Les besoins financiers

- Le financement d'un Centre de Promotion des Investissements et du Commerce (CPD) qui serait chargé des activités de promotion des investissements tant nationaux que transfrontaliers et de la promotion des échanges commerciaux.

- Le financement d'un Centre de Formation Professionnelle (CFP).

- Le financement d'un Centre d'Informations Economiques et Commerciales (CIEC).

La Constitution d'une banque de données sur le secteur privé est essentielle pour la promotion du secteur privé (BSP).

- Le financement d'un Centre National d'arbitrage (CNA).

La célérité dans le règlement des litiges commerciaux par l'arbitrage est internationalement reconnue. Au Rwanda, la création de ce centre est une innovation justifiée.

- Le financement de l'élaboration des Modules et Programmes de Formation.

* Les besoins en ressources humaines

- un informaticien pour la banque de données et l'informatisation du CFP et des autres services de la C.C.I.R. dont le Centre de documentation;

- un Expert Conseiller Technique et chargé spécialement des problèmes relatifs à l'Entreprenariat;

- un Expert en formation.

4.2. Association des Industriels du Rwanda

Regroupant la presque totalité des Industries opérant dans le secteur privé, l'Association des Industriels du Rwanda a comme objectif, entre autres, la défense des intérêts économiques des Membres, la promotion, l'assistance aux nouveaux industriels. Elle vit uniquement des cotisations dont elle fixe le montant au strict minimum.

C'est dans ce cadre que dans un proche avenir, l'A.I.R. entend apporter une contribution substantielle à la réhabilitation et à la rationalisation des entreprises industrielles existantes dont la plupart sont caractérisées par une faible utilisation des capacités de production, une faible productivité, un faible ratio apports/rendement.

D'autre part il sera nécessaire que les entreprises déploient un effort intense dans la conquête des marchés. Enfin, l'A.I.R. voudrait contribuer à l'éclosion d'une équipe d'entrepreneurs.

Ce programme justifie les besoins ci-après:

- Mise à disposition d'une assistance technique comprenant 1 ou 2 conseillers expatriés ainsi que des moyens didactiques (livres, ordinateurs,..) en vue de:
 - . assurer la formation à la gestion et au marketing du personnel des entreprises et des entrepreneurs potentiels
 - . procéder au diagnostic des entreprises industrielles existantes.
- Mise à disposition d'un Fonds permettant d'assurer le perfectionnement des cadres des entreprises à raison d'un minimum de 10 cadres chaque année.

- Mise à disposition d'un Fonds destiné à compléter la trésorerie des Industriels en vue de leur participation aux Foires Commerciales Internationales, des voyages à l'étranger à la recherche des clients, etc..
- Equipements et ressources humaines adéquats en vue de rassembler les informations commerciales et industrielles.
- Financement d'un service d'appui technologique et d'information industrielle.

4.3. Association pour le Développement de l'Entrepreneuriat au RWANDA (ADER)

Cette association s'est assignée le rôle de promouvoir l'esprit entrepreneurial au Rwanda. Elle regroupe des hommes d'affaires, des promoteurs et des fonctionnaires. Son Secrétariat exécutif a besoin d'appuis techniques et matériels.

4.4. Association des femmes entrepreneurs au Rwanda

Cette association regroupe des femmes commerçantes et cherche à soutenir des femmes qui veulent se lancer dans les affaires. Elle intervient principalement dans les domaines de la formation, des voyages d'études et de l'assistance dans la recherche des crédits.

En cinq ans d'existence, cette association a déjà prouvé son utilité et son dynamisme. Cependant, son Secrétariat est handicapé par le manque de moyens financiers pour se doter des équipements de base (mobilier, photocopieuse, ordinateur, télécopieur, etc..).

4.5. Association DUTERIMBERE

Cette association, âgée d'une dizaine d'années, assiste les femmes d'affaires dans l'obtention des crédits pour la réalisation de petits projets. Elle dispose d'un Secrétariat doté d'un personnel suffisant, mais sans expérience professionnelle. Elle a donc besoin d'une assistance technique.

4.6. Le Conseil des chargeurs au Rwanda

Les importateurs et les exportateurs ont pris conscience de la nécessité de faire face à l'enclavement du pays en adoptant des stratégies de maîtrise des coûts de transport maritime et terrestre. A cette fin, ils ont créé un conseil national des chargeurs et son Secrétariat est chargé de collecter des informations sur les tarifs de transport les plus compétitifs et de négocier avec les compagnies les moins chères.

Cette association manque cependant d'informations et de contacts avec d'autres organismes similaires africains ou européens. Elle a également besoin d'équipements de travail (ordinateurs, télécopieurs, télex, etc..).

4.7. Association des exportateurs du Rwanda

Cette association très jeune veut promouvoir les exportations de produits rwandais sur les marchés extérieurs. Mais elle n'a ni Secrétariat, ni personnel technique, ni informations, ni équipements de base.

4.8. Ministère du Commerce, de l'Industrie et de l'Artisanat

Les services de ce Département chargés de l'Industrie, de l'Artisanat et des Petites et Moyennes Entreprises ont besoin d'une assistance technique pour satisfaire les demandes des promoteurs en matière d'études de projets, de réhabilitation des entreprises et de formation des cadres des entreprises.

5. Collaboration entre le GTT et les organisations et institutions régionales

Le GTT entend maintenir et renforcer sa collaboration avec les organisations et institutions régionales, à savoir: la CEPGL, la BDEGL, la Banque de la ZEP.

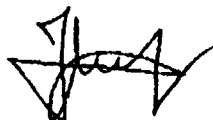
Cette collaboration se concrétisera à travers les échanges de documents traitant des stratégies et de l'avancement des programmes relatifs à l'intégration régionale contre l'envoi à ces organisations des rapports réalisés par le GTT. Ces organisations seront également invitées à participer aux ateliers de travail organisés par le GTT.

Cependant une telle collaboration implique le financement des frais de secrétariat (fax, téléphone, équipement et fournitures de bureau, salaire du secrétaire, etc..).

Fait à Kigali, le 30 décembre 1993

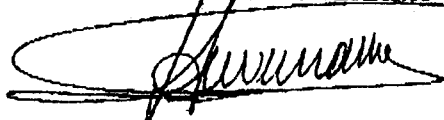
Le Consultant National

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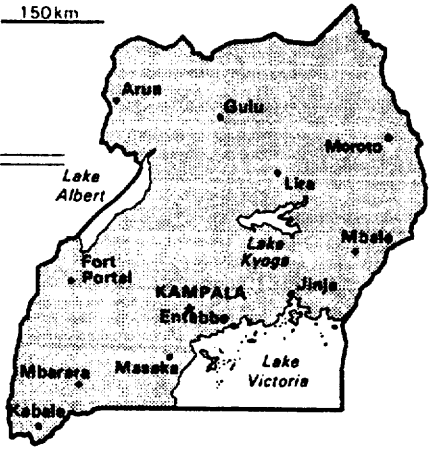


Le Président du GTT

Antoine UWIMANA



150km



Uganda



1.0 INTRODUCTION

This report is written to address issues raised in the terms of reference for the Technical Working Group (TWGs) adopted at the second workshop on the regional integration initiative in Harare, Zimbabwe in December 1992, to facilitate cross-border activities in Eastern and Southern Africa.

In part therefore, it is a refinement of the Uganda country report submitted to the Harare Workshop and makes mention of additional areas where there has been a change in government policy or where action is being initiated to effect changes.\

Following the adoption of the CPA, the Uganda TWG set about sensitising government departments about the needs and benefits of implementing measures contained in the CPA. A letter to this effect was sent to the Uganda National Authorising officer, Minister of Finance and Economic Planning.

The indicative response is that the Government accords regional integration and cooperation a very high priority in its programmes. This statement has been repeatedly made at the highest levels of Government and the pace of compliance by Uganda to regional decisions governing economic integration bears this out

As one of the steps aimed at building a consensus around the CPA, the TWG organised a seminar on regional integration to sensitise government departments and the business community on the benefits and current obstacles to increased cross-border activities covering trade, investment and cross border movement of people. While there was a general consensus that regional integration was welcome and beneficial, the seminar identified several obstacles to intra PTA trade and investment.

2.0 TRADE

The Seminar identified non-tariff barriers to trade as the major obstacle. Intensive checks by the customs administration involving unloading and verification of one hundred percent of the goods was pointed out as very irritating and often resulted in damage to

goods. In addition, many security checks were also in force in some states.

Information flows between government departments and the trading community was identified to be very poor. Customs tariff books for instance although published annually do not reach the business community which requires them for their estimates of the tax liabilities. At sub-regional levels, there was a lack of knowledge about the market conditions i.e. which goods are available in which country at what quantity, price and quality.

The seminar also noted that the tax rates in Uganda were quite high and not only did they constitute a major bottleneck to the working capital needs of trading companies but also offered a big incentive to tax evasion.

The development of intra-group trade is one of the central objectives of the PTA treaty. Analysis of Uganda intra PTA trade flows indicates that Uganda exports to practically only three PTA countries and even then the volume of exports is very low indeed. The Table below gives Uganda's external trade indicators.

Over the period under review, Uganda's market share in intra-regional exports declined from 2.9 per cent in 1984 to 0.3 per cent in 1991. Intra-PTA exports as a proportion of total exports also declined from 3.5 per cent to 1.3 per cent during this period.

And while Uganda's world trade grew by 15 per cent between 1984 and 1989, its PTA trade declined by 3.3 per cent over the same period. In 1991, Uganda's world trade declined by 28 per cent while intra PTA trade grew by 6 per cent compared to 1990 levels. However, Uganda's imports from PTA countries on average accounted for 21 per cent of all intra PTA imports between 1984 and 1990. As a proportion of total imports, it meant that on average, 27 per cent of Uganda's imports were sourced from PTA. This ratio demonstrates an open import policy by Uganda for regional imports.

TABLE 1

UGANDA'S EXTERNAL TRADE INDICATORS

Year	1 Total PTS Exports	2 Total Uganda Exports	3 Total Intra PTA Exports	4 Ugandas Intra PTA Exports	5 % Col 2.1	6 % Col 4.3	7 % Col 4.2	8 Total PTA Imports
1984	7,857	385	459	13.4	4.9	2.9	3.5	10,035
1985	7,165	382	404	3.9	5.3	0.9	1.0	10,125
1986	7,557	431	482	3.7	5.7	0.8	0.8	10,330
1987	8,729	311	492	3.6	3.4	0.7	1.1	12,266
1988	10,130	328	558	3.9	3.2	0.7	1.2	12,754
1989	11,019	280	579	3.4	2.5	0.6	1.2	14,222
1990	11,779	179	580	4.0	1.5	0.7	2.2	14,781
1991	11,068	171	662	2.1	1.5	0.3	1.3	15,063

	9	10	11	12	13	14
Year	Total Uganda Imports	Total Intra PTA Imports	Uganda Intra PTA Imports	% Col 9.8	% Col 11.1	% Col 11.9
1984	290	459	108	2.9	23.5	37.2
1985	285	404	95	2.8	23.5	33.3
1986	364	482	123	3.5	25.5	33.8
1987	517	492	95	4.2	19.3	18.4
1988	482	558	106	3.8	18.9	22.0
1989	473	579	114	3.3	19.7	24.1
1990	481	589	92	3.2	15.6	19.1
1991	464	662	100	3.1	15.1	21.6

Source: Bank of Uganda & Direction of Trade Statistics year book 1991.

Estimates of trade growth

The magnitude of intra-regional trade likely to be generated or diverted by the implementation of the Common Plan of Action requires a detailed study. However preliminary assessment indicates that Uganda's intra PTA exports are likely to stay nearly the same or grow marginally. Three factors account for this:-

- Most of the intra PTA exports consist of food items whose output is highly dependent on favourable weather conditions since irrigation is not practised. However the potential to increase food exports exists. The PTA market offers the advantage of proximity and is not expected to make demand on very sophisticated production standards. A decomposition of intra PTA exports in table 1, reveals that Uganda has really only two export markets, Kenya and Tanzania. It is therefore clear that Uganda has under-exploited the PTA export market and this trend has been slow to change over the period. A broad indication of the potential market size for Uganda is presented in Table 2 below assuming shares of 5 and 10 per cent of members' consumption. With a total PTA market size of nearly US\$ 40 billion, Uganda could attract up to some US\$4 billion in export sales. One obvious export of Uganda to the PTA countries especially Ethiopia, Mozambique, Somalia, Zambia and Malawi would be cereals as their current level of cereal imports ranges from US\$100 to 687m.

TABLE 2: THE PTA MARKET : POTENTIAL

Countries	GNP	US\$ Mn 5% Share	10% Share
Burundi	1134	57	113
Ethiopia	6144	307	614
Kenya	8954	448	895
Lesotho	954	48	95
Malawi	1700	85	170
Mauritius	2475	124	248
Mozambique	1256	63	126
Rwanda	2201	110	220
Seychelles	318	16	32
Somalia	946	47	94
Swaziland	646	32	65
Tanzania	2695	135	270
Uganda	3586	-	-
Zambia	3402	170	340
Zimbabwe	6272	314	627
Total	42,672	1,954	3,909

Source: World Development Report 1992

- Most of Uganda's exports are directed offshore where incentives offered to exporters are more attractive than in the region.
- In the case of manufactured products, Uganda is a high cost producer and is unlikely to be competitive in the regional market in the short and medium term. Moreover the existing installed capacity cannot satisfy domestic demand.

For intra PTA imports, these are expected to displace about 50 per cent of domestic output initially if the internal tax structure (high excise duty and sales tax) remains unchanged. This estimate is based on the extent domestic output was displaced by regional competing output when the import ban was lifted on major competing commodities.

However if tax rates are rationalised with those of countries contributing major competing imports, regional imports will grow by 5 to 10 per cent initially to meet the unsatisfied demand from domestic sources. The extent of loss of Government revenues cannot be determined precisely at present but it is estimated to reduce revenues from internal sources by up to 30 per cent. In this respect government will require additional Balance of Payment support.

3.0 INVESTMENT

3.1 Investment Constraints

Obstacles to investment were numerous and among them were Administrative, Financial, shortage of utilities and legal constraints. As indicated in Uganda's earlier country report the current regulatory environment encourages inward investment but is restrictive on outward investment. Outward investment requires prior approval from the Central Bank.

One area of concern to investors covers the current operational policies by the tax administration. All imports are currently escorted from points of entry to the headquarters of the Tax Administration for inspection, verification, documentation and valuation. In addition there are several check points between the points of entry and the headquarters of the tax administration at which goods are often off loaded for verification thereby increasing costs and risks of damage. Equally there are security checks on documents and goods even after they have already been checked by customs.

The above procedures are time consuming and take over a week before payment of duty is verified with the bank. Once satisfied about payment, the goods are released by the Administration. In addition to import duties, the Customs Administration also charges the importer gate fees, parking fees, and handling charges. All the above measures are a source of irritation to investors.

Depreciation is not allowed other than on historic values. Where there are no provisions under tax laws as in Uganda for inflation accounting, depreciation costs tend to be underestimated. Because of Uganda's recent inflationary record, some provision should have been made for depreciation to be estimated on current values of capital assets rather than their historic value.

The tax administration currently practices an income tax collection system based on pre-payment with adjustments made after final assessment. If a company has made a provisional payment (in the case of large companies) or paid an income tax deposit (in the case of small companies) and the final assessment is found to be greater or less than the pre-payment, then the company is liable to extra tax or a refund respectively. However, in reality the refund is not reimbursed but is credited against future tax liabilities. In the case of very small companies that rarely keep proper books of account, the tax deposit in essence becomes the tax liability.

The tax threshold for personal income tax is too low at Ushs. 70,000 per month or US\$ 55 per month. In addition the tax is steeply progressive, and encourages companies to design other schemes for their workers that are free from taxation.

Uganda has only two double taxation agreements, with Denmark and Zambia. Lack of these agreements reduces tax incentives offered to foreign investors since remittances such as dividends and profits will be taxed by the investor's home country.

In Uganda a tax clearance certificate is generally required before one can supply goods or services to government or obtain payments, trading licences, export and import certificates from any relevant government department. Obtaining this tax clearance certificate is often lengthy and cumbersome.

The main problem areas on the financial side were remittance of funds abroad and loan capital and credit. Although the foreign exchange transactions have been greatly liberalised by the Central Bank, the remittance of dividends still remains a lengthy process. A withholding tax of 15 per cent must first be paid to obtain a tax clearance after which an application to remit dividends is made to the Central Bank. The remittance is then subject to approval by the Central Bank depending on availability of foreign currency and the competing needs between users. Currently priority is given to debt service and oil imports. Fairly disturbing to investors is the current conditionality which requires remittance approvals to be given only to companies without any outstanding loans.

In the case of offshore loans, which are on-lent by local Development Banks, no policy has been put in place to determine who bears the exchange risk when the local currency depreciates. This has put off investors who would be interested in taking up such loans.

Local currency loans are quite expensive attracting an interest rate of up to 40 per cent p.a. and repayable in the short-term. In addition credit ceilings are imposed to curb money creation.

Utilities required by investors still constitute a major bottleneck. The supply of water, electric power and postal and telecommunication services are still in the hands of state monopolies. The electric power supply is inadequate, very unreliable and fluctuates a great deal. To safeguard against interruptions and voltage fluctuations, investors are forced to install additional equipment such as high voltage standby generators and run them at high cost.

Power connection is expensive and has to be paid for by investors including such items as poles, power distribution lines and transformers, whose ownership automatically reverts to the state monopoly offering the service.

The situation for water is nearly the same as is that for telecommunication services whose services have remained poor. Installation procedures are cumbersome and take many months to complete.

There is therefore inadequate supply of services required by investors. Access roads and suitable land are inadequate. The land acquisition procedure is very lengthy and costly and so is the cost of constructing access roads to the investment sites. Even so, the law currently does not permit foreign investors to own agricultural land except with the permission of Government.

The regulatory mechanisms in the labour market also impose undue hindrance to foreign investment. Under the Uganda immigration law, all expatriates require visas or work permits

as well as permits for spouses and children. Work permits are backed by an immigration bond which includes a security bond and a cash deposit in convertible currency to cover the cost of a one way home ticket. This is irksome considering an investor is bringing into the country an investment which is a several times bigger than the cost of a one way return ticket.

Most of the problems raised above are a result of the inconsistencies in the existing laws. The existing laws are clearly out of line with the current liberal economic policies. The list of the required legislative change is therefore long. To make these changes effective, it is important that they are supported by changes in regulations and procedures such as computerisation of company registration, simplification of entry and exit procedures by abolition of multiple screening of passengers by state agencies, etc.

3.2 Estimates of Outward and Inward Investment

Estimates of outward investment are not known since there is currently no control measure. Ugandans investing outside do not contact the Uganda Investment Authority, they do it privately. The Central Bank also has no record of outward investments. They have to use their own external funds. Discussions with the Manufacturers Association, Chamber of Commerce and Industry and Uganda Investment Authority indicate that the magnitude and direction of investment flows were very difficult to estimate because of the unwillingness of investors to disclose such information.

In the case of inward investment, many investors from the PTA region have shown interest in investing in Uganda in the following sectors:- agro-processing, light manufacturing, construction and general trade.

TABLE 3: INVESTMENT FLOWS FROM PTA COUNTRIES (AS AT DECEMBER 1993)

COUNTRY	LICENSED INVESTMENT US\$	NO. OF INVESTORS BY DECLARED ORIGIN
Kenya	11,032,870	112
Tanzania	1,041,250	3
Ethiopia	985,245	3
Rwanda	890,300	3
Somalia	470,000	5
Zimbabwe	306,100	2
Sudan	181,300	15
TOTAL	14,907,065	141

Source: Uganda Investment Authority

Sector distribution of Projects

Kenya:

The projects licenced were in manufacturing; transport; communication and storage; insurance and business services; construction; agriculture, forestry and fishing; tourism; and trade and restaurants.

Tanzania:

All projects licenced are in manufacturing.

Ethiopia:

Projects are in insurance and business services and trade.

Rwanda:

The project is in manufacturing and trade services.

Somalia:

Projects licenced are all in manufacturing

Zimbabwe:

Projects are in agriculture, forestry and fishing and manufacturing.

Sudan:

Projects are in construction, trade; transport; communication, storage and personnel and social services.

TABLE 4: INWARD INVESTMENT: PROJECT PROPOSALS LICENCED BY SECTOR OF INVESTMENT SINCE JULY 1991.

Major Sector	No. of Projects			US\$ Millions		
	Jul 91 - Jun 92	Jun 92 Jul 93	Jul 93	Jul 91 Jul 92 -	Jul 92 Jun 93	Jul 93-
Agriculture, Forestry & Fishing	5	18	7	4	23	4
Mining & Quarrying	1	5	-	46	13	-
Manufacturing	63	183	16	138	312	7
Construction	5	28	-	6	124	-
Trade, Restaurants & Hotels	12	29	3	11	56	9
Transport & Storage	-	16	2	-	100	2
Insurance, Business Services	13	31	-	25	25	-
Personal & Social Services	-	7	2	-	4	1
TOTAL	99	317	30	230	657	23

Source: Uganda Investment Authority.

Note: The decomposition of investments from PTA source are given in Table 2, above.

3.3 Legal Issues Relating To Investment

There are a number of legal issues relating to foreign investment in Uganda which require attention and must be remedied. There are particularly two factors that contribute towards uncertainty in the laws:

- ❑ the possibility of restrictive or contradictory interpretations that can be made with regard to the relevant provisions of the investment code of Uganda; and
- ❑ practical difficulties in obtaining appropriate sanctions for investment and intervention of other domestic laws.

In summary the following issues require attention:

- ❑ The definition of who a “foreign investor” is, section 10; particularly section 10(2) which delineates which persons or entities cannot be considered as foreign investors is confusing.
- ❑ There could be room for restrictive interpretation or possible contradiction under section 1 and schedule two when interpreting the eligibility of an investment. The differences between crop production and crop processing are ill defined.
- ❑ The issues relating to an investment licence are ambiguous, particularly sections 16 and 17. These do not stipulate whether the licence is issued for start up operations or whether it is issued for the time of the project. And because it contemplates expiration, an expired licence may not entitle an investor to seek dispute resolution under part V.
- ❑ Equally, incentives are not clearly stipulated and investors engaged in activities listed in the Third schedule are unable to even externalise proceeds from an investment. In relation to exemption from taxes, it is not clear whether the exemptions begin from the time the enterprise shows profits on the books or from the inception of the investment.
- ❑ The provisions relating to protection of investment while adequate have two minor issues:
 - it is inconvenient to refer to the Uganda Constitution to be determined, the standards under which expropriation can take place (sec. 29(1))
 - it may not be the intention for even local investors investing in local currency to be able to freely transfer compensated amounts out of Uganda (section 29(3)).
- ❑ Section 30(1) is often cited as one of the best examples of a section that provides

for international arbitration. However, the possibility of a narrow interpretation of who a foreign investor is, may reduce the strength of this provision. Where there is no agreement as to the mode of arbitration, disputes relating to expropriation or compensation are to be referred to the High court. It would have been incentive oriented, however, if even in this eventuality ad hoc international arbitration was made available to an investor.

Section 33(1) which relates to externalisation of funds is restrictive for several reasons.

- only a business enterprise to which a certificate of incentives relates can externalise funds;

- a separate certificate for externalisation of funds must be acquired;

- a certificate to externalise funds entitles the holder to apply to the Central Bank for externalisation subject to the laws or procedures that are applicable. Currently a levy of 15 per cent is charged on the value of funds to be externalised.

3.4 Intervention of Other Domestic Laws

Although the current investment climate is fairly liberal there are a number of laws which substantially undermine it. These relate mainly to business registration, secondary licences and approvals including trade licensing, marketing laws, state monopolies, land acquisition, immigration procedures, and foreign exchange repatriation and are attached to the report as appendix 1. There are apparent conflicts for instance between attempts to enforce the tax exemptions in an incentive certificate and the provision of the Income tax decree of 1974. The tax administration acting under its law is reluctant to honour the exemptions.

The limits to local borrowing are guided by internal regulations set by the Central Bank which prescribes credit ceilings from time to time. Even when local borrowing is possible, the Banking Act contains very stringent conditions for collateral.

Similarly, while an investor may be granted an investment licence, he may find it very difficult to obtain suitable land. Land is administered by local authorities. Under the existing law, foreign investors are only allowed to own property leasehold and there have been problems in renewing the leases.

3.5 Procedures For Investing In Uganda

There are a number of procedures an investor has to follow for investing in Uganda.

3.5.1 Permission to invest

Permission to invest is obtained from the Uganda Investment Authority. It takes a period of two weeks or less. An investor fills out an application form which is bought at Shs. 1500 or about \$1.

3.5.2 Company registration

It takes between one and two weeks for one to register a company at the office of the Registrar of Companies. The cost of registering a company depends on the amount of share capital involved. A company with share capital of Shs. 1 million or about US \$1,000 can be registered at a cost of US \$200.

3.5.3 Construction of factory

It takes a period of between 6 months and one year to construct a factory. This is because it takes quite some time for the plan to be approved.

3.5.4 Work/entry and residence permits

A residence permit is granted after one has stayed in Uganda for over 10 years. When obtained through the Uganda Investment Authority it takes it takes a period of one month to acquire it. Before an investor invests in Uganda, he has to get an entry permit issued at the department of immigration. Once an application for an entry permit is submitted to the immigration department, it take a minimum of one month before it is approved or rejected by the immigration control board. The permit costs US \$1,000 and before it is issued, an investor has to execute a security bond equivalent to a one way air ticket to his country of origin. In case of expatriates a fee of Shs. 306,250 about US \$300 plus a security bond equivalent to a single journey air ticket to his home country.

3.5.5 Land acquisition

There are 21 steps involved in the acquisition of land. These are listed below:-

Application - Uganda Investment Authority (UIA)

- i. The investor approaches the Uganda Investment Authority and presents an investment proposal.
- ii. Uganda Investment Authority assesses the proposal and recommends the Investor to City Council authorities for provision of land. For the assessment exercise, the investor is required to present the investment proposal and indicate source of funding as well as produce evidence of funding.

Recommendation - Ministry of Lands & Housing & Urban/Development

- iii. The investor obtains Application form 1 from the Ministry of Lands & Housing & Urban Development.

- iv. The prospective investor secures a recommendation from the Commissioner of Lands confirming that the land is free for development.

Processing - Kampala City Council Authorities

- v. The investor/developer secures a similar confirmation from the Chief planner at City council offices concerning the acceptability of such intended development within the existing planning realm.
- vi. The application is then submitted to the Kampala City council where a list of applicants is drawn up.
- vii. The application is submitted to the development committee which sits once month. This committee considers the application and when approved makes a lease offer.
- viii. The applicant/investor is requested by the city council authorities to pay the premium and ground rent.

Surveying - Ministry of Lands

- ix. The intending developer/investor gets instructions to survey the site/plot.
- x. Surveyors go to the site to carry out the survey and document it and include in the main register
- xi. The survey is checked by the government surveyor.
- xii. Surveys are taken to the department of lands and surveys for the production of deed plans and inclusion of the plot in the main surveys.

Registration - Commissioner of Lands

- xiii. Lease forms are obtained from the Ministry of Lands, Housing & Urban Development; the Commissioner of lands prepares lease documents; the investor/developer attaches deed plans and submits to city council authorities for execution and sealing by the Town Clerk and Chairman of the Resistance Council level 5 (an elected local councillor).
- xiv. The lease documents are sent back to the commissioner of lands for forwarding to the registrar of titles to issue the land title.

Processing - Kampala City Council

- xv. The developer/investor submits the plans to the city council plans office and pays a fee.

xvi. The plans are scrutinised by the technical committee comprising Ministry of Lands, physical planning department and city council personnel.

xvii. If no objections are made by the technical officers, the plans are submitted to the development committee of the city council for approval.

Offers: City Council Authorities

xviii. Once approved by the Development Committee the plans are submitted to council for final approval.

xix. The developer/investor collects approved plans from council and commencement inspection is conducted.

Monitoring - Kampala City Council

xx. The developer/investor sets up the structure.

xxi. On completion the developer/investor applies for an occupation permit from the city council for a full term. Currently public land costs Shs.3-5 million for 1 & 1/2 acres (US\$2,500 - US\$4,200) While private land costs about 25 million (US\$20,800)

The procedures for investing in Uganda are neutral as between local and foreign investors.

4.0 ACTIONS WHICH CAN BE CARRIED OUT WITH LITTLE OR NO IMMEDIATE COSTS

There are some actions in the Common Plan of Action (CPA) that the government can immediately implement at a negligible or no cost.

4.1 Trade Measures

4.1.1 Liberalisation of Imports

The CPA calls for the exemption of regional imports from licensing, foreign exchange allocation and similar restrictions. In the case of Uganda there are limited restrictions by way of embargoes on a few commodities e.g. soft drinks, beer, cigarettes and car batteries. This is being done to protect domestic output. This action is unjustified because most of the producers are virtually monopolists. The number of producers are too few to spur competition and it is only imports that can offer competition.

The CPA urges member governments to adhere to the timetable for regional tariff reductions. It also urges the common list to be abolished. The common list has already been abolished and a new timetable for tariffs liberalisation is being worked on.

4.1.2 Liberalisation of Exports

The CPA requires exports to participating countries to be exempted from licensing requirements. Uganda is already applying this except for a small negative list based on environment protection considerations.

4.1.3 Liberalisation of Service Payments

The existing Foreign Exchange Control Act is still fairly restrictive on externalisation of funds acquired in the service sector. The government should be urged to move towards a more liberal system. This is not likely to lead to capital flight as it is feared. Liberalisation of access to foreign exchange for business and leisure travel has been done and evidence suggests more than sufficient funds are available in the Foreign exchange bureaux which now buy and sell on average over US\$ 30 mn each month. The capital account needs to be liberalised to attract savings in convertible currencies to ease payments problems.

4.1.4 Facilitation of Intra-Regional Trade

The following could be implemented with minimal costs:

- implementation of PTA yellow card especially the development of a quicker system for the settlement of claims;
- the development of a regional bond guarantee system as well as the development and introduction of a single goods declaration document to cover exports, imports and transit traffic;
- the introduction of a system for customs data processing.

The implementation of the harmonised road transit charges is being resisted by the government because it entails costs. The PTA road transit charge is US\$ 8 per 100 Km, but Uganda is charging US\$ 17 per Km, following a technical study carried out to determine cost recovery for maintenance. The study pointed out that when costs for replacement are included then full cost recovery would be achieved when a transit charge of US\$ 45 per 100 Km is levied.

4.1.5 Improvement of Regional Transport

The Uganda TWG agrees with all the recommendations in the CPA in this area. However Uganda is only implementing two:

- sale of tickets in local currency and
- harmonisation of flight schedules with some regional carriers.

4.2 Investment Measures

4.2.1 Domestic Regulatory Environment

The Uganda TWG agrees with recommendations contained in the CPA on deregulation of the investment environment. Measures mitigating against a liberal and transparent investment climate are already outlined in earlier sections of this report.

4.2.2 PTA Charter on Multinational Industrial Enterprises (MIE's)

Uganda agrees with the recommendations of the CPA that some amendments as outlined in the CPA need to be made to the PTA Charter on Multinational Industrial Enterprises. These amendments can only be made by the PTA policy organs and therefore need to be initiated by the PTA Secretariat.

4.2.3 Facilitation of Cross-Border Investment

Under the above heading the following as recommended in the CPA could be carried out by the Uganda at minimal costs:

- establishment of double taxation agreements with regional partners.

Other recommendations such as publication of the investment code and accession to the membership of the Multilateral Investment Guarantee Agency (MIGA) have already been undertaken by Uganda.

4.2.4 Movement of Persons

The CPA urges member states to sign, ratify and implement both phases of the PTA Protocol on visa relaxation and abolition as well automatic approval of applications for residence and employment permits for staff under the MIE charter. Uganda now implements both phases of the PTA protocol even without reciprocity by some states.

4.2.5 Reduction in Foreign Exchange Liquidity Requirements

The CPA recognises the need of minimising foreign exchange liquidity requirements and recommends operational measures that could be undertaken by the Central Banks in conjunction with Commercial Banks to improve the utilisation of credit facilities available under the PTA clearing House.

The only difficulty encountered by the TWG was that payments made under this system are converted at the official and not market rate of exchange and therefore exporters stand to lose to the extent by which the two exchange rates differ. Currently the difference is of the order of 18 per cent, which is why the TWG supports the recommendation in the CPA that whenever possible transactions should be allowed to take place at market determined rates of exchange.

5.0 AREAS REQUIRING FUNDING

	Amount Million US\$
1. Development of Infrastructure for Investors	100
2. Establishment of a Stock Exchange	3
3. Strengthen Bureau of Standards	15
4. Adoption of PTA harmonised Transit Charges	0.3
5. Strengthen Immigration Department	0.2
6. Strengthen National Business Organisations	0.5
7. Balance of Payments Support required as a result of implementation of Trade liberalisation measures in the CPA	30
8. Strengthening domestic banking institutions	5
TOTAL	<u>154</u>

6.0 RATIFICATION OF DECISIONS USEFUL FOR IMPLEMENTATION OF THE CPA

There are no outstanding regional agreements that have not been ratified by Uganda.

7.0 PRIORITY AREAS FOR FURTHER ACTION BY UGANDA

7.1 Investment

In spite of regional agreement to facilitate cross border investment, much needs to be done at the national level if this is to be achieved. Several areas still require action.

- i. The government should as an immediate measure begin to de-emphasise its policy of industrialisation via import substitution.
- ii. As a result of negative real interest rates, high inflation and expectations about devaluations public confidence in the financial sector has been greatly undermined with the result that the savings rate is low and the financial sector shallow. The absence of capital markets, merchants banks and until recently an interbank market further compounds the distress of this sector. The lack of the financial depth puts the government in an awkward position in that it can hardly finance even a small fiscal deficit from domestic sources without creating a major impact on monetary expansion. The government should therefore immediately address the problems facing the financial sector. This will include effecting institutional reforms, legislative and regulatory changes and improvement in efficiency and effective competition in the financial sector. In addition, specific sector policies should be formulated such as the development of term lending and capital markets. Monetary and credit policies which would assist stabilisation and encourage financial deepening should be designed and implemented. Above all government must exercise great restraint in monetising fiscal deficits. Donor assistance would specifically be required in the rationalisation and up-grading of functions as well as strengthening of the central bank's capacity to supervise the financial system. This requires expatriate technical assistance on a short-term basis.
- iii. There is some outcry by potential investors about the speed at which investment applications are processed. The government should simplify procedures for inward investment and overcome this concern by amending most of the laws relating to land acquisition, investment and trade.
- iv. The problem of providing utilities and support infrastructure required by investors should be examined in the wider context of providing an enabling environment conducive for rapid economic growth. However, government should consider earmarking industrial estates and provide these with all the necessary utilities and infrastructure as an economy measure. Specific financial assistance from donors will be required to support infrastructure development.
- v) The existing laws need updating and some work is being done by the Justice Ministry in conjunction with relevant Government departments. In the case of the investment code, the following sections are being reviewed:

- Article 22(1) which provides for all tax exemptions on only plant and machinery below 5 years of age is being modified to remove the restriction.
 - Article 23(1) on minimum capital invested necessary to qualify for incentives is being amended to reduce the requirement from US\$ 500,000 for some activities.
 - The section of the third schedule which prohibits non-nationals from engaging in professional services is being reviewed.
- vi. Support is needed to strengthen the immigration department through a well designed programme of training and provision of equipment.
- vii. In the medium-term, the government should seriously consider privatising financial institutions. As a measure to help in its divestiture programme, government should establish a stock exchange. Donor support will be required in its establishment especially technical assistance, training and equipment.
- viii. In order to build on current efforts being laid down to establish a stock exchange, the Government should do the following:
- Domestic technical talent should be upgraded. There is currently a critical shortage of skilled personnel to prepare Ugandan enterprises for sale on the Kampala Stock Exchange (KSE). It is recommended that local personnel be trained locally and overseas, so that they can be exposed to the operations of other countries' Stock Exchanges.
 - Market intermediaries such as stock brokers, dealers and underwriters should be set up and promoted. Governments could offer incentives and training or technical assistance to such intermediaries. These have a very big role to play on behalf of Investors, many of whom do not know how to trade on a Stock Exchange.
 - Government should mandate proper accounting and information disclosure by companies and other enterprises. This is critical if Uganda is to establish an efficient market, one in which share prices reflect all available information at any given time. Stiffer penalties for non disclosure or misleading statements, should be imposed. At the same time, incentives should be given to those companies that submit their accounts properly for inspection. The above measures would reduce insider dealing, and fraud on the market.
 - A law should be enacted, to set up and govern the KSE. Such a law should address matters like licensing, disclosure of information, conduct of business, capital adequacy requirements, insider dealing and market manipulation, investor protection, share price support operations, conflicts of interest, and other areas. Since the country is starting from scratch and would-be investors do not have the

basic knowledge of the operation of a stock exchange it is imperative that a comprehensive law be put in place to guarantee investor protection and to boost the confidence in the market.

- Encourage commercial and development banks to provide medium and long-term credit to investors, to enable them to expand their operations, restructure their enterprises, and to trade shares on the KSE.
- ix. Corporate tax is presently levied at a rate of 30 per cent on company profits. This needs to be reviewed downwards.

7.2 Trade

The following needs to be done in the area of trade at national level.

- i. The government should adopt industrial policies which are aggressively export oriented bordering on the principle of "export or die". The tax administration should lift consumption taxes currently imposed on exports of manufacturers.
- ii. Training programmes in export marketing are required. Technical assistance or training will be required from donor agencies.
- iii. The national trade information network should be expanded to cover other parts of the country. Currently only one point is used by the business community. This will require assistance through provision of equipment.

7.3 Payments

At national level the following action is required:

- i. The PTA unit of account should be sold freely at market rates by bureaux and commercial banks. This should be done immediately.
- ii. Exporters to PTA markets should be guaranteed foreign exchange so as to attract them to export to the regional market.
- iii. Government should consolidate the gains made to move the official exchange rate to its equilibrium level. There is an existing gap of 18 per cent between the two rates.

APPENDIX I

LIST OF LAWS THAT NEED TO BE AMENDED

1. THE EXCHANGE CONTROL ACT.

The CPA requires member states to liberalise payments in services. Some procedures and sections of existing law work against this.

a) Amendments to letters of credit

Amendments to letters of credit require the prior approval of the Exchange Control Department of the Bank of Uganda, before they are advised to beneficiaries, by the Commercial Banks.

It is recommended that commercial banks should advise Exchange Control Department after the amendment of the Letter of Credit, well in time to ensure that, similar information is relayed to inspectors of imports, prior to their inspection. This will reduce delays experienced for such approvals.

b) Payment for import.

It is a requirement that all imports valued above US\$5,000 are to be paid for by a Letter of Credit, and at times it has taken very long periods, to have these letters of credit to be confirmed; and besides they are expensive to establish and yet they are a good method of doing business.

It is recommended that:

- the period for establishing an irrevocable and confirmed Letter of Credit should be reviewed with a view to shortening it;
- the charges by Commercial Banks on letters of credit should be reviewed with a view to reducing them;

- ❑ serious consideration should also be made to introduce the use of telegraphic transfers prior to shipment which are backed by performance bonds from reputable bankers or suppliers;

2. THE BANKING ACT

The Banking Act also acts as a constraint to liberalisation of payments. Section 23 of the Banking Act does not permit the central bank and other financial intermediaries to deal in regional currencies.

3. THE FOREIGN EXCHANGE CONTROL (FOREX BUREAUX) ORDER 1991.

The above law is restrictive. It requires express approval of the Central Bank before profits, dividends, loan interest/repayments can be repatriated. In addition the repatriating firm should have no outstanding loan obligations internally and should pay a fee of 15 per cent of the total amount to be repatriated.

4. THE TRADE LICENSING ACT (CAP 14/69)

Section 2(2) of this law bars foreigners from conducting business in certain areas designated by Government. In addition sec. 4(1) a,b,c, & d provides for the restriction of non citizens from trading in the city, municipality, town or trading centre on specified goods. This should be repealed.

5. THE TROUT PROTECTION ACT (CAP 22A).

This Act prohibits the fishing and export trade in Trout except with special clearance from the Minister of Trade. This should be repealed.

6. THE UGANDA TEA AUTHORITY DECREE NO.8 OF 1974

Sect 13(1) provides that no person shall plant tea on any land which has not been planted with tea before the date of the Decree, unless he has a Tea Planting Licence issued by the Uganda Tea Authority (UTA).

Sect. 16(1) provides that no person is to commence erecting a factory for the manufacture of tea unless he has a permit issued by the Minister.

Sect. 18(1) provides further that no person is to manufacture tea except in the premises which have a Tea Manufacturing licence issued by the Minister; and

Sect.27, prohibits anyone to export tea unless authorization has been obtained from the Minister of UTA. The Authority has been using this provision to levy a commission on exporters despite the fact that, it renders no service to them.

These provisions have outlined usefulness. It is therefore recommended that these and the related provisions be repealed, to encourage new investments in tea planting, manufacture and export.

7. UGANDA POSTS AND TELECOMMUNICATIONS CORPORATION ACT 3 OF 1983

Subsection (1) of Sect.33 of the Act provides:

The Corporation shall have the exclusive right of providing telephone services and of constructing, maintaining and operating telephone apparatus within Uganda:

Provided that the Minister may

- i. exempt from the provisions of this subsection the construction, maintenance and operation of telephone apparatus by such persons as may be specified, either absolutely or subject to such conditions as may be specified;
- ii. grant a licence to any persons to construct, maintain and operate telephone apparatus;

for the purpose of his private or business affairs; or for the purpose of telephonic communication by members of the public between any place within Uganda and any place outside Uganda.

The monopoly created by this section so that UP & TC have the exclusive right of providing telephone services and of constructing, maintaining and operating telephone apparatus within Uganda impedes investment development. The exemption provided for under can only be applied under special circumstances and increases bureaucracy and red-tape.

It is recommended that:

- The section be repealed to allow competition in the provision of telephone services and in constructing, maintaining and operating telephone apparatus within Uganda.
- Most importantly, the regulatory and commercial functions should be separated.

Sect.18 provides that "No letters other than exempted letters, shall be conveyed by land, by water or by air into or out of Uganda or between any two places of which one is within Uganda, or be delivered or distributed in Uganda otherwise than by or through the Corporation".

It is recommended that these sections should be repealed to allow competition in the conveyance of letters.

Sect.38 gives a monopoly to the corporation to provide telegraph services. The TWG recommends the repeal of this section too.

8. NATIONAL WATER AND SEWERAGE CORPORATION DECREE **(DECREE 34 OF 1972)**

The Decree does not create a monopoly in the National Water and Sewerage Corporation but S.30 gives preference to the Corporation. It states:

"In its assignment to secure the formulation and implementation of plans for the beneficial use of the water resources in Uganda, the Ministry responsible for mineral and water resources shall afford the Corporation preference over other authorities in the use of water resources for public, domestic or industrial purposes and disposal of resulting waste.

It is recommended that in order to encourage competition in this area, this provision should be repealed and the regulatory and commercial functions separated.

9. THE ELECTRICITY ACT - CAP 135

Sect. 17(1) provides that “subject to the provisions of this section no person other than the Board shall generate electricity or transmit, distribute, or supply electricity to any other person.”

It is noted by the TWG that this creates a monopoly or empowers Uganda Electricity Board in the section to be the one subject to such conditions not inconsistent with the provisions of this Act and for such period as Uganda Electricity Board thinks fit to grant a licence authorising any person to generate electricity for his own use or to generate or supply electricity for some other person's use.

It is therefore recommended that:

- Both sub-sect. 17(1) and 17(2) should be deleted.
- The Government should also as a long term measure consider setting up a regulatory body, in order to scrap off the monopoly by the Uganda Electricity Board.

Sect. 17(3) (b) and (c) provides that “the conditions which the Board may impose under the provisions of subsection (2) of this section may include conditions provided for in (b) the amount to be charged for electricity supplied to any person; and (c) the keeping of accounts and their audit.”

The TWG observed that this is not consistent with the liberalised situation. To have any individual or firm generating its own power to be given rates which it should charge by Uganda Electricity Board or to keep accounts and have then audited is not fair. It therefore recommends that these provisions of the law be deleted.

Subsection 17(4) (b) and (c) provide that “the Board”:

- may refuse to grant the licence under the provisions of this section and may revoke the licence so granted; and
- shall, if requested to do so by the applicant or licensee, as the case may be, inform him of the reasons for any such a refusal or revocation.”

There is need to delete Sect. 17(4) and other related provisions. Uganda Electricity Board could however in the short run only be given power to inspect power generating plants used by private persons to ensure compliance with standards. In the long run however this function should be transferred to a regularised body, as proposed in (a) above.

10. THE INVESTMENT CODE 1991

The following proposed amendments to the Investment Code 1991 are intended to improve its promotional focus, remove ambiguities and simplify operating procedures.

Part I - Preliminary

a) Insert a new section to provide "Subject to the provisions of the constitution, where the, provisions of this Code conflict with the provisions of any other law, the provisions of this Code shall prevail".

b) The expression "business enterprise should be defined to include business enterprises specified in schedule one and two of the Code."

Part II - Investment Authority

a) In paragraph (a) of section 7 replace the word "supervise" with the word "monitor".

b) Replace paragraph (g) of section 7 with "to determine the terms and conditions which may be imposed in relation to the operation of a business enterprise, to ensure that the minimum criteria for issue of a licence are met and the facilities and incentives granted under the code are properly used."

Part III - Procedures for Investors

a) In paragraph (b) of subsection (1) of section 10, insert the words "directly or indirectly" between the words "held" and "by".

b) Replace paragraph (c) of section 10 with "a partnership in which the majority of the partnership controlling interest is owned directly or indirectly by person(s) who are not citizens of Uganda".

c) Paragraphs (a), (d) and (e) of subsection (2) of section 10 should be deleted and another paragraph included to read "a non-government organisation."

d) Subsection (1) of section 11 should be amended to reflect a minimum threshold for the granting of an investment licence. US\$ 100,000 is suggested for a foreign investor.

e) Note that a local investor need not come to the Authority before investment and normally comes when he needs incentives and therefore the minimum threshold for common incentives of US\$ 50,000 for a local investor should be maintained.

f) Subsection (1) of section 12 should include details of the environmental impact of the proposed project, including the extent to which the project will utilise finite natural

resources. Information or clarification under subsection (2) of section 12 should be sought within 14 days. The Authority may, on exceptional circumstances put forward by the applicant, extend this period.

g) A subsection to section 13 should be added to read "The appraisal of an application for a certificate of incentives should be focused on establishing the likelihood of the project being successfully implemented, the likelihood of its achieving viability in broad terms, and its capacity to generate a positive net foreign exchange effect for the Ugandan economy."

h) Subsection (2) of section 14 should read "The categories of business activities specified in the second schedule are priority areas of investment and a holder of an investment licence to engage in any of those activities shall be eligible to apply for incentives under this Code.

i) Another subsection should be added to section 14 to read "Approved business activities which are located outside major urban centres of Kampala, Jinja and Entebbe shall be entitled to additional benefit of one year's common incentives and local authorities may, subject to the provisions of this code, award incentives to investors in their own right."

j) In subsection (1) of section 16 delete the expression "and incentives, if any" wherever it occurs.

k) Replace paragraph (c) of subsection (1) of section 16 with "have a validity equal to the life of the project provided the project is implemented within an agreed period, which shall normally be not more than two years from the date of issue of the investment licence".

l) Another subsection should be added to section 16 to provide for the issue of a certificate of incentives on presentation of proof of having achieved the investment thresholds.

m) Another subsection should be added to section 16 to provide that an investor who has obtained an investment licence from the Uganda Investment Authority shall within 14 days of his application for a secondary licence or work permit be issued with that secondary licence or work permit.

Part I - Facilities and Incentives

a) Section 22 should be amended to read "(1) Any investor making an investment in Uganda and for that purpose importing any plant, machinery, equipment or other material as deemed necessary by the authority for the establishment of production, including plant, machinery, equipment and materials required for production of services shall be exempted from import duties and sales tax, otherwise payable on those goods. The proviso should be provided the plant, machinery, equipment or other necessary material is not more than five years old, or in exceptional circumstances accepted by the authority, more than five but less than ten years old.

b) Another subsection to section 22 should be added to provide that in cases where plant, machinery, equipment or other necessary material is purchased on the domestic market sales tax shall be waived.

c) Sections 23 and 25 should be aligned to provide a minimum threshold of US\$ 300,000 for common incentives for a foreign investor and US\$ 50,000 for a local investor for a period of 5 years. The Authority should be given powers, by Regulations, to vary or amend these figures and the figure under paragraph (d) of Part III.

d) In subsection (2) of section 24 replace the expression "A foreign investor" with the expression "An investor".

e) Replace subsection (5) of section 24 with "A certificate of incentives shall be issued within 30 days of the approved investor having submitted to the Authority documentary evidence of his having achieved the threshold of investment in qualifying fixed assets set by the Authority".

f) Another subsection should be added to section 24 to provide that the Authority shall maintain a register of certificates to incentives issued under this section.

g) Section 26 should be amended to read "An investor, other than an investor under the 3rd schedule, who holds an investment licence shall be entitled to apply for entry permits for expatriate staff, who are deemed necessary to the success of the project provided the skills and experience required for specified duties within the project are not readily available from the local labour market and accordingly every expatriate shall be exempted from the payment of import duty and sales tax payable on the following items imported within twelve months from the date of first arrival:

one motor vehicle for his personal use; and

personal and household effects

The provisions should be categorised to prevent people from claiming first arrival privileges several times.

h) Another sub-section should be added so Sect. 38 to this effect. Applications for investment licences may be processed by the Uganda Investment Authority with limited benefits under the Investment Code to foreign investors who:

commenced business before the coming into force of the Code on January 25, 1991; and

do not meet the current requirements under the code for the issuance of investment licences with antecedent benefits.

This would regularise the position of existing foreign investors for purposes of renewing their trading licences and permits.

i) The Investment Authority should be urged to encourage those foreign investors who can meet, the requirements under the Code to apply for full investment licences so that they would be eligible to apply for full benefits under the Code. Schedule Two should be amended to read:

Priority Areas:

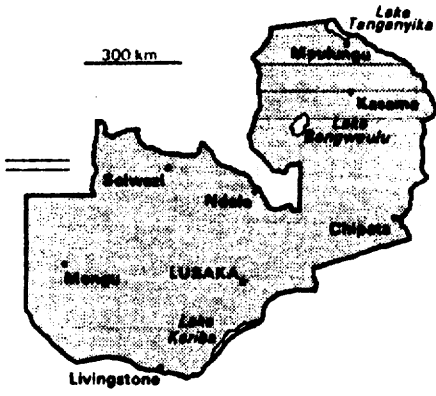
- Manufacturing and processing activities, including packaging and industrial spares and service industries, which add value to locally produced and sourced raw materials, components and finished products.
- Agricultural and agriculture based production activities, including the production of agriculture inputs and the processing, storage and refining of agricultural outputs, fishing and marine or water based activities.
- Fishing and water resource based industries.
- Forest and forest resource based industries.
- Mineral production and refining and mineral based production activities.
- Construction and building activities, including the production of building materials.
- Property development and redevelopment, and real estate development.
- Energy based activities, including energy generation and conservation, and alternative energy sources.
- Banking, finance and insurance industries.
- Transport and communications industries.
- Export oriented production activities.
- Tourism and tourism related activities.

j) The investment code should be amended to treat the PTA Multinational Investments as investments by nationals.

k) The CPA requires PTA governments to work with the private sector to facilitate the

use of and where necessary develop appropriate mechanisms for the provision of investment capital to facilitate cross-border activities. Stock exchanges would have been an ideal mechanism for this but no law exists to protect the users of this facility in Uganda.

1) The CPA calls for new financial instruments to facilitate regional trade e.g. UAPTA bills of exchange. The foreign exchange Control Act needs to be amended to allow for their introduction and use.



Zambia

1.0 INTRODUCTION

Zambia is one of the countries in the region which has been consistent in its support to the Cross Border Initiative initiated in 1992 by the World Bank, the European Community (EC), the International Monetary Fund and the African Development Bank (ADB). This support was recently demonstrated by the fact that Zambia intimated its preparedness to continue its participation into the third phase of the initiative by writing a letter of Intention to the co-sponsors of the programme. During the first phase of this project, the Zambian government was among the countries which responded to the call to join the group of countries wishing to enhance economic integration within Eastern and Southern Africa and the Indian Ocean Islands. To this end, the government put together a Technical Working Group (TWG) comprising people from the civil service and the private sector. The work of the TWG resulted in a report which was the country's Plan of Action to improving Intra-regional Trade, Payments and Investment.

This was the document which constituted Zambia's contribution to the Harare Meeting of December 1992. At the Harare regional meeting, a concept paper was drawn up and developed into a Common Programme of Action (CPA) to facilitate cross-border private investment, trade and payments for the participating countries in the region. The CPA thereby became the locus of discussion and work for the respective TWGs in the months that followed.

This report is a result of the work of the Zambian TWG. The TWG held a number of meetings and organised two seminars to consult the opinion of the policy makers, the research community as well as the business community. Further, the TWG maintained close consultations with the representative offices of the co-sponsors and the regional organisation located in Zambia.

This report seeks to look at the general environment for private cross-border investment and trade; and will assess implications arising from the implementation of the CPA. Furthermore, the report will also take a look at the various actions aimed at strengthening the institutional framework required for interpreting these measures into national action.

2.0 THE LEGAL FRAMEWORK

From the start, it became very evident that one of the major obstacles to the implementation of the CPA in Zambia was the prevailing legal framework in the country. It has been said that a number of progressive measures have been taken by the government

during the course of the year. Having said this, it is still correct to say more work remains to be done.

There are a number of regulations and laws in Zambia which will continue to frustrate the implementation of the CPA. The more important ones include: the Exchange Control Act; the Investment Act; the Companies Act; the Customs and Exercise Act; the Immigration Act. In addition to these laws which directly affect the prospects for regional cooperation, there are also other laws and regulations which indirectly affect the promotion of regional trade and investment. Some of these include; the Labour Act; the Town and Country Planning Act; and the Land Acquisition Act and Conversion of Titles Act.

2.1 The Exchange Control Act

The Exchange Control Act, at first glance seems to be an innocuous piece of legalisation inherited from colonial times and largely influenced by war-time considerations. However, this piece of legislation has been used by successive Zambian governments through a system of additional regulations aimed at stemming the export of capital from the country. As such, it is not really the Act itself which has been the major constraint to regional trade, payments and investment but the regulations which have since been attached to the original Exchange Control Act.

The application of these regulations used to make it a criminal offence for Zambians to hold foreign currencies for more than a period of seven days. In addition, Zambians were not allowed to open foreign currency denominated accounts and are forbidden, under this Act, to take money out of the country for investment purposes. In practice, however, the Exchange Control Act has been overtaken by events. Because the Act was too extreme, it had never been completely adhered to. The introduction of hard currency shops was a recognition that Zambians kept some of their money in hard currencies. Similarly, the establishment of Bureaux de Change was another partial admission of the fact that Zambians had hard currency accounts outside the country. Further, the announcement by the Minister of Finance in 1993 that the Act would be repealed was further recognition of the fact that the Exchange Control Act had outlived its usefulness.

But the final act was to wait until the 1994 budget speech by the Minister of Finance. Both the Act and the regulations that accompanied it were repealed. And, for the first time, Zambians will on February 16, 1994 be allowed to hold foreign currency denominated accounts in commercial banks of their choice in Zambia. All foreign currency dealings will

now take place at the commercial banks. The central bank will thereafter concentrate on monitoring the transactions of the commercial banks in order to minimise risks especially those associated with capital flight.

2.2 The Investment Act

There have been a number of Acts, over the years, enacted to promote investment in the country. The latest of these is the Investment Act of 1991. This particular piece of legislation provides a guide to investors in the country and gives a number of incentives to new investments. Further, the Act attempts to direct investment to certain targeted areas and priority sectors in the economy. The Act also provides for the establishment of the Investment Centre which is the body responsible for scrutinising and facilitating new investments in the country. In addition, the Act provides protection to investors against arbitrary nationalisation. More recently, a number of limitations have been identified in the Act and as a result, the Act is now undergoing review specifically since the incentives offered to new investors are in direct conflict with the country's objectives regarding revenue collection. A more detailed study of the Act and the amendments being proposed require further study in order to bring the proposed amendments in line with the overall requirements of the CPA.

2.3 The Companies Act

The Company's Act is the only instrument through which a business can be registered in Zambia. Zambia's Companies Act is very old, it is, in effect, the British Companies Act of 1949, albeit modified in the late 1960s to include provisions which disallowed public trading in shares. The fact that the Act is old means that the more recent innovations in corporate business are not covered such as the new forms of company ownership, the PTA Charter on Multinational Industrial Enterprises (MIEs), and the requirements of regional cross-border investment being proposed under the CPA. An associated problem with the administration of the Companies Act has to do with the fact that there is only one office, located in Lusaka, which processes all applications for registration. The Registrar's department is undermanned, ill equipped and is largely responsible for delays in the registration of new business in the country.

While the new MMD government set itself the task of amending this Act as soon as it came into office it has now been almost two years since the layman's draft was prepared in consultation with the business community. Since then, the Bill to amend the Act has not yet been taken to Parliament. It is important that the proposed amendments should be studied carefully and possibly improved in line with the CPA before the Bill is tabled in Parliament.

2.4 The Customs and Excise Act

The Customs and Excise Act is largely responsible for determining the levels of tariffs levied on imports. The promulgation of a common regional external tariff would require the harmonisation of this particular Act in all member countries. Zambia needs to make amendments to this Act in order to bring it in line with the tariff regime being proposed by the PTA.

2.5 The Immigration Act

The Immigration Act is the Act largely responsible for restricting the free movement of persons. Further, it is also this Act together with the Labour Act which require that non-nationals obtain employment permits before they can be allowed to work in Zambia. Again, this Act requires amendment to bring it into conformity with the regulations of the PTA Treaty regarding the free movement of persons. It has been suggested that a time frame be put in place starting with the easing of the movement of businessmen and bona fide investors before it is generally applied to ordinary people. This should also include persons from non-Commonwealth countries in the region.

2.6 The Town and Country Planning Act

The Town and Country Planning Act empowers local authorities to designate areas for specific purposes such as residential, industrial and commercial. In its application, this Act derogates the power to allocate industrial plots to local councils which may not be really aware of the import of national demands to develop and provide plots to investors. In addition and because the councils do not have the resources to develop plots, the implementation of the Act results in the relative non availability of serviced plots to accommodate the requirements of investors. This particular Act has been held responsible for delays in the implementation of new investment projects in Zambia. There is an urgent need to amend the Act in order to promote investment in the country.

2.7 The Land Acquisition Act and Conversion of Titles Act

The Land Acquisition Act and Conversion of Titles Act demand that ownership of land is through a Title Deed. These title deeds are issued from one office in the country which is located in Lusaka. As a result, and because the whole system is slow, very few people are issued with title deeds. Further, the Act stipulates that land has no value in Zambia and as a consequence, land cannot be used as collateral for businesses transactions in Zambia. This Act needs to be amended for it is largely responsible for the shortage of land required for

development purposes. This Act has been a source of frustration to many would be investors in Zambia.

2.8 Other Laws and Regulations

There are a number of laws and regulations which in practice indirectly affect the implementation of the CPA. These should be looked at and reconciled with the spirit of the regional integration initiative. Most of these laws and regulations are found in the various Chapters of the Laws of Zambia and they are as follows:

Chapter

103	Trading with the Enemy Act
182	Investment Disputes Convention Act
332	Prescribed Minerals and Materials Act
584	Local loans (Registered Stock and Securities) Act (including the recently enacted Zambia Stock Exchange Act)
690	Control of Goods Act
699	Bank of Zambia Act
700	Banking Act
707	Trades Licensing Act

These are some of the important acts which could adversely affect the implementation of the CPA. However, other new laws and regulations are currently being enacted and require close examination by a qualified lawyer.

3.0 THE MAGNITUDE OF INTRA-REGIONAL TRADE AND INVESTMENT

Zambia has always looked to foreign investors from outside the region. This is largely due to the past foreign exchange control regime in the region which did not encourage residents in these countries to invest in neighbouring countries. However, with the liberalisation which is currently being promoted, it is most likely that businessmen with the necessary resources will begin to invest in other countries of the region including Zambia.

However, since the MMD came into power it has tried to encourage investment from private sector and this includes investors from South Africa, Botswana, and to a lesser extent Zimbabwe. An analysis of the sectors where investors have shown an interest in investing in Zambia revealed the following:

Sector	Percentage
Manufacturing	57.5
of which:	
Food Processing	16.5
Textiles	11.0
Chemicals and Plastics	9.2
Electrical and Mechanical Equipment	8.2
Wood Products and Furniture	7.3
Metal Products	3.6
Paper and Printing	1.8
Agriculture	17.4
Transport	12.8
Mining (gem stones)	6.4
Construction	5.5

Source: Investment Centre, List of Enterprises Issued with Investment Licenses up to October 1992

The TWG are of the opinion that government should encourage joint venture investment with Zambian businessmen and regional investors in various sectors of the economy especially small and medium scale enterprises in order to exploit the potential that exists in Zambia in cooperation with their Zambian counterparts. It is the view of the TWG and the Zambian business community that investors from Zambia and the region should be given preferential treatment over overseas investors. Furthermore, it is suggested that donor support should be sought to assist the general development of the private sector in the region and in Zambia in particular.

Cross border investment from Zambia to the region has not been encouraged in the past due to the exchange control regime. However, the little investment which took place was largely through the parastatal sector setting up joint national enterprises such as Tazara, the joint railway line, with neighbouring Tanzania. Some parastatals like ZCCM have established buying offices in Zimbabwe and South Africa. But investment by the private sector was largely through clandestine operations not known to the Zambian authorities mostly in real estate and trading businesses in South Africa and some trucking companies in Zimbabwe and Botswana. However, thanks to the repeal of the Exchange Control Act, Zambian investors will begin to openly invest in neighbouring countries. Most likely, this will be in properties, transport ventures, professional services such as architects and consulting engineers, and in import and export trade.

4.0 POSSIBLE CONSEQUENCES AFTER ELIMINATION OF OBSTACLES

The elimination of both tariff and non-tariff barriers to trade and investment in the region will most likely lead to increased trade and cross-border investments. It is also most likely that trade as well as investment would be in those areas where countries have a comparative advantage. For example, Zambia has great potential in agriculture, minerals, hydroelectric power, forestry products (hard woods), and a relatively skilled urban population. The exploitation of these resources will be enhanced by the fact that communication infrastructure is relatively well developed. There is, however, the possibility that the elimination of trade barriers may adversely affect Zambia since Zambia is a land-locked country. This is an area of the study which requires further investigation.

4.1 Regulations on Private Investment

Zambia welcomes private investment. In fact it is the policy of government that it should create an environment which attracts foreign investment. To this end, the Investment Act of 1991 was promulgated to facilitate new investment in the country. Further, the Investment Centre was established under the Act to provide a one-stop facility for investors in the country. The government is currently reviewing the Act in order to iron out some of the problems identified in the promotion and operations of the Act and institutions thereof.

The Investment Centre provides assistance and guidance to investors and ensures that all formalities for setting up companies and acquiring the necessary formalities are completed in the shortest time possible. In addition, the Centre liaises with the other authorities in the country to see to it that new Investors get the required permits and licenses in the shortest time possible.

The Centre has since recruited staff and is in the process of building a data base on investment opportunities in the country. However, the Investment Act has been criticised for not giving local and regional investors additional Incentives: It treats all investors equally. Further the Act is silent on Zambians who wish to invest in other countries. Furthermore, it has been argued that the Centre does not move as fast as it promises in translating prospective investments into functioning and operating production units

5.0 ESTIMATED TIME ON EACH PHASE OF THE INVESTMENT PROCESS

It is rather difficult to estimate the time required to execute an investment project as this depends more on the nature of the project itself. For example, an agricultural project could be established in a relatively short time, say one year, whereas a mining project may take up to five years.

Ideally, an investment project evolves through a number of stages. These include: Phase I: Project Identification; Phase II: Processing of an Investment Application; Phase III: Acquisition of Necessary Licenses and Permits; Phase IV: Installation of Plant and Equipment; and Phase V: Project Commissioning and Start-up.

Each of these phases could be further subdivided into various specific actions. We shall illustrate this using a medium-scale shoe-making investment project. For the purposes of comparability, one similar project was studied. The project in question cost around US\$300,000 and has a capacity of producing 500 pairs of shoes per day. The project took about one year to commission.

5.1 Phase I: Project Identification

This stage is relatively simple especially if the investor has prior knowledge of the shoe-making industry, and has enough resources to implement the project without recourse to borrowing on the local money market. However, such an investor will still require information about the shoe manufacturing industry in Zambia. For this purpose the investor will need to conduct a feasibility study to establish the nature of the industry in Zambia as well as gather information on the nature of the Zambian shoe market. Further, the investor will require additional information on the best area to locate the intended investment. Most of this information could be secured easily and within a relatively short time of about three weeks, especially if the investor were to engage the service of a local consulting company to put together this information. The estimated cost of this phase would be about US\$4,000.

5.2 Phase II: Processing of an Investment Application

Having established the technical and economic viability of the project, the investor would require to lodge an application with the Investment Centre. The investor will also be required to incorporate a company in Zambia. This process is relatively simple and fast and there are a number of local companies that could facilitate this phase within a period not less than three weeks and at a cost not exceeding US\$2,000.

5.3 Phase III: Acquisition of Necessary Licenses and Permits

This is another relatively ease phase especially in regards to the acquisition of a manufacturer's license, customs and excise exemptions, and employment permits. The only tricky part would be the acquisition of land and building permits if the investor intends to develop new factory buildings. However, since the advent of Real Estate Agents in the country, it is now possible and much quicker to buy an industrial plot from a willing seller. Nevertheless, the process of securing title deeds to the property may take some time. On average, this phase could be completed within a period of three months and would cost

around US\$7,500. Most of the money and time would go towards the purchase of the industrial plot, and in the processing of title deeds.

5.4 Phase IV: Procurement and Installation of plant and Equipment

This is the most time consuming phase. It involves the ordering of equipment, most of which has to be custom made. Further, there is a lot of time wasted on the shipment of the equipment. In addition, there is the construction of the factory, as well as the provision of utilities to the site to be taken care of. It is estimated that a minimum of six months is required to undertake and complete these works. However, local labour is available for the major construction works but it might be necessary to bring in specialist labour for the installation of plant and equipment from the equipment suppliers. The estimated cost of this phase is included in the total cost of the project.

5.5 Phase V: Project Commissioning and Start-up

This phase brings the project to full production. It involves initial commissioning, effecting minor changes and modifications to plant and equipment and the training of operatives and workers. The phase could last between two to three months.

5.6 Differences between National and Cross-Border Investment

There could also be differences between local investment projects and cross-border investment projects in terms of the lead time required. In some phases, local investors have an advantage while in others foreign investors have advantages over local investors. For example, local investors have local knowledge, they know where the information and expertise are in the country. As such, they could effectively carry out phases I, II, and III in a relatively short time. On the other hand, foreign investors may have better access to technology and as such, they could have an advantage in effecting phases IV and V in a more effective manner. Indirectly, this is an argument for joint-ventures in the sense that a joint-venture would capitalise on advantages of both local and foreign investors.

5.7 Official and Associated Costs

To the best of our knowledge, there are no additional costs in the various phases described above. This however, does not rule out possible corrupt practices associated with the issuing of investment licences. During its initial stages, the Investment Centre issued a

number of licenses which were later revoked because it became apparent that the licenses were issued under very suspicious circumstances. It is most probable that the new management at the Investment Centre has improved both procedures and probity. However, the acquisition of land and title deeds will continue to be a major problem and where corrupt practices may continue.

6.0 ACTIONS REQUIRING NO IMMEDIATE COST AND THOSE REQUIRING ADDITIONAL COSTS

In the country paper, we had suggested a number of actions which were required in order to promote intra-regional trade and investment. What follows is a listing of those actions which could be done without the need of additional resources and those actions which require additional funding.

6.1 Actions Requiring Little or no Immediate Costs to Government

6.1.1 Investments:

- Amendments to the Investment Act
- Amendments to the Mines and Minerals Act
- Amendments to, or repeal of, the Exchange Control Act (this has since been repealed)
- Empowering the Investment Centre to issue all the necessary licenses and permits
- Revocation of the need for residence and work permits for people from the region
- Encouraging the use of the UAPTA as the currency for regional travel
- Amendment of the Companies Act
- Ratification of the PTA protocol on MIEs

6.1.2 Trade:

- Popularising the use of the EXD Form
- Abolition of State Trading Companies
- Publication and Implementation of the RCTD
- Establishment of a regional road transport insurance scheme
- Rationalisation of the Export Retention Scheme

6.1.3 Payments:

- Processing of all regional trade transactions through the PTA-Clearing House
- Introduction of the self-liquidating export-backed loan
- Establishment of an inter-bank money market*

6.1.4 Institutions:

- Establishment of the Investment Centre as a one-stop Facility
- Establishment of correspondent relations between the PTA Bank and Development Banks in the region
- Support for the participation of social movements in regional affairs
- Rationalising the PTA/SADC national focal points in the member countries

The above listed actions could be taken in a relatively short time and would not require additional resources from the government. What is required most is the willingness, on the part of government, to take these decisions. Further, and in most cases, the Zambian government has already indicated its willingness to effect these actions.

6.2 Actions Requiring an Injection of Additional Resources

6.2.1 Investments:

- Compilation and Publication of a monograph on investment opportunities in Zambia
- Establishment of a Regional Venture Capital Fund

6.2.2 Trade:

- Harmonisation of trade documentation
- Strengthening trade promoting institutions
- Strengthening the Zambia Bureau of Standards and the Assize Department
- Setting up an Export Revolving Fund

6.2.3 Payments:

- Increasing support to the export credit scheme
- Establishment of a local money market
- Working towards making the UAPTA a convertible regional currency

6.2.4 Institutions:

- Establishment of regional venture capital companies
- Promotion of private marketing companies
- Establishment of a Regional Stock Exchange
- Setting up a national Market Information Centre
- Appointment of PTA/SADC Country Representatives to member countries

The above listed actions would require additional resources to implement. Furthermore, some of these actions require more time, planning and resources. It is important, therefore, that more time is spent on determining the magnitude of the resources required for each individual action. It will be on the basis of such findings that more meaningful negotiations with donors and co-sponsors could be based.

7.0 SOME REASONS WHY PAST DECISIONS ARE NOT IMPLEMENTED

It has been observed that member countries are in the habit of committing themselves to certain actions which promote regional cooperation at the summits of regional organisations. However, these same countries which make these grand commitments are the same countries which violate them as soon as they reach home. Of course, this frustrates initiatives aimed at regional cooperation. We assume that governments do this not because they are inherently dishonest but rather due to a number of difficulties and breakdowns in internal communication. Some of the major contributing factors have to do with:

- Lack of coordination among different government ministries.
- Lack of a national focal point in charge of regional affairs and responsible for tabling decisions agreed to at Cabinet meeting.
- Lack of resources for publishing (gazetting) those decisions and thereby formalising such decisions into national statutes.
- Absence of an agency responsible for reminding member states of their regional commitments.

In order to ensure that countries adhere to their commitments it is important that resources are made available to facilitate compliance. It has been found that countries lack resources to formalise regional commitments into national statutes. Further, there is no institutional framework at both the national and the regional organisation level to enforce compliance.

8.0 MEASURES REQUIRING FURTHER RESEARCH

In a study of regional cooperation such as this one there are a number of areas which require further study. The more important ones are as follows:

- The role of the private sector in promoting regional trade and investment.
- Nature of financial instruments required to facilitate regional trade and investment.
- Harmonisation of the laws which directly and indirectly impinge on regional cooperation.
- Detailed investigation into the (alleged) national losses resulting from loss of

revenue due to liberalisation including the (alleged) loss of benefits arising from the protection of infant industries.

- The extent to which less developed countries stand to loose from economic cooperation.
- The possible consequences of monetary harmonisation and/or advantages and disadvantages arising from maintaining national currencies.
- The efficacy of moving towards closer political union for the countries in the region.
- The real cost of removing trade barriers in a situation where markets of other member countries are still closed.

These are some of the research areas which national governments as well as regional organisations may wish to commission studies on during the next phase of the Regional Integration initiative. Zambia would do better to carry out similar studies in order to gain the necessary understanding of these issues and thereby mitigate some of the possible adverse effects which could arising from an considered process of implementing the CPA.

9.0 PROVISIONS OF EXISTING REGIONAL AGREEMENTS NOT RATIFIED

Zambia has implemented most of the protocols and agreements intended to facilitate regional cooperation. This however, is not say there are no failings. The most notable one is the failure to implement the following:

- Gradual Relaxation and Eventual Elimination of visas
- Standardisation and quality control
- Cooperation in industrial development and especially the ratification of MIEs
- Relaxation of capital account transactions
- Conclusion of double taxation agreements
- Establishment of a national Stock Exchange

The gradual relaxation and eventual elimination of visas is a PTA protocol which Zambia has not implemented. This is largely due to a large number of countries in the Southern African region which belong to the Commonwealth where there is no requirement of visas.

However, there are countries such as Mozambique and Angola, within the Southern African region, where visas are still required. The situation gets worse when consideration is taken for countries further north as well as the Indian Ocean Islands.

Standardisation and quality control is another important condition for facilitating trade. This is one area in regional cooperation which is often neglected. As a result, trade is hindered as countries are not sure of the quality of goods produced in neighbouring countries. Further, Zambia's capacity for enforcing standards and quality assurance is limited owing to technical weaknesses at the Zambia Bureau of Standards and the Assize Department in the Ministry of Commerce, Trade and Industry. This capacity needs to be built and strengthened.

Efforts aimed at enhancing cooperation in industrial development have been frustratingly slow. This is largely due to the lack of capacity at the regional institutions to plan and foster development cooperation in this area. This is true with the SADC programme based in Tanzania, as well as the initiatives being taken at the PTA Secretariat. Furthermore, most of the countries in the region including Zambia have not ratified the PTA MIEs which could, if implemented, contribute towards increased cooperation especially among private sector companies in the region. It is hoped that the on-going amendments to the Companies Act will take due consideration of this problem.

Another problem relates to reluctance among member states to relax the opening up of capital accounts to facilitate movement of capital within the region. This is largely due to a reluctance, on the part of commercial banks and Development Banks, to enter into correspondent relationships throughout the region. However, with the easing of exchange controls in most of the countries in the region, it is conceivable that this problem will gradually be overcome.

Another protocol which has not been pursued with vigour is the conclusion of double taxation agreements with an increasing number of countries in the region and especially those countries which seek to enhance economic cooperation within the regional integration initiative. Zambia has a few double taxation agreements with a limited number of countries and this list has not grown since colonial times. Part of the reason for this oversight has to do with immigration regulations and the slow pace being taken on the protocol relating to the free movement of persons. It is being suggested that more double taxation agreements should be entered into especially with neighbouring countries as well as those countries which wish to conclude such agreements with Zambia.

The establishment of national stock exchanges is another instrument for mobilising investment from abroad including countries from the region. For a long time, Zambia did not have a stock exchange to facilitate trade in securities and thereby promoting investment. At long last the Lusaka Stock Exchange will open its doors on 21 February 1994. However, the current arrangement at the Lusaka Stock Exchange is not likely to facilitate cross-border investment as only very few companies will be listed on the Lusaka Stock Exchange. It is suggested that rules relating to listing should be relaxed in order to enable smaller but potentially viable companies could be listed and their shares traded openly. Such a move would attract investment from businessmen from other countries within the region.

10.0 NATIONAL INSTITUTIONS

There a number of national institution which have been identified as critical to the implementation of the CPA. These include: The Investment Centre, the export promotion agencies, the association of business organisations as well as various government departments. These institutions require further strengthening, rationalisation, and additional critical inputs in terms of general capacity building.

10.1 Investment Centre

The Investment Centre will continue to be an important window for cross-border investment in Zambia. To date, more than 500 applications for investment in Zambia have been processed by the Investment Centre. A large number of these applications are from people originating from the region and beyond. However, it has already become evident that the current staffing levels at the Investment Centre are grossly inadequate to cope with the increasing demand. Further, the Centre lacks resources and expertise to advise prospective investors on potential areas of investment in accordance with the county's natural endowment and comparative advantages. Such an information base would greatly assist investors, and shorten the time required for project identification. Furthermore, such an information system would target investment to areas where Zambia provides possibilities for a high return on investment. This, in turn, would encourage more investment to come to the country. This is an area where more time and resources need to be directed to. The establishment of a venture capital fund would greatly compliment the work of the Investment Centre as well as promote possibilities for meaning joint venture enterprises between Zambian companies and companies from the region and beyond.

10.2 Export Promotion Agencies

As indicated in the National Plan of Action, Zambia requires to build capacity for export promotion in order to facilitate trade with other countries in the region. The current export promotional agencies are weak and lack resource to meaningfully promote regional trade. It is therefore suggested that more effort should be made to restructure the current export promoting institutions, namely: the Export Board of Zambia; and the Export and Import (Exim) Bank. It is therefore encouraging to note that Exim Bank is currently undergoing some restructuring, and hopefully more resources will be given to that facility.

The participation of Zambian businessmen in regional fairs through coordinating efforts of the Ministry of Commerce, Trade and Industry is another avenue through which Zambian companies are given a chance to expose their wares to markets in the region. This facility should be strengthened and more resources should be given to the ministry to enhance the exposure of Zambian products within the regional market. Regional organisations as well as the associations of private business organisations should be encouraged by providing more resources in order to facilitate increased participation of Zambian companies in trade fairs organised the various countries in the region.

10.3 Associations of Private Business Organisations

The implementation of the CPA would be difficult without the full participation of the business community. It is in this connection that the need to strengthen the association of private business organisations in the country is of prime importance. It is a well known fact the various private business associations in the country are weak and lack the necessary manpower and resources to make a meaningful contribution to Zambia's investment and export potential.

While it is true that the business community in Zambia is wary of patronage from government, it still requires back-up services if it has to service its members more adequately. The Zambia Association of Chambers of Commerce and Industry (ZACCI) does not have a full compliment of staff nor the institutional infrastructure to adequately cater to the needs of its members especially those that would wish to establish links with other businessmen from the region. The same could be said of the Zambia Association of Manufacturers (ZAM) as well as the various Chambers of Commerce throughout the country.

In this connection, the main target for policy attention should be the strengthening of ZACCI's institutional capacity on the one hand and the institutionalisation of the various Chambers of Commerce throughout the country. There is an urgent need to establish functioning secretariats for these organisations so that they can begin to service their members. More importantly, ZACCI needs a proper home and appropriate personnel to travel where it can begin to analyse economic and business intelligence for the benefit of the business community in Zambia. It is only in this way that ZACCI will also begin to make valuable contributions to government policy. The current practice where members of the ZACCI board sit on various policy making bodies without proper back-up services form professional staff does not add much to the quality of contributions. In addition, ZACCI requires an up to date business, trade data base to enable it to advise its members on what business opportunities are available in the region. Access to the PTA Business Information Data Base would be an added advantage.

10.4 Government Departments and the TWG

The TWG which was formed to facilitate the work of enhancing regional cooperation in Zambia was one way through which various government departments made their inputs to the regional integration initiative. This needs to be strengthened and rationalised. So far, the work of the TWG has had some operational problems. This was due to a number of reasons. First, there is a problem with the association of TWG to the Ministry of Finance. The original reason why the TWG was located at the Ministry of Finance had to do more with the fact that the Ministry of Finance has traditional contacts with the co-sponsors who initiated the initiative, namely: the World Bank, the IMF, and to a lesser extent the EC.

However, in normal government operations, matters relating to regional cooperation are located in the Ministry of Commerce, Trade and Industry as well as the National Commission for Development Planning (NCDP). In the third phase of the programme it is

important that this original mistake is corrected. As such, the TWG should be based in the Ministry of Commerce, Trade and Industry, while the Project implementation Committee (PIC) should naturally be based at NCDP especially since it is the NCDP which is mandated by government to carry out negotiations with the donor community. Such rationalisation will greatly improve the functioning of the TWG as well as strengthen the negotiation capacity of the PIC with the co-sponsors and other donors.

While it is important that membership to the TWG should continue to be drawn from the various government departments, representatives of the research community, and business community, past experience suggests that members of the TWG require a modest honorarium to defray costs incurred in the process of their participation in TWG meetings and activities. It is further suggested that this consideration should include those members of the TWG who represent the various government departments.

Lastly, it is hoped that the project approach to the work of the TWG in which there were long periods of inaction pending approval of the subsequent phase tended to demoralise members and thereby contributed to poor attendance of meetings, unwillingness to complete agreed upon assignments, and to a general loss of direction. In our opinion, the reconstituted TWG should be encouraged to be some kind of a think-tank on regional cooperation issues in the country. As such, it should draw upon the resources of individuals who are, apart from their normal government function, committed to the principles of regional cooperation. Such a group of individuals from both public and private sector might prove to be more sustainable than was possible during the more recent the past.

11.0 SOME COMMENTS ON CONCRETE PROPOSALS

This section of the report will summarise specific comments which came out during consultations between members of the TWG, and from the two seminars held to assess the possible implications of the implementations of the CPA in the prevailing conditions in Zambia.

11.1 Liberalising Payments of Services

It was generally felt that while Zambia, and the other member countries are liberalising trade and to a lesser extent investment, there still remains a lot to be done in the area of liberalising payments for services in the region. It was further observed that to ignore this aspect regional cooperation would make regional trade and investment difficult to achieve. Some of the reasons why the services sector lags behind other initiatives in regional cooperation have to do with the general restrictions relating to: employment permits and the

non recognition of the importance of other commercial activities which promote cross-border trade and investment. Further, it was observed that owing to the lack of active consultancy services in the region, businessmen are rather reluctant to enter into cooperative arrangements with fellow businessmen on other countries in the region. With the liberalisation of exchange control regulations together with the relaxation on the movement of persons, it is most likely that the services sector will increasingly become an integral part of trade and investment promotion in the cooperating countries of the region.

11.2 Improvement of Trade Development Activities

The need to improve trade development activities largely depends on the degree of cooperation among monetary authorities in member states. Further, there is a dire shortage of finance to facilitate trade in the region. In Zambia, for example, many export orders remain unfulfilled simply because prospective exporters lack resources to locally purchase the commodities they may wish to export. Apart from the shortage on funds, this situation is made worse by the tendency to disregard marketing as an important element in development of trade. It is therefore not uncommon to hear of producers being encouraged to seek markets beyond national boundaries at the expense of established import and export companies. This lack of specialisation between producers and those involved in the import and export trade is a big hindrance to the promotion of trade development. It is therefore suggested that states and regional organisations should take a more pro-active role in promoting private import and export companies in countries of the region especially in those countries which have opted for enhanced regional economic cooperation. One way of doing this is to strengthen facilities for, and accessibility to, pre- and post-shipment credit financing. At the moment, these facilities are inadequate for the current levels of trade, and it will most likely be incapable of servicing possible expansions in the volume of which might result from the implementation of the CPA.

11.3 Improvement of Financial Instruments

Apart from the internal constraints regarding the lack of pre- and post-shipment credit financing, and the violent fluctuations in the local currency market, there is a need for the region to move towards a stable regional currency. UAPTA Bills of Exchange could be an instrument for increased regional trade and investment. In the absence of limited convertibility of regional currencies or a common regional currency, regional trade and investment would be difficult to enhance. More work is required to establish a more innovative regional financial and monetary regime to facilitate increased regional trade and investment resulting from the implementation of the CPA.

11.4 Development of New Mechanisms for Investment Capital

Regional trade and investment will not increase in the absence of additional injections of capital. As such, it could be said that the region is in a dire need of new capital in the form

of a Regional Capital Fund to facilitate cross-border investment. While the PTA Trade and Development Bank was intended to serve this purpose, more resources will be required to finance the envisaged increases resulting from the implementation of the CPA. It is the opinion of the TWG that the PTA Trade and Development Bank was inappropriately located in Burundi. This is due to a number of reasons: communication is difficult, the fact that the political system is unstable, and the banking system not developed enough to handle the financing requirements of the region.

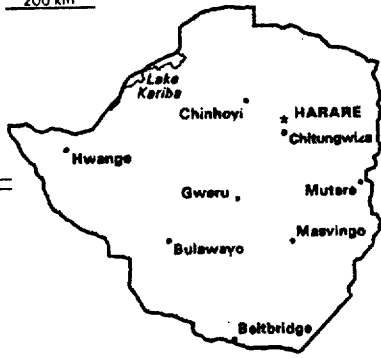
Ideally, the Regional Capital Fund should be located in a country with access to off-shore banking facilities. And a country where linguistic differences do not become a major constraint to prospective users of the facility. In view of the above, the TWG is of the opinion that the Regional Capital Fund aimed at facilitating the implementation of the CPA should be located in a country like Mauritius.

Such a Fund should be open to joint ventures of regional companies aiming at developing the exploitation of resources in one member country while at the same time opening up market opportunities in another member country. For example, a joint venture enterprise could be set up between Zambian and Zimbabwean companies wishing to develop the hard wood resources of Zambia and to supply both the Zambian and the Zimbabwean markets for hard wood products. In such an arrangement, the Fund would be contributing to a closer integration of the markets of the two member countries. Furthermore, such a prospect would also be addressing, simultaneously, the twin issues of cross-border investment and trade as well as taking advantage of possible economies of scale. This is the challenge for the CBI in the near future.

12.0 CONCLUSION

This report has explored the possibilities for implementing the CPA in Zambia. In general the gains for such a prospect are immense. The report has also advised on the possible areas of action. It is hoped that the successive TWG and the PIC will take note of some of the suggestions made and begin their respective assignments with the benefit of hindsight gained from previous work. If the work of our TWG provides a valuable foundation for future work, then all the travails of our TWG will have been worth while.

200 km



Zimbabwe

1.0 INTRODUCTION

This report gives an overview of the activities of the Zimbabwe TWG during the current phase of the project "Regional Integration in Eastern and Southern Africa: A Proposed Common Programme of Action to Improve Intra-Regional Activity". The lay-out of the report follows the Terms of Reference.

The TWG works in close collaboration with relevant ministries and authorities, which have been kept up to date with the progress of the Initiative. Senior Government officials such as Hon. T. Masaya, Minister of State for Finance, Hon. C Ushewokunze, Minister of Commerce and Industry, and Hon. S Moyo, Deputy Minister of Industry and Commerce were among the speakers at the two workshops held in Bulawayo and Harare. The letter to the donors expressing Zimbabwe's interest in bilateral project negotiations has been sent. Finally, the TWG Secretariat has met with Minister Masaya on a number of occasions when required.

2.0 MAINTAINING THE MOMENTUM OF THE INITIATIVE AND BUILDING UP A CONSENSUS AROUND THE CPA

Two workshops were organised to publicise the Initiative and to build up a consensus around the CPA in Zimbabwe. The workshops were open to the public and were attended by representatives from the private sector, from ministries and parastatals, from the donor community as well as members of the press. The first workshop took place at the Zimbabwe International Trade Fair in Bulawayo on 29 April, 1993. The seminar was successful and attracted 73 participants, 57 of which were from the private sector. A second more comprehensive workshop was held in Harare on 26 June. A full report on this workshop was prepared separately.

In connection with these workshops advertising was carried out in local newspapers and through the newsletters of various business organisations such as the Confederation of Zimbabwe Industries (CZI), Zimbabwe National Chamber of Commerce (ZNCC), and the national trade promotion organisation ZimTrade. Information about the Initiative was also sent out in connection with a survey undertaken to gather data, in which around 35

companies requested additional information about the Initiative. A number of press releases have been issued, which have featured in the local press. A regular news update on the Initiative is distributed monthly with ZimTrade's newsletter, and a number of companies have contacted the national consultant to request a copy of the CPA, or to merely express their support for, the Initiative.

3.0 INTERPRETING THE MEASURES INTO NATIONAL ACTION

3.1 List of the Laws and Regulations that need to be amended in order to enable the implementation of the CPA.

A list of laws and regulations has been compiled (Appendix II), and discussions have been held with the relevant ministries and authorities.

3.2 Estimate of the order of magnitude of Intra - Regional Trade and investment flows that might be expected after the elimination of obstacles identified.

3.2.1 Methodology

In order to collect data for the above task, a survey (hereinafter called "the survey") was carried out in the business community. An additional purpose of the survey was to spread information about the Regional Integration Initiative amongst the business community. A questionnaire was elaborated and circulated to participants at two regional integration information seminars held at the Zimbabwe International Trade Fair in Bulawayo on the 29 April, and in Harare on the 26 June. Due to the low response (a total of 15 usable questionnaires were received at the two seminars), a second distribution of the questionnaires took place. This time they were sent out as a supplement to a mailing by CZI, reaching approximately 900 CZI members. The response was satisfactory, 54 (usable) replies were received and 33 companies asked for additional information about the Initiative and the CPA. The results from the survey are incorporated below. These should not be interpreted as representative for the entire business community but merely as an indicator of potential increase in regional trade and investments, were current constraints removed. Please note that the definition used for "the region" comprises PTA, Botswana and South Africa.

3.2.2 Trade

According to a paper by Mr. M Humphrey, Director of Export Development at ZimTrade1, Zimbabwe is suffering from the trade surplus it enjoys with a majority of the countries in the region. The latter feel that although they import from Zimbabwe,

Zimbabwe is not prepared to receive their exports. Mr. Humphrey maintains that there is "a growing opposition to trading with Zimbabwe" due to the operation of the PTA foreign exchange allocation system which the trading partners perceive as an unfair trade practice, that prohibits their exports to Zimbabwe. Mr. Humphrey argues that the removal of the PTA allocation and the placing of all of the region's exports (except for a small negative list) on Open General Import License (OGIL)², as an act of courtesy to the PTA countries, would only benefit Zimbabwean exporters as the hostile attitude towards Zimbabwe and its unfair trade practices would change.

Exports

Zimbabwe's exports to the region have increased steadily from US\$305.7mn in 1987 to US\$477.8mn in 1991. Main destination in 1991 was South Africa (US\$139.3mn), followed by Zambia (US\$130.6mn), Botswana (US\$87.4mn), and Malawi (US\$45.0mn). Nominal average rate of growth per annum during 1987-1991 was 34.6 percent, adjusted for inflation the rate was 19.1 percent in US\$ terms. This high growth, which is considerably higher than that experienced at the beginning of the 1980s, has been possible due to recent trade liberalisation in the region. It is unlikely that it can be sustained, would further liberalisation measures not be undertaken.

An attempt to estimate future increase in exports, were the CPA to be implemented, is shown below. The figures are given at constant 1991 prices and no adjustment has been made for inflation or exchange rate fluctuations. The projections are based on trade statistics from 1987 to 1991, the survey, and the economic and political climate and developments in the trade partners' countries. The exports are calculated to grow at the same rate as the 1987-1991 average until 1994, from which year the rates indicated below have been applied.

TABLE 1: PROJECTED EXPORTS TO SELECTED MAJOR TRADING PARTNERS AND TOTAL EXPORTS TO PTA, BOTSWANA AND SOUTH AFRICA (US\$MN)(1)

Destination	1991	Projected rate of growth 1994-1996 (% annum)	1994	1996
South Africa	139.3	20	240.8	346.7
Botswana	87.4	15	132.9	175.8
Malawi	45.0	25	87.9	137.4
Zambia	37.9(2)	20	65.5	94.4
Mozambique	37.3	15	56.7	75.0
Kenya	14.0	10	18.7	22.6
Tanzania	3.9	15	6.0	7.9
Subtotal	364.82	N/A	608.5	859.8
Total				
Whole Region (2)(3)	385.1	20	665.5	958.3

Notes

- 1) Original 1991 figures in Z\$, converted to US\$ at 1991 average year exchange rates.
- 2) As Zimbabwe's exports to Zambia were unusually high in 1991, the figure used as base for the projection has been adjusted.
- 3) Please note that "Region" includes PTA+Botswana and South Africa (20 countries). The 20 percent increase has been determined for the region as a whole, and is not an average of the listed countries.

South Africa will remain the largest market for Zimbabwean goods. Continued strong growth is expected for exports to the traditional trading partners Botswana, Malawi and Zambia. Exports to Mozambique are expected to increase at a higher rate than at present, as the rehabilitation of the country takes off. Kenya and Tanzania are less important markets to which exports are expected to grow at the same rate as at present.

The survey showed that approximately 66 percent of the companies export solely to the region. Expected regional export sales for 1993 amount to US\$49.6mn for 53 companies having replied to this question. According to their estimates this figure would increase by 26.8 percent to US\$63.0mn, were current impediments removed. In the projection above a slightly more conservative rate of 20 percent was used. It is unlikely that a rate as high as 26.8 percent could be sustained.

Problems encountered when exporting to the region at present include: payment delays - often due to lack of foreign exchange or local liquidity (all countries); high duties (SACU); transport documentation, regulations, cost and border delays (Botswana, Malawi, Mozambique, South Africa, Tanzania, Zambia); surcharge³ (Botswana). Problems encountered within Zimbabwe are: Export Incentive Scheme payment too slow; SSI inspection delays; high duties on imports of raw materials resulting in uncompetitive end-products.

The factors inhibiting exports to the region, i.e. transport regulations, payments and high duties, are partly or wholly on the trade partners' side, and cannot be solved by the Zimbabwean government alone without reciprocity from the other countries in the region. Export licenses in Zimbabwe are only required for a small category of goods and are not generally perceived as a barrier to export.

It is possible that the unwillingness to buy Zimbabwean goods may change, were Zimbabwe to abolish the PTA Allocation scheme. An increase in regional imports may also bring business to Zimbabwean exporters as a result of increased contacts between business people in the region.

Imports

Imports from the PTA member countries are modest, amounting to US\$47.9mn in 1991

which represents 2.2 percent of Zimbabwe's total imports. If imports from Botswana, Namibia and South Africa are added to this figure the total amounts to US\$671.8mn worth of imports in 1991. The bulk of these imports are from South Africa and Botswana, US\$623.8mn. Imports from Botswana have remained fairly stable and, due to the bilateral trade agreement between the latter and Zimbabwe, these are not likely to increase, should import regulations be liberalised. Imports from South Africa however have increased substantially, from US\$217.6mn in 1987, to US\$327.2mn in 1989 to a record US\$546.1mn in 1991.

Mr. Humphrey asserts that the placing of all imports from PTA countries on OGIL would not result in a heavy inflow of manufactured goods from these countries. The reason for this would be that the industrial base in most of the PTA countries, with the exception of Mauritius and Kenya, is still in a developing phase and that these countries thus have little to offer Zimbabwe at this stage.

The survey supports Mr. Humphrey's theory by showing that approximately one third of the companies source less than 20 percent of their total imports from the region. Sixteen percent only import 5 percent of their needs from the region. The source for 91.1 percent of the regional imports is South Africa. Estimates by 29 companies suggest that regional imports would increase by 27.0 percent, from US\$17.6mn in 1993 (estimate) to US\$22.4mn, were current impediments removed. Problems experienced when importing from South Africa are: availability of foreign exchange; slow transport; cumbersome customs procedures and high duties.

The export projection exercise was repeated for imports. Again the same countries were chosen and Swaziland, an increasingly important source of imports, was added. The amounts are constant 1991 prices, and again no adjustment has been made for inflation and exchange rate fluctuations.

TABLE 2: PROJECTED IMPORTS FROM MAJOR TRADING PARTNERS IN THE REGION (US\$MN)(1)

Origin	1991	Projected rate of growth 1994-1996 (percent/annum)	1994	1996
South Africa	546.1	30	1,199.7	2,027.5
Botswana	77.8	10	103.5	125.2
Zambia	12.1	10	16.1	19.4
Swaziland	9.3	10	12.4	15.0
Mauritius	7.5	20	13.0	18.7
Kenya	6.4	10	8.5	10.3
Mozambique	5.4	10	7.2	8.7
Tanzania	3.0	5	3.4	3.8
Total	667.6	N/A	1,363.8	2,228.6
Botswana and RSA only	623.8	N/A	1,303.2	2,152.7
PTA Only	47.9	7.5 (2)	59.5	68.7

Notes

- 1) Original 1991 figures in Z\$, converted to US\$ at 1991 average year exchange rates.
- 2) Please note that the 7.5 percent increase projected for the growth of imports from PTA is not an average of the listed countries.

According to the projection, imports from PTA countries will increase only slightly. Mauritius will increase their exports to Zimbabwe and rise from number five to the fourth important source of imports by 1996. Imports from South Africa will increase at a high rate, 30 percent, and will amount to US\$2.0bn by 1996. Together with Botswana, South Africa will account for 96.9 percent of all regional imports in 1996. In 1991 their share was 92.9 percent.

At this stage the liberalisation measures, as proposed in the CPA, only include PTA member countries and as argued above, imports from these countries are: a) marginal, b) not likely to increase significantly as a result of the implementation of the CPA. If however South Africa were to be included, the possible increase in regional imports could be substantial.

3.2.3 Investment

To write about investments in Southern Africa is a difficult task, as reliable statistical data are not readily available. To predict future development is thus even more difficult as no historical time series, on which trends can be based, exist. The World Bank and UNDP publish time series for foreign investment inflows, but according to the World Bank the figures for Zimbabwe should be treated with some caution as they are "guesstimates". Furthermore, most published data are in the form of net flows, and breakdown of inflows, disinvestment, remitted dividends etc. is generally not available.

Inward investment

The investment situation in Zimbabwe has been poor during the latter half of the 1980s with sizable disinvestments, probably by South African investors.

TABLE 3: FOREIGN DIRECT INVESTMENT IN ZIMBABWE 1980, 1985-1990 (US\$MN NET)

1980	1985	1986	1987	1988	1989	1990
2	3	7	-31	-40	-10	16

Source: UNDP, World Bank (1992) African Development Indicators

Statistics from the Reserve Bank of Zimbabwe show a continued trend of positive net inflows of foreign investment amounting to US\$3mn in 1991, US\$15mn in 1992 (provisional), and US\$22mn in 1993 (estimate). So far not much interest has been shown by regional investors.

TABLE 4: ZIC-APPROVED PROJECTS FROM REGIONAL INVESTORS, AUGUST 1989-JULY 1993

Sector	Value (US\$,000')	Number of Projects	Source of funds
Mining	5,385	5	Kenya, South Africa
Manufacturing	2,166	4	Botswana/Germany, South Africa
Transport	469	1	South Africa/local
Tourism	54	1	Malawi/Zambia/local
Commerce	17	1	South Africa
Service	N/A	1	Malawi/local
Miscellaneous	139	2	South Africa
Total	8,230	15	South Africa (11)Malawi (2) Botswana, Kenya, Zambia (1each)

Source: Zimbabwe Investment Centre, Harare

To date a total of 15 projects from regional investors have been approved by the Zimbabwe Investment Centre (ZIC), mainly in the manufacturing and mining sectors. Eleven of the projects involved investors from South Africa, and more are expected from that end. According to ZIC, interest from South African investors has increased significantly since the end of 1992. At present ZIC receives more proposals from South Africa than from the rest of the world altogether. The only applications from other countries in the region have been for smaller joint-venture projects. Between January and July 1993 two such projects were approved, involving investors from Zambia and Malawi.

Outward investment

Investments from Zimbabwe to the region amounted to US\$13.0mn between 1989 and mid-1993. Investments were made in Botswana (US\$9.0mn), South Africa (US\$1.8mn), Malawi (US\$1.2mn), and finally Mozambique (US\$0.8mn).

TABLE 5: ZIMBABWEAN CROSS-BORDER INVESTMENTS FROM 1989-JULY 1993

SECTOR	COUNTRY	YEAR (US\$)	AMOUNT
Banking, Finance and Insurance	Botswana	1989	6,734,781
	Mozambique	1990	49,714
	Botswana	1991	1,151,760
	Botswana	1993	496,904
	Malawi	1993	772,727
Subtotal			9,205,886
Manufacturing	Botswana	1990	25,914
	Mozambique	1990	204,250
	Malawi	1991	64,382
	Namibia	1992	141,190
	South Africa	1992	1,803,750
	Mozambique	1992	no remittance *
	Botswana	1993	42,062
Subtotal			2,281,548
Retail	Malawi	1991	88,977
	Botswana	1992	337,068
Subtotal			426,045
Transport, Storage and Freight	Botswana	1989	222,002
	Mozambique	1991	384,744
	Malawi	1992	281,694
Subtotal			888,440
Construction	Botswana	1989	4,656
	Botswana	1990	1,156
Subtotal			5,812
Mining Subtotal	Mozambique	1990	59,271 59,271
Tourism Subtotal	Mozambique	1990	99,401 99,401
GRAND TOTAL			12,966,403

Source: Reserve Bank of Zimbabwe

Note: * Shares were donated to a Zimbabwean company.

The bulk of the investments were made in the financial sector (US\$9.2mn) - of which a large amount represents ZimBank's investment in Botswana. Thereafter manufacturing (US\$2.3mn), transport, storage and freight (US\$0.9mn), and retail (US\$0.4mn) were the important sectors. Amount invested per annum has increased since 1990:

YEAR	AMOUNT (US\$MN)
1989	7.0
1990	0.4
1991	1.7
1992	2.6
1993	1.3 (January-July)

According to the Reserve Bank of Zimbabwe only one application for cross-border investment has been rejected since 1991. This was an application for a Z\$38,000 investment in the retail sector in Botswana in 1992. The reasons why no more companies have applied are probably that Zimbabwean companies have not had any excess financial resources, or human resources, to invest outside Zimbabwe. Companies have also been reluctant to apply as they assumed that their applications would be rejected. The Reserve Bank has formerly not allocated foreign exchange to foreign-owned companies wishing to invest outside Zimbabwe. The idea was that these would use foreign currency held by their mother companies outside Zimbabwe. In line with exchange control relaxation the definition of a "foreign" company has been relaxed from comprising any company with more than 25 percent foreign ownership, to a company where foreign ownership exceeds 50 percent. The latter are meant to purchase their required amounts of foreign currency on the "more expensive" Export Retention Scheme (ERS) market, which currently fetches an 18-20 percent premium.

Despite the absence of applications for cross-border investments, the survey indicates that there is a strong interest within the business community to invest in neighbouring countries. Most companies are interested in investing smaller amounts, i.e. US\$30,000-150,000, in neighbouring countries such as Botswana (US\$6.9mn in total), Mozambique (total US\$6.2mn) and Zambia (total US\$1.2mn). Potential large single investments were mentioned for Angola, Botswana, Mozambique, Namibia and South Africa. Most investments would be in the manufacturing and engineering sectors. The main factor limiting these investments was cited as Zimbabwean exchange control regulations. However, a number of Zimbabwean companies are interested in investing in the agricultural, engineering and manufacturing sector in Mozambique, now that the civil war seems to have come to an end. The problems faced by the investors in Mozambique, i.e. corruption, bureaucracy and inexplicable delays, are unfortunately more of a national kind and cannot easily be solved through regional co-operation.

Sixty-two per cent of the companies surveyed indicated interest in joint-ventures with companies in the region, and a further six per cent said they may be interested in the future.

A senior official of a merchant bank stated that there is currently not much interest for cross-border investments. At present Zimbabwean companies are too preoccupied trying to

sort out problems incurred on their companies by the drought and the world-wide recession, to think about cross-border investments. Furthermore, they lack financial and managerial capacity to locate and assess possible opportunities in neighbouring countries. Some companies have adopted a “wait-and-see” attitude and prefer to monitor the results of other companies experience in neighbouring countries, such as the Cresta Group’s investment in Botswana. He therefore does not foresee any substantial increase in cross-border investments in the short to medium term. Transnational corporations were seen as being more likely to look at investments in the region as they have a greater possibility to move capital and expertise to where it is needed.

3.3 Obstacles to Private Investment on the Basis of a Hypothetical Investment

This exercise is displayed in the form of a table describing the procedures that must be followed when investing in Zimbabwe .

Table 6: Procedures for obtaining permission to invest, to start up operations and to apply for work permit and residence permit

I. ZIC PROJECT APPROVAL (Only applicable for manufacturing, mining or agricultural projects)

ACTOR	ACTION	TIME (1)	COST (Z\$)
The investor	<p>Applies for a Certificate of Incorporation at the Registrar of Companies. This is a two step procedure:</p> <ul style="list-style-type: none"> • An application for the company name to be approved is made, then • Memorandum and Articles of Association are submitted for the company to be registered and the Certificate of Incorporation to be issued. 	<p>1 week, can take longer.</p> <p>1 week, can take more</p>	<p>\$30</p> <p>\$0.5/\$100 of nominal capital + \$10 for the certificate</p>
The investor	Obtains three different proforma invoices for the import of machinery, etc.		
The investor	Obtains a letter from the bank confirming availability of funds for the investment.	Dependent on the bank: 1 day to several months.	N/A
The investor	<p>Fills in a "PA1 form" and submits to ZIC:</p> <ul style="list-style-type: none"> • The 3 proforma invoices • The letter from the bank • The Certificate of Incorporation 	N/A	N/A
ZIC	Appraises the application and makes a presentation to the investment committee	Approx. 2 weeks, if all the information is there.	N/A
Investment Committee	<p>Approves/rejects the proposal.</p> <p>The investment committee consists of representatives. "Under Secretary or higher", from the Ministries of: Industry and Commerce; Finance; Tourism; Mining; from the President's Office - National Economic Planning Commission, and the Exchange control Department of the Reserve Bank of Zimbabwe (RBZ). The Committee meets every Monday.</p>	Should take 45 days, can take as little as 3 weeks or considerably longer than 45 days.	N/A

ACTOR	ACTION	TIME	COST (Z\$)
ZIC	Submits the application to Exchange control for approval to bring in funds for the project, and to pay expatriate salaries in foreign currency.	1 week	N/A
Exchange Control and RBZ	Considers, approves or rejects the application.	2-3 weeks. can take longer.	N/A
TOTAL FEES (2)			\$40 + (\$0.5/\$100 of nominal capital)

Note:

1) The amount of time required for the processing of applications etc. at each stage is in general obtained from the authorities concerned, and should thus be considered as **minimum time**. Variations depend on the workload at the time of the application.

2) **Fee** = application fees for licenses etc., actual costs linked to the construction of a factory, etc., are not included in this amount.

II. FACTORY ACCOMMODATION

ACT	ACTION	TIME (1)	COST (Z\$)
A. RENTED PREMISES			
Negotiation	The investor negotiates with the owner of the premises.		
B CONSTRUCTION OF NEW PREMISES			
Application for permission to acquire land	Application is submitted to the Ministry of Local Government who appraises the application, and makes a decision. (If the applicant is a resident the procedure is uncomplicated, subject to availability of land)	1 year or more.	
Preparation of building plans	When granted permission to acquire land, building plans must be prepared and forwarded to the local authority.	Approx. 3 months	
Approval of building plans	<ul style="list-style-type: none"> • Building plans are examined by the local authority • Building plans are then submitted to the Factories Inspectorate, in the Ministry of Labour, Manpower Planning and Social Welfare for approval. Fire prevention measures are also checked. 	4-9 months 1 week	1% of total cost of construction
Application for water supply	<ul style="list-style-type: none"> • If the stand is serviced an application should be made to the local authority for water connection, and for permission to connect taps. • If the stand is not serviced (more common), the most common procedure is for a group of investors with stands at the same location, to form a syndicate and to hire a contractor to service the site. 	1 week Approx. 6 months.	Minimal About 100,000 Z\$ per site, depending on distance.
Application for electricity supply	<ul style="list-style-type: none"> • If the stand is serviced, a request for a quotation is made to Zimbabwe Electricity Supply Authority (ZESA), they would then prepare a quotation and if the quotation is acceptable the investor will apply for the electricity to be connected. ZESA would then connect the electricity. • If the stand is not serviced, an application has to be made to ZESA, they then come to inspect the site if there is a substation nearby. If there is no substation nearby the investor must build one. 	3 months 3-4 months 6-7 months up to 1 year	Deposit: \$2,500 + \$5-10,000 depending on distance \$30-40,000 approx. \$250,000
Application for telephone, telefax and telex service	Application is made to Posts and Telecommunications Corporation (PTC)	6 months to over 1 year	Depending on distance.
Building starts		N/A	N/A

ACT	ACTION	TIME (1)	COST (Z\$)
Building Inspection	A building inspector inspects the building at every stage until completion	N/A	Included in the 1% above

Certificate of occupation	Issued by the building Inspectorate upon completion of building	4-8 Weeks	Included in the 1% above
Total Fees			1% of total cost of construction

Note:

- 1) The amount of time required for the processing of applications etc. at each stage is in general obtained from the authorities concerned, and should thus be considered as **minimum time**. Variations depend on the workload at the time of the application.
- 2) **Fee** = application fees for licenses etc., actual costs linked to the construction of a factory, etc., are not included in this amount.

III MACHINERY INSTALLATION

ACT	ACTION	TIME (1)	COST
Permit for payment of commissioning fees	Application is submitted to exchange control.	4 weeks	N/A
Commissioning of the plant	The suppliers of the machinery need to commission the plant in order for a guarantee for its proper set up and functioning to be issued.	According to contract	Depends, can be included in purchase contract
Application for a factory (manufacturing) License	<ul style="list-style-type: none"> • Application is submitted to the Factories Inspectorate, Ministry of Labour, Manpower Planning and Social Welfare . • An inspection will be made for compliance with safety and health regulations, thereafter the license is issued and manufacturing can start. 	1-2 weeks, can take up to three months.	\$25
TOTAL FEES (2)			\$25

Note:

1) The amount of time required for the processing of applications etc. at each stage is in general obtained from the authorities concerned, and should thus be considered as **minimum time**. Variations depend on the workload at the time of the application.

2) **Fee** = application fees for licenses etc., actual costs linked to the construction of a factory, etc., are not included in this amount.

IV WORK AND RESIDENCE PERMITS FOR EXPATRIATE STAFF

An investor who de facto will be self-employed does not need to obtain a work permit. The investor only needs to apply for a (time-restricted) residence permit.

A. WORK PERMIT

ACTOR	ACTION	TIME	COST
The Employer	<p>Submits an application, in duplicate, to Chief Immigration Officer, Department of Immigration control. There are two types of work permits, "normal" (granted for a maximum of five years, extendible) and temporary employment permit (TEP) (normally granted for up to 2 years, extendible).</p> <p>For employment of less than 1 year it is not necessary to apply for a residence permit. However, all TEP applicants are asked to fill out an application for a residence permit and to submit all the documents required for this procedure, which makes the application procedure rather cumbersome, is that the immigration department finds the information asked for in the work permit application, i.e. name, address, occupation etc., to be insufficient. Therefore any application for a work permit must be accompanied by:</p> <ul style="list-style-type: none"> • A completed application for a residence permit (triplicate) • A chest x-ray certificate stating that the applicant is free from active pulmonary tuberculosis • Birth Certificate • Employment contract from the prospective employer (duplicate) • Certified proof of academic and professional qualifications • 2 passport sized photographs • Payment of fees 	<p>N/A</p> <p>Can be obtained locally within a week</p> <p>N/A</p> <p>N/A</p> <p>If documents have to be certified it may take longer</p> <p>Can be obtained in a day</p>	<p>N/A</p> <p>\$72</p> <p>N/A</p> <p>N/A</p> <p>Could incur cost</p> <p>\$13</p> <p>\$100</p>

ACTOR	ACTION	TIME(1)	COST
Department of Immigration Control	Considers the application	See Below	N/A
Ministry of Labour, Manpower Planning and Social Welfare	If deemed necessary, the Ministry of Labour is asked to make a comment about the applicant's professional skills, and the availability of such skills locally.	See below	N/A
Department of Immigration Control	Issue the permit	The whole procedure normally takes 3-4 months, can take up to 1 year.	
TOTAL FEES (2)			\$100

B. RESIDENCE PERMIT

(for employment for less than 1 year a residence permit is not necessary)

ACTOR	ACTION	TIME (1)	Cost
The Investor	<p>Submits an application to the Chief Immigration Officer, accompanied by:</p> <ul style="list-style-type: none"> • Proof of availability of funds required to make the investment. • Authorisation of the investment from ZIC • Certified proof of academic and professional qualifications • Birth Certificate • Chest x-ray certificate • Two passport sized photographs • Payment of fee 	<p>Dependent on the bank: 1 day to several months</p> <p>See "ZIC project approval" above.</p> <p>If documents have to be certified it may take long</p> <p>N/A</p> <p>Can be obtained within a week locally.</p> <p>Can be obtained in a day</p> <p>N/A</p>	<p>Could incur cost</p> <p>N/A</p> <p>\$72</p> <p>\$13</p> <p>\$50</p>
Department of Immigration Control	Considers the application and approves or rejects it. A temporary residence permit is issued for a period of up to five years, normally three. After five years an application can be submitted for a permanent residence permit.	3-4 months normally, but can take up to 1 year if processed jointly with a work permit application.	
TOTAL FEES			\$50

Source: Imani Development (1993)

Note:

1) The amount of time required for the processing of applications etc. at each stage is in general obtained from the authorities concerned, and should thus be considered as **minimum time**. Variations depend on the workload at the time of the application.

2) **Fee** = application fees for licenses etc., actual costs linked to the construction of a factory, etc., are not included in this amount.

3.4 Identify Actions Which May Be Carried Out With Little Or No Cost

A number of the provisions listed in the CPA, e.g. introduction of ASYCUDA, implementation of PTA Yellow Card etc. have already been completed by Zimbabwe.

Examples of actions that can be carried out with little or no cost:

- The publication of the new PTA tariff rates.
- The introduction of the single goods declaration document, when prepared by PTA.
- The implementation of the regional bond guarantee scheme, when prepared by PTA.
- Establish correspondent banking relationships.
- Promote the utilisation of the PTACH.
- Improve processing of residence and employment permits.
- Conclude double taxation agreements with countries in the region.

Examples of actions that will require some financial support:

- The contracting of a lawyer to analyse the list of laws and regulations and to propose amendments to these laws.
- A study of how to facilitate cross-border investment, particularly in services which is an area where Zimbabwe has a comparative advantage.
- Provision of foreign exchange at the official rate for imports from PTA countries. In the near future the imports of all goods, except for a short negative list, will be license-free. Foreign exchange allocations, such as the PTA allocation system, will be removed and forex for the payment of imports would have to be sourced at market rates. It is feared that the removal of the PTA allocation would result in a decrease of imports from PTA member countries. To counteract this decrease an effectively "subsidised" exchange rate could be introduced for imports from PTA countries in the short-term.

alternatively

- Import surcharges could be abolished for imports of goods from PTA countries. In this case compensation would be required, in the interim, for fiscal losses.
- Some compensation would be needed for the loss of fiscal revenue incurred by the reduction of tariffs to zero by 1996.

3.5 Where Decisions Deemed Useful For The Implementation Of The CPA Have Not Been Ratified

No such cases can be identified.

4.0 MEDIUM-TERM TASKS

4.1 Identify measures in the CPA which may require elaboration and undertake any research deemed necessary for successful implementation

The CPA has been carefully examined and discussed by the TWG. When necessary, relevant ministries and institutions have undertaken further study of specific issues.

4.1.1 Trade

Foreign Trade Liberalisation.

- * Abolish import licensing.

Under the Economic Structural Adjustment Programme (ESAP) imports will be completely liberalised by 1995. The programme is being implemented in controlled stages, designed to strengthen the local industry before complete liberalisation of imports takes place. In the first phase of the programme priority is given to imports of raw materials and other industrial inputs, and a selected number of these products have been put on OGIL. However, it is envisaged that the OGIL will be removed and that the imports of all goods, except for a short negative list, will be licence-free at the beginning of 1994. These imports would be financed with forex purchased at the market rate of exchange.

- * Abolish other NTB

Zimbabwe does not exercise any other significant NTBs, such as quotas etc.

- * Eliminate tariffs on intra-regional trade by 1996

Zimbabwe follows the PTA timetable, and is currently preparing for the publication of a new tariff book containing the 60 percent tariff reduction on all imports from PTA member states. This is expected to be ready by January 1994.

- * Abolish export licensing

Export licenses are only required for a limited number of goods, and are generally not perceived as a barrier to trade.

- * Open up trade in services

The Banking Act, Building Societies Act and Insurance Company Act are all planned for revision

Trade Facilitation

- * Implement PTA harmonised transit charges.

PTA harmonised transit charges are being implemented.

- * Introduce RCTD document.

The RCTD document is already in use.

- * Introduce single goods declaration document.

At present one single form is used. This form can be substituted by the single goods declaration document without any legislative changes. Operators from PTA member countries are required to fill out an additional form. In order to abolish the latter, PTA agreement is required.

- * Introduce bond guarantee scheme

Zimbabwe has signed and ratified the bond guarantee scheme, but it is not yet in force.

4.1.2 Payments

Domestic Payments and Settlements

- * Complete financial sector reform programme

There is no financial sector reform programme as such in Zimbabwe. The legislation covering the financial sector will be reviewed in the short to medium term.

- * Develop foreign trade financing instruments

The Reserve Bank can offer facilities for pre-shipment export finance, and Credsure provides export credit insurance for political and commercial risk.

- * Establish correspondent banking relationships

Correspondent banking relationships have been established with most countries in the region.

- * Remove impediments to entry by foreign financial institutions

Major impediments to entry by foreign financial institutions do not exist. However, it is planned to review the appropriate legislation.

- * Introduce training of commercial bank staff

There is an on-going process of training of commercial bank staff. Some of the banks have full-time training units.

Exchange Systems

- * Remove all restrictions on current account transactions

Exporters are now allocated forex up to 50 percent of their foreign exchange earnings. Furthermore, individuals may operate foreign currency denominated accounts (FCDAs) with "no questions asked" regarding the source of the deposits. Corporate FCDAs will be introduced at the beginning of 1994, at which time companies will be able to retain a substantial proportion of their forex earnings.

- * Relax certain capital account transactions

direct investment.

For investment made after 1 September 1979 repatriation of capital is unrestricted if foreign exchange obtained on the Export Retention Scheme (ERS) market is used, (this does not apply to any investment financed by blocked funds). Dividends and disinvestment proceeds from investments on the Stock Exchange are freely remittable. For outward investment strict restrictions still apply. regional equity markets

Regional equity markets.

Individuals may have access to regional equity markets through FCDAs. The position regarding the use of corporate FCDAs for this purpose is uncertain. Access will probably be denied.

- * Establish unified, inter-bank, spot exchange markets

Zimbabwe is moving towards this position. It is expected that most commercial transactions will be at the market rate of exchange in January 1994. The official rate will be retained for a limited period for government transactions. The plan is to merge the two rates in due course.

- * Increase utilisation of PTACH

Exporters and importers are encouraged to use the PTACH.

4.1.3 Investment

Investment Approval

- * Simplify and liberalise approval procedures

Approval procedures have been simplified and liberalised with the establishment of the Zimbabwe Investment Centre (ZIC), which handles all applications for investment in the

manufacturing, mining or agricultural sectors, as well as some investments in service related projects. ZIC was intended to function as a one-stop agency for investments, but it does not have that authority. Immigration issues in particular still require a fair amount of foot- and pen-work obtaining and filling out the necessary documents.

- * Publish investment code and regulatory instruments

There is no Investment Code in Zimbabwe. Guidelines for foreign investment are set out in The Promotion of Investment: Policy and Regulations, ZIC.

- * Introduce 45-day statute of limitation on investment applications and automatic approval mechanism

The aim is to process an application within 45 days, but it normally takes considerably longer. No automatic approval mechanism is in place.

PTA MIE Charter

- * Ratify and implement charter

The MIE charter has been ratified but not implemented, awaiting entry into force.

Immigration

- * Ratify and implement both phases of PTA protocol on elimination of visas

Zimbabwe has ratified the first phase.

- * Improve processing of residence and employment permits

The processing of residence and employment permits is still slow, and takes a minimum of three to four months, sometimes up to one year. Employment permits are often rejected or granted for a limited amount of time (six months - one year) only.

- * Introduce short-term entry permits for border residents

There is consideration of permits being issued for residents along the South African border to enable them to pass freely across the border.

Other

- * Join MIGA and similar bodies

Zimbabwe is a member of MIGA.

- * Conclude double taxation agreements

Zimbabwe has double taxation agreements with Mauritius and South Africa.

- * Develop cross-listings on regional stock exchanges

Nothing has been done yet in this regard.

4.1.4 Institutions

- * Continue TWG activities

The TWG continues to meet on a monthly basis, and will provide advise and assistance to the PIC.

- * Strengthen national business organisations

Both CZI and ZNCC are represented on the TWG, and information about the Initiative and the CPA is channeled through these representatives to the organisations.

- * Give greater involvement to private sector in regional integration activities

The private sector has been involved through the two information seminars held at the Zimbabwe International Trade Fair in April 1993 in Bulawayo and in Harare in May 1993. Furthermore, a questionnaire was sent out asking exporting/importing and investing companies to give information regarding their trade and investment activities in the region. They were also asked to give an estimate of future intra-regional trade and cross-border investment, after the implementation of the CPA had taken place. Finally, a newsletter is sent out, as and when necessary, to all ZimTrade members, giving an update on the progress of the implementation of the CPA nationally and in the region. Through this newsletter individual companies are invited to contribute with any comments they may have regarding the Regional Integration Initiative and its progress in Zimbabwe.

Representatives of CZI and ZNCC have been used as resource persons at the two information seminars and mass-distribution of information regarding the Initiative normally takes place through these organisations' regular mailings.

- * Establish PIC

The Ministry of Finance is in the process of setting up the PIC.

4.1.5 Project Development

- * Write to co-sponsors expressing interest in negotiating a project

The Ministry of Finance has written to the donors.

- * Start negotiations with co-sponsors

Negotiations will start at the Zimbabwe - World Bank Consultative Group meeting in Paris, 13-15 December 1993.

4.2 Identify Provisions of Existing Regional Agreements to which the Country is not a Party and which would need to be Extended or Amended to Cover the Country in Question for the Purposes of the Initiative.

Zimbabwe has signed and ratified all relevant regional agreements. Although Zimbabwe failed to sign the COMESA Treaty at the recent PTA Summit meeting, the government has subsequently indicated its intention to do so.

4.3 Where measures are already being undertaken in the context of Regional arrangements, or in any other context, the TWG should review implementation and identify any complementary action which may be necessary

The MIE Charter has been ratified and will be implemented. Preparations are underway for the introduction of the "new" PTA tariff reductions, as agreed at the PTA Summit Meeting in Lusaka in January 1993.

4.4 Collection of data on the needs of National Institutions likely to be required to implement parts of the CPA in terms of human resources and access to information

Regarding needs in terms of human resources it is envisaged that some form of training of staff members of organisations such as ZimTrade, ZNCC and CZI will be needed. No detailed training needs analysis has been carried out.

4.5 Maintain regular contact with the institutions and/or ministries which may have a key role to play in the initiative

The information flow between the TWG and relevant ministries and institutions has been facilitated through various means. The TWG meets on a monthly basis and the Ministry of Industry and Commerce, Ministry of Finance, Ministry of Transport, the Reserve Bank, Customs Department are all represented, as are ZimTrade, ZIC, ZNCC, and CZI. Thus, information about the Initiative and the CPA is continually channeled through these representatives to their respective institutions. Furthermore, the national consultant has held informal meetings with senior government officials in the relevant ministries, as well as with officials of the national institutions in order to ensure that these are well-informed about the progress of the Initiative.

4.6 Ensure that a flow of information is maintained between the TWG and Regional organisations and institutions

The national consultant has met with PTA and SADC, and participated in a ministerial round-table discussion on intra-regional-trade facilitation, organised by Eastern and Southern African Management Institute (ESAMI).

APPENDIX I

Relevant Legislation and Modification Thereof

1. Liberalise imports and exports (A.1, A.2)

- (1) Customs and Excise Tariff (S.I. 1/1993).
- (2) Customs and Excise (Suspension) Regulations, 1993 (S.I. 2/1993).
- (3) Customs and Excise (Preferential Trade Area) (Suspension) Regulations, 1993 (S.I. 3/1993).
- (4) Republic of South Africa Trade Agreement Regulations, 1993 (S.I. 4/1993).
- (5) Customs and Excise (General) Regulations, 1991 (S.I. 344/1991).
- (6) Customs and Excise (Industrial Drawbacks) Regulations, 1991 (S.I. 278A/1991).
- (7) Customs and Excise (Local Content) Regulations, 1979 (S.I. 896/1979).
- (8) Control of Goods (Export by Air) Regulations, 1964 (S.I. 715/1964).
- (9) Control of Goods (Export of Minerals and Metals) Regulations, 1979 (S.I. 247/1979).
- (10) Control of Goods (Export of Minerals and Metals) Order, 1979 (S.I. 248/1979).
- (11) Control of Goods (Import and Distribution of Video Apparatus) Regulations, 1973 (S.I. 998/1973).
- (12) Control of Goods (Import and Export) (Agriculture) Regulations, 1965 (S.I. 656/1965).
- (13) Control of Goods (Import and Export) (Agriculture) Order, 1974 (S.I. 216/1974).
- (14) Control of Goods (Import and Export) (Commerce) Regulations, 1974 (S.I. 766/1974).
- (15) Control of Goods (Import and Export) (Wildlife) Regulations, 1982 (S.I. 557/1982).
- (16) Control of Goods (Open General Export Licence) Notice, 1977 (S.I. 873/1977).
- (17) Control of Goods (Open General Import Licence) Notice, 1991

- (S.I. 249/1991).
- (18) Control of Goods (Importation of Soap) Regulations, 1967 (S.I. 918/1967).
- (19) Control of Goods (Import of Medical Substances and Poisons) Regulations, 1973 (S.I. 745/1973).
- (20) Exchange Control Regulations, 1977 (S.I. 399/1977) [section 16 - export of currency; section 19 - export of goods; section 20 - payment for imports].

Action:

Amend so as to exempt imports from and exports to participating countries from licensing, tariff, local content, exchange control and similar restrictions.

2. Liberalise payment of services (A.3)

- (1) Exchange Control Regulations, 1977 (S.I. 399/1977) [section 3 - dealings in foreign currency; section 5 - surrender of foreign currency; section 6 - moneys held outside Zimbabwe; section 7 - payments in Zimbabwe; section 8 - payments outside Zimbabwe; section 16 - export of currency].
- (2) Exchange Control Rules

Action:

Amend so as to liberalise (a) payment for services acquired in participating countries and (b) access to foreign currency for business and leisure travel within the region.

3. Facilitate intra-regional trade (A.4)

- (1) Road Traffic Act, 1976 [Part IIIA - yellow card insurance scheme; (new) Part IIIB - harmonised transit charges].
- (2) Road Motor Transportation Act [Chapter 262] [Part III - trade vehicles].
- (3) Customs and Excise (General) Regulations, 1991 (S.I. 344/1991) [new section - bond guarantee scheme; Second Schedule - forms].

Action:

Amend so as to (a) implement P.T.A. schemes, (b) introduce single goods declaration document and (c) implement regional bond guarantee scheme.

4. *Improve standardisation procedures (A.5)*

- (1) Standards Development Fund Act, 1987.

Action:

Implement administrative and financial measures to promote standardisation.

5. *Improve regional transport (A.6)*

Action:

- (1) Conclude air services agreements with regional States and, where necessary, amend such agreements already in force.
- (2) Adopt administrative and technical measures to enhance regional transport.

6. *Improve trade finance facilities (A.7)*

- (1) Exchange Control Rules [cf. sections 19 and 20 of the Exchange Control Regulations, 1977]

Action:

- (1) Improve existing financial arrangements.
- (2) Amend Rules so as to extend credit period.

7. *Initiate trade development activities (A.8)*

Action:

Institute appropriate administrative, financial and technical arrangements.

8. *Domestic regulatory environment (B.1)*

- (1) Zimbabwe Investment Centre Act, 1992.
- (2) Investment Code
- (3) Exchange Control Regulations, 1977 (S.I. 339/1977).

(4) Exchange Control Rules.

Action:

Amend so as to rationalise and harmonise existing regulatory environment.

9. Implement PTA Charter on MIEs (B.2)

(1) Zimbabwe Investment Centre Act, 1992 [section 25 - time for approval of projects; section 19(2) - subsequent approvals, licences and permits].

(2) Investment Code.

(3) Exchange Control Regulations, 1977 (S.I. 399/1977) [section 23 borrowing, lendings and investments].

(4) Exchange Control Rules.

Action:

Amend existing legislation and introduce new legislation to give effect to requirements of the PTA Charter on MIEs. (see also the legislative measures set out in paragraph 2.4 of TWG Report, 1992).

10. Facilitate cross-border investment (B.3)

(1) Zimbabwe Investment Centre Act, 1992.

(2) MIGA Convention (ratified).

(3) Double taxation agreements (new).

(4) Zimbabwe Stock Exchange Act [Chapter 198] [section 16(1)(a) and (b)].

Action:

(i) Negotiate and conclude double taxation agreements with participating countries (except RSA).

(ii) Amend section 16(1)(a) of chapter 198 so as to permit listing of foreign securities dealt in on Zimbabwe Stock Exchange in terms of the proviso to section 16(1)(b).

11. Develop investment capital mechanisms (B.4)

(1) Exchange Control Regulations, 1977 (S.I. 399/1977) [section 23 - borrowings, lendings and investments].

(2) Exchange Control Rules.

Action:

Amend so as to facilitate cross-border investment activities through appropriate capital mechanisms.

12. Improve movement of persons (B.5)

(1) Immigration Act, 1979 [section 29(1)(b) - visas dispensed with in pursuance of arrangement to which Zimbabwe is a party].

(2) Immigration Regulations, 1979 (S.I. 373/1979).(3) Immigration Rules.

Action:

(i) Ratify PTA Protocol on Visas.

(ii) Modify administrative rules, in relation to nationals of participating countries, so as to (a) dispense with visa requirements; (b) facilitate issue of visitors' entry certificates and (c) expedite issue of residence and employment permits for project personnel.

13. Reduce forex requirements, facilitate payments and improve financial instruments (C.1, C.2, C.3)

(1) Exchange Control Rules.

Action:

Modify Rules and institute appropriate administrative and financial arrangements to improve and facilitate payments measures.

14. Improve Commercial banking sector (C.4)

(1) Exchange Control Regulations, 1977 (S.I. 399/1977) [section 3 - dealings in foreign currency; section 6 - moneys held outside Zimbabwe; section 7 payments in Zimbabwe; section 8 - payments outside Zimbabwe].

(2) Exchange Control Rules.

(3) Banking Act [Chapter 188] [section 6 - application for registration; section 11 - disqualification for registration].

(4) Banking Regulations, 1976 (S.I. 852/1976).

Action:

Amend Exchange Control regime so as to permit (a) holding of bank accounts outside Zimbabwe and (b) operation of foreign currency accounts in Zimbabwe.

15. Regional organisation measures (E)

Action:

Administrative and technical arrangements.

TERMS OF REFERENCE: TECHNICAL WORKING GROUPS

INITIATIVE TO FACILITATE CROSS-BORDER TRADE, INVESTMENT AND PAYMENTS IN EASTERN AND SOUTHERN AFRICA AND THE INDIAN OCEAN

1. BACKGROUND

Early in 1992, countries of the PTA/SADCC/IOC region were invited to participate in a regional initiative to facilitate cross-border economic activities in Eastern and Southern Africa. Interested countries were requested to set up technical working groups (TWGs) to carry out the work at country-level. Several countries responded and in June 1992, a workshop was held in Mauritius to formally launch the initiative.

In Mauritius, the terms of reference for the TWGs were agreed upon. The main task of the TWGs was defined as that of identifying the decisions and agreed programmes of sub-regional organisations that have not been implemented and proposing specific recommendations for implementation. To this end, the TWGs were required to identify the relevant laws, regulations, policies and practices in the areas of trade, investment, payments and institutions and to make specific recommendations as to how they should be modified, substituted or abolished in order to overcome the constraints identified.

Imani Development Ltd. was the lead researcher for the exercise. The task of the lead researcher was to appoint the local consultants and follow-up and coordinate their work as well as the functioning of the TWGs. The lead researcher was also given the responsibility of preparing a synthesis report based on the output of the TWGs.

In December 1992, at a second workshop held in Harare, the TWGs agreed on a proposal for a common programme of action (CPA) outlining measures to facilitate cross-border trade, investment and payments in Eastern and Southern Africa. It was noted that to facilitate the implementation of the CPA both the TWGs and the sponsoring agencies would have to undertake further work. It was also recognised that successful implementation of the CPA would require a critical mass of countries willing to undertake reciprocal measures.

The TWGs could play a critical role in informing policy-makers and public opinion with a view to ensuring the participation of their countries in the implementation of the CPA.

Following the Harare workshop, the sponsoring agencies sent letters to relevant Ministers in each country which had nominated a TWG requesting them to indicate clearly whether or not their countries should be willing to implement the CPA. This phase of the initiative comprises two parts. The first one (para 3) relates to work to be accomplished by all the TWGs. It mainly involves complementary research to refine the country reports. The second part (para 4) will only apply to TWGs in countries which will have given an affirmative response to the letters addressed to them by the co-sponsoring agencies.

It is hoped that a meeting of policy-makers can be held in June 1993 to launch the implementation phase of the initiative.

2. MAIN OBJECTIVES

The main objective of the tasks to be carried out will be to prepare the way towards implementation of the initiative by interpreting measures recommended in the CPA into national actions and building a consensus around the proposals. The TWGs will also undertake activities aimed at maintaining the momentum of the initiative at national level.

3. IMMEDIATE SPECIFIC TASKS

The following will be the immediate specific tasks of all the TWGs:

- a) Soliciting government response on willingness to implement the CPA

The TWG will facilitate a timely and informed response to the letters sent to Ministers in the region requesting governments to indicate their interest in implementing the CPA.

- b) Maintaining the momentum of the initiative and building up a consensus around the CPA, in particular by publicising the CPA, disseminating it and meeting with the relevant government departments and the business community.
- c) Interpreting the measures into national action

The TWGs will be required to undertake the following tasks:

-compile a detailed list of the laws and regulations of their country which will need to be amended in order to enable implementation of the CPA; identify the specific provisions of these laws which would need modification; and propose specific amendments or, where this is not feasible, make suggestions relating to the types of changes needed;

-estimate the order of magnitude of intra-regional trade and investment flows (inward and outward), as well as other possible implications/consequences that might be expected after elimination of obstacles identified; this could be done through surveys and/or discussions with representative samples of the business community;

-review regulations on private investment in the country concerned on the basis of a hypothetical investment (e.g. shoe-making); particular attention should be paid to (i) estimating the time taken at each stage; (ii) indicating the differences between national and cross-border investments; (iii) estimating the official and associated cost at each stage of the process;

-identify actions which may be carried out with little or no immediate costs to the government which nominated the TWG and actions which may require injection of resources;

-where decisions deemed useful for the implementation of the CPA have not been ratified or implemented, clearly identify the reasons why this is so.

4.MEDIUM-TERM TASKS

In the medium-term, the TWGs of countries willing to implement the CPA will be required to do the following:

-identify measures in the CPA which may require elaboration and undertake any research deemed necessary for successful implementation;

-identify provisions of existing regional agreements to which the country is not a party and which would need to be extended or amended to cover the country in question for the purposes of the initiative;

-where measures are already being undertaken in the context of regional arrangements, or in any other context, the TWG should review implementation and identify any complementary action which may be necessary;

-in order to carry out an assessment of the feasibility of measures proposed, collect data on the needs of national institutions likely to be required to implement parts of the CPA in terms of human resources and access to information;

-maintain regular contact with the institutions and/or ministries which may have a key role to play in the initiative; advocacy for the proposals could be greatly enhanced by extension of membership in the TWGs to such institutions and/or ministries workshops and meetings can also be organised from time to time;

-ensure that a flow of information is maintained between the TWG and regional organisations and institutions;

-prepare for the meeting of policy-makers currently scheduled for June 1993;

-elaborate on the proposals in the CPA concerning financial services (paras 2.1.3, 2.1.7, 2.3.3, 2.2.4) with a view to defining concrete measures for their implementation.

ANNEX B

MINUTES OF THE MINISTERIAL MEETING ON THE INITIATIVE TO FACILITATE CROSS-BORDER INVESTMENT, TRADE AND PAYMENTS IN EASTERN AND SOUTHERN AFRICA AND THE INDIAN OCEAN

Kampala, Uganda, August 27, 19

1. OPENING

The meeting was attended by senior officials and Ministers of Finance, Economic Planning and Trade of the following countries: Burundi, Comoros, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Tanzania, Uganda, Zambia and Zimbabwe. In addition to the four co-sponsors: the African Development Bank, the Commission of the European Communities, the International Monetary Fund and the World Bank, there were also representatives from: the Indian Ocean Commission, the Preferential Trade Area for Eastern and Southern Africa, the Southern African Development Community, the Economic Commission for Africa, the Organisation for African Unity, the Global Coalition for Africa and the United States Agency for International Development.

The meeting took place in Kampala, at the invitation of the Government of Uganda and was organised by the CEC in collaboration with the Government of Uganda.

After the welcome remarks by Hon. J.S. Mayanja-Nkangi, Minister of Finance and Economic Planning of Uganda and Mr. Peter Pooley, Director General for Development of the CEC, the meeting was formally opened by H.E. the President of Uganda Y.K. Museveni. In his address the President underlined the importance that Uganda attaches to improving cross-border trade, investment and payments. He urged to think regionally and to act accordingly and confirmed Uganda's commitment to the approach that is envisaged by the Initiative. In his view the African countries should not be suspicious about foreign investors, because the inflows resulting from investments outweigh the outflows. The African countries cannot afford to delay and frustrate investors because they have a choice to take their money elsewhere. By continuing to impose non-tariff barriers (NTBs) the President felt that countries are wasting their own resources. He also stressed the importance of involving the private sector in all the phases of the Initiative.

2. GENERAL COMMENTS ON THE INITIATIVE AND CONCEPT PAPER

This part of the meeting was chaired by Mr. Peter Pooley. Following brief statements by the co-sponsors, the Ministers and senior officials gave their views on the approach outlined in the Concept Paper. Some of them (Kenya, Mauritius, Seychelles and Uganda) announced the formation of the Project Implementation Committee that will at country level help to develop, negotiate and coordinate the implementation of the Initiative. Other countries indicated a focal point for the continuation of the work (e.g. Tanzania).

The interventions were generally favourable to the approach envisaged in the Concept Paper. Several country representatives stressed that this approach is in line with their current national policies and urged for an early implementation. Notwithstanding the positive tone of the interventions, a number of issues and worries related to the implementation of the Initiative were raised: the effect on the government budget, the danger of de-industrialisation in some countries and the role of the regional organisations. These issues were referred to the afternoon session (see below).

The Chairman concluded that the meeting had given a clear endorsement to the Concept Paper and that a critical mass of countries ready to move ahead quickly existed.

3. SPECIFIC ISSUES AND MODALITIES FOR IMPLEMENTATION

This part of the meeting was chaired by Mr. Kevin Cleaver, Director of the Africa Technical Department of the World Bank.

Private Sector Role in the Initiative

The meeting recognized the valuable contribution made by the private sector in the development of this Initiative, particularly at the level of the TWGs (Technical Working Groups) and also in promoting Governments' awareness of the Initiative's potential.

The co-sponsors strongly urged that a visible and substantive role for the private sector should be ensured at the implementation phase. They felt that the private sector should be represented at the Project Implementation Committee (PIC) and during the negotiations stage.

The ensuing discussion showed a range of views. While some participants felt that such a role for the private sector is essential for the success of the Initiative, others were of the view that it would be inappropriate for the private sector to participate in the negotiations. However, a consensus developed to the effect that the participating countries would define

the appropriate role for the private sector, involving, at a minimum, full participation up to the negotiations stage at which time the Government could take over.

Compensation

This issue was the subject of a vigorous discussion. The participating countries felt that the fiscal costs and production losses on account of liberalization are large and should be duly compensated. While conceding this point the co-sponsors felt that such costs are transitional and that a distinction should be drawn between gross and net losses. They felt that over the medium and long term, gains in production and revenue emanating from liberalization would significantly exceed the net transitional costs.

The co-sponsors agreed to envisage funding for adequately compensating the participating countries for net losses during the transitional phase. They further stated that such funding would be impaired in the event participating countries fail to meet their obligation for mutual liberalization.

The co-sponsors also suggested that in order to minimize the negative impact of liberalization on tax revenues, the participating countries should lay due emphasis on broadening the tax base. This would involve shifting from a trade-based tax structure to one that is primarily based on domestic production. This would have the benefit of capturing a part of the incremental GDP in the tax base.

Some concern was also expressed as to the social costs of liberalization and a suggestion was made that a regional compensatory mechanism should be set up to compensate the losers. It was, however, felt that a mechanism based on pooling resources and setting up a regional fund to reduce disparities and strengthen cohesion between the member states as done by the European Community is not a practical option for the time being.

Role of the Regional Organizations

Some of the participating countries strongly felt that the proposed Initiative is primarily a matter of national agenda and a direct and substantive role for the regional and sub-regional organizations in its implementation is not advisable. Such organizations would still be invited for advice to the participating countries as and when deemed necessary. It was, however, felt that these organizations could have a significant role in providing technical and other assistance for design and implementation of the country-specific programmes, and in the development of region-wide infrastructure facilities.

It was also resolved that the Concept Paper and the minutes of the present Ministerial meeting will be submitted to the forthcoming IOC, PTA and SADC summit meetings for endorsement and building up political consensus in support of the Initiative. It was further agreed that the Global Coalition for Africa (GCA) will undertake to present the progress of implementation of the Initiative at the next meeting of the GCA Sub-Committee on Regional Integration and Cooperation, to be chaired by H.E. President Diouf of Senegal.

This is expected to provide similar high-level political validation for the Initiative.

Financing the Initiative and nature of donor support

The co-sponsors re-affirmed that additional resources would be provided to support the initiative. However, they all believed that it was not possible nor desirable to provide financing through a new facility. Existing instruments were deemed capable of handling the various types of financial assistance that would be required: balance of payments support, credit lines, regional projects, direct loans and/or provision of equity to the private sector and technical assistance to national governments and regional organizations. While the World Bank would prefer joint financing, the CEC and ADB expressed preference for parallel financing. The IMF contribution would take the form of technical assistance and guidance in elaborating the supporting macroeconomic framework.

The representatives of the participating countries expressed disappointment that there would not be a new facility to support the initiative, particularly one with low conditionality and easy access. In the absence of such a facility they questioned if the financing to be made available would indeed be additional or simply a reallocation of existing financing. They appealed to the co-sponsors to look into this issue again, particularly to follow up on a proposal from Mauritius to create a Common Fund which could be accessed bi-laterally (by agreement between the co-sponsors and each of the participating countries).

The ECA representative urged that the share of technical assistance in the overall donor financing should not be excessive. In turn, the OAU representative agreed with one of the country representatives by urging that financing of infrastructure should also be considered.

The Chairman summed up the discussion by saying that donors will endeavour, on a bi-lateral basis, to come up with a package tailored to the individual country needs and will use whatever available instruments are most appropriate. However, they will also look into the proposal from Mauritius. One of the tasks of the forthcoming missions by the co-sponsors to the participating countries will be to assess the needs and desired routes for financing: adding on to (macro or sectoral) adjustment operations or by setting up specific investment operations, technical assistance and/or regional projects.

De-industrialisation

The Chairman noted the concern raised by some countries in the morning session that de-industrialisation could result from the implementation of the initiative, particularly the removal of internal subsidies and the lowering of external protection. However, he suggested that this topic was best left to another forum as it would be difficult to achieve consensus in the short time available. While acknowledging that some have a contrary view, he reiterated the belief of the co-sponsors that over the medium term, trade liberalization creates net employment and generates growth even though there may be adverse transitional effects. Clearly, if countries did not share this view of the co-sponsors it would make no sense for them to embark on the proposed programme.

Organisation of work and next steps

The regional organisations urged the co-sponsors to coordinate closely with them during the implementation phase. The co-sponsors felt that this could be done through the annual consultations with SADC and that similar dialogue should be undertaken with the PTA and the IOC for those co-sponsors that presently do not have regular consultations. SADC suggested that there should be an interim review of the Initiative before actual implementation.

It was agreed that it would be up to individual countries to request the co-sponsors to initiate the negotiations on the package to be implemented and financed under the Initiative. More specifically, interested governments should write to one of the co-sponsors, with copies to the three other co-sponsors. The countries that have not yet done so should proceed with the nomination of their PIC. It would now be important for the PICs, preferably with the assistance of the TWGs, to draw up a list of legislation and/or administrative regulations and practice that would need to be amended to implement the package of measures in the Concept Paper. Once this was done and the PIC had achieved internal consensus on the changes to be made, the co-sponsors could be invited to begin discussions with the country. It would be envisaged that where there are ongoing structural adjustment programs, the measures to be implemented under the initiative would be brought within that framework and described in the medium-term policy framework paper.

4. CONCLUSION

On behalf of the co-sponsors Mr. Cleaver concluded by expressing the delight on the high degree of commitment and consensus achieved and thanked the participants for their candidness. He pointed out that implementation will certainly be worthwhile, but also difficult and would require close collaboration amongst all the concerned parties and extensive efforts.

The Initiative will substantially increase beneficial cross-border trade and investment in the region. It will also make the region more attractive for direct foreign investment and enable the participating countries to compete more effectively in the world markets.

ANNEX B

COMPTE-RENDU DE LA REUNION MINISTERIELLE CONSACREE A L'INITIATIVE VISANT A FACILITER LES INVESTISSEMENTS, LES ECHANGES ET LES PAIEMENTS TRANSFRONTALIERS D'AFRIQUE ORIENTALE, AUSTRALE ET DE L'OCEAN INDIEN

Kampala, Ouganda, 27 août 1993

1. OUVERTURE DE LA RÉUNION

Participant à la réunion de hauts fonctionnaires ainsi que des ministres des Finances, de la Planification économique et du Commerce des pays suivants : Burundi, Comores, Kenya, Madagascar, Malawi, île Maurice, Namibie, Rwanda, Seychelles, Tanzanie, Ouganda, Zambie, Zimbabwe. Aux quatre co-sponsors, Banque africaine de Développement, Commission des Communautés Européennes, Fonds Monétaire International et Banque Mondiale, s'ajoutent des délégués de la Commission de l'Océan Indien, la Zone d'Echanges Préférentiels pour les Etats de l'Afrique de l'Est et de l'Afrique Australe, de la Southern Africa Development Community (Communauté de Développement de l'Afrique Australe), de la Commission Economique pour l'Afrique, de l'Organisation de l'Unité Africaine, de la Global Coalition for Africa (la Coalition Mondiale pour l'Afrique) et l'Agence des Etats-Unis pour le Développement International.

Cette réunion s'est tenue à Kampala, à l'invitation du gouvernement ougandais; elle était organisée par la CCE, en collaboration avec celui-ci.

Après que le ministre ougandais des Finances et de la Planification économique, M.J.S. Mayanja-Nkangi, et que le directeur général chargé du développement à la CCE, M. Peter Pooley, ont souhaité la bienvenue aux participants, la réunion est officiellement ouverte par S.E., M.Y.K. Museveni, président de l'Ouganda. Dans son allocution, le président souligne

l'importance que l'Ouganda attache à l'amélioration des échanges, des investissements et des paiements transfrontaliers. Il préconise de prendre en compte la dimension régionale et d'agir en conséquence et confirme que l'Ouganda s'engage à adopter l'approche prévue par l'initiative. Selon lui, les pays africains ne doivent pas se défier des investisseurs étrangers parce que les entrées consécutives aux investissements dépassent les sorties. Les pays africains ne peuvent se permettre de faire attendre et de décevoir les investisseurs car ceux-ci peuvent très bien placer leur argent ailleurs. En continuant d'imposer des barrières non tarifaires, les pays gaspillent leurs propres ressources. Il est important, souligne-t-il également, que le secteur privé soit associé à toutes les phases de l'initiative.

2. RÉFLEXIONS GÉNÉRALES SUR L'INITIATIVE ET LE DOCUMENT DE RÉFLEXION

M. Peter Pooley préside cette partie de la réunion. Après de brèves déclarations des co-sponsors, les ministres et les hauts fonctionnaires font part de leur avis sur l'approche esquissée dans le document de réflexion. Certains d'entre eux (Kenya, île Maurice, Seychelles et Ouganda) annoncent la création d'un comité d'exécution du projet qui, au niveau national, aidera à mettre en place cette initiative, en prévoyant une phase de négociation et de coordination. D'autres pays (par exemple la Tanzanie) indiquent un point focal qui pourra servir pour la continuation des travaux.

Les interventions sont en général favorables à l'approche envisagée dans le document de réflexion. Plusieurs délégués soulignent que cette approche est conforme à la politique actuelle de leur pays et préconisent de ne pas tarder à mettre en place cette initiative. En dépit de ces interventions positives, un certain nombre de questions et d'inquiétudes liées à la réalisation de cette initiative sont évoquées : les conséquences sur le budget national, le risque de désindustrialisation dans certains pays et le rôle des organisations régionales. L'examen de ces questions est renvoyé à la séance de l'après-midi (se reporter aux points ci-dessous).

Le président conclut que la réunion a clairement approuvé le document de réflexion et qu'un nombre suffisant de pays sont prêts à aller de l'avant, sans plus tarder.

3. QUESTIONS SPÉCIFIQUES ET MODALITÉS DE MISE EN OEUVRE

Cette partie de la réunion est présidée par M. Kevin Cleaver, directeur du Département technique de l'Afrique de la Banque mondiale.

Rôle du secteur privé dans cette initiative

Les participants reconnaissent la contribution précieuse du secteur privé à l'élaboration de cette initiative, en particulier au niveau des groupes de travail techniques (GTT); le secteur privé a contribué à sensibiliser les gouvernements aux possibilités offertes par cette initiative.

Les co-sponsors recommandent vivement que l'on donne au secteur privé, lors de la phase d'exécution, un rôle visible et important. Il devrait être représenté au comité d'exécution du projet (CEP) et au cours de la phase de négociations.

La discussion qui suit fait apparaître des opinions variées. Si certains participants considèrent l'attribution d'un tel rôle au secteur privé comme essentielle pour la réussite de l'initiative, d'autres sont d'avis qu'il serait inopportun que le secteur privé participe aux négociations. Toutefois, un consensus se dégage sur le fait que les pays participants définiront le rôle souhaitable du secteur privé comprenant, au minimum, une participation entière jusqu'à la phase de négociations; ensuite, le gouvernement pourrait prendre le relais.

Compensation

Cette question suscite un débat animé. Les pays participants sont d'avis que les pertes financières et la baisse de production induites par la libéralisation sont importantes et doivent être dûment compensées. Tout en reconnaissant la justesse de cet argument, les co-sponsors estiment que ces pertes sont passagères et qu'il convient d'établir une distinction entre pertes brutes et pertes nettes. Selon eux, à moyen et long termes, l'accroissement de la production et des recettes dû à la libéralisation dépassera de manière sensible les pertes nettes passagères.

Les co-sponsors acceptent la perspective d'un financement destiné à compenser de façon satisfaisante les pays participants des pertes nettes subies au cours de la phase de transition. Ce financement serait compromis si les pays participants ne s'acquittaient pas de leur obligation de libéralisation.

Ils proposent également qu'afin de minimiser les effets négatifs de la libéralisation sur les recettes fiscales, les pays participants mettent bien l'accent sur l'élargissement de la base d'imposition, ce qui impliquera que l'on passe d'une fiscalité frappant les échanges à un système frappant essentiellement la production nationale. Cela présentera l'avantage d'ajouter à la base d'imposition la fraction de P.I.B. ainsi générée.

Des inquiétudes s'expriment au sujet des coûts sociaux de la libéralisation; il est proposé d'établir un dispositif régional pour compenser le préjudice subi par les zones affectées. Il apparaît toutefois qu'il serait difficile à l'heure actuelle de mettre en place un dispositif axé sur la mise en commun des ressources et sur la création d'un fonds régional afin de réduire les disparités et de renforcer la cohésion entre les Etats membres, à l'image du fonds de la Communauté européenne.

Rôle des organisations régionales

Certains des pays participants sont convaincus que l'initiative proposée doit être mise en place selon un calendrier national et qu'il n'est pas souhaitable que les organisations régionales et sous régionales jouent un rôle direct et important dans sa mise en oeuvre. On invitera tout de même ces organisations à donner des conseils aux pays participants en temps utile. Elles pourront, est-il indiqué, jouer un rôle important en accordant une assistance technique et d'autres formes d'assistance pour la conception et l'exécution des programmes à l'échelon national et en contribuant au développement des infrastructures régionales.

Il est décidé également de soumettre pour approbation le document de réflexion et le compte rendu de la présente réunion ministérielle lors des prochaines rencontres au sommet de la COI, de la ZEP et de la SADC; on cherchera, à cette occasion, à recueillir un consensus politique en faveur de cette initiative. Il est convenu que la Global Coalition for Africa (GCA) présentera les progrès accomplis dans la réalisation de l'initiative, lors de la prochaine réunion du sous-comité de la GCA sur l'intégration et la coopération régionales, qui sera présidée par S.E., le président Diouf du Sénégal. Cela devrait permettre d'apporter un soutien politique de poids à l'initiative.

Financement de l'initiative et nature de l'appui des donateurs

Les co-sponsors déclarent à nouveau que des ressources supplémentaires seront accordées afin de soutenir l'initiative. Tous estiment cependant qu'il n'est ni possible ni souhaitable de fournir ce financement par le biais d'un nouveau mécanisme. Les instruments existants conviennent pour gérer les différents modes d'assistance financière nécessaires : soutien de la balance des paiements, lignes de crédit, projets régionaux, prêts directs et/ou fourniture de capitaux au secteur privé et d'une assistance technique aux gouvernements nationaux et aux organisations régionales. La Banque mondiale souhaiterait un financement conjoint, alors que la CCE et la B A D préféreraient un financement parallèle. La contribution du FMI prendra la forme d'une assistance technique et d'une aide à l'élaboration d'un cadre macro-économique d'accompagnement.

Les représentants des pays participants regrettent l'absence d'un nouveau mécanisme de soutien à l'initiative, dont il serait facile de bénéficier et qui serait assorti d'un degré faible de conditionnalité. Sans un tel mécanisme, ils se demandent si le financement proposé viendra vraiment en complément ou s'il ne s'agira pas simplement d'une réaffectation du financement existant. Ils demandent aux co-sponsors de reconsidérer cette question, et en particulier de suivre une proposition de l'île Maurice visant à créer un Fonds commun auquel il serait possible d'avoir accès sur une base bilatérale (par un accord entre les co-sponsors et chacun des pays participants).

Le délégué de la CEA recommande que la part de l'assistance technique dans le financement global accordé par les donateurs ne soit pas excessive. Le délégué de l'OUA, quant à lui, marque son accord avec l'un des délégués nationaux pour demander que l'on examine également le financement des infrastructures.

Le président résume la discussion en déclarant que les donateurs essaieront, sur une base bilatérale, de proposer un ensemble de mesures adaptées aux besoins individuels des pays et utiliseront les instruments disponibles les plus adéquats. Toutefois, ils examineront également la proposition de l'île Maurice. L'une des tâches dont les co-sponsors devront s'acquitter au cours de leurs missions dans les pays participants consistera à évaluer les besoins et les modalités de financement souhaités : renforcement des actions d'ajustement (macro-économique ou sectoriel) ou mise en place d'opérations spécifiques d'investissement, de projets d'assistance technique et/ou de projets régionaux.

Désindustrialisation

Le président relève les inquiétudes émises par certains pays lors de la séance du matin. Ceux-ci craignent que la mise en oeuvre de l'initiative, en particulier la suppression des subventions internes et la baisse de la protection vis-à-vis de l'extérieur, ne débouchent sur une désindustrialisation. Il propose toutefois d'aborder ce sujet dans le cadre d'une autre enceinte, étant donné qu'il serait difficile de parvenir à un consensus dans les brefs délais impartis. Tout en reconnaissant que certains sont d'un avis contraire, il donne à nouveau l'avis des co-sponsors selon lequel, à moyen terme, la libéralisation des échanges crée des emplois nets et génère de la croissance, même si des effets indésirables peuvent se produire dans un premier temps. Il va de soi que, si les pays ne souscrivaient pas à cette opinion, il ne servirait à rien qu'ils se lancent dans le programme proposé.

Organisation des travaux et procédure ultérieure

Les organisations régionales demandent avec insistance aux co-sponsors de travailler en étroite coordination avec elles lors de la phase d'exécution. Les co-sponsors suggèrent que cela se fasse par le biais des consultations annuelles avec la SADC et que les organismes qui n'ont pas jusqu'à présent de consultations régulières, nouent un dialogue similaire avec la ZEP et la COI. La SADC propose que l'on effectue un examen de l'initiative avant sa mise en place effective.

Il est décidé que ce sera à chaque pays de demander aux co-sponsors d'engager les négociations sur les mesures qui doivent être appliquées et financées dans le cadre de l'initiative. Plus particulièrement, les gouvernements intéressés devront écrire à l'un des co-sponsors, en envoyant un exemplaire de la lettre aux trois autres. Les pays qui ne l'ont pas encore fait doivent procéder à la désignation du comité d'exécution du projet (CEP). Il importe à présent que les CEP, de préférence avec l'aide des GTT, dressent la liste des lois et/ou des règlements et procédures administratifs qui devront être modifiés pour que puisse être mis en oeuvre le train de mesures prévu dans le document de réflexion. Une fois que cela aura été fait et que le CEP sera parvenu à un consensus interne sur les changements à apporter, les co-sponsors pourront être invités à entamer les discussions avec le pays considéré. On envisage, pour les pays où des programmes d'ajustement structurel sont en cours, d'incorporer à ces programmes les mesures prévues au titre de l'initiative et de les décrire dans le document cadre de politique à moyen terme.

4. CONCLUSION

Au nom des co-sponsors, M. Cleaver déclare, en conclusion, qu'il se réjouit de l'ampleur des engagements pris et du consensus observé et remercie les participants de leur sincérité. Il souligne que la mise en oeuvre de cette initiative apportera certainement des satisfactions mais qu'elle comportera des difficultés et qu'elle requerra une collaboration étroite entre toutes les parties intéressées ainsi que des efforts importants.

Cette initiative augmentera de manière sensible les échanges et les investissements profitables transfrontaliers dans la région. Elle rendra la région plus attrayante pour les investissements étrangers directs et permettra aux pays participants de se montrer plus compétitifs sur les marchés mondiaux.

ANNEX C

MINISTERIAL MEETING ON THE INITIATIVE TO FACILITATE CROSS-BORDER INVESTMENT, TRADE AND PAYMENTS IN EASTERN AND SOUTHERN AFRICA, KAMPALA, 27 AUGUST 1993

LIST OF PARTICIPANTS

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S.E. M. Houmed MDAHOMA MSAIDIE
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ZAMBIA

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Dr. C. MWILA

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WORLD BANK

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Mr. Praful PATEL
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Mr. K. Hasan IMAM
Senior Country Officer

ANNEX D**TECHNICAL WORKING GROUP CHAIRMEN AND SECRETARIATS**

COUNTRY	CHAIRMAN	SECRETARIAT
Burundi	Mr Cyprien Sakubu Ministère du Commerce et de l'Industrie	Mr Prime Nyamoya OGI
Kenya	Mr John Mwinamo Office of the Vice-President and Ministry of Planning	Dr N Ng'eno University of Nairobi
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Rwanda	Mr Antoine Uwimana Ministère du Plan	Mr J M V Mbaguta Conseiller, Ministère des Finances
Uganda	Mr Keith Muhakanizi Ministry of Finance and Economic Planning	Dr Sam Katabaazi DMCI
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Note: This reflects the situation when the country reports included in the volume were finalised. It is possible that subsequently some changes might have occurred.