CHAPTER 7: Conclusions and way forward

The analysis has identified a number of areas where measures must be taken to eliminate barriers to trade and harmonise policy measures applied by states to trade in agricultural products. The creation of a common market is an ambitious goal and for it to operate effectively and to be implemented in an accelerated manner, difficult measures must be taken by the individual Member States both within their RECs and at an individual level. Without bold measures at a continental level, the goal of a common market in agricultural products will remain a paper dream and the pace of liberalisation will continue to depend on the pace at which barriers to trade are eliminated at the REC level.

The analysis finds that for the identified strategic products, significant trade already takes place amongst the various Regional Economic Communities (RECs) although still at a low level compared with trade from outside the continent. Further, the set of strategic products listed above are compatible with those identified as *Special Products* under the framework of the WTO and are also amongst the sensitive products in many of the RECs. Thus, whiles African countries strive to *fast track* the common market for agricultural products, these strategic products should be amongst the first set of products to be liberalized at the continental level. However, caution should be exercised by African regions negotiating Economic Partnership Agreements (EPAs) with the European Union (EU) to ensure that full liberalization of these products under the EPAs should be deferred until way into the transition period agreed to under the EPAs so that a proper assessment of their impact due to the common market at the continental level could be assessed. Unless this is done, it is likely that early liberalization of these products under the EPAs could undermine the regional integration efforts amongst African countries rather than strengthen it – thus, further undermining a key objective of the EPAs – strengthened regional integration and trade.

Intra-African trade is now regarded as key to alleviating hunger and food insecurity in Africa. The process already in motion should be strengthened further. In this regard, the CAADP should be implemented successfully because this is the only way to ensure both the expansion of intra-trade as well as to address the other obstacles to production and trade. Successful regional integration schemes elsewhere in the world point to the importance of intra-industry trade. In agriculture, the way to strengthening intra-industry linkages are to take a value-chain approach, linking farmers and agro-industries not only within a REC but also among the RECs. The key CAADP interventions, like in rural infrastructures and water, may need to be reviewed from this perspective also.

African countries should take into consideration a number of important factors in planning for investments in roads in the context of the common agricultural market: remoteness, topography, link with commercial centers, size of the population, level of current output and potential growth, volume of marketable surplus, level of processing, level and type of marketing, storage facilities, type of transport modes, method and cost of construction, potential user cost saving, impact on cross-border movement, and impact on the quality of life and the environment. One has to be careful in the design and implementation of road construction in order to ensure that roads do not contribute to environmental degradation and/or loss of wildlife habitat.

There are a number of other issues to be considered in the context of regional transport and communication. First, as indicated earlier, movement of goods and services should not be unduly restricted through regulations, customs procedures, road blocks, short hours of border posts and the like. Second, movement of goods requires adequate number of appropriate types of transport equipment. Available data indicate shortages in many African countries. Third, Members individually and jointly need to devise improved methods of financing transport network and equipment. Both public and private financing would have to mobilize for this purpose. Regional and sub-regional network could be financed through an Infrastructure Development Fund, which would also consider financing large-scale storage, and marketing infrastructure. It should be noted that the AU/NEPAD are spearheading developments in this direction. Fourth, the responsibility for operation and maintenance of regional, national and local roads should be carefully worked out in order for roads to contribute to regional integration on a permanent basis. Finally, the development of transport network has to go hand in hand with the development of communication and knowledge base development for increased exchange of ideas, dissemination of new technologies and market information, and data transfer. Specific measures for transportation and communication facilitation some of which are already in operation in several RECs but need strengthening include:

- harmonization of road transit charges;
- adoption of a common carrier's license;
- harmonization of maximum vehicle dimensions and axle load limits;
- regional third party motor vehicle insurance (Yellow Card);
- adopt a regional Customs Bond Guarantee System;
- liberalization of air transport services;
- advanced Cargo Information System (ACIS) for tracking cargo;
- harmonization of telecom regulations and policies; and
- information dissemination through a Trade Information Network.

Strategic and policy harmonization among member countries together with construction of appropriate infrastructure would contribute to the synchronization of cross border production and consumption creating the space for the expansion of intra-regional trade and also trade with non-members. Members of an African agricultural common market – through public, private and community based actors – would have to address several critical issues linked to storage and warehousing. First, the number, location and capacity of storage facilities should be determined by patterns of production and consumption. Second, the harmonization of storage technology would be useful for the purpose of product standardization. This would have implications for storage/warehouse design, construction materials, handling methods, equipment, packaging, heating, refrigeration, security, safety and the like. Third, depending on the product and the pattern of regional and international trade, inventory management would have to be coordinated among Members. For this purpose, supply and demand would have to be closely monitored. Appropriate national and regional bodies should work together to develop capacity through training and facilitate the flow of information among market agents through the development of an integrated information system. Fourth, it should be borne in mind that storage and warehousing of an international/regional standard to facilitate trade is costly.

All cost elements have to be considered, namely, costs of construction, equipment, inventory, interest, transport, and operation and management. Enabling conditions would have to be created for market forces to take care of most the concerns outlined above including those related to weather fluctuations, market volatility, consumer preferences, transportation requirements and costs, distribution centers, forecasting, public versus private/community ownership and management. In the case of financing, the approach recommended under transport above may be considered together with sources of market based financial intermediation within countries for individual entrepreneurs and businesses of any dimension.

Attention should be paid to the development of marketing infrastructure, both physical and institutional. Marketing could turn subsistence and semi-subsistence producers into commercial producers and non-traded good into traded ones. The common market would promote commercialization and trade orientation of agricultural products originating in the region. The common agricultural market has to develop institutions which could train and provide technical assistance to producers and traders with regard to (i) marketing research and analysis, (ii) marketing management and promotion, (iii) distribution of product, (iv) pricing strategy, (v) risk management, and (vi) regulatory and control mechanisms.

One has to look at the complex environment within which the development of the agriculture sector has to take place in African countries to conclude that inter-regional and international trade in agricultural products has to be promoted. Countries need to cooperate in analyzing actors in the market and their behavior, understanding the competitive environment, selecting target markets (intra-regional and international), formulating a market segmentation strategy, highlighting market constraints, clarifying the regulatory environment, establishing effective marketing organizations, and in disseminating market information. The understanding of the competitive environment is crucial to establish the marketing prospect and potential of the products under consideration in external markets. Within the region itself an improved understanding of the competitive structure will indicate the steps necessary to establish the level playing field as implicit in the common market agreement.

Producers, marketers and traders may need assistance in modern marketing management that may include, among others, establishing strategic trade-oriented business units, setting compatible and consistent market objectives, performing SWOT (strength, weakness, opportunity and threat) analysis, developing market strategy[215], implementing tactical plans and monitoring results. They may need assistance with market campaign organization, market entry decisions, product standardization, quality control, product planning, distribution planning, market promotion planning and pricing and cost control strategy.

Product planning for the agriculture sector is as important as any other sector. Product planning consists of systematic decision-making relating to all aspects production and management of products including branding and packaging. Chiquita bananas, Uncle Ben's rice, Del Monte pineapple, Idaho potatoes, Thai Jasmine rice, and Darjeeling tea are no accidents of history. Rather these represent the outcome of a well thought out product planning and promotion strategy. For product promotion, a communication strategy is required that will help communicate features of goods originating in African countries, create awareness of new and old goods, justify prices and answer client questions. Both product planning and promotion planning would be vital for the success of the common market. This is an area in which participating countries may need external technical assistance.

[215] Following SWOT analysis distinct strategies may have to be developed by all actors involved to attend to market penetration (sales growth), market development (widen the market reach), product development (new or modified products), and diversification (going beyond one or two products)

Product distribution is weak in most African countries due to inadequate storage and transport as well as to the absence of proper distribution planning. Distribution planning is systematic decision-making regarding the physical movement of goods and services from producer to consumer, as well related transfer of ownership (or rental). Distribution decisions have a broad impact on marketing efforts. Distribution can take place directly from producers to consumers or indirectly through intermediaries, traders, wholesalers and retailers. African countries need to cooperate in strengthening distribution channels. The private sector in these countries needs to be encouraged and supported to handle properly customer service, shipping, warehousing, inventory control, fleet operations, packaging, receiving, and material handling. Such efforts would generate the expected returns and promote production and trade, as these should if transport and storage issues are dealt with as discussed above.

Market actors in many African countries would benefit from improved channels of communication so that market signals are available to all concerned virtually instantaneously. Market actors may need training in various techniques of price setting to ensure a fair margin for all and a fair price for consumers within the region[216].

An African common market needs to consider alternative means of assisting market agents with risk management directly through training and specific schemes (insurance or commodity futures, options, swaps or commodity bonds) and indirectly through establishment and/or strengthening of institutions that might service the broad spectrum of market agents in this area. Several institutional options could be considered: (i) the establishment of regional Commodity Exchanges[217], (ii) strengthening of the African Bank for Development and Trade, (iii) development of recognized reliable warehouses whose receipts would be tradable[218], (iv) bringing services of international exchanges and banks closer to producers and traders through local banks, government agency or through brokers, (v) utilizing where available stabilization funds as reinsurance mechanisms to lock-in minimum or maximum commodity prices for a period of time, and (vi) the establishment of commodity auctions[219]. FAO, International Commodity Bodies (ICBs) and the Common Fund for Commodities could assist African countries in all matters related to commodity development and marketing.

Rationalization of the RECs has become an issue lately and continues to be discussed, including at the level of the Ministers of Integration. Experts have also been discussing various scenarios for rationalization. Some scenarios for rationalization have been discussed but a decision on a particular one has not been reached. The Ouagadougou Ministerial has mandated relevant agencies (the AU Commission, ECA, AfDB and the RECs) to implement the roadmap, which includes quantification studies of various scenarios, seminars and workshops for the benefit of stakeholders.

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[216] Assistance with the implementation of pricing strategy may involve assessment of options like customary versus variable pricing, one price policy versus flexible pricing, price-quality associations, leader pricing, multiple unit pricing, price lining and geographic pricing

[217] This will be facilitated by the establishment of active domestic markets for financial products followed by spot auction markets to link producers and consumers which together with legal and regulatory structure will create the right environment for transactions to take place in commodity exchange on the basis of market determined prices

[218] The COMESA Trade and Development Bank has established a financing mechanism, through the use of warehouse receipts and options, for domestic traders, processors and farmers' associations in the coffee and cotton sectors. This could be examined by other regional Banks

[219] As in the case of commodity exchange, the establishment of commodity auctions has to satisfy certain preconditions such suitable products, dependable supply, cooperation between buyers and sellers, a sufficient number of operators, and good management

The subject of the EPAs between the EU and African RECs has generated numerous studies, including model-based assessments of the likely implications for Africa. On this, one view is that the EPAs will lead to an inflow of imports from the EU and thus undermines intra-African trade. The other view is that the EPA is also about development and will contribute to building productive capacities, and thus contribute positively to intra-trade. However, if those that are supposed to benefit from this agreement are not convinced about its benefits, then the EU should take this seriously, otherwise, forced EPAs will not be effective.

Although customs unions (CUs) are still some years ahead for most African RECs, the likely implications for the CU of their commitments in the Doha Round need to be considered now. Two areas where this is most pressing are setting bound tariffs and designating special and sensitive products. In order to be able to set appropriate common tariffs (CETs), committed WTO bound tariffs have to be high enough. On special products, it will work best when Members of a CU designate identical or almost identical products as special and sensitive. This means that the listing of the special products by individual members of an eventual CU has to be done now in a coordinated manner and linked with the concept of strategic products as developed by the AU/ NEPAD.

It is obvious that for the integration process to accelerate, regional institutions have to be empowered and made financially comfortable, including staffing. This applies in particular to the Secretariats of the RECs. As this study highlighted, there are many activities that need to be initiated and undertaken from a regional perspective and for this the leadership of the RECs is absolutely essential. On the other hand, according to most documents on this subject, including from the AU Commission and ECA, most REC Secretariats are not in a position to provide this leadership. Their constraints range from lack of funding, as assessed contributions are not enough, to authority that Members of the RECs are said to be reluctant to cede to the REC Secretariats. While the political leadership of the Members of the RECs can empower the RECs to make policy decisions on regional trade issues, assessed contributions – even if fully paid and on time - would not be adequate to move the integration agenda effectively.

In sum, for African countries to realise the benefits of the common market, renewed emphasis are needed in key areas: they must improve the existing physical infrastructure and create opportunities for market access; undertake reforms that bring down the costs of trade—including by strengthening the legal and regulatory framework. Although the best way to create a favorable environment for agricultural trade growth will, however, vary from country to country. Each country should formulate its plan in line with its national CAADP Agreements and in terms of its own poverty reduction and growth strategy. The focus should be on tackling supply-side constraints and responding to shifting regional and global demand.

To reduce the risk of trade diversion arising from the creation of a common market for agricultural products, African countries need to continue with the ongoing reform of their MFN tariffs and NTBs especially those that impede cross-border trade. Some RECs need to simplify their rules of origin and make them more transparent. Similarly clear rules should also be incorporated into EPAs. The current EPA negotiations with the EU offer a unique opportunity to streamline or rationalize RECs and, in some cases, merge or abolish them. The African Union has on its agenda the streamlining or rationalization of the RECs. Although trade liberalization entails adjustment costs for local industries, it can also improve economic efficiency over the long term, which may outweigh the costs, *particularly* if other domestic reforms are also carried out.

Improving customs administration would also lessen potential revenue losses from tariff reductions, including in the context of the EPAs. Broadening the tax base by eliminating exemptions will be particularly important.

Concerted efforts are needed to harmonize the external tariffs, especially as all the RECs will be customs unions in a few years time. Such efforts are particularly important because of the current impasse in the WTO negotiations. As part of broad trade reforms, African countries should continue to facilitate trade at customs points, simplify customs procedures, and improve trade logistics particularly in transport and storage.

Within the context of the WTO, commitments in the Doha Round will be made by individual Member states. In doing so, however, some likely implications, in a few years time when the CUs are formed, need to be considered at this stage. In the case of the Agreement on Agriculture, there are some areas where this will be important. One is in committing new bound tariffs as this has implications for common external tariff (CET)[220]. Bound tariffs have to be high enough to provide adequate space for the CET. This requires some coordination and analysis of the current tariff cutting formulae and how those impact on the individual members. A second and related consideration would be in designating *Special and Sensitive products*. Some coordination is essential even at this stage among the potential members of an eventual CU because it is essential that the members of the CU designate identical, or almost identical, list of products as *Special and Sensitive*. This is necessary to prevent, trade diversion through other Members which may not only undermine the utility of the *Special Product* modality but also create tension amongst Member with the CUs. A third consideration to take would be to coordinate the designation of tariff lines for the proposed Special Safeguard Mechanism (SSM) if it is decided in the negotiations that the SSM will only be available for selected products. Aside from these three cases, commitments made on export competition and domestic support measures needs to be monitored and negotiated carefully so as to minimize any negative effect they might have for the eventual CU and intra-trade.

Given the state of the African agriculture, the successful implementation of an undertaking like the CAADP remains the most important contributor to enhanced regional integration and intra-African trade. Successful regional integration, even where the priority initially may be on strategic product markets, requires deeper integration in other markets also, notably inputs and factor markets (various inputs, capital and investment, labour etc).

Finally, African countries and their development partners should make sure that, Aid-for-Trade be increased and targeted to help Africa reduce trade bottlenecks and capital flight (including regional ones) while trying to revive the WTO negotiations. Aid-for-Trade in the form of technical assistance, project finance, and adjustment support for trade reforms will allow African countries to respond more swiftly to the opportunities created by trade reforms. Such aid could also facilitate regional cooperation in addressing gaps in infrastructure, coordinating the regulation of public goods, and achieving economies of scale.

[220] Note that LDCs do not have to reduce their bound tariffs and so there is very little for them to do on this

APPENDIX 1: Comparative table of trade-related provisions

	African Economic Community	COMESA	ECCAS	ECOWAS	SADC
Trade liberalisation	Art. 6: Lengthy transition period to end 34 yrs after Treaty's entry into force	FTA to be established by 2000; Customs union by Dec. 2008	Art. 6(1): progressive establishment of Community over 12 yr period. Art. 27: progressive establishment of CU Art. 28: progressive reduction and elimination of customs duties. Art. 29: progressive establishment of a CET	Art. 35: progressive establishment over 10 yrs from 1/1/90 of a CU; Customs duties to be eliminated; Quotas to be removed; CET to be established. Art. 36: Customs (import) duties to be reduced and ultimately eliminated)	Art. 3(1): reduction and elimination of trade barriers on principle of asymmetry within period of 8 yrs from Protocol's entry into force
Quantitative restrictions	Art. 31: Quota restrictions and other barriers to be relaxed and ultimately eliminated at level of each REC	Art. 45: Non tariff barriers including quantitative or like restrictions or prohibitions to be removed	Arts 27 & 33: Quotas to be eliminated as part of CU and as an NTB to intra-Community trade	Art. 35 Art. 41(1): quotas to be removed over max period of 4 yrs after launch of liberalisation scheme	Art. 7: quotas on imports to be phased out. Art. 8: application of quotas on exports forbidden.
MFN	Art. 37: Members to accord one another, in relation to intra-community trade, MFN treatment	Art. 56: Members to accord one another MFN treatment subject to two exceptions	Art. 35: Members to accord to one another in relation to intra-Community trade, MFN treatment. Tariff concessions to third parties not to be more favourable than those applicable under the Treaty. Members not allowed to conclude agreements with third parties that do not grant similar concessions to other Members	Art. 43: Member States shall accord to one another MFN treatment. No tariffs granted to a third country to be more favourable than those applicable under the Treaty	Art. 28: Members to accord MFN treatment to one another. Members permitted to maintain preferential arrangements with third countries provided do not impede objectives of Protocol and any advantages granted to third countries are also extended to other Member States
Trade facilitation	Art. 39: customs regulations and procedures to be harmonised and standardized Art. 40: trade documents and procedures to be simplified and harmonised	Art. 69: simplify and harmonise trade documents and procedures Art. 70: reduce cost and volume of paperwork Art. 71: design and standardize trade documentation	Art. 37: Members to harmonise and standardize customs regulations and procedures Art. 67: Members to simplify and harmonise trade docs and procedures in accordance with Protocol	Art. 46: Members to harmonise and standardise Customs regulations and procedures	Art. 13 & Annex II: Members to take measures regarding customs administration to ensure Protocol provisions effectively and harmoniously applied. Art. 14 & Annex III: Members to simplify and harmonise trade procedures & documents

	African Economic Community	COMESA	ECCAS	ECOWAS	SADC
Trade remedies	Art. 36: defines and prohibits dumping	Art. 51: prohibits dumping and permits levying of anti-dumping duty Art. 52: levying of countervailing duties allowed to offset effects of subsidies	Art. 33: Provisions on dumping, subsidies, discriminatory practices to be subject of protocol on NTBs	Art. 42: Dumping. Practice of dumping goods prohibited. Also defines dumping.	Art. 18: Members allowed to apply anti-dumping duties provided they conform to WTO provisions. Art. 19: Subsidies prohibited. Members permitted to levy countervailing duties provided they conform to WTO.
Safeguard Measures	Art. 35(3) & (4): Overcoming balance of payment difficulties Protecting infant or strategic industry Imports causing or likely to cause serious damage	Art. 49(2): Protecting infant industries Art. 61: occurrence of serious disturbances	Art. 31: Member suffering trade imbalance to submit report to S-G Art. 34: Members allowed to impose restrictions for balance of payments difficulties and to protect infant or strategic industries	Art. 49. In event of serious disturbances, Member State shall take necessary safeguard measures.	Art. 20: Safeguards can only be applied where imports are causing or threatening to cause serious injury to domestic industry Art. 21: Members may suspend obligations to promote infant industries
SPS Measures	Art. 35(1): Members may impose or continue to impose restrictions or prohibitions affecting protection of human, animal or plant health or life	Art. 50: Members may introduce or continue measures relating to protection of human, animal or plant health or life	Art. 34: Members permitted to derogate from free movement obligation in order to protect human, animal or plant health or life.	Art. 41: Members permitted to introduce restrictions or prohibitions affecting protection of human, animal or plant health or life	Art. 9: Members permitted to adopt or enforce measures necessary to protect human, animal or plant life or health Art. 16: Members to base sanitary & phytosanitary measures on international standards
Rules of Origin	Art. 33: rules to be governed by a protocol on Rules of Origin	Art. 48 & Annex IV: wholly produced; CIF value of imported materials less than 60%; value added during production accounts for at least 35%; change in tariff heading; on approved list and not less than 25% value added.	Art. 30 & Annex I: wholly produced; CIF value of imported materials less than 60%; value added during production of at least 35%	Art. 38 & Protocol: wholly produced; material of foreign origin not to exceed 60% of material used; value added of at least 35% of FOB price of finished product	Art. 12 & Annex: wholly produced; 'sufficient working'

APPENDIX 2: References

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ANNEX 1: AU Protocol for CMAP

African Union Protocol Relating to the Establishment of a Common Market in Agricultural Products

WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE AFRICAN UNION

RECALLING the decision taken by the 37th Summit of the OAU in July 2001 to create a common market in agricultural products;

RECALLING the resolution of the African Union Abuja Food Security Summit made on the 7th day of December 2006;

DETERMINED to promote improved food security and sustainable agricultural development;

CONSCIOUS of the need to harmonise their policies in the fields of agriculture and trade;

RECOGNISING that the integration of agricultural markets will lead to improved regional food security, rural livelihoods and economic growth,

HAVING REGARD to the various factors that hinder trade in agricultural products,

DETERMINED to promote intra-African trade in staple foods;

BEARING IN MIND the principles and objectives set forth in the Treaty Establishing the African Economic Community signed at Abuja on 3 June 1991;

CONSIDERING the differing stages of integration and trade liberalisation that the RECs recognised by the African Union have reached;

CONSIDERING the provisions of the Enabling Clause that permit regional arrangements among developing countries for the mutual reduction or elimination of tariffs on products imported from one another;

DESIROUS of contributing to the process of pan-African economic integration;

BEARING in mind the principles of international law which govern relations between States;

HAVE AGREED AS FOLLOWS:

Article 1
Interpretation

In this Protocol, the following expressions shall have the meaning assigned to them hereunder, unless otherwise specified:

"African Union" means the organisation established under Article 2 of the Constitutive Act of the African Union;

"Commission" means the Commission of the Union established under Articles 5 and 20 of the Constitutive Act of the African Union;

"Committee" means the Committee on Rural Economy and Agricultural Matters established under Article 14 of the Constitutive Act of the African Union;

"Common List" means the List of Selected Commodities attached to this Protocol as Annex I;

"Constitutive Act" means the Constitutive Act of the African Union, adopted in Lomé on 7 July 2000;

"Council" means the Executive Council established under Article 5 of the Constitutive Act of the African Union;

"Countervailing Duty" means a specific duty levied for the purposes of offsetting any subsidy bestowed directly or indirectly upon the manufacture, production or export of any commodity;

"Court" means the Court of Justice established under Articles 5 and 18 of the Constitutive Act;

"FOB" means free on board at the point of direct shipment by the seller to the buyer;

"International Standards" means standards that are adopted by international standardising or standards organisations and made available to the public;

"Non-Tariff Barriers" means measures other than tariffs which effectively prohibit or restrict the import or export of products within Member States;

"Person" means a natural or legal person;

"Third State" means any State other than a Member State;

"Treaty" means the Treaty Establishing the African Economic Community, signed in Abuja on 3 June 1991.

Article 2
Scope and Objective

The scope and objective of this Protocol shall be to assist in the promotion and gradual liberalisation of trade in a Common List of agricultural and basic food commodities to be agreed upon from time to time, with a view to the progressive establishment of a free trade area, customs union and, eventually, a common market among the Member States as envisioned in Article 6 of the Treaty.

Article 3
The Common List

1. The Member States agree to the establishment of a Common List of selected commodities originating in the Member States, which shall be annexed to this Protocol as Annex I, and the extension of preferential treatment, in accordance with the provisions of Article 4, to such selected commodities when traded among Member States.
2. The Common List shall consist of selected agricultural commodities which are of export and/or import interest to the Member States and shall be amended from time to time by the Executive Council.
3. The Harmonised Commodity Description and Coding System (HS) shall be applied to the classification of commodities selected for trade between the Member States.

Article 4
Liberalization of trade

In accordance with the provisions of this Protocol, the Member States agree to the gradual reduction and eventual elimination of customs duties to trade conducted among themselves in the commodities listed in the Common List.

Article 5
Customs Duties

The Member States shall reduce and eventually eliminate, over a period of five years from the entry into force of this Protocol, customs duties and charges having equivalent effect imposed on or in connection with the importation or exportation of the commodities listed in the Common list, according to the following schedule:

- on the date of entry into force of this Protocol, each duty and charge shall be reduced to 80% of the basic/applied duty;
- one year after the date of entry into force of this Protocol, each duty and charge shall be reduced to 60% of the basic/applied duty;
- two years after the date of entry into force of this Protocol, each duty and charge shall be reduced to 40% of the basic/applied duty;
- three years after the date of entry into force of this Protocol, each duty and charge shall be reduced to 25% of the basic/applied duty;
- four years after the date of entry into force of this Protocol, each duty and charge shall be reduced to 10% of the basic/applied duty;
- five years after the date of entry into force of this Protocol, any remaining duty or charge shall be abolished.

Article 6
Preferential Treatment

For the purposes of this Protocol, commodities shall be accepted as eligible for Common Market tariff treatment if such commodities:

a. Originate in the Member States; and
b. Are contained in the Common List.

Article 7
Rules of Origin

1. For the purposes of this Protocol, commodities shall be accepted as eligible for Common Market tariff treatment if they originate in the Member States.
2. Commodities shall be considered as originating in the Member States where they satisfy the following conditions:
   a. they have been wholly produced in Member States;
   b. they have been produced in Member States but contain raw materials which were not wholly obtained from Member States, provided that such materials make up no more than 40% of the FOB cost of the final product;
   c. they have been produced in Member States and the value-added during production accounts for at least 60% of the FOB cost of the final product.

Article 8
Quantitative Restrictions and Non-Tariff Barriers

1. Member States shall eliminate all quantitative restrictions in respect of commodities on the Common List within two years from the entry into force of this Protocol.
2. Member States shall eliminate other non-tariff barriers on a gradual basis, provided that no more than five years after the entry into force of this Protocol, all non-tariff barriers to trade between Member States shall have been abolished.

Article 9
Most-Favoured Nation Treatment

1. Member States shall accord Most-Favoured Nation Treatment to one another. In no case shall tariff concessions granted to a third county by a Member State be more favourable than those applicable under this Protocol.
2. Nothing in this Protocol shall oblige a Member State to extend the preferences of another trading bloc of which that Member State was a Member at the time of entry into force of this Protocol.
3. Any agreement between a Member State and a third State under which tariff concessions are granted, shall not derogate from the obligations of that Member State under this Protocol.

Article 10
Dumping

1. The Member States undertake to prohibit the dumping of goods within the Common Market.
2. For the purposes of this Article, "dumping" means the transfer of commodities originating in a Member State to another Member State for sale:
   a. At a price lower than the comparable price charged for similar commodities in the Member State where such commodities originate (due allowance being made for the differences in the conditions of sale, in taxation, in transport costs or for any other factors affecting the comparability of price); and
   b. Under circumstances likely to prejudice the production of similar commodities in that Member State.
3. A Member State may, for the purposes of offsetting or preventing dumping, levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such commodity.
4. No Member State shall levy any anti-dumping duty on the importation of any commodity unless it has determined that the effect of the alleged dumping is such as to cause or threaten material injury to an established domestic sector.

Article 11
Subsidies

1. Member States shall not grant subsidies which distort or threaten to distort competition in the Common Market.
2. A Member State may, for the purposes of offsetting the effects of subsidies and subject to WTO provisions, and after having given notice of its intention to do so to the Commission, levy countervailing duties on a commodity of another Member State.
3. Notwithstanding the provisions of paragraph 1 of this Article, a Member State may introduce a new subsidy only in accordance with WTO provisions.

Article 12
General Exceptions

Subject to the requirement that such measures are not to be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Member States, or a disguised restriction on intra-African trade, a Member State may, after having given notice to the Commission of its intention to do so, introduce or continue to apply restrictions or prohibitions

   a. Necessary to protect human, animal or plant health or life;
   b. Necessary to ensure compliance with existing obligations under international agreements.

Article 13
Safeguard Measures

1. A Member State may apply a safeguard measure to a commodity only if that Member State has determined that such commodity is being imported into its territory in such increased quantities as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.
2. A serious injury shall be determined in accordance with the provisions of the WTO Agreement on Safeguards.
3. Safeguard measures shall be applied to a commodity being imported irrespective of its source within the Community.
4. A Member State shall apply safeguard measures only to the extent and for such period of time necessary to prevent or remedy serious injury and to facilitate adjustment.

Article 14
Sanitary and Phytosanitary Measures

1. Member States shall base their sanitary and phytosanitary measures on international standards, guidelines and recommendations, where they exist, so as to harmonise sanitary and phytosanitary measures for agricultural and livestock production.
2. Member States shall, upon request, enter into consultation with the aim of achieving agreements on recognition of the equivalence of specific sanitary and phytosanitary measures, in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

Article 15

Trade Documents and Procedures

1. Member States shall take such measures as are necessary to facilitate the simplification and harmonisation of trade documentation and procedures.
2. Member States undertake, where appropriate, to design and standardise their trade documents and the information required to be contained in such documents in accordance with internationally accepted standards, practices and guidelines, and taking into account their possible use in computer and other automatic data programming systems.
3. Member States undertake to initiate programmes aimed at adopting common standards of procedures within the Common Market where international requirements do not suit the conditions prevailing among the Member States.

Article 16

Customs procedures

Member States shall take appropriate measures, including arrangements regarding Customs administration co-operation, to harmonise their customs regulations and formalities in order to ensure that the provisions of this Protocol are effectively and harmoniously applied.

Article 17

Institutional Arrangements

1. The African Union Executive Council shall, for the purposes of this Protocol, establish a ministerial-level Council comprising one nominee from each Member State and the African Union Chairman. The African Union Commission shall provide support to the ministerial-level Council in supervising, coordinating and reviewing the implementation of this Protocol and assisting the Executive Council in all matters relating thereto.
2. In the performance of its functions, the ministerial-level Council shall be supported by the Committees on Rural Economy and Agricultural Matters and on Trade, Customs and Immigration Matters.
3. The African Union Commission shall monitor and report to the ministerial-level Council on the implementation of the Protocol. Member States shall cooperate with the Commission in the performance of its duties.

Article 18

Consultations

1. Member States shall accord adequate opportunity for consultations regarding any representations made by other Member States with respect to any matter affecting the implementation of this Protocol.
2. Member States, which consider that any other Member State has not carried out its obligations under this Protocol may, with a view to achieving satisfactory adjustment of the matter, make representations or proposals to the other Member States concerned, which shall give due consideration to the representations or proposals made to it.

Article 19
Settlement of Disputes

1. Any differences between the Member States concerning the interpretation or application of this Protocol shall, as far as possible, be settled amicably by direct agreement between the parties concerned. If any such difference cannot be settled amicably, it shall be submitted to the Court of Justice established under Article 5 of the Constitutive Act of the African Union and the decision of the Court of Justice shall be final.
2. Any person who is a resident of a Member State may refer for determination by the Court the legality of any act or regulation of a Member State on the grounds that such act or regulation is unlawful or an infringement of the provisions of this Protocol.

Article 20
Amendment

Any amendment to this Protocol shall be made by consensus and shall become effective upon acceptance by two-thirds of the Member States for States which have ratified the amendment.

Article 21
Final Provisions

This Protocol shall enter into force provisionally when signed by or on behalf of the Member States and definitively upon ratification by 18 Member States.

Article 22
Depositary

1. This Protocol shall be deposited with the AU Chairman who shall transmit certified true copies to all Member States.
2. The AU Chairman shall notify the Member States of the dates of deposit of instruments of ratification and accession and shall notify this Protocol to the World Trade Organization.

In faith whereof we, the Heads of State and Government of the Member States of the African Union (AU), have signed this Protocol.

Done at … this … day of … 200X in single original in the English, French and Arabic languages, all texts being equally authentic.

ANNEX 2: Common list of strategic products and HS codes

Product Group	HS Code	Product Description
Beef	0102	Live bovine animals
	0201	Meat of bovine animals, fresh or chilled
	0202	Meat of bovine animals, frozen
Poultry	0105	Live poultry
	0207	Meat and edible offal, of the poultry
Dairy products	0401	Milk and cream, not concentrated
	0402	Milk and cream, concentrated
	0403	Buttermilk, curdled milk and cream, yogurt
	0404	Whey, whether or not concentrated
	0405	Butter and other fats and oils derived from milk
	0406	Cheese and curd
Legumes	0708	Leguminous vegetables, shelled or unshelled, fresh
	071021	Peas (Pisum sativum)
	071022	Beans (Vigna spp., Phaseolus spp.)
	0713	Dried leguminous vegetables, shelled
Cassava	071410	Manioc (cassava)
	110814	Manioc (cassava) starch
Maize & products	1005	Maize (corn)
	110220	Maize (corn) flour
	110313	Of maize (corn)
	110423	Of maize (corn)
	110812	Maize (corn) starch
Rice	1006	Rice
	110230	Rice flour
Sorghum	1007	Grain sorghum
Groundnut	1202	Ground-nuts, not roasted
	1508	Ground-nut oil and its fractions
Oil Palm	120710	Palm nuts and kernels
	1511	Palm oil and its fractions
Sugar	17	Sugars and sugar confectionery
Cotton	52	Cotton

ANNEX 3: Food aid deliveries by RECs

		Cereal Commercial import				Cereal Food Aid			
		metric tonnes							
	Average	Maize	Rice	Wheat	Total Cereal	Maize	Rice	Wheat	Total Cereal
AMU	2000-02	3 111 867	281 969	10 162 252	15 794 196	...	14 231	124 031	159 933
	2003-05	3 648 667	314 644	10 008 662	15 483 932	...	20 789	60 260	92 803
	% change	17.3	11.6	-1.5	-2.0		46.1	-51.4	-42.0
COMESA	2000-02	6 154 746	874 354	10 202 370	17 978 645	544 269	32 235	917 577	1 842 598
	2003-05	7 056 473	1 026 572	11 090 705	19 867 865	543 721	33 447	1 282 606	2 618 116
	% change	14.7	17.4	8.7	10.5	-0.1	3.8	39.8	42.1
ECOWAS	2000-02	237 511	4 585 677	3 107 001	7 999 800	33 689	114 109	63 246	329 830
	2003-05	245 333	5 638 542	4 019 236	9 953 862	34 963	144 140	55 871	358 013
	% change	3.3	23.0	29.4	24.4	3.8	26.3	-11.7	8.5
SADC	2000-02	1 662 453	1 476 596	2 161 248	5 468 064	299 363	103 087	130 775	817 327
	2003-05	2 384 528	1 827 894	2 676 889	6 999 355	263 905	39 921	50 409	955 479
	% change	43.4	23.8	23.9	28.0				
ECCAS	2000-02	283 948	661 668	990 822	1 869 777	219 048	40 992	39 701	406 343
	2003-05	376 317	793 629	1 356 393	2 471 073	165 450	41 231	24 931	338 171
	% change	32.5	19.9	36.9	32.2	-24.5	0.6	-37.2	-16.8

		Non cereal food aid (mt)				Percent of Cereal Food Aid in Total Cereal Imports			
	Average	Pulses	Vegetable oils	Milk	Total Non-Cereals				
AMU	2000-02	4 258	3 128	956	12 221	...	4.8	1.2	1.0
	2003-05	5 897	3 276	586	12 008	...	6.2	0.6	0.6
	% change	38.5	4.7	-38.7	-1.8				
COMESA	2000-02	118 455	83 383	1 023	219 618	8.1	3.6	8.3	9.3
	2003-05	227 981	114 064	1 189	370 993	7.2	3.2	10.4	11.6
	% change	92.5	36.8	16.2	40.8				
ECOWAS	2000-02	18 613	21 884	5 662	51 962	12.4	2.4	2.0	4.0
	2003-05	21 031	25 884	840	62 612	12.5	2.5	1.4	3.5
	% change	13.0	18.3	-85.2	17.0				
SADC	2000-02	49 352	41 384	912	101 898	15.3	6.5	5.7	13.0
	2003-05	59 442	31 472	370	99 313	10.0	2.1	1.8	12.0
	% change	20.4	-24.0	-59.5	-2.6				
ECCAS	2000-02	71 124	30 973	316	109 974	43.5	5.8	3.9	17.9
	2003-05	66 040	26 612	311	101 989	30.5	4.9	1.8	12.0
	% change	-7.1	-14.1	-1.8	-7.8				

Source: Compiled from WFP/FAO data