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FACULTY OF SOCIAL SCIENCES AND HUMANITIES

**THE IMPLICATIONS OF NON-TARIFF BARRIERS TO TRADE ON
COMESA FREE TRADE AREA: A CASE STUDY OF ZAMBIA AND
ZIMBABWE.**

BY

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DECLARATION

The work I have submitted is my own effort. I certify that all the material in the Dissertation which is not my own work has been identified and acknowledged. No materials are included for which a degree has been previously conferred upon me.

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Date:.....

DEDICATION

This study is dedicated to my wife **Tholakele Mlilo** and my son **Tsepang Shannon Mukwena** who gave me all the support and inspiration for me to come up with a completed document. If it was not for them I do not think I would have done this Masters programme.

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LIST OF ABBREVIATIONS AND ACRONYMS

AGOA	-	Africa Growth and Opportunity Act
AU	-	African Union
COMESA	-	Common Market for East and Southern Africa
DRC	-	Democratic Republic of Congo
ECOWAS	-	Economic Community of West African States
FTA	-	Free Trade Area
GATT	-	General Agreement on Trade and Tariff
GDP	-	Gross Domestic Product
NTBs	-	Non-Tariff Barriers
OAU	-	Organisation of African Unity
RoO	-	Rules of Origin
RTA	-	Regional Trade Agreements
SADC	-	Southern Africa Development Community
SPS	-	Sanitary Phytosanitary Standards
TBT	-	Technical Barriers to Trade
TIFA	-	Trade and Investment Framework Agreement
VERs	-	Voluntary Export Restraints
WTO	-	World Trade Organisation

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ABSTRACT

This research sought to explore the implications of Non-Tariff Barriers (NTBs) to trade on the Common Market for Eastern and Southern Africa (COMESA) free trade area bearing in mind that if the area is appropriately dealt with, COMESA members and trade stakeholders will get information that is important in their attempt to attain the goal of eliminating trade impediments within the region which is then expected to promote regional economic integration and enhance growth through increased investment levels; scaled up exchange of goods and services; and enhanced socio economic cooperation which will directly contribute to the improved political and trade relations. The area was worthy studying since the wishes of every African is to see economic growth through economic cooperation within the continent which for so long has been languishing in poverty and seeking divine intervention from countries from the West for survival. The research adopted a case study design in which various cases were examined to understand issues surrounding the implications of NTBs on COMESA free trade area. A qualitative research methodology was also utilised because the data that was to be gathered was found to be subjective in nature and as such qualitative research methods like interviews, documents analysis were to be used in order to understand and explain the various NTBs. The research concluded that NTBs in COMESA FTA are used on health issues as well as to protect the infant industries in the region. The research therefore recommended that COMESA members find a working definition of what constitute an infant industry for the purpose of applying for derogation; and also that they make use of bilateral trade agreements to eliminate existing NTBs where States clearly indicated their objectives of removing all NTBs that inhibit trade between them because chances of full implementation and abiding by such undertakings are higher at bilateral level than at regional level where a lot of parties are involved.

CHAPTER ONE

1.0 INTRODUCTION

1.1 BACKGROUND OF THE STUDY

Since the early 21st century, Regional Trade Agreements (RTAs) have become defining features of the modern economy and a powerful force for globalization. By the beginning of 2005 more than 250 RTAs had been notified to the World Trade Organisation (WTO) (Brown, 2005). One such African regional integration agreement is the Common Market for Eastern and Southern Africa (COMESA) which was initially established in 1981 as the Preferential Trade Area for Eastern and Southern Africa (PTA), within the framework of the Organisation of African Unity's (OAU) Lagos Plan of Action and the Final Act of Lagos (ACTRAV, 2012). According to ACTRAV (2012), the PTA was transformed into COMESA in 1994. The PTA was established to take advantage of a larger market size, to share the region's common heritage and destiny and to allow for greater social and economic co-operation (ACTRAV, 2012). COMESA comprises of 19 African member states which are Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe, the free independent sovereign states which have agreed to co-operate in developing their natural and human resources for the good of all their people' (ACTRAV, 2012).

COMESA adopts the market integration approach. It is one of the most important regional trade groupings in Africa besides the South African Development Community (SADC) and Economic Community of West African States (ECOWAS). For a number of countries that have limited opportunities for increasing their exports to Europe, the Americas and Asia, COMESA looms large as the way of the future. COMESA is the first African economic community to have in place a Free Trade Area, which was established in October, 2000, the third in the world after the European Union and the North American Free Trade Agreement. It is the only regional grouping to have signed a Trade and Investment Framework Agreement (TIFA) with the United States in October 2001, within the framework of the Africa Growth and Opportunity Act (AGOA) (Karingi, 2015). One of the objectives of COMESA is to have a full free trade area guaranteeing the free movement of goods and services produced within COMESA and the removal of all tariffs and non-tariff barriers.

It has become commonplace to recognize that the use of tariffs to restrict international trade has been gradually replaced in recent years by the use of other tools of commercial policy. According to Deardorff (1987), these nontariff barriers (NTBs) include such heterogeneous policy tools as import quotas, voluntary export restraints (VERs), exchange controls, domestic content requirements, and many more.

Katenga (2011) asserts that NTBs have been widely cited as a significant constraint to intra-COMESA trade. Gathii (2011) notes that, only limited steps have been made across Africa to implement the commitments in the regional economic communities for elimination of non-tariff barriers (NTBs). A number of goods and sectors are excluded from the agreement. As a result, there is little evidence of progress on further deepening of trade liberalization and facilitation. To this end, there is a need for serious focus on the best ways to address these NTBs otherwise the cost of doing business across borders in COMESA will be unnecessarily high and thus scares away the much needed investment in the region. Again these NTBs will militate against the formation of tripartite free trade area if not immediately addressed.

Nevertheless, trade in the COMESA is hampered by procedural obstacles imposed by individual countries. Although they are some progress in implementation, there are indications that, in spite of the commitments made by the partner states to remove NTBs, they remain a serious obstacle to trade within the region. They continue to increase the cost of doing business in the region and have negatively impacted on trade and cooperation. A World Bank (2011) study finds that notified NTBs affect products accounting for 20% of regional trade.

It is therefore against this background that this study seeks to assess the implication of non-tariff barriers on COMESA free trade area with particular focus on Zambia and Zimbabwe which countries also belong to yet another regional grouping called, the Southern African Development Community (SADC).

2.0 STATEMENT OF THE PROBLEM

Non-tariff barriers to trade contribute to high cost of doing business across the region thereby inhibiting inter-regional trade. These barriers affect considerably more than one fifth of regional trade, and are hindering the competitiveness of domestic firms and their ability to export to regional and global markets and as such must be urgently addressed. A mapping of various NTBs reported

by firms within COMESA region indicate that trade in affected sectors shows that these barriers impacted US \$3, 3 billion of regional trade. The continuing existence of NTBs in COMESA region has led to the rampant smuggling of goods through illegal borders, limit world trade, diminish economic efficiency, reduce total production and employment, raise prices and encourage retaliation.

3.0 SIGNIFICANCE OF THE STUDY

Elimination of trade impediments within the COMESA region is expected to promote regional economic integration and enhance growth through increased investment levels; scaled up exchange of goods and services; and enhanced socio economic cooperation which will directly contribute to the improved political and trade relations.

- 3.1 COMESA members and trade stakeholders will get information that is important in their attempt to attain the stated goals as well as formulate appropriate policy responses and direct the necessary technical and financial resources to where they are needed most.
- 3.2 Scholars and Academics will benefit from the study by getting improves existing knowledge on relevant issues related to non-tariff measures, with particular attention to those more relevant for developing countries like, Zambia and Zimbabwe.
- 3.3 Individual traders are set to benefit from this study because the information provided in this study will assist them to make informed decisions about trade restrictive measures that they are likely to encounter in the course of trade.
- 3.4 Non-Governmental Organisations, civic societies that deal with the economy, and Economists will benefit from the information when they strive to advocate for the removal of NTBs in regional trade and integration.

4.0 ASSUMPTIONS

The research assumes that;

- 4.1 The replacement of tariffs by non-tariff barriers will go a long way in increasing economic integration which will subsequently lead to economic development of the developing countries within COMESA.
- 4.2 NTBs have increased the cost of doing business in the region.
- 4.3 NTBs lead to the illegal entry of goods into COMESA member countries.

5.0 PURPOSE OF THE STUDY

To assess the implications of Non-tariff barriers on COMESA free trade area using Zambia and Zimbabwe trading patterns as case studies.

6.0 RESEARCH OBJECTIVES

- 6.1 To investigate the adequacy of global and continental instruments that regulates the existence of NTBs
- 6.2 To trace the implications of NTBs on the COMESA Free Trade Area.
- 6.3 To understand the rationale behind the existence of NTBs in different countries.

7.0 RESEARCH QUESTIONS

- 7.1 What is the effectiveness of WTO, AU and COMESA regulatory frameworks say with regard to the elimination of NTBs?
- 7.2 What are the trade implications of NTBs on COMESA Free Trade Area?
- 7.3 Why do countries continue to use NTBs?

8.0 DELIMITATIONS OF THE STUDY

The research will cover only two COMESA member countries that are Zambia and Zimbabwe. The study will be of the period from 2010-2017. It will also be informed by the scope and time frame available for this research. The concept of NTBs is very broad to cover trade restrictive measures that are not as a result of tariffs and therefore NTBs shall be defined as any measure other than tariffs by government or private person that restrict trade flows.

9.0 LIMITATIONS OF THE STUDY

The information that will be solicited for during the research may be treated as confidential information which is kept by Government departments and may be hesitant to release due to the fact that Government departments subscribe to Official Secrets Acts. However to overcome this problem, the researcher will use a letter from the University which states that this research is for academic purpose only. The letter will be written well in advance to give the authorities enough time to prepare and avail the relevant information.

10.0 ETHICAL CONSIDERATIONS

The researcher will consider the issues of consent, confidentiality; privacy and anonymity where the researcher will make sure that all participants are aware of their participation to which they consent to; where necessary the identity of participants will be withheld to protect their persons thus adhering to rules of confidentiality and anonymity where applicable; and all sources used in the research shall be acknowledged accordingly.

This gives the respondents more ground to open up their minds without hesitation and cement their relationship with the researcher.

11.0 DEFINITION OF KEY TERMS

Non-Tariff Barriers are barriers to trade that are not tariffs and include both trade-restricting measures like quotas and technical barriers; and trade- promoting measures such as export subsidies, Voluntary export restraint, Tariff quota, domestic content provision, and import licenses (Giermanski, 1994).

Giermanski (1994) defines **Import quotas** as quantitative limits on imports, whilst he defines **Voluntary export restraint** as the quantitative limit on exports based on threat of import restrictions.

Tariff quota are defined by Giermanski (1994) as, imports that are allowed to enter the country at a low or zero tariff up to a specified quantity then a higher tariff is imposed above this quantity;

Domestic content provision is where there is discrimination against imports by writing or enforcing standards in a way that adversely affects imports more than domestic consumption (Giermanski, 1994)

Giermanski (1994) also defines **Import license** as a process in which importers apply for and receive documentary approval for intended imports.

Free trade is a system in which the trade of goods and services between or within countries flows unhindered by government-imposed restrictions and interventions (Alves, Kalaba and Draper, 2006).

Free Trade Area is an area in which members remove trade barriers among themselves but keep their separate national barriers against trade with the outside world (Ma, 2011).

12.0 PROPOSED CHAPTER OUTLINE

Chapter 1 constitutes the research introduction which focuses on the background of the study, statement of the problem, significance of the study, assumptions of the study, purpose of the study, and research objectives amongst other issues. Chapter 2 forms the research literature review and theoretical framework where much focus will be on the existence of non-tariff barriers and their implications on COMESA countries particulars Zambia and Zimbabwe. Chapter 3 forms the research design and methodology focusing on sampling methods and data collection methods that will be employed in the study. Chapter 4 constitutes the presentation analysis and discussion of findings of the research, this is where the actual research is conducted to find out those non-tariff barriers to trade within COMESA and how they impact on Zambia and Zimbabwe; whilst Chapter 5 forms the summary of the research conducted as well as an explanation as to why the results of the research came out the way they did, and lastly giving recommendations based on the findings of the research.

CHAPTER TWO

2.0 LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 INTRODUCTION

The main thrust of this chapter is to provide the theoretical underpinnings of the research study as well as, review pertinent literature correlated to the existence of NTBs hindering trade within COMESA region and also assess costs attached to their prevalence. The discussion will pay special attention to the fact that whereas some of NTBs are purely illegal under the WTO and COMESA Treaty, exceptional cases exist where other measures are considered to be legitimate. For instance measures aimed at protecting human, animal or plant life or health in the form of sanitary and phytosanitary are permissible as long as they do not unnecessarily inhibit trade. The study employed the concept of NTBs within COMESA which is grounded in the theory of complex interdependency an idea put forth by Keohane and Nye in 1977. The theory explains complex transnational connections and interdependencies between states and societies. The chapter explores common NTBs within COMESA Free Trade Area.

2.2 THEORETICAL FRAMEWORK

This study is informed by the complex interdependency theory (Keohane and Nye, 1977). Keohane and Nye define interdependence as a situation in which actors or events in different parts of the system affect each other in a manner where there is potential for benefits and potential for tragedy as well. The theory recognises that the various and complex transnational connections and interdependencies between states and societies were increasing, while the use of military force and power balancing are decreasing but remain important. Keohane and Nye (1997) also importantly differentiated between interdependence and dependence in analysing the role of power in politics and the relations between international actors. Le Roy (2012) contends that other than the state, there are a multiple of other actors inclusive but not restricted to interstate, trans-governmental and transnational structures that are increasingly shaping the international system. In the post-cold war period, non-state structures as the United Nations, African Union, SADC International Monetary Fund, the World Bank, multinational companies, churches, pressure groups and non-governmental organisations have become active players in the international system. Interdependency emphasise that all different actors are interconnected through a variety of channels such as trade, finance, travel and communications. Interdependency is also based on the assumption that all these actors

are benefiting from closer ties that the world would be peaceful and prosperous. However it does not mean that relationships are asymmetrical because some international actors may be more vulnerable than others. These vulnerable actors will resort to the use of NTBs in trade relations.

Keohane and Nye (1977) clarify their understanding of interdependence and its implications for international relations thus: “Interdependence generates classic problems of political strategy, since it implies that the actions of the states, and significant non-state actors, will impose costs on other members of the system. These affected actors will respond politically, if they are able, in an attempt to avoid having the burdens of adjustment forced on them. From the foreign policy standpoint, the problem facing individual governments is how to benefit from international exchange while maintaining as much autonomy as possible. From the perspective of the international system, the problem is how to generate and maintain a mutually beneficial pattern of cooperation (Keohane & Nye, 1977). This theory is applicable to the study in that COMESA member states depend on each other for trade. However, there exist barriers to this interdependence in the name of regulatory frameworks imposed by member states. This has complicated the interdependence. An analysis of trade between Zambia and Zimbabwe can be said to be that of interdependency. Le Roy (2012) noted that the opening up of markets that is associated with liberalism has seen national interest being redefined to accommodate interests that might be outside a country’s borders. In such arrangements, Brenner (2000) notes, it becomes imperative that states act in a manner that ensures protection of its interests in other countries.

As regional integration initiatives begin to address NTBs, they are faced with the practical challenge as well as the working definition of NTBs. As a result it is inevitable for deep divisions to emerge among scholars in their effort to define what NTBs are and on the proper mechanism to address them. This section examines literature that deals with the impact of NTBs on trade within COMESA and in particular Zambia and Zimbabwe.

It is crucial to state that despite substantial literature on NTBs, Joseph Karugia and others correctly noted that a great deal of literature has focused on individual types of NTBs and only in exceptional instances is sophisticated empirical analyses of their economic and social implications are provided. In 2016 Zimbabwe government introduced Statutory Instrument (SI) 64/2016, which is a NTB, to protect its industries; this therefore leaves one to wonder whether there is a real commitment to remove NTBs on the part of COMESA members.

Even though Article 49 of the COMESA Treaty provides for the elimination of all existing NTBs and refraining from introducing new ones in order to enhance a transparent and predictable regional trading environment conducive for trade growth, in practice it does appear that NTBs measures are widespread, increasing and are a real obstacle to intra-regional trade expansion.

Negasi (2009) went on to point out that some COMESA members continue to introduce NTBs such as periodic ban on imports, imposition of additional import levies and other forms of import controls, police roadblocks, corrupt practices at roadblocks, road toll charges often as protectionist devices. Consequently, undermining the credibility of the Trade Protocol and makes it irrelevant in the eyes of traders, investors and consumers at large (Negasi, 2009).

Major impediments to trade in the region are related to procedural obstacles in the application of NTBs leading to administrative and bureaucratic inefficiencies. Another category of barriers relates to NTBs in the form of import measures, mainly SPS and TBT. When these standards and requirements are imposed unilaterally to protect local industry they can have a severe restrictive impact on trade. With Zimbabwe having adopted an open economy approach and with trade accounting for almost 75% of GDP (World Bank, 2016), the imposition of a ban on its most important trading partner is cause for alarm and raises some serious questions. Protectionist arguments appear somewhat misplaced in the light of the current narrative about regional integration and its many benefits.

2.3 GENERAL CATEGORISATION OF NON-TARIFF BARRIERS IN COMESA FREE TRADE AREA.

According to Article 4 of the COMESA Regulations on NTBs (2014), NTBs are generally categorised as follows:

- a) Government Participation in Trade and Restrictive Practices Tolerated by Government;
- b) Customs and Administrative Entry Procedures;
- c) Technical Barriers to Trade;
- d) Sanitary and Phyto-sanitary Measures;
- e) Specific Limitations;
- f) Charges on Imports; and
- g) Other (Procedural Problems), (COMESA Regs on NTBs, 2014).

2.4 TYPES OF NON-TARIFF BARRIERS IN COMESA FREE TRADE AREA.

2.4.1 Quantitative restrictions

Licensing of foreign trade is closely related to quantitative restrictions quotas on imports and exports of certain goods. A quantitative restriction refers to a ban on imports or exports after a determined quantity (the quota) has entered the territory of another member state and there are different types of quantitative restrictions (Van den Bosche, 2005). Quantitative restriction on imports and exports is a direct administrative form of government regulation of foreign trade. Pursuant to Article XI: 1 of GATT WTO members including COMESA members who are all WTO contracting parties, are generally prohibited from maintaining quantitative restrictions. Consequently, quantitative restrictions, whether quotas, import or export charges or other measures, are a violation of the rule in Article XI: 1. Evidence however shows that in spite of the prohibitions under WTO rules, most COMESA members impose import quotas aimed at directly limiting the quantity of goods that can be imported. The need to protect the local industry seems to be the major force behind the use of quantitative restrictions (The Zimbabwe Standard Newspaper, 2011). For instance, the Zambian Minister of Agriculture justified the frequent restrictions on exports of maize and maize products as a strategy that is essential until Zambia is able to consistently produce exportable surplus (Imani Development International Trade, 2007)

Zimbabwe has through Statutory Instrument (SI) 156 of 2011 introduced a surtax of 25 percent on a number of commodities at the beginning of the year 2012 aimed at protecting local industry against what the Government referred to as, extensive imports (Viljoen 2011). In 2016, Zimbabwe also introduced Statutory Instrument 64 of 2016 which removed goods that are locally available from general import license exemption. According to Industry and Commerce Minister, the introduction of SI 64/2016 was meant to support local industry (The Zimbabwe Herald Newspaper, 2016). It therefore follows that instead of COMESA members enacting legislations that facilitate free flow of goods as mandated by the WTO and COMESA treaty, they are doing the opposite by implementing laws that in actual fact impede trade in violation of rules that seek to prohibit the imposition of quantitative restrictions.

2.4.2 Rules of origin (RoO)

Imani Development Report, (2007) defines rules of origin as the criteria used to define where a product was made. They are an essential part of trade rules because a number of policies discriminate between exporting countries: quotas, preferential tariffs, anti-dumping actions, countervailing duty. The Imani Report also states that, rules of origin are also used to compile statistics. The first agreement on the subject required WTO members to ensure that their rules of origin are transparent; that they do not have restricting, distorting or disruptive effects on

international trade; that they are administered in a consistent, uniform, impartial and reasonable manner; and that they are based on a positive standard (Imani Development, 2007).

Goods qualify for preferential treatment if they undergo substantial transformation such that they contain a minimum of 35 percent regional value-added, or include non-COMESA imported materials worth no more than 60 percent of the value of total inputs used, or undergo a single change of tariff heading. There is a list of “goods of economic importance” to member states, according to which the domestic value added requirement is relaxed to 25 percent (Khandelwal, 2004)

Member States often use RoO as NTBs. This is contrary to the theoretical understanding that the rules of origin would promote regional development through import substitution achieved by forcing the producers to source inputs in the region (Madzvova, 2002). For years, COMESA countries have been accused of using rules of origin for other purpose that are not in the interest of promoting regional trade and industrial competitiveness. These purposes include protection against antidumping, enforcement of consumer safety standards and protection of the environment (Madzvova, 2002).

COMESA RoOs have also caused problems. While COMESA has a 35% value-added rule, not all countries have adopted this. Egypt unilaterally imposes a 45 percent local content requirement. Until recently, Zambia, Uganda and Malawi did the same. Rules in two sectors have also proven to be particularly contentious under COMESA. For wheat flour, the 35% value added rule has generated difficulties for exporters in Egypt and Mauritius that do not produce wheat grain, but import the raw material from the world market. In periods of high wheat prices, such as those experienced recently, these countries have been unable to meet the value added requirement. With palm oil, there have been disputes over RoOs (e.g. Zambia-Kenya) because of difficulties assigning value added. These have arisen because a number of products can be produced from the raw material such as cooking oil, soap and margarine (Gillson and Charalambides, 2011)

The other major concern is that restrictive rules of origin are not only a barrier to international competitiveness but also costly in terms of ensuring conformity. These costs arise from the administrative requirements for certificates of origin, which can account for nearly half the value of the duty preference. Instead it simply pays full tariffs because it currently deems the process of

administering rules of origin documentation to be too costly (Gillison, 2012). The situation is further complicated by the fact that most of COMESA Member States have membership to a multiple and varied trade agreements, especially when such rules are not harmonized as with the case of many COMESA Member States. This creates confusion in deciding on the rules of origin to apply. Authentication of Rules of Origin Certificates is sometimes negatively affected by the bureaucratic procedures involved in changing signatories.

2.4.3 Poor infrastructure as an NTB

Cross-border infrastructure, for example, transport, energy and telecommunications are essential to move goods, services, labour and information between and among states. Such linkages enlarge market access, reduce economic distance and liberalise trade, investment and movement of workforce (Arncharaz, 2011). However COMESA's poor transport and communications infrastructure and unreliable power increase trade costs and undermine competitiveness and the region's ability to integrate. Poor communication infrastructure and the state of the road network in the region are affecting efficient movement of goods, forcing importers and exporters to use alternatives routes which are expensive. In addition, police roadblocks in COMESA FTA causes serious time delays for products being transported by road which can have significant impact on the quality of agricultural products available in the region. In Zimbabwe police checkpoints stop all commercial vehicles at various points on all major highways causing time delays and encouraging bribery and corruption (Viljoen,2011). At times police road blocks are found at every five or ten kilometers on the main high way from Beitbridge border post to Harare. The delays are further caused by a poor road network which links Zimbabwe and South Africa specifically on the Zimbabwean side. The road is too narrow and full of pot holes hence it cannot cope up with a large volume of traffic. It therefore follows that poor transport infrastructure within COMESA is a big challenge and it constitutes an NTB. The delay caused by poor road networks and police road blocks means more costs are incurred by transporters of goods and this has a negative impact on business operations.

2.4.4 Customs procedures and administrative requirements

Toll fees and road charges on the highways connecting Zambia from sea ports constitute an important NTB to trade. With respect to trade between Zimbabwe and Zambia evidence showed that another administrative NTB exist in the form of lengthy border delays. The Chirundu border

post closes at 2200 hours. The closing of the border post at 2200 hours lead to the prolonged stay of companies at the border post as they will have to wait for opening of the border the following day. Prolonged formalities, lengthy procedure, duplication of clearance procedures and limited capacity all contribute to high costs of doing business in COMESA states. These administrative complexity procedures are problematic for transparency and efficiency in the clearance of goods (Viljoen, 2011). Under these circumstances corruption by customs officials which is classified as another form of an NTB is inevitable. It also remains a significant problem in Zimbabwe, with the country ranked 154th out of 176 countries by Transparency International's most recent Corruption Perception Index in 2016 (Viljoen,2011). For example Beitbridge border post on the Zimbabwean side, Customs Officials demand bribes from cross border traders. It is extremely hard for transport operators to pass through the border quickly without paying bribes to the Customs Officials in order to speed up the goods clearance process. The cost of corruption in most cases is transferred to the final price of a product.

In addition to poor administrative services at the border post, there are other challenges and difficulties to be negotiated by traders and transporters. Zimbabwean companies importing goods from South Africa and elsewhere are facing time consuming and costly administrative NTBs relating to improper/ in correct classification of imports. Some Zimbabwean companies reported about 19 approvals which can take up to three months to acquire are required for some imports (World Bank, 2010). Zimbabwean authorities are also accused of classifying some imports as a service and subjected them to 20% withholding tax instead of treating them as goods that generally attract a lower tax. In this case the government replaced a tariff with an NTB in order to preserve its revenue flow. Such practices are a violation of WTO rules on transparent laws and regulations. It has been also noted that northbound trucks travelling from South Africa to Zambia and the Democratic Republic of Congo (DRC) are increasingly avoiding Beitbridge border post despite recent reforms and an overall shorter journey distance, opting to pass through Botswana instead. The main reason motivating this decision is that transporters reckoned the time and distance disadvantages were outweighed by the cost of sending their goods through Zimbabwe (Mthembu, 2007). In acknowledgement of the poor administration at the border post Zimbabwe's State Enterprises and Parastatals Minister warned that poor administration at Beitbridge border post risks driving off commercial traffic to Kazungula as international transporters are getting frustrated by the delays at the border due to poor administration (The Zimbabwe Standard Newspaper, 2011). The Minister's comments are a clear indication that there is a lot of work that need to be done to improve the flow of goods in the region through addressing NTBs.

Trade facilitation issues such as inefficient customs administration, border delays, high transport costs, poor physical infrastructure and a lack of knowledge among customs officers, insufficient dissemination of relevant information and corruption are also significant barriers to Zambian importers. According to the World Bank (2010) Report, Zambia ranks 153rd out of 183 countries or territories in terms of ease of trading across borders. This poor performance relates largely to the high number of documents required and long processing times. Zambia is also ranked 87th out of 176 countries on Transparency International's 2016 Corruption Perception Index, 34 reaffirming a belief within the country that corruption is a major problem for Zambia's business environment (TRALAC, 2010) It is reported that Shoprite lose as much as US\$20 000 per week on imports permit to trade meat, milk and plant based products in its shops in Zambia.

2.4.5 Technical Regulations and Standards

Technical regulations and industrial standards are important, but they vary from country to country. The WTO agreement on Technical Barriers to Trade tries to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles. Countries often have an interest in making sure that imported products meet certain technical standards. In order to ensure that such standards are met, countries adopt technical regulations. In order to prevent unnecessary technical barriers to trade, WTO agreement on Technical Barriers to Trade encourage all WTO parties as well as COMESA members to use international standards whenever technical regulations are considered necessary (Chilala, 2009). Technical regulations standard regimes in COMESA are classified as being over-reliant on mandatory inspection and certifications. It is reported that in most Southern African countries there are no procedures by which technical regulations are assessed in terms of their consistency with public policy objectives, whether countries and the private sector have the capacity to implement them or their impact to trade and competitiveness. In particular the lack of Office of Regulatory Reform in all Southern African countries to review the justification for both new and existing technical regulations is raised as a big concern. Such absence of regulatory impact assessment causes problems and raises costs.

According to Imani Development Report (2007), another problem is the delay faced due to technical procedures is the requirement for Iodization of salt backed by Salt Iodization Act. Requirements to have salt tested for iodine verification at the entry border and consequent testing for iodine levels in salt delays the distribution of the product since the product cannot be distributed until testing is done (Imani Development Report, 2007). The survey by Imani Development

revealed that companies are faced with delays in receiving certificate of approval, which delays the distribution of the product and at times wastage of a perishable item.

2.4.6 Sanitary and Phytosanitary Measures

The WTO agreement on Sanitary and Phytosanitary measures authorizes COMESA members to regulate the importation of food products in order to protect consumers, plants and animals from contaminants, toxins, pests and diseases. These regulations are called Sanitary and Phytosanitary (SPS) measures. Sanitary refers to regulations on human and animal products, while phytosanitary refers to regulations on plant products. Thus, SPS measures concern the safe handling and production of food for animals and humans and plant products (Chilala, 2009). In order to make trade easier and minimize the burden of regulation, while at the same time protecting the health and welfare of citizens, the COMESA treaty requires members to adopt SPS measures that are in harmony with international standards. The Treaty forbids the creation of SPS measures for the purpose of reducing trade and competition. Therefore SPS measures should have a scientific basis and only be adopted for health and safety reasons (Chilala, 2009). However in practice the demands of the treaty are neglected as various members require cumbersome pre-shipment inspections and stringent SPS certification requirements for the importation of different agricultural products.

There are also complains that SPS regulations relating to the importation of agricultural goods into Zambia lack transparent and there is an overall lack of available information regarding phytosanitary requirements. There is also little information regarding quarantine pests and regulated pests for importers and potential importers. In the national health and agricultural plans there are no specific policies pertaining to food safety and food safety standards. The Food and Drug Act of 2001 plus additional and regulations provide a foundation for food safety standards to be implemented, but current food laws are not adequately enforced (TRALAC, 2010). The Zambian Plant Pest and Disease Act, Chapter 233 and other regulations govern SPS requirements and import permits for the importation of various agricultural products into Zambia. In general, the importation of fruit and vegetables is restricted due to the requirement of an import permit from the Plant Quarantine and Phytosanitary Service, phytosanitary certificates from the Zambian Department of Agriculture and the exporting country, as well as the inspection of goods prior to entry (TRALAC, 2010). Zimbabwe is the only country in COMESA that has a clear legislation on production and sale of Genetically Modified Foods.

2.4.7 State Trading Enterprises

There are numerous ways in which governments can engage in practices which restrict imports or exports. Instruments they can use include state trading enterprises, state sanctioned monopolies, procurement policies which discriminate against foreign goods and services, and industrial policies which subsidise domestic firms. Governments can also use macroeconomic, competition, fiscal, immigration or investment policy tools to distort trade in desired ways. The government in Zimbabwe has introduced the Indigenisation and Economic Empowerment Act in 2008 policy which will give Zimbabweans right to take over and control many foreign owned companies in Zimbabwe (Borsch, Marcus, Jones and Mathew, 2008) The Ease of doing business in Zimbabwe deteriorated to 155 in 2015 from 153 in 2014. The ease of doing business in Zimbabwe averaged 163 from 2008 and 2015 reaching an all-time high of 171 in 2011 and record low in 2014. Foreign investments levels in some sectors of the economy are capped by government. State owned enterprises distort the economy.

Government procurement provisions generally restrict the purchasing of certain products by government agencies in some ways towards domestic products rather than foreign products. This type of preference implies protection for local manufacturers and thus creates an obstacle to foreign producers (Soontiens, 2003). Participation of national governments, parastatals and monopolies in the trading system are prevalent in COMESA. This extends to the government operation of borders and ports. In Zambia for instance, the exportation of maize is done through one channel marketing. This is done not by only procuring maize from domestic farmers, but also through running a state trading enterprise which it occasionally supports with import and export quotas. In the case of Zimbabwe the importation of maize is done via state trading government monopolies. As a result only the Grain Marketing Board of Zimbabwe is authorized to import or export maize. The Grain Marketing Board had legal authority to engage in, or provide license trading in grains.

2.4.8 Dumping and Safeguards Measures

One of the most utilized forms of NTB in recent decades by the industrialized countries and increasingly so by developing countries, especially the larger ones like South Africa has been the imposition of anti-dumping or counter-veiling duties on imports. In as much as not all COMESA countries are neither the targets nor the initiators of anti-dumping measures, they still represent a veiled threat to their exports. Anti-dumping and countervailing measures are permitted to be taken by the WTO Agreements and the Treaty in specified situations to protect the domestic industry

from serious injury arising from dumped or subsidized imports. The way these measures are used entails heavy costs for the foreign firms targeted by this policy and certainly for consumers in the country applying antidumping legislation. If used as protectionist measures, they may act as some of the most effective NTBs. In Southern and Eastern African regions for example, several least developing countries have complained about firms from a more advanced developing country for allegedly dumping goods on their markets to the detriment of local industries, while keeping their own markets off-limits through a labyrinth of tariff and NTBs measures (Mold, 2005).

In accordance with other international trade agreements, and especially the provisions of the WTO, the Protocol provides for suspension of trade liberalizing measures in order to protect domestic producers from harmful effects of dumping by other COMESA exporters to provide safeguards against damaging surges of imports into the domestic market. While such measures are provided for under the WTO, there is increasing recognition that they can be and often are used as a form of disguised protection, and that standard techniques for determining the need for anti-dumping and safeguard measures are heavily biased in favour of narrow producer interests and against the broader national interests of users and consumers of importable goods. This argument is supported by the fact that usually not every investigation results in the finding of dumping or injury to the domestic industry causing severe damage on the exports of the country under investigation (Flatters, 2013).

Among economists anti-dumping is often regarded as a form of protectionism and its impact on trade is acknowledged. They view anti-dumping as form of inherent protectionism and therefore should be thought of in the same ways of any forms of protection aimed at assisting domestic industries against competition from imports (N'goma, 2010). There is also a growing recognition that true dumping, in the economic sense, is just one type of anti-competitive behaviour that should be dealt with as part of broader domestic policies to ensure competition and smooth and efficient working of domestic markets. In COMESA context, the claim of “dumping” is often used by producers seeking continued protection of non-competitive domestic industries. Some COMESA members have been among the heaviest users of WTO anti-dumping provisions in recent years, and this has been a great hindrance to the achievement of many of the promised economic benefits of international economic integration.

Non-tariff barriers are increasingly acting as blockages to international trade, and economic growth and development. They are capable of restricting trade; they are unpredictable, persistent and

influence trade patterns across countries. A review of literature on intra-COMESA trade is suggestive of the fact that as tariffs have been lowered, demands for protectionism have induced a new form of protectionism in the form of NTBs (Gillison, 2010) Therefore; there is a need to eliminate these NTBs because removal of tariffs alone is not enough to open up markets. Their prevalence may also be a drawback on the Free Trade Area.

The purpose of this chapter is to identify and discuss various NTBs hindering trade in COMESA and assess costs attached to their prevalence. These NTBs covers quantitative restrictions, customs procedures and administrative requirements, technical standards, sanitary and phytosanitary measures, government participation in trade, lack of infrastructure, restrictive rules of origin and anti-dumping measures. The scale of their problem will be demonstrated by reference to NTBs faced by companies trading in COMESA Free Trade Area.

2.5 SUMMARY

This chapter identified a list of NTBs that are being maintained by COMESA members in the form of customs documentation and procedures, import and export permits, import and export quotas, sanitary and phytosanitary measures, technical barriers to trade, strict rules of origin, road blocks and anti-dumping laws. The Chapter also noted that non-tariff barriers to trade are still maintained by most COMESA countries despite the clear prohibitions under the WTO, the COMESA Treaty and the COMESA Regulations on NTBs. The chapter highlighted that by maintaining NTBs Member States' actions are contrary to their commitments and obligation to remove all forms of non-tariff barriers to trade and to refrain from introducing new once.

Due to the presence of NTBs, the cost of doing business in the region is unreasonably high as compared to other regions. Economists believes that where NTBs are imposed for the purpose of protecting domestic industries from competition of foreign products they will impose costs that will outweigh the benefits for both the exporting and the import countries. The quantitative restrictions undermine trade and economic efficiency more than tariffs. From the above statement there are more economic opportunities that are being lost by COMESA members due to use of NTBs. It is therefore necessary for COMESA member states to make an informed choice and start to work towards the reduction and eventually eliminate all forms of NTBs. There is need for the speedy implementation at the same time observing the timeframes for the elimination of NTBs in the region.

CHAPTER THREE

3.0 RESEARCH DESIGN AND METHODOLOGY

3.1 INTRODUCTION

This chapter consists of the Research Design, Research Methodology, Population and Sample, Sampling methods, Data Collection techniques, Data presentation and analysis, validity and reliability, and ethical considerations which will be utilised in gathering data from the field. The chapter centres on explaining and discussing the methodology which will be used in this research in order to justify the selected approach and why it is most suited to the study.

3.2 RESEARCH DESIGN

A research design is a wide-ranging plan of action on how data was gathered from research participants through the use of scientific methods (Welman, Kruger, and Mitchell, 2007). Burns and Grove (2003) define a research design as, a plan for carrying out a study with maximum control over issues that may meddle with the validity of the findings. McCraig (2010) defines a research design as the broad plan for gathering answers to specific research questions.

This research adopted a case study design to find out the implications of non-tariff barriers to trade in COMESA Free Trade Area. The case study is a kind of descriptive research in which an in-depth investigation of an individual, group, event, community or institution is conducted. Therefore, a case is examined to understand an issue or provide input to an existing theory or new theoretical concept. The strength of the case study approach is its depth, rather than its breadth (Peter, 2010; Dina, 2012; Yin, 2012). The case study is intended to answer in most cases the “how” and “what” questions which are quite significant in this study. This will help the researcher to narrow interest to the implications of NTBs on free trade in Zambia and Zimbabwe rather than trade as a whole thereby increasing the feasibility of this research.

3.3 RESEARCH METHODOLOGY

Dahlberg and McCraig (2010) describe the research methodology as an interpretivist procedure of gathering in-depth data about a subject about pertinent sensitive topics, groups and on gray areas. This study will utilise the qualitative approach because the data to be gathered is subjective in nature. Creswell (2002) defines qualitative research methodology as a method of study which employs a systematic and pre-determined set of procedures, collects evidence and seeks to understand the phenomena under discussion from the views of the population under study rather than focusing on measuring phenomena. The qualitative research method involves the use of qualitative data, such as interviews, documents and observation, in order to understand and explain a social phenomenon.

The qualitative research methodology allows gathering of data from both primary and secondary sources such as documentaries, pictures, newspaper reports and pamphlets. These sources were however complimented by internet sources particularly by cases of Zambia and Zimbabwe. The benefit of qualitative research methods is that the questions under study will be assessed

qualitatively to provide more perspectives from the context of developing countries (Creswell, 2002).

3.4 POPULATION AND SAMPLE

3.4.1 Population

Creswell (2009) and Best and Khan (1993) mention that a population is that assemblage of people or a full set of cases that have at least one or additional features in common which the investigator is concerned in gaining data about and drawing conclusions from. Welman (2007) share similar sentiments by stating that, a population is the collection of all items or aspects of a study which the researcher wishes to analyse and make detailed conclusions about. In other words the target population refers to the total number of research subjects to whom the study can be generalized. The population for the study will be officials from the Zambian embassy, officials from the Ministry of Industry and Commerce of Zimbabwe, Academics and, members from the Civil Society Organisations.

3.4.2 Sample

In research, it is impossible for the researcher to survey the entire population frame because of the exorbitant costs and time involved; it is therefore for this reason that a subset of individuals from within a population is selected to estimate characteristics of the whole population. Karavakas (2008) defines a sample as a selection or choosing of individuals from a population one is studying. According to Bailey (1998) a sample is a sub-set taken to exemplify the entire population.

The sample shall consist of three (3) officials from the Civil Society Organisations who possess the required information on NTBs on COMESA FTA, two (2) members from the Ministry of Trade, Industry and Commerce who have worked in the government for more than five (5) years, two (2) academic persons and, one (1) from the Zambian embassy attached to the trade department, to make them a total of eight (8) respondents.

3.5 SAMPLING METHOD

Sampling is the procedure of picking a suitable sample or an illustrative portion of a bigger population for the intention of defining features of the total population (Creswell, 2009). The study utilised purposive sampling method which is a type of non-probability sampling methods and is discussed below:

3.5.1 Purposive Sampling

Purposive sampling is sometimes referred to as judgmental sampling (Johnson & Christensen, 2012). It is described as a non-probability method of sampling (Creswell, 2009). Neuman (2005), states that purposive sampling technique is one which requires the researcher to use their decision making skills based on sound judgment when they select those cases which allow them to address the research questions at hand and also to meet their overall research aims.

In this technique, the sampling elements will not be chosen randomly but their subject knowledge in issues to do with trade or their involvement in trade related issues will be considered. The objective is to select participants who have expertise in the study area, who are prepared to dialogue about their views, and who are varied enough from one another to improve opportunities of fruitful and unique views on the subject matter (Creswell, 2009). By doing this, the researcher will be able to form a sample that is useful to the study needs (Cohen, Manion & Morrison, 2007).

Officials from the Civil Society Organisations will be required to provide information on how NTBs on COMESA FTA affect their members. Members from the Ministry of Industry and Commerce will be required to give information and statistical figures on NTBs and their implications to trade on COMESA FTA since this is the responsible Ministry on such issues. Information will be gathered from members who have worked in the government for more than five (5) years because of the experience they have. Academic persons majoring in trade issues will also be required to provide information on the implications of NTB to trade on COMESA FTA since this is their area of interest which they may be continuously studying. An official from the Zambian embassy attached to the trade department will be required to give data on the implications of Zambian NTBs to trade on COMESA FTA. An official from the Zambian embassy is the best person to give us information relating to Zambia since they represent the commercial interests of Zambia in the host country.

3.6 DATA COLLECTION METHODS

Data Collection methods are the instruments that the investigator uses to gather primary and secondary data from the research participants (Uma & Rodger, 2009). Lin (2010) submits that data collection is the process of gathering primary and secondary data for the intention of addressing the research problem. Data for this study was gathered via interviews and document analysis to ensure validity and reliability.

3.6.1 Key Informant Interviews

The study will collect data through key informant interviews. Chakraborty (2009) submits that key informant interviews involve the targeting and questioning of participants based on their expert knowledge or involvement in the area under research as will be the case in this study.

The merits of the key informant interview method as suggested by Lin (2010) are that there is less time wastage because the informant knows the subject area under study well allowing the researcher access to relevant data easily. Key Informant Interviews also saves time and resources such as money because they are done with sensibly selected but limited participants as opposed to questionnaires which target a large numbers hence consumption of time and monetary resources (Creswell, 2009). In addition, the researcher can probe deeper beyond the interview guide questions or clarify misunderstood questions during the discussions in order to get a enhanced appreciation of the research problem (Neuman, 2005). Lin (2010) notes that key informant interviews are quick and ensure greater participation of the respondents by directly focusing on the research topic.

In this study the researcher will interact with academics, Officials from the Zambian Embassy, officials from Ministry of Industry and Commerce as well as officials from the Civil Society Organisations through direct interviews.

3.6.2 Document Analysis

Document analysis is described as a detailed and systematic examination of treaties, books, newspapers, documents or transcripts of conversations (Maree, 2007). Maree (2007) also notes that when a researcher opts to use document analysis to collect data he/she will have to consider all types of written communications that may reveal relevant data on the issue being studied. The study will make use of general sources like contemporary journal articles, books and other forms of literature on NTBs in COMESA for the period 2011-2017. However the specific sources that will be consulted include the COMESA Treaty, the COMESA Regulations on NTBs, various contemporary journal articles on NTBs, Newspaper articles on NTBs, these sources are significant in research for they serve and aid in developing a theory (Maree, 2007).

3.7 DATA PRESENTATION AND ANALYSIS

Martins (2009), defines data presentation as a systematic process which entails procedures on how information from research is presented. This research will gather data using semi-structured interviews which will be complimented by academic literature and documents accessed from

institutions where participants belong. The researcher is going to present data first then followed by a discussion of their significance. The presentation of data will be in logical sequence as participants give their views in the implications of NTBs to trade on COMESA FTA. This will be done in such a way that participants answer the research objectives. Data emerging out from the study will be arranged in unified and coherent sequence for analysis. It is only the relevant results that will be presented in the form of figures, tables, and graphs for purposes of clarity and brevity.

Kothari (2005) describes data analysis as the editing, collating, tabulation, classification and verification of collected data so that they are responsive to interpretation and analysis. This research was guided by content and thematic analysis. Neuman (2007) avers that content analysis is a method for collecting and analysing the content of the writing. Content analysis permits the researcher to probe into and uncover content in a different manner than from the regular way of reading a source (Neuman 2007). Brown and Clarke (2006) define thematic analysis as a method which identify, analyse and report patterns within data. Chakraborty (2009) identifies thematic analysis as analysis which is founded on emerging and recurring themes in the course of a study. Since this will be qualitative data, the researcher will analyse data in interview responses in order to get emerging themes on the implications of NTB to trade on COMESA FTA. Similar concepts will be grouped together to form categories based upon similar phenomena. Codes and categories will also be compared for similarities and differences through a technique of constant comparison. This method will be adopted because it provides flexibility and allows for rich and detailed description of data.

3.8 VALIDITY AND RELIABILITY

According to Silverman (2000) validity is simply defined as truth. While McCraig (2010) avers that validity is the correctness of an account which pertains to the integrity of produced results from the research process. Reinhaz (1992), states that validity is the consistency of a given measure with a given standard by which to measure a test. The researcher needs some kind of assurance that the instrument being used will result in accurate conclusions (Wallen & Fraenkel, 2001). This implies that the results of a study have to be valid in terms of accuracy on interpreting real reality for them to be beneficial. To ensure validity, the researcher will triangulate the findings extensively especially where primary data is involved. For this to be achieved, some participants will be asked similar questions, interviews will be complimented by documentary review which will result in

the triangulation of data collection instruments as secondary data will also be taken to substantiate evidence from primary data.

Joppe (2000) defines reliability as the degree to which outcomes are the same for some period of time and perfect depiction of the total population under study. Joppe (2000) further states that, where the outcome of a study can be replicated under a similar methodology, the research instrument is deemed to be reliable. The reliability of a measure shows the degree to which it is devoid of bias (error free) and hence ensures regular measurement across time and across the various items in the instrument. In other words, the reliability of a measure is an indication of the stability and consistency with which the instrument measures the concept and helps to assess the goodness of a measure. To ensure reliability, the researcher will meticulously investigate the sources of its information via purposive sampling to ensure not only the reliability of the findings but also their integrity in terms of expert knowledge. The researcher will make use of interview guides with the same questions centred and connected with the objectives of the study asked across the sample of participants. Consistency of questions will therefore ensure reliability.

3.9 ETHICAL CONSIDERATIONS

Akaranga and Makau (2016) define ethics as a branch of philosophy that deals with the conduct of people and guides the norms or standards of behaviour of people and relationships with each other. Ethical codes which will be considered in this study are matters pertaining to confidentiality and anonymity, and matters of informed consent that should be obtained from the Zambian Embassy; Ministry of Industry and Commerce; Civil Organisations; and individual Academics before conducting the research. All references of published works or ideas will be acknowledged to avert plagiarism. All research participants will be treated with fairness and equality in line with ethical principles of scientific enquiry and will be afforded the autonomy and the flexibility to cancel participation in the research at any time. Findings will be reported accurately and with impartiality in line with honesty ethics of the research.

3.10 SUMMARY

This chapter presented the research design and methodology which were employed in this research. The discussion was centred on a case study research design and a qualitative research methodology. A population area of five areas was mentioned followed by the identification of a sample size of eight key respondents chosen from that population. Purposive or judgmental sampling technique to choose a sample of eight key respondents from was discussed at length. The

presentation and systematic analysis of data using thematic analysis was discussed. Issues of validity and reliability of research findings and also research neutrality were exhaustively discussed. Ethical considerations of informed consent and, privacy and confidentiality to be taken care of during the research were also covered.

CHAPTER 4

4.0 DATA PRESENTATION, ANALYSIS AND DISCUSSION OF FINDINGS

4.1 INTRODUCTION

This chapter offers the presentation, analysis and discussion of findings. The presentation of findings centred on the results of the interviews undertaken with various respondents on NTBs. The chapter also delved on the findings which were obtained from numerous literature sources on NTBs. The findings from the field were discussed in line with research objectives, questions of the study and relevant sources before concluding statements were given. Findings were structured into five (5) thematic areas, namely; the rationale of Non-Tariff Barriers (NTBs) on COMESA free trade area (FTA); potential effects of NTBs on COMESA FTA; the effectiveness of legal frameworks that regulate COMESA NTBs; the role of non-state actors on COMESA FTA; and finally, the role of the State on COMESA FTA.

4.2 RATIONALE BEHIND NTBS ON COMESA FTA

A question was posed to find-out the rationale for the continuous use of Non-Tariff Barriers within COMESA region. On that note, the rationale for the continuation of the NTBs within COMESA FTA has been legitimately justified by the majority of the respondents. The respondents all concurred that NTBs are justified on four main grounds, which include safeguarding health, safety, and security of human beings, animals and plants, and against environmental pollution in any particular country. The respondents further said that, it is justifiable for governments to impose non-tariff measures where there is a really need. A trade expert from the Zambian Embassy had this to say;

“The Zambian government banned the importation of poultry and the products thereof from South Africa and the Democratic Republic of Congo (DRC). This came after an outbreak of a highly pathogenic avian influenza scientifically known as H5N8. The move was however aimed at safeguarding the Zambian poultry industry.”

An International Economic Relations scholar had this to say about the rationale behind the continuous use of NTBs to trade within COMESA FTA;

“It’s an issue of national interest as realism would dictate; states are selfish with these issues and tend to prioritise their immediate needs and domestic pressures at the expense of regional imperatives. Above that the existing inequalities leave weak economies at mercy of advanced one’s hence they take solace in crafting protectionist policies like NTBs to cushion themselves.”

This concurs with the East African Community Elimination Report (2015), which says that NTBs are often justified on four main reasons which are to safeguard health, security and safety of animals, plants, human beings, and against environmental pollution to safeguard the interest of the nation, to protect infant industries and consumers and also serves as a safeguard against revenue loss. Under the General Agreement on Tariffs and Trade (1994) provisions, members are justified to take measures to protect domestic industries from serious injury caused by increased imports of certain goods. Thus in World Trade Organisation language is remedied using safeguards.

The findings also concur with the CZI report of 2016 which stipulates that since the quantitative restrictions came into effect the manufacturing industry’s utilization rose from 34, 5% in 2015 to

47, 4% in 2016 is partly attributed to the gazetting of the instruments which has boosted local industry production as well as local demand.

4.3 EFFECTS OF NTBS ON COMESA FREE TRADE AREA

Asked on the possible effects of NTBs on COMESA FTA, a considerable number of respondents agreed that NTBs have potential effects on free trade within COMESA region. An International Economic Relations academic said;

“NTBs in COMESA, like in any other region, result in delays and increased transportation costs which ultimately hinder the free movement of goods and services. Removal of NTBs is much more effective in boosting intra-regional trade. NTBs frustrate competitiveness of exports in the context of FTA under COMESA.”

The Secretary to the President of the Zimbabwe Cross Borders Association gave an example of the Zimbabwean S.I 64/2016 which he said;

“Caused animosity and strained relations between Zimbabwe and its neighbouring countries particularly Zambia and South Africa.”

This concurs with earlier studies finding that NTBs negatively impact trade flows within COMESA. For example the 2008 NTB Impact Study, which was done by Imani Consultants established that non-tariff barriers act as an additional tax, in that they add more than 5 percent to the landed cost of a product and more than 20 percent to the total landed cost, which are ultimately passed on to the consumer thereby making commodities expensive. In effect the cost of doing business, and the trade facilitation initiatives are negatively affected.

Bhagwati (1965) has shown how both tariffs and NTBs can have equivalent effects when markets are competitive and therefore how the removal or reduction of NTBs can have similar effects to that of tariff reduction. Tariffs increase the costs for foreign suppliers while quotas and other types of NTBs serve to restrict the quantity of foreign-supplied goods in domestic markets; both may cause prices to increase in the domestic market. This in turn results in a decrease in economic welfare because of the distortion or wedge created between domestic and world market prices.

It therefore follows that the removal or reduction of NTBs increase imports and therefore impact on welfare through effects on local producers, domestic consumers and government revenues. The increased imports may displace domestic producers by foreign suppliers, depending on the

assumed elasticity of substitution between imported and domestically produced goods; Consumers (and producers using imported inputs) may benefit from cheaper product prices; and governments may lose revenues for the product liberalised, e.g. revenues from quota auctions or licenses.

4.4 ROLE OF NON-STATE ACTORS IN COMESA FREE TRADE AREA

Asked on the role of Non-State actors in COMESA FTA, all Non State actors comprising of the Cross Borders Association of Zimbabwe; Confederation of Zimbabwe Industries; the Zimbabwe National Chamber of Commerce mentioned that they have a bigger role to play in issues to do with trade and most particularly, COMESA FTA. They said that, their chief role is to lobby with the Government for the removal of NTBs on trade and other matters that affect trade. The Secretary to the President of the Zimbabwe Cross Borders Association said;

“The ban on imports was not the greatest idea as the country is sixty percent (60%) made up of informal sector. The Government needs to work with everybody.”

The official reiterated that, he was passionate about informal sector saying that the Government needs to hold consultations with the sector before coming up with policies that alienates them.

“There are no industries here; people survive on buying and selling. Statutory Instrument (SI) 64/2016 has taken away people’s livelihoods. There is need for the involvement of non-state actors in policy formulation and particularly in the areas of trade”.

Officials from the Confederation of Zimbabwe Industries said that they welcome the imposition of some NTBs on trade, as he said;

“We support the implementation of S.I 64/2016 as a strategy that is aimed at ensuring that Zimbabwe reclaimed its lost economic glory.”

This is in agreement with the report by CZI of 2016 which states that S.I 64/2016 came at an opportune time as it was not good for Zimbabwean industries to continue under a situation in which local products were being crowded out of the domestic market by imports that do not face equally high production costs prompting the Government to intervene through this import control.

4.5 ROLE OF THE STATE ON COMESA FTA

A question was asked to find out the role of the State on issues relating to trade on COMESA FTA. A trade expert from the Ministry of Trade, Industry and Commerce responded to say that the state

has the latitude to introduce Non Tariff Barriers to protect its industries. The official also went on to say;

“The role of the State is to facilitate free trade between and among COMESA members and this can only be possible if members liberalise import licensing; remove foreign exchange restrictions; remove taxes on foreign exchange; remove import and export quotas; remove road blocks; ease Customs formalities; extend times of operation at border posts; create one-stop border-posts, among others. The Government banned all grain imports because the country has reserved enough maize this year and also because of the need to protect local industries”.

The Ministry of Industry, Trade and Commerce (MITC) is the key Ministry mandated to deal with all trade related issues in Zimbabwe.

This concurs with the report in The Herald Newspaper dated 23 September 2017, which notes that the Zimbabwean Government through the Ministry of Industry, Trade and Commerce introduced pre-shipment assessments of all imports under the Consignment Based Conformity Assessment (CBCA) which contract was awarded to a French conglomerate, Bureau Veritas. This conformity and valuation programme intends to reduce hazardous and substantial imported products, provide compliance certificates to regulate products exported to Zimbabwean source prior to shipment, improve customs duty collection, ensure Zimbabwe consumers and industry protection, enable fair competition, avoiding unnecessary retesting by recognition of tests results/ meeting minimum reliability criteria. The company ensure that the products imported into Zimbabwe are regulated to meet minimum safety, health and quality standards.

The Imani inventory of 2007 concludes that the biggest barriers face regional trade in agricultural commodities. The main reasons given to justify these barriers are food security, protecting local producers, health and safety, and single-channel marketing. The commodities that are most regularly affected by these restrictions include sugar, maize, meat products (including poultry), dairy products, tea, timber products, and seasonal vegetables.

4.6 EFFECTIVENESS OF LEGAL FRAMEWORKS THAT REGULATE COMESA NTBS

Asked on the effectiveness of legal frameworks that regulate COMESA NTBs, one International Economic Relations scholar gave a response saying that the legal instruments which are in place

are too weak to control countries imposing Non-Tariff Barriers by failing to provide a definition of an infant industry for the purposes of derogation. An International Economic Relations scholar avers that Article 49 of the COMESA Treaty provides that member states should remove and abstain from implementing NTBs to trade for the purposes of trade facilitation; the Treaty however allows member states to implement NTBs on certain exceptions which also include the protection of local industries. It is this exception or derogation that member states abuse. The scholar said;

“The provisions dealing with the granting of derogations to Member States for the purpose of protecting infant industries are prone to abuse. A clear and concise definition of infant industry must be included in the legal frameworks. ”

A trade expert from the Zambian Embassy concurs with the scholar but however expands to say:

“Indeed, legal instruments in the form of the COMESA Treaty and COMESA Regulations on NTBs exist but their implementation become problematic due to the fact that some countries belong to more than one regional grouping, e.g. SADC, East African Community (EAC) and COMESA. However these three regional organizations have embarked on a process of harmonizing their strategies and also collaborating on the elimination of Non Tariff Barriers.”

This concurs with the report by Salter (2007) on COMESA which says that several challenges in NTBs have proved hard to solve and new ones have emerged. Several reported NTBs vary remarkably in terms of their type and breadth of application, suggesting that some NTBs will require much lengthier and complex multi-institutional processes to remove than others. Some measures have been addressed several times; implying that some NTBs resurface from time to time. Salter (2007) argues that the monitoring mechanism appears to address only those NTBs that affect those companies from different countries within the region which are in direct competition with each other. There are a whole range of NTBs within the region which are not being addressed by COMESA including infrastructural constraints and other ad-hoc import bans which need to be disciplined. Despite these concerns, the monitoring of NTBs and responding to private sector concerns about them constitutes a step towards reducing them.

The SADC, EAC & COMESA Report (2013), supports that all Southern African countries have made complaints against NTBs affecting regional trade. The report states that, the greatest number

of complaints were 143 and these fall under ‘Customs and administrative entry procedures’, mainly relating to ‘Lengthy and costly customs clearance procedures’. The highest number of outstanding, active complaints was 33 and these fell under ‘Transport, clearing and forwarding’, whilst those that relate to ‘Costly road user charges and fees’ stood at 15.

4.7 SUMMARY

This chapter has presented, analysed and discussed findings gathered from interviews on the implications of NTB to trade on COMESA FTA with much focus on Zambia and Zimbabwe. Much attention has been put towards the responses of the respondents while substantive information from different scholars was also used to corroborate the findings on the five thematic areas namely, the rational of NTBs in COMESA FTA; the potential effects of NTBs on COMESA free trade area; the effectiveness of continental instruments that control NTBs; the role of Non-State Actors in COMESA FTA, and finally, the role of the state in COMESA FTA.

CHAPTER 5

5.0 SUMMARY, CONCLUSIONS, RECOMMENDATIONS AND AREAS FOR FURTHER RESEARCH

5.1 INTRODUCTION

This chapter delved on the silent aspects of the summary of the research, conclusions, recommendations and areas for further research. The summary of the research covered what is contained in the entire research from chapter one to chapter five; conclusions arrived at were based on the research objectives presented in this study, while recommendations made were drawn from the findings of the study.

5.2 SUMMARY

Chapter one of the research presented an overview outlining the background of the study, statement of the problem, research questions, research objectives, justification, assumptions, limitations and the summary. Chapter two focused on the theoretical underpinnings of the research study as well as, a review of pertinent literature correlated to the existence of NTBs hindering trade within COMESA FTA and also assessed costs attached to their prevalence. The research used the complex interdependency theory to assess NTBs that are being maintained by COMESA countries in the form of customs documentation and procedures, import and export permits, import and export quotas, sanitary and phytosanitary measures, technical barriers to trade, strict rules of origin, anti-dumping laws, police roadblocks, road toll charges and corrupt practices. The research used the qualitative method to collect data. Chapter three generally delved on discussing the research

design and methodology which were employed in this research. The discussion centred on a case study research design and a qualitative research methodology. A population area of five areas followed by the identification of a sample size of eight key respondents was discussed. Purposive or judgmental sampling technique to choose a sample of eight key respondents from was discussed at length. The presentation and systematic analysis of data using thematic analysis was discussed. Issues of validity and reliability of research findings and also research neutrality were exhaustively discussed. Ethical considerations of informed consent and, privacy and confidentiality to be taken care of during the research were also covered. In chapter four, the research dealt with data interpretation and analysis covering five themes namely, the rationale of NTBs on COMESA FTA, the potential effects of NTBs on COMESA FTA, the effectiveness of legal frameworks that seek to regulate COMESA NTBs, the role of the non-state actors on COMESA FTA and lastly, the role of the state on COMESA FTA. Finally chapter five presented the summary of the research, conclusions, recommendations and areas for further study.

5.3 CONCLUSIONS

- The study concluded that, on the effectiveness of the international legal framework that seeks to regulate NTBs on COMESA FTA, the international legal framework is too weak as provisions dealing with the granting of derogations to Member States for the purpose of protecting infant industries are prone to abuse. This is due to the lack of definition of what constitute an infant industry for the purpose of applying for derogation.
- On the potential effects of NTBs on COMESA FTA, it was established that NTBs frustrate competitiveness; pose serious threats to mutual trade; and tend to result in imbalances in terms of economic benefits thereby causing conflicts in terms of relations between states and thus impeding trade in a significant way. Looking at the 2008 NTB Impact Study, which was done by Imani Consultants which established that non-tariff barriers act as an additional tax, in that they add more than 5 percent to the landed cost of a product and more than 20 percent to the total landed cost, which are ultimately passed on to the consumer thereby making commodities expensive. It is clear that NTBs have a serious effect on the cost of doing business, and the trade facilitation initiatives are negatively affected.
- The study also established that the rationale behind the continuous use of NTBs by COMESA members is an issue of national interest as realism would dictate; states are

selfish with these issues and tend to prioritise their immediate needs and domestic pressures at the expense of regional imperatives. Above that the existing inequalities leave weak economies at mercy of advanced one's hence they take solace in crafting protectionist policies like NTBs to cushion themselves. The East African Community Elimination Report (2015) also concurs that NTBs are often justified on four main reasons which are to safeguard health, security and safety of animals, plants, human beings, and against environmental pollution to safeguard the interest of the nation, to protect infant industries and consumers and also serves as a safeguard against revenue loss.

5.4 RECOMMENDATIONS

- The Ministry of Trade, Industry and Commerce in both Zambia and Zimbabwe are recommended to find a working definition of what constitute an infant industry for the purpose of applying for derogation and at the same time spell-out the actual period the protection must take to avoid the abuse of the provisions.
- The Ministry of Trade, Industry and Commerce in both Zambia and Zimbabwe should make use of bilateral trade agreements to eliminate existing NTBs. In this case, States clearly indicated their objectives of removing all NTBs that inhibit trade between them. Chances of full implementation and abiding by such undertakings are higher than at regional level where a lot of parties are involved.
- The Ministry of Trade, Industry and Commerce in both Zambia and Zimbabwe should liberalise import licensing; remove foreign exchange restrictions; remove taxes on foreign exchange; remove import and export quotas; remove road blocks; ease Customs formalities; extend times of operation at border posts; create one-stop border-posts, among other initiatives for the purpose of trade facilitation
- The Ministry of Trade, Industry and Commerce in Zimbabwe should incorporate Non-State Actors in trade policy formulation so that Non-State Actors do not feel marginalised on trade related issues where they are a stakeholder.

5.5 AREAS FOR FURTHER RESEARCH

The study has exposed the need to investigate further issues to do with NTBs within COMESA FTA and its impact on state relations. The study was limited to the implications of NTBs on

COMESA FTA and now it is necessary to look at the effects of NTBs on the economic performance of SADC countries. More related studies are needed in the future to undertake an in-depth look into how removal of NTBs has significant rewarding impact for both states.

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ANNEXTURE 'A'

STRUCTURED INTERVIEW QUESTIONS FOR ZAMBIAN EMBASSY OFFICIALS

1. What do you understand by non-tariff barriers to trade?
2. How is the Zambian government benefiting from COMESA Free trade area?
3. What nature of non-tariff barriers to trade are imposed by Zambia on Zimbabwe?
4. What are the advantages on the part of Zambia of non-tariff barriers to trade between Zambia and Zimbabwe?
5. What could be the disadvantages of non-tariff barriers to trade between Zambia and Zimbabwe?
6. What measures can be put in place to mitigate these disadvantages?
7. Are COMESA regional instruments on NTB very effective?
8. How do you view the future of NTBs within COMESA free trade area?
9. What could be the reasons behind the continuous use of non-tariff barriers to trade by COMESA countries?

ANNEXTURE 'B'

STRUCTURED INTERVIEW QUESTIONS FOR NON-STATE ACTORS.

1. What are Non-Tariff Barriers to trade?
2. What advantages can be derived from Non-Tariff Barriers to trade?
3. What disadvantages are associated with the use of Non-Tariff Barriers to trade?
4. What is the justification for the continuous use of Non-Tariff Barriers within COMESA region?
5. What is the role played by Non State actors to mitigating these effects of Non-Tariff Barriers to trade on COMESA free trade area?
6. To what extent do non-state actors assist in coming up with continental or regional instruments that control the use of Non-Tariff Barriers to trade, explain how?
7. What efforts if any, have been put in place by COMESA members to eliminate Non-Tariff Barriers to trade?

ANNEXTURE 'C'

STRUCTURED INTERVIEW QUESTIONS FOR MINISTRY OF TRADE, INDUSTRY AND COMMERCE AND ACADEMICS

1. What do you understand by Non-Tariff Barriers to trade?
2. What advantages are associated with Non-Tariff Barriers to trade in COMESA FTA have?
3. What nature of non-tariff barriers to trade are imposed by Zimbabwe on Zambia?
4. What disadvantages do Non-Tariff Barriers to trade in COMESA FTA have?
5. How can the disadvantages be mitigated within COMESA region?
6. What could be the justification of COMESA member countries that impose Non-Tariff Barriers to Trade?
7. How effective are COMESA regional instruments that are meant to control Non-Tariff Barriers to Trade?