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**COMMON MARKET FOR EASTERN  
AND SOUTHERN AFRICA**

Thirty-Second Meeting of the Technical Management  
Committee (TMC) on the Yellow Card  
Reinsurance Pool

Dar Es Salaam, Tanzania  
12 –13 April 2012

**REPORT OF THE THIRTY-SECOND MEETING OF THE TECHNICAL MANAGEMENT  
COMMITTEE ON THE YELLOW CARD REINSURANCE POOL**

## **A. INTRODUCTION**

1. The Thirty-Second Meeting of the Technical Management Committee (TMC) of the Yellow Card Reinsurance Pool was held from 12<sup>th</sup> to 13<sup>th</sup> April 2012, in Dar Es Salaam, Tanzania at Dar Es Salaam International Conference Centre.

## **B. ATTENDANCE, OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND ORGANISATION OF WORK**

### **Attendance**

2. Members of the Technical Management Committee (TMC) from the National Bureaux of DR Congo, Ethiopia, Kenya, Rwanda, Tanzania and Zambia attended the Meeting. The Pool Manager: PTA Reinsurance Company (ZEP-Re) and the COMESA Secretariat also attended the meeting as ex-officio members while the National Bureaux of Djibouti and Zimbabwe attended as observers. The list of participants is attached to this report as Annex I.

### **Opening of the Meeting (*Agenda item 1*)**

3. The Chairperson of the Council of Bureaux on the Yellow Card Scheme, Mr. Charles Etemesi, Manager Local Business Division of Kenya Reinsurance Corporation (Kenya-re) welcomed the members of the TMC to the Thirty-Second Meeting of the Technical Management Committee. He then called upon the Guest of Honour to give the opening statement.

4. Mrs. Margaret Ikongo, Advisor to the Commissioner of Insurance, representing the Tanzania Insurance Regulatory Authority (TIRA), welcomed the TMC members and wished them a pleasant stay in Dare Es Salaam. She recalled the efforts made to introduce the Yellow Card Scheme in 1987 and highlighted the achievements made during the years and stated that it was a cause for celebration of the Silver Anniversary. She acknowledged the challenges of forged Cards in the operations of the Scheme in the country and urged the TMC to deliberate on the issues and come up with recommendations. She finally wished the TMC meeting fruitful deliberations.

5. Earlier, Mr Berhane Giday, Chief Programme Officer at COMESA Secretariat, joined the Guest of Honour, in welcoming members to the 32<sup>nd</sup> Meeting of the TMC, on behalf of the COMESA Secretariat. He thanked the Advisor to the Commissioner of Insurance for finding time from her busy schedule to come and open the TMC meeting. He also thanked the National Bureau of Tanzania, National Insurance Corporation (NIC) for hosting the TMC meeting and for the facilities put at the disposal of the meeting. He requested the TMC to deliberate upon the agenda items tabled before it and make recommendations to the Council of Bureaux with a view to improving the efficiency of the scheme.

6. The meeting observed a minute of silence in remembrance of the former President of Malawi, Dr Bingu Wa Mutharika, who was the Chairperson of the COMESA Authorities and a former Secretary General of the COMESA Secretariat.

**Adoption of the Agenda and Organisation of Work (Agenda item 2)**

7. The meeting adopted the following agenda with amendments:
1. Opening of the Meeting
  2. Adoption of the Agenda and Organization of Work
  3. Progress Report on the Implementation of the Decisions of the Council of Bureaux of the Yellow Card Scheme
  4. Progress Report of the Pool Managers on the Operations of the Reinsurance Pool of the Yellow Card Scheme
  5. Progress Report on the UVIRA, SANGE, DR Congo claims issue
  6. Draft Pool Manager's Report and Financial Statement as at 31<sup>st</sup> December 2011.
  7. Report on the issues of Low Limits of Insurer's liabilities on the Compulsory Third Party Motor Vehicle Insurance Laws in some Member States
  8. Progress Report on Measures adopted to address the issue of Forged Yellow Cards in Tanzania
  9. Audited Annual Report and Accounts of the Council of Bureaux of the Yellow Card Scheme for the Year Ended 30<sup>th</sup> June 2011
  10. Date and Venue of the next TMC Meeting
  11. Any Other Business
  12. Adoption of the Report and Closure of the Meeting

8. The Committee adopted the following working hours:

**Thursday, 12<sup>th</sup> April, 2012**

Morning : 09:00 – 13:00 hours  
Afternoon : 14:00 – 17:00 hours

**Friday, 13<sup>th</sup> April, 2012**

Afternoon : 16:00 to 17:00 hours Adoption of the Report and closure of the meeting

**C. ACCOUNT OF PROCEEDINGS**

**Progress Report on the Implementation of the Decisions of the Council of Bureaux of the Yellow Card scheme (Agenda item 3)**

9. A representative of the Secretariat presented document no. CS/YCRCTG/TMC/XXXII/2, Progress Report on the Implementation of the Decisions of the Council of Bureaux and Recommendations of the Technical Management Meetings of the Yellow Card Scheme. In his presentation, he informed the meeting that several decisions and endorsements of the recommendations of the Meetings of the Technical Management Committee (TMC) of the Reinsurance Pool of the Yellow Card Scheme had been made by the 25<sup>th</sup> Meeting of the Council of Bureaux of the Yellow Card Scheme, held from 26<sup>th</sup> to 28<sup>th</sup> October 2011, in Nairobi, Kenya. He highlighted the status of implementation of the decisions and 2011/12 Annual Work Programme of the Scheme as follows:

**a) Capacity Subscription**

10. The TMC was informed that the position on payments of the outstanding capacity subscription to the Reinsurance Pool of the Yellow Card Scheme had not changed since the last Council of Bureaux Meeting and that the National Bureaux of Malawi and Sudan were yet to pay their subscription to the Pool.

**Recommendation**

11. The TMC recommended that the National Bureau of Sudan and Malawi should make urgent efforts to pay their share of capacity subscription to the Reinsurance Pool.

**b) Consultation with National Bureaux and Pool Managers**

12. The TMC was informed that the Secretariat had made some follow-ups and held discussions with the coordinators of the Yellow Card Scheme from National Bureaux of Uganda, Rwanda, Burundi and Kenya and the current Chairperson of the Council of Bureaux during the Secretariat's mission on the RCTG and Yellow Card Scheme to the Northern Corridor conducted in March 2012. Among other activities, the meetings discussed overall operations of the scheme in their countries and particularly on outstanding claims issues, payment of premium returns to the Pool, concerns of forged Yellow Cards and the issue of low limits of liability for third party personal injuries under the Act cover. The TMC was informed of the observations made during the discussions with the National Bureaux.

**Recommendations**

13. To address the issues observed, the TMC recommended that:

- a) National Bureaux should strengthen their working relations with the Police and Customs Authority by sponsoring certain activities and projects in order to fully involve the Authorities in the enforcement of the compulsory third party motor insurance law and in deterring motorists from using forged Yellow Cards;
- b) National Bureaux should implement the decisions of the Council of Bureaux and conduct National Stakeholders' Workshops to sensitize the public and promote the scheme; and
- c) The Secretariat should consider the possibilities of engaging South Sudan authorities to join the Yellow Card Scheme.

**c) Issue of Forged Yellow Cards printed and issued in Tanzania**

14. The TMC was informed that despite the measures having been agreed on during the stakeholders' workshop held in Dar es salaam in June 2011 for urgent implementation, no progress has been made in addressing the issue. The TMC meeting was further informed that the Secretariat would conduct a follow-up stakeholders' workshop, immediately after the 32<sup>nd</sup> Meeting of the TMC jointly with the National Bureau, on 16<sup>th</sup> April 2012 in Dar Es Salaam, with a view of engaging the stakeholders and authorities to come up with alternative measures to resolve the issue.

**Recommendations**

15. Concerned with the lack of progress in addressing the issue, the TMC recommended as follows:

- a) The Secretariat in consultation with the printers should review the security features and submit a proposal on enhancing the security features to the TMC meeting;
- b) The Secretariat should prepare draft guidelines or directives on the handling of Yellow Card books, as accountable documents and submit to the TMC meeting; and
- c) The National Bureau of Tanzania should deploy officers to conduct regular routine inspections jointly with Police and Customs Officers at the busiest borders ports to deter motorists from traveling on forged Yellow Cards.

**d) Implementation of the Yellow Card Information Management System in the Northern Corridor**

16. The TMC was informed that a YC-MIS maintenance contract was issued in late 2011 and signed by the identified IT consulting firm, Walgate Company Limited of Zambia and had since addressed the issues and concerns raised by the Primary Insurance companies in the Northern Corridor countries during the review of the YC-MIS system in early 2011. The meeting was further informed that the system had been ready for rollout since December 2011, but the implementation activities were postponed due to the fire incident that damaged the COMESA Secretariat premises including the COMESA IT Servers. The meeting was further informed that the rollout and implementation of the revised YC-MIS in the Northern and other Corridors was scheduled to commence as soon as the recruitment of short term Insurance Expert was finalized and by June 2012 at the latest.

**e) COMESA/MVA Co-operation on the Motor Vehicle Third Party Insurance System**

17. The TMC meeting was informed that in accordance with the meeting on the Harmonization of the Third Party Motor Vehicle Insurance Scheme (Yellow Card and Fuel Levy system) held in August 2011 in Lusaka, Zambia. Several National stakeholders' workshops were conducted in SADC countries such as Namibia, Angola, Botswana, Mozambique, DR Congo and South Africa. The meeting was further informed that the findings of the workshops were presented to a COMESA-SADC-EAC

(TRIPARTITE) Stakeholders' Regional Workshop on the Harmonization of Third Party Motor Vehicle Insurance Scheme, held from 7-9 March 2012 in Johannesburg, South Africa which was attended by officials from Angola, Botswana, DR Congo, Kenya, Lesotho, Malawi, Mozambique, Namibia, Rwanda, South Africa, Swaziland, Uganda, Zambia, Zimbabwe and also representatives of FESARTA, FCFASA and TMSA. The observations made on the Yellow Card scheme were as follows:

- a) The Yellow Card Scheme was the only regional initiative complimentary to national systems and was not meant to replace or repeal them;
- b) Duplication of insurance systems: a clear distinction of regional and national insurance systems was provided;
- c) Whether Yellow Card Scheme was the only regional system in the ESA Region: the response was that there was no other system in the ESA Region that caters for foreign motorists except the Yellow Card; and
- d) There was need for further national consultations and awareness on the Yellow Card Scheme.
- e) There was need to review and improve operational logistics of the Yellow Card in particular security concerns;
- f) It was pointed out that the administrative and technical issues of the Yellow Card Scheme were subject of national decision; and
- g) The implementation of the harmonization process was a tripartite decision since the framework and modalities have to be endorsed by COMESA, SADC and the EAC.

18. The meeting was further informed that the workshop recommended, as follows:

- a) the Yellow Card be adopted and harmonized with existing national compulsory third party insurance systems;
- b) the SADC Secretariat in consultation with COMESA and EAC Secretariats should prepare and present a draft legal instrument for the adoption and implementation of the Yellow Card Scheme initially to the SADC Policy organs for consideration and subsequently to COMESA and EAC;
- c) the SADC Secretariat in consultation with COMESA and EAC Secretariats should prepare and present a draft implementation plan for consideration by the SADC Policy organs
- d) Member States to establish national working groups to coordinate follow-up activities on the harmonization programme;
- e) the SADC Secretariat should provide technical support to Member States to raise awareness, mobilize support and build consensus for implementation of the Yellow Card;
- f) Consideration to be given to enhance the operations of the Yellow Card to accommodate the requirements of the joining Member States.

**h) Recruitment of an Insurance Expert (P3) under the regular budget**

19. The TMC was informed that pursuant to the decision of the 25<sup>th</sup> Meeting of the Council of Bureaux, the Post of the Insurance Expert (P3) had been advertised and applicants were requested to submit their applications to the Managing Directors of the National Bureaux. The meeting was further informed that the advert was posted on the

COMESA web site [www.comesa.int](http://www.comesa.int) and the recruitment would be processed in accordance with the Secretariat recruitment Policy and Procedures.

### **Recommendation**

20. In order to expedite the recruitment process, the TMC recommended that:

- a) National Bureaux should forward all applications received within the timeframe stated to the office of the Secretary General of COMESA Secretariat without delay; and
- b) The Secretary General of COMESA, in line with the mandate given to him by the Authorities, should consider the report on the recruitment and make decisions.

#### **i) Recruitment of a short term Insurance Expert under RISP Support**

21. The TMC was informed that the contract of the short term Insurance Expert, Mr. Kelvin Chisongo, hired with cooperating partner's funding expired in January 2012. The meeting was informed that Mr Kelvin had been offered a further renewal but ZSIC - who had kindly allowed Mr. Chisongo to work on secondment basis in 2010 and 2011, did not grant him a further secondment. The TMC was further informed that in light of the above, the Secretariat was in the process of identifying and recruiting for the Post from the local market a suitable candidate at a lump sum fee of US\$4,000 per month.

#### **j) National Bureaux of Zimbabwe**

22. The TMC was informed that the National Bureau of Zimbabwe had submitted observations on the Report of the 25<sup>th</sup> Meeting of the Council of Bureaux, as follows:

- a) Para 65: the phrase "that it could not get any response from its member Insurance Companies" was incorrect. The National Bureaux had never advised that it could not get information from its member Insurance Companies; and
- b) Para 84 (b): The National Bureau would implement this system provided that the COMESA Secretariat provides details of the legislative requirements in each Member State.

#### **k) Payment of Budget Contributions towards the 2011/12**

23. The TMC was informed that only five out of the thirteen National Bureaux had paid their contributions by the time of compiling this report. The meeting noted that those that had not yet remitted their budget contributions to the COMESA Yellow Card Secretariat were the National Bureaux of Djibouti, Kenya, Malawi, Rwanda, Sudan and Zambia and the total outstanding budget contributions including arrears was totaling to US\$160,406.

### **Recommendation**

24. The TMC recommended that the National Bureaux of Djibouti, Kenya, Malawi, Rwanda, Sudan and Zambia should urgently pay their outstanding budget contributions to the Council of Bureaux at the earliest possible time and preferable before the end of 30<sup>th</sup> May 2012.

**I) Cost of Printing and Delivery of Yellow Cards due from members**

25. The TMC was informed that there was no progress in the payment of outstanding cost of printing and delivery incurred by the Secretariat on behalf of the National Bureaux as shown in the table below.

**TABLE 1**  
**Status of outstanding cost of printing & delivery incurred by the Secretariat on behalf of National Bureaux**

National Bureau	Old Yellow Cards		New Yellow Cards		Total Due (US\$)	Status
	# Ordered	Amount O/S	# ordered	Total Cost		
Burundi	240	2,338.48	200	1,411.74	-	Paid
DR Congo	100	1,367.80	500	5,105.35	-	Paid
Djibouti	-	-	100	1,169.55	-	Paid
Eritrea	-	-	100	1,073.70	1,073.70	O/S
Ethiopia	840	8,044.36	900	6,272.59	-	Paid*
Malawi	-	-	100	1,139.55	-	Paid
Rwanda	360	-	100	1,157.03	-	Paid
Tanzania	230	1,956.07	700	3,878.70	-	Paid
Uganda	500	3,031.62	1000	5,312.96	3,929.62	O/S
Zambia	-	-	100	1,265.40	-	Paid
Zimbabwe	-	-	100	1,240.00	-	Paid
Sudan	100	670.49	200	2,140.28	3,200.77	O/S
Kenya	500	-	500	-	-	Paid
Total	2,870	17,408.82	3100	31,166.85	8,201.09	O/S

**Recommendation**

26. The TMC recommended that the National Bureaux of Eritrea, Uganda and Sudan should settle their outstanding printing and delivery cost arrears incurred by Secretariat on their behalf before the forthcoming 33<sup>rd</sup> Meeting of the TMC, scheduled to be held in August 2012.

**Progress Report of the Pool Managers on the operations of the Reinsurance Pool of the Yellow Card Scheme (Agenda item 4)**

27. A representative of the Pool Managers presented document no. CS/YCRCTG/TMC/XXXII/3, Progress Report on the operations of the Reinsurance Pool of the Yellow Card as at 31/12/2011. In his presentation, he highlighted the following:

**a) Capacity Subscription**

28. The meeting was informed that only eleven National Bureaux had fully paid their respective share allocations and a total of US\$ 1,150,000 had been settled to date.

**b) Refunds**

29. A total of US\$ 800,000 had been refunded over the years and the remaining US\$ 350,000 would be refunded after a two year waiting period upon full settlement of capacity subscription fee of US\$100,000.



**c) Premium Returns and Income booked**

30. The premium booked by the Pool for the period under review was US\$ 6,109,757 as compared to US\$ 5,237,713.33 in 2010 while the Pool's 30% share was US\$ 1,832,927 as compared to US\$ 1,571,314, representing an increase of 16.65%. It was observed that:

- i) Quite a number of the primary insurance companies are not consistent in submitting their monthly returns as there are gaps in some months;
- ii) The significant growth was partly due to the National Bureau of DR Congo's submission of all outstanding Pool returns from prior years covering the period January 2004 to August 2010 and also partly due to organic growth and increase in the number of returns received from the National Bureaux;
- iii) No returns were received from the National Bureaux of Eritrea and Sudan.
- iv) Given the big outstanding balances due to the Pool by Tanzania, the Pool Managers and the National Bureau of Tanzania proposed to meet in mid May 2012 for a comprehensive reconciliation.

**Recommendation**

31. In light of the above the TMC made the following recommendations:

- i) The National Bureaux should address the issue of inconsistency in settling outstanding balances where Primary Insurance companies have gaps in their submissions; and
- ii) The National Bureaux of Eritrea and Sudan should settle their outstanding balances.

**d) Premium collections**

32. The premiums collected in 2011 and 2012 were US\$1,606,677.03 and US\$ 643,726.22 respectively amounting to a total of US\$ 2,250,403.4.

**Recommendation**

33. The TMC recommended that the National Bureaux should implement the decision of the Council of Bureaux and open an Account for the COMESA Yellow Card Scheme in US Dollars.

**e) Settlement of small claims (less than US\$ 10,000)**

34. A sum owing to the Pool in 2011 amounted to US\$ 366,952 was settled compared to US\$ 299,622 in 2010.

**f) Large claims intimated-amounts greater than US\$ 10,000**

35. The total claims reported to date accrued to US\$ 8,108,869.16 out of which US\$ 2,458,203.58 would be retained for the Pool's net account, while amount recoverable from the Reinsurers was US\$ 5,599,122.56.

**g) Large claims**

36. Kenya had generated 37.27% of the total claims followed by Ethiopia with 35.66% and Rwanda with 9.54% and the three countries were responsible for 86.23%. All the outstanding and settled claims were as follows:

- i) Outstanding claims: Kenya-41.68%, Ethiopia-37.84% and Rwanda-6.74% representing 86.26%; and
- ii) Settled claims: Ethiopia-37.57%, Kenya-28.00% and Rwanda-15.40% representing 80.97%.

37. The 25<sup>th</sup> Meeting of the Council of Bureaux held in Nairobi from 26<sup>th</sup> to 28<sup>th</sup> October 2011 ratified the increase of the franchise with effect from 1<sup>st</sup> January, 2012 from US\$ 10,000 to US\$15,000 as stipulated in the Operations Manual.

**h) Excess of loss premium**

38. The Pool Managers had only received US\$ 128,768 in the following order:

- i) National Bureau of Kenya- US\$ 64,822 in year 2006
- ii) National Bureau of Uganda- US\$. 45,202 in year 2006
- iii) National Bureau of Ethiopia- US\$. 18,744 in year 2011

**Recommendation**

39. The TMC meeting reiterated its earlier recommendation that, in order to review the status of progress and provide guidance, the Pool Managers should prepare and present up to date and complete progress report with financial highlights showing activities as of the present moment.

**Progress Report on the UVIRA, SANGE, DR Congo claims issue (Agenda item 5)**

40. The representative of the National Bureau of Kenya and current Chairperson of the Council of Bureaux, Mr Charles Etemesi, Manager Local Business Division, in his capacity as lead reinsurers for the subject claims, made a verbal presentation, jointly with the Pool Manager. In doing so, he recalled the decision of the 25<sup>th</sup> Meeting of the Council of Bureaux and gave the following highlights on the progress made in the implementation of the measures recommended:

- a) Stay on the judgments was achieved;
- b) The case which was being handled in UVIRA and which was bringing out emotions, was moved to Bukavu in order to have an independent and fair hearing;
- c) That the Lawyer engaged by the Pool Managers to represent the case advised that the appeal should be made against the judgment made on four cases without representation; and

- d) The total cost so far incurred for legal fees, cost of travel and other expenditures was US\$47,000.

41. On the way forward, the TMC was informed as follows:

- a) That the Lawyer engaged by the Pool Managers to represent the case advised that appeal should be made against the judgment given on four case without representation;
- b) The expense required for appeal would be about US\$20,000; and
- c) All effort will be made to eventually resolve the case through an out of court negotiations.

42. In the discussion that ensued, the National Bureau of DR Congo informed the meeting that taking into account the efforts made in reaching settlement through negotiations with victims, claimants were demanding for payment, however, SONAS was not in a position to address their requests as it had been left out of the case.

**Recommendations**

43. The TMC noted the progress made and recommended as follows:

- a) all efforts should be made to resolve the case at the earlier possible through an out of court negotiations with a view to minimize claim costs; and
- b) endorsed the request of the Pool Managers that the National Bureau of Kenya should proceed with the appeal against the judgment of the four cases and meet the costs of appeal and other expenses.

**Draft Pool Managers Report and Financial Statement as at 31<sup>st</sup> of December 2011**  
(Agenda item 6)

44. The TMC was informed that for the period under review the Pool had recorded a Gross premium income of US\$ 1,832,992 representing an increase of 16.7% over the figure reported during the previous year which was US\$1,571,314. Table 2 below shows the highlights of the developments specifically the Gross premium Income, Reserve Fund, Total Assets, Capacity Subscription and Short term Investments as at December 2011.

45. The financial highlights are as shown below:

**Table 2**

	<b>December 2011 US\$</b>	<b>Growth %</b>	<b>December 2010 US\$</b>
Gross premium income	1,832,992	16.7	1,571,314
Reserve fund	4,484,080	2.7	4,366,413
Total assets	7,698,359	14.6	6,715,454

Capacity subscription	350,000	27.3	275,000
Short-term investments	4,412,086	19.8	3,683,388

### Investments

46. The TMC was informed that the volume of investments during the period ended 31<sup>st</sup> December 2011 rose to US\$ 4,412,086 from US\$ 3,683,388 in 31<sup>st</sup> December 2010. This was mainly due to increased remittances from member National Bureaux. The investment portfolio spread was as follows:

**Table 3**

INSTITUTION	INVESTMENT	December 2011	December 2010
		US\$	US\$
Government of Rwanda	Treasury Bills	-	93,377
PTA Bank	Fixed deposits	-	1,398,907
Kenya Commercial Bank	Fixed deposit	866,377	-
KCB Rwanda	Fixed deposits	100,270	-
Government of Kenya	Treasury Bills	193,164	-
Commercial Bank of Africa	Fixed deposits	3,252,275	1,105,498
Stanbic Investment Bank	Fixed deposit	-	1,085,606
<b>Total</b>		<b>4,412,086</b>	<b>3,683,388</b>

### Income from Investments

47. The TMC was informed that the Pool had realized an income of U\$177,680 as at 31<sup>st</sup> December 2011, from the investments they had made compared to US\$ 142,605 recorded in the same period last year.

### Recommendations

48. In the discussion that followed, the TMC noted the achievement recorded during the period and also expressed concern on the high exchange losses and high provision for bad debt and made the following observations:

- a) In order to avoid repetition of similar loses in future, the Pool Managers should analyse and identify the real causes for the exchange loses and submit a report to the next TMC for consideration;
- b) The provision for bad debt should be supported with a detailed schedule for each National Bureau;
- c) The volume and time of investment should provide movement of the investment at the beginning and end of the period; and

- d) The Pool Managers should indicate the level of disclosure that had been followed in order for the TMC to thoroughly review the financial statement and provide appropriate guidance.

**Report on the issue of low limits of Insurer's liabilities on the compulsory Third Party Motor Vehicle Insurance Laws in some Member States** (*Agenda item 7*)

49. A representative of the Secretariat presented the Document No. CS/YCRCTG/TMC/XXXII/6, Report on the issue of Low Limits of Liability for Third Party personal injury on compulsory Motor Vehicle Insurance of Member States of the Yellow Card Scheme. In doing so, he recalled the decision of the 25<sup>th</sup> Meeting of the Council of Bureaux and that pursuant to the decision, the Secretariat, in carrying out the review visited Kenya, Uganda, Rwanda and Burundi and consulted stakeholders. The Secretariat also collected information from Zambia, Zimbabwe and Ethiopia through a short questionnaire, reviewed relevant reports and materials.

50. With regard to the issue, the TMC was informed that the National Bureaux of Djibouti submitted that the government of Ethiopia had introduced with effect from September 2011 a compulsory third party motor insurance with very low limits of liability for bodily injury. The law provides right for injured person(s) to sue the motorist for a higher compensation over and above limits of liability set forth by the Act, if injured persons are not contented with the amount of claims compensation offered. Given that the Yellow Card cover is equivalent to the compulsory third party motor vehicle insurance – travelling motorists from Djibouti would be exposed to court cases, as the limits of liability payable under the Ethiopia law was very low. Thus the Yellow Card would not provide adequate cover to motorists from Djibouti traveling to Ethiopia and hence requested that:

- a) Either the limits of liability of the Yellow Card for Ethiopia should be increased; or
- b) The National Bureaux of Ethiopia and Djibouti should maintain their previous arrangement under Article 6 (8) of the Protocol on the Establishment of Third Party Motor Vehicle Insurance Scheme which provides as follows:

*“Article 6(8) for a party in whose territory insurance is not compulsory by law, the guarantee provided by the COMESA Yellow Card corresponds to the third party liability on the motorist in accordance with the laws (civil law or common law of negligence) and regulations in force in the country where the accident occurred”.*

**Review of the issues**

51. The TMC was informed that, in carrying out the review, in particular, the Ugandan experience was reviewed thoroughly as the limits of liability for bodily injury was very low, even compared to the limits in Ethiopia and the limit had not been reviewed since the Act was introduced in 1988 and it would be possible to establish the implication of the low limits of liability for third party bodily injury on local and visiting motorists with Yellow Card.

52. On the findings of the review the TMC observed the following:
- a) The Insurance Market in Uganda strongly believes that the limits of liability is low and should be revised;
  - b) Although the Ministry of Finance has the mandate to revise the limits of liability and premium rates, it has not done so since the introduction of the Act 1998, despite requests made by the insurance market;
  - c) The number of motor vehicles insured is low. Out of the estimated 400,000 vehicle in the country, only 50% have insurance cover;
  - d) The information collected from other Member States shows, that the number of vehicle insured vary from country to country and in some cases very low and many cases about 60% and in Ethiopia about 70%;
  - e) In Uganda the annual premium for Act cover is about Ush55,000, however, many motorists buy fake ACT cover for Ush20,000 or less; and
  - f) There was a perception that governments are not keen to review or increase the limits of liability in order to keep the premium payments low and encourage the high number of uninsured motorists to buy insurance cover.
  - g) Although Uganda has a very low limits of liability for personal injury, the measures adopted by the insurance market in addressing the issue was the same approach as used in many other Member States.

### Claims

- a) Detailed claims information on the ACT cover was not readily available. However according to stakeholders' views, with the exception of Ethiopia, injured persons who took their claim cases to court demanding a high level of payment of compensation were reasonably low. The reasons cited include the following:
  - i) Number of injured persons who take their cases to court demanding for a higher level of compensation are low because, it takes time and money and it was difficult to win a fault/negligence claims cases; and
  - ii) Lack of awareness.
- b) The insurance market in addressing the low limits of liability for personal injury, offers high limits of liability in return for additional premium payment. For example, in Uganda some insurance companies are offering the following higher limits of liability for personal bodily injury:  
  
Any one person: Ush.2m. Ush.3m. Ush.4m. Ush.5m  
Any one event: Ush.20m. Ush.30m. Ush.40m, Ush50m.
- c) The insurance market in Uganda, through its Insurers Association, has submitted a proposal to the Insurance Regulatory Authority of Uganda to standardize the higher limits of liability being offered by the market.

### **The Djibouti –Ethiopia case**

53. Ethiopia implemented the compulsory motor vehicle insurance laws in September 2011 and:

- a) The number of vehicles insured is indicated to be about 70% of the estimated 400,000 vehicles, mostly in the capital city;
- b) The limits of liability is set to be low in order to make the premium economical/affordable and encourage motorists to buy compulsory insurance cover;
- c) Since Ethiopia has just introduced the compulsory third party motor vehicle insurance, the issue raised by the National Bureau of Djibouti was yet to be substantiated. How many injured persons covered under the Yellow Card scheme have taken their cases to court in order to obtain a higher limit of payment of compensation over and above the limits prescribed by Act?

### **The Yellow Card Experience**

54. The experience of the National Bureau of Ethiopia:

- a) Ethiopia issued 24,383 card in 2010/11 to motorists mainly travelling to Djibouti (on average 600 Ethiopian trucks with Yellow Cards cross daily to Djibouti or vice versa);
- b) Motorists from Ethiopia cause over 100 road traffic accidents annually. The National Bureau of Djibouti recorded over 100 claims in 2010/11.

55. The experience of the National Bureau of Djibouti:

- a) Djibouti issued 603 cards in 2010/11 to motorists mainly travelling to Ethiopia; and
- b) Ethiopia National Bureau recorded 7 claims in 2010/11 mainly accidents caused by a Djibouti motorists.

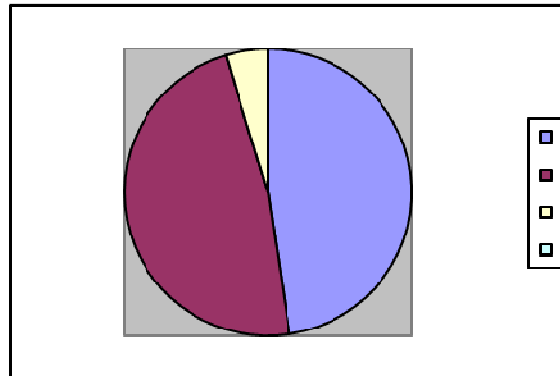
### **The extent of the issues of concern**

56. It was explained that given that the limit of liability of Eth Birr15,000(UD\$857) for any one person injured, particularly taking the experience of Djibouti where the minimum payment for fatal injury is \$10,000, it is indeed acceptable that the limit of liability is too low. However, with regard to the degree of the problem –taking into account 603 Yellow Cards issued by the National Bureau of Djibouti for motorists mainly travelling to Ethiopia and 7 claims or more recorded during the same period by the National Bureau of Ethiopia principally for accidents caused by motorist from Djibouti, it would be reasonable to conclude that the extent of the issue raised by the National Bureau of Djibouti is concerning 7 or more claims under the Yellow Card scheme.

57. It was underscored that concern of the low limits of liability was more serious for local motorists compared to the implications it would have on the few claims from visiting motorists under the Yellow Card. Because the Act cover would not provide adequate cover and protection, not only to visiting motorists but also to local motorists, which are

estimated to be over 300,000 insured vehicle (70% of the 400,000 total estimated number of vehicles insured in the county).

58. On the actual experience of the compulsory third party motor vehicle insurance and Yellow Card scheme in the COMESA region, the siltation was summarized in the following pie chart:



- Blue: represents number of insured vehicles;
- Red: number of vehicles uninsured
- Yellow: vehicles with Yellow Cards

*Note: As much as the low limits of liability for third party bodily injury is an issue, the high number of road accident injuries (fatal and non fatal) caused by uninsured motorists is an issue of serious concern.*

59. With regard to the proposal that the National Breaux of Djibouti and Ethiopia should be allowed to continue with the previous arrangement of Article 6(8) of the Protocol. it was underlined that the provision applies only to Member States where insurance was not compulsory. The third party motor vehicle insurance was now compulsory in Ethiopia and the provision does not apply.

60. In the discussion that followed, the TMC made the following observations:

- a) Motorists in Djibouti are provided with a cover with high limits of liability and would be difficult to force them to take a cover with low limits of liability when they are traveling to Ethiopia;
- b) The Protocol states that “the scheme providing at least minimum guarantee as those required by the laws in force in the Member States” and hence it should be possible for the Yellow Card to provide higher limits;
- c) The 7 claims recorded by the National Bureau of Ethiopia on behalf of Djibouti in 2011, as a basis for establishing the degree of the issues, was under estimation, as claims are expected to raise with the increase of traffic between the two countries;
- d) Low limits of liability would lead to arrests of drivers and detention of vehicles, as the National Bureau of Ethiopia would not be able to give a guarantee for claims above the low limits of liabilities;



- e) The objective of the Yellow Card Scheme was to facilitate transport and trade in the region and hence it should be reviewed from time to time to respond to stakeholders demands, changing circumstances and developments in the region; and
- f) the compulsory third party motor vehicle insurance laws in force in Member States have different limits, some minimum and others maximum and the implication of such variation on the Reinsurance Pool operations/arrangements and the interpretation of the Protocol should be studied.

### **Recommendations**

61. Taking into account the wide range of issues raised during the discussions and the limited scope of the paper presented, the TMC recommended as follows:

- a) A detailed and comprehensive study should be carried out by a consultant to consider the issues raised and provide solutions and the study should also involve all the neighboring countries to Ethiopia;
- b) The Secretariat should prepare a draft Terms of Reference (ToR) for the study and circulate to all National Bureaux to give their inputs;
- c) The Pool Manager should allocate US\$50,000 for conducting the study and transfer the funds to the COMESA Secretariat Yellow Card Account as soon as the procurement process for hiring the Consultant has been concluded; and
- d) On receipt of inputs from the National Bureaux on the ToR for the study, the Secretariat should recruit a consultant to carry out the study and submit the final report to the TMC for consideration.

### **Progress Report on measures adopted to address the issuance of forged Yellow Cards in Tanzania (Agenda item 8)**

62. A representative of the National Bureau of Tanzania, Ms Immaculate Jerome Morro, Principal Insurance Officer and Yellow Card Coordinator, gave a brief verbal presentation. In so doing, she informed the TMC that no progress was made in the implementation of the measures adopted to address the issue of forged Yellow Cards in Tanzania. She further informed the TMC that the issue of forgery is not limited to Yellow Cards only but also affects forgeries of Cover notes for the local compulsory third party motor vehicle insurance. In light of the above and in order to reduce costs, a Committee has been established, under the auspices of the Association of Tanzania Insurers (ATI) to handle the issues.

### **Recommendation**

63. The TMC recommended that the Secretariat should continue its engagement with the National Bureau, ATI and other stakeholders and submit a report on the progress made in addressing the issues to the next meeting of the TMC.

**Audited Annual Report and Accounts of the Council of Bureaux of the Yellow Card scheme for the Year Ended 30<sup>th</sup> June 2011** (*Agenda item 9*)

64. The Director of Budget and Finance from COMESA Secretariat presented the audited report and accounts for the Year ended 30<sup>th</sup> June 2011. In his presentation of the report, the Director provided highlights on the Income Statement, Cash flow Statement and the Balance Sheet among other items.

65. In the discussion that followed, the TMC was informed that it was a standard practice for the Council of Bureaux to receive and approve annual audited accounts. It would however be recalled that the annual audited accounts were not prepared and presented to the 25<sup>th</sup> Meeting of the Council of Bureaux and the Council of Bureaux mandated the 32<sup>nd</sup> Meeting of the TMC to consider and recommend the report to the 26<sup>th</sup> Meeting of the Council of Bureaux.

66. The TMC noted that the External Auditors, Messers Deloitte had given an unqualified opinion on the Financial Statements of the scheme.

**Recommendation**

67. The TMC received the Audited Annual Report and Accounts of the Council of Bureaux of the Yellow Card scheme for the year ended 30<sup>th</sup> June 2011, with satisfaction and approved the report.

**Date and Venue of the next TMC Meeting** (*Agenda item 10*)

68. The National Bureau of DR Congo offered to host the 33<sup>rd</sup> Meeting of the TMC in Kinshasa. The Secretariat would consult with National Bureau of DR Congo and communicate to members the exact date and venue of the next TMC meeting.

**Any Other Business** (*Agenda Item 11*)

69. Under this Agenda item, a representative from the National Bureau of Zimbabwe, recalled the report of the Secretariat on the severe manpower shortage that the Yellow Card office at the Secretariat had, and that the Administrative Secretary, Mrs. Brenda Chizyuka was unwell and would be traveling to India for medical treatment immediately after servicing this TMC meeting. He expressed sympathy to Mrs. Chizyuka and indicated that there was need for the Council of Bureaux to make contribution towards her medical treatment in addition to funds provided by the COMESA Secretariat

**Recommendation**

70. The 32<sup>rd</sup> TMC recommended that a contribution of \$15,000 be provided to Mrs. Brenda Chizyuka, over and above the funds allocated by the COMESA Secretariat, towards her medical treatment from the Council of Bureaux Account, under reserve budgeted item, indicated by the Director of Finance and Budget, Mr. Dev Haman.

**Adoption of the Report and Closure of the Meeting** (*Agenda item 12*)

71. The meeting considered the draft report paragraph by paragraph and adopted the report after making some amendments.

72. At the closure of the meeting the delegate from Djibouti, Mr. David Boucher, Sales Manager, GXA Assurances thanked the Government and people of Tanzania for the warm hospitality extended to the delegates and thanked the National Insurance Corporation of Tanzania for hosting the meeting and for the excellent facilities offered to the meeting. Mr. Boucher praised the Chairperson for the able manner in which he had guided the deliberations of the meeting. Finally he thanked all the delegates for their contributions and the Secretariat, and all those behind the scenes who had contributed to the success of the meeting.

73. In closing the meeting, the Chairperson thanked all the delegates for their contributions and wished them safe journey back to their home countries.

Annex I

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LISTE DE PARTICIPANTS**

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