

COMESA COURT OF JUSTICE
RETREAT
12 – 16 July 2010
Intercontinental Hotel, Balaclava, Mauritius

ADDRESS BY HON. YATIN VARMA, ATTORNEY GENERAL

12 July 2010

Hon. Justice Nzamba Kitonga, SC President of the COURT OF JUSTICE of the Common Market for Eastern and Southern Africa

Justice Kishore Parsad Matadeen, Senior Puisne Judge, Supreme Court of Mauritius

Justices of the COMESA Court of Justice

Mr Désiré Kayihura, Registrar of the COMESA COURT OF JUSTICE

Deputy Solicitor General

Distinguished Guests

Ladies and gentlemen,

All protocol respected

Distinguished delegates, allow me first to welcome you to Mauritius. I trust that you have had a safe journey to our wonderful island, and that you are now comfortably settled. Also, I hope that you will, in addition to completing

the tasks which you have set yourself to do, take time to enjoy the Island with its sea, sun and sand.

Upon being made aware of the request from the COMESA Court to host its retreat in Mauritius, my Office was more than pleased, and I must say the Government of Mauritius readily accepted our proposal, to facilitate the process.

It is the intention of Government led by Prime Minister Dr the Right Hon. Navinchandra Ramgoolam to make of Mauritius a legal hub and the holding of such an event overhere is more than welcome.

As we all know, the Court of Justice was established under Article 7(1) of the COMESA Treaty signed on 5th November 1993 in Kampala, Uganda and ratified a year later in Malawi on 8th December 1994. The importance of the Court as one of the principle organs of the Common Market cannot be under emphasized.

I understand that currently, the Court is composed of twelve judges, constituting the Appellate and First Instance Divisions. I am pleased to note that Honourable Justice Matadeen , Senior Puisne Judge of Mauritius is a member of the Appellate Division of the COMESA Court of Justice.

The Court has jurisdiction to adjudicate upon all matters which may be referred to it pursuant to the COMESA Treaty. Specifically, it ensures the

proper interpretation and application of the provisions of the Treaty and it adjudicates any disputes that may arise among the member states regarding the interpretation and application of the provisions of the Treaty. The decisions of the Court are binding and final. Decisions of the Court on the interpretation of the provisions of the COMESA Treaty have precedence over decisions of National Courts. To ensure the independence of the Court, Article 9 (2) (c) of the COMESA Treaty provides that the Council shall give directions to all other subordinate organs of COMESA other than the Court in the exercise of its jurisdiction.

Quite clearly, through its duty of ensuring the observance of the rule of law in its interpretation and application of the COMESA Treaty, the Court has an important role to play in the integration agenda of COMESA. I understand that since it began sitting in 2000, a total number of 40 cases including References and Preliminary Applications have been determined. We can only commend the hard work and dedication of our Judges.

The Court has a strategic importance, and this can only grow with time.

As we proceed further with the integration process, and here it will be good to remind ourselves of the launching of the COMESA Customs Union in June 2009 and also the start of the process for a single Free Trade Area for the three Regional Economic Communities (RECs), namely the COMESA, EAC and SADC (Common Market for East and Southern Africa, East African Community and the Southern Africa Development Community), following the Tripartite Summit in Kampala 2008, the COMESA Court of

Justice will be increasingly called upon and will have to play an increasingly prominent role in the harmonization role of the legal instruments in the region. Thus the need to look for ways and means to strengthen the Court.

It is easy to be overwhelmed by the present and unprepared for the future. But today are gathered the key people from different member states and institutions to review the current Strategic Plan of the Court and prepare a new Strategic Plan for the period 2010-2015.

Strategic planning is an organization's process of defining its strategy, or direction, and making decisions on allocating its resources to pursue this strategy, including its capital and people. During this particular process you will no doubt be asking yourselves key questions like: "What do we do?" "For whom do we do it?" "How do we excel?" "The Way Forward". This, I understand implies looking at the vision, listing the priorities, having a mission, looking at the action plans and implementation of those plans. No doubt you will also take this opportunity to look at strategic issues like:

Fair and Timely Case Resolution

Access to Justice

A Strong Judiciary and Workforce

A Sound Infrastructure

Security and Disaster Preparedness

Public Trust, Confidence and Awareness.

In addition, the purpose of this Retreat is also to consider amendments to the Rules of the COMESA COURT OF JUSTICE; this, with the aim to regulate the detailed conduct of the business of the Court.

I can see that there is a lot of hard and tedious work ahead and I wish you fruitful deliberations and as an end product a strong and effective strategic plan for the next five years, that will set the foundation of a still stronger COMESA Court of Justice.

With these few words, I wish you all the best in your endeavours and I thank you for your attention.