SOUTHERN AFRICA GLOBAL COMPETITIVENESS HUB

Technical Report:

2009 Audit on the Implementation of the SADC Protocol on Trade

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List of Acronyms

ASYCUDA	Automated System for Customs Data and Management
AGOA	Africa Growth and Opportunity Act
CET	Common External Tariff
COMESA	Common Market for East and Southern Africa
CTN	Combined Tariff Nomenclature
CU	Customs Union
DTI	Direct Trader Input
DRC	Democratic Republic of the Congo
EAC	East African Community
EFTA	European Free Trade Area
EPA	Economic Partnership Agreement
EPZ	Export Processing Zone
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Area
GDP	Gross Domestic Product
HS	Harmonised System
ICT	Information and Communications Technology
IOC	Indian Ocean Commission
ITC	International Trade Centre
LDC	Least Developed Country
MRA	Mauritius Revenue Authority
MTR	Mid-Term Review
NTB	Non-Tariff Barriers
OSBP	One-Stop Border Post
PSI	Pre-Shipment Inspection
PTA	Preferential Trade Agreement
RISDP	Regional Indicative Strategic development Plan
ROO	Rules of Origin
RTFP	Regional Trade Facilitation Programme
RSA	Republic of South Africa
SACU	Southern African Customs Union
SADC	Southern African Development Community
SARS	Southern African Revenue Services
SCCC	Sub-Committee on Customs Co-Operation (SADC Heads of Customs)
TBT	Technical Barriers to Trade
TIPS	Trade and Industrial Policy Secretariat
UN	United Nations
USAGCH	USAID Southern Africa Global Competitiveness Hub
WB	World Bank
WCO	World Customs Organisation
WGCC	Working Group on Customs Cooperation
WTO	World Trade Organisation

Executive Summary

The study's main conclusions are that:

- The phase down of customs duties for category C products is not progressing in accordance with the original commitments for most Member States with the exception of Mauritius and the Southern African Customs Union (SACU). Malawi remains at her 2004 tariff level reductions while Zimbabwe seems to have maintained one schedule for all Southern African Development Community (SADC) countries as opposed to one for Republic of South Africa (RSA) and another for the rest of SADC as was agreed during the preparation for Tariff Phase Down schedules;
- The potential impact of tariff phase downs on government revenues will have a higher impact on Zambia which imports a high volume of goods from South Africa, but is not significant in the overall context of the economies surveyed;
- The elimination of non-tariff barriers (NTBs) is progressing, again much more slowly than in official undertakings; and
- The implementation of trade facilitation instruments is lagging behind original plans, particularly in critical areas such as the regional customs transit system.

In broad terms, the trends of intra-SADC trade do not appear to be affected by reductions in intra-regional tariffs. More information on this issue is on the annex to this report. However, regional macroeconomic performance in general has continued to improve, although it is expected that more recent statistics will show that the world-wide credit crunch will have a negative impact on economic activity in the region.

It must be said however that there are numerous gaps in the tariff and statistical data available to the report's authors. In some cases the lack of accurate and up to date tariff and trade data has caused difficulties in reaching reliable conclusions. The information available on the national websites of customs and revenue authorities was largely insufficient for the requirements of this study, and generally Member States did not react to direct requests for assistance.

This indicates wider constraints in the efficiency of revenue and statistical collection systems in the region, in the commitment of Member States to honouring their commitments and in the compliance monitoring processes in place at regional (i.e. SADC) level.

Summary of 2009 Phase Down Findings

Country	2009 phase downs notified	2009 phase downs implemented	Comments
Malawi	No	No	Still at 2004 level of tariff reductions
Mauritius	Yes (Through their website)	Yes	OK, though not notified SADC
Mozambique	No	No	Still at 2008 level tariff reduction
SACU	Yes (through SARS website)	Yes	OK
Tanzania	No	No	Still at 2008 tariff level reductions
Zambia	No	No	Still at 2008 tariff level reductions
Zimbabwe	No	No	Still at 2008 tariff level reductions

1. Introduction

The Southern African Development Community (SADC) launched a Free Trade Area (FTA) in August 2008, as part of its regional integration programme to set up a Customs Union in 2010, a Common Market in 2015 and full Economic Union by 2018. This programme was agreed by Member States in the SADC Protocol on Trade of 1996 and expanded under the Regional Indicative Strategic Development Plan (RISDP) of 2003.

Trade is a major engine of economic growth, wealth creation and poverty reduction and the SADC Member States have a vital role to play in assisting the SADC Secretariat to implement an economic framework that facilitates regional trade to the fullest extent.

In order to support the economic convergence necessary to achieve these objectives the SADC Member States undertook to progressively reduce customs duties on intra-SADC trade over a 12-year period starting in 2000/1. In 2007, under the Memorandum of Understanding (MoU) signed between the United States (U.S.) Government and the SADC Secretariat, SADC requested the USAID Southern Africa Global Competitiveness Hub (Trade Hub) to carry out a series of reviews and audits designed to assess progress against the commitments and obligations of Member States, and to propose remedial measures where necessary.

Audits have been carried out in 2007 and 2008; this study is designed to build on these and review the implementation of the recommendations made in these previous reports and assess the implementation of the 2009 tariff phase downs as provided for in the original schedules of commitments.

The commitments made by Member States to reduce their customs duties are presented in their Tariff Offers or Tariff Phase Down Schedules. These include time frames by which tariffs on specific lines would be reduced and to what rate.

In August 2008 SADC officially launched the FTA. Between 2008 and 2012 all the remaining dutiable tariff lines referred to as category C-sensitive products will gradually be reduced to zero with the exception of Mozambique where this date is 2015 for Mozambique's offer to South Africa.

The Trade Hub has been conducting audits on the implementation of the SADC Protocol on Trade as technical assistance to the SADC Secretariat. As per tradition, the 2009 Audit is to be conducted and a preliminary report presented to the Ministerial Task Force on Economic Integration.

The 2009 Audit will focus on following broad issues:

- Outstanding implementation issues from previous Audits (2007 and 2008 update);
- The 2009 tariff reductions for those countries that have effected the 2009 tariff phase downs;
- Trade flows of Category C products still attracting duties and their importance to the following Member State's customs duty revenues:
  - Malawi
  - Mauritius
  - Mozambique
  - Tanzania
  - Zambia
  - Zimbabwe

- Analysis of each Member State's category C schedule.

Since SACU has completed the implementation of the tariff phase down as provided for in the original schedule, the report will exclude the analysis on tariff phase down for SACU but will cover all the other elements.

Four countries namely: Angola, Democratic Republic of Congo (DRC), Madagascar and the Seychelles have been excluded from this report for various reasons. Angola has not yet presented her market access offer while the DRC and the Seychelles have not yet acceded to the SADC Protocol on Trade. Madagascar is currently suspended from SADC and is therefore not included in this audit.

2. Structure of the Report

This report is structured as follows. After an executive summary of findings, background and trade flow trends the report analyses the following issues country by country:

- The status of Tariff Phase Down commitments to date;
- The potential impact on revenue of the category C products tariff reductions;
- The elimination of non-tariff barriers (NTBs) to trade;
- Preferential Trade Arrangements (PTAs) among Member States and with third countries; and
- The implementation of Trade Facilitation Instruments to date.

The report will also review the implementation of recommendations made in previous audits, and conclude by making general comments and recommendations.

3. Approach and Methodology

In contrast to previous such reviews, this audit was primarily desk-based. Member States' websites were used as primary sources for information. This approach offered a revealing insight into the difficulties that confront external attempts to obtain national and regional trade and tariff data, as the authors had to rely mainly on information available in the public domain. In some cases this was not easy to obtain.

In addition, the SADC Member States have not fulfilled their notification obligations nor reported trade statistics to the SADC Secretariat. The most current data available on the Trade and Industrial Secretariat (TIPS) SADC Trade data base is up to 2006. The Member States original tariff phase down schedules are not harmonised up to eight tariff digits, even though a decision was taken to harmonise up to eight digits making compilation of trade statistics difficult.

Valuable statistics were obtained however from the United Nations (UN) International Trade Centre (ITC) and the UN's Comtrade statistical database. It must be noted that significant volumes of this data were drawn from mirror statistics based on South Africa as a primary source.

Broadly, the authors spent a significant element of the three weeks time available attempting to obtain accurate, complete and up to date statistical data on regional trade flows and reliable information on the status of tariff phase-down schedules. More information on these issues is provided later in this report.

In addition the authors reviewed the previous reports, audits and reviews carried out by the Trade Hub and other bodies. The recommendations arising from previous audits have been examined and comments made later in this report.

The current status of Member States' Tariff Phase Down commitments was assessed by comparing their schedules of undertakings against the published duty rates published in national customs tariffs. The impact on Government revenues of the tariff reductions were estimated from the available trade and revenue statistics for the periods involved. The status of Members States' elimination of NTBs and implementation of trade facilitation instruments was analysed from data made available by SADC, the World Trade Organisation (WTO) and the UN ITC.

4. Implementation of Schedules

The SADC FTA was officially launched in August 2008. Under this agreement, Member States agreed to progressively reduce to zero the tariffs they raise on imports from fellow Member States and eliminate non tariff barriers on substantially all trade between them. There are of course exclusions from these undertakings. The objective was for at least 85% of intra-SADC trade to be duty-free by 2008, in good time for 2010 when the SADC Customs Union will be put into operation.

These tariff reductions are just one of many initiatives being undertaken to assist SADC's drive towards regional economic convergence. The SACU countries carry out the overwhelming majority of intra-SADC trade, and have been the first to implement their undertakings to reduce to zero customs duties on imports from other SADC Member states.

The status of the tariff phase-down commitments to South Africa (RSA) and SADC of the six countries[1] implementing the tariff phase downs has been difficult to verify due to non-notification of the instruments effecting the tariff phase down by Member States. The possible revenue impact of further tariff reductions this year has also been difficult to verify.

One complicating factor is the COMESA membership of four of the countries under review, which allows for duty-free trade between COMESA members. In addition several of the countries have bilateral trade agreements with each other. If traders have a choice of preferential regimes they will naturally select the regime offering the lowest tariff rates. There are of course other considerations, such as the complexity of the regulatory framework, particularly in relation to the rules of origin. These issues will be explored later in this report.

The phase-down commitments of these countries are heavily weighted towards the year 2008, so this study assumes even greater importance. The report focuses on six countries with regard to tariff phase downs because the SACU countries have completed the tariff phase down as provided for in the original schedule.

Tables I and II below as shown originally in the 2007 audit report show the undertakings for trade with SADC and South Africa respectively:

[1] Madagascar is not included because of the current suspension from SADC

SADC Tariff Phase-Down Offers: SADC without South Africa
(Per Cent of Tariff Lines at Zero)

Table 1

Country offering Preference	#Tariff Lines	2001 %	2005 %	2006 %	2007 %	2008 %	2012 %
Malawi	5,443	33.4	33.4	48.7	85.3	85.3	99.7
Mauritius	5,479	69.7	90.5	90.5	90.5	90.5	100.0[2]
Mozambique	5,246	30.1	30.1	30.1	30.1	94.0	99.6
SACU	7,802	63.9	94.6	99.3	99.3	99.3	99.3
Tanzania	6,215	17.5	24.4	42.8	43.1	86.3	99.3
Zambia	6,066	54.2	54.2	95.9	95.9	95.9	100.0[3]
Zimbabwe	7,167	30.7	30.7	72.2	72.2	89.8	98.7

Source: WT/REG176/4, 7 February 2007

SADC Tariff Phase Down Offers: South Africa
(Per Cent of Tariff Lines at Zero)

Table II

Country offering Preference	#Tariff Lines	2001 %	2005 %	2006 %	2007 %	2008 %	2012 %
Malawi	5,443	33.4	33.4	34.8	34.8	84.9	99.7
Mauritius	5,479	69.4	69.7	69.7	90.5	90.5	100.0[4]
Mozambique	5,246	28.1	28.1	28.1	28.1	92.6	92.6
Tanzania	6,215	15.7	15.7	15.7	15.9	84.6	99.3
Zambia	6,066	32.1	32.1	40.0	40.0	95.9	100.0[5]
Zimbabwe	5,957	32.1	44.0	48.4	55.4	71.6	82.1

Source: WT/REG176/4, 7 February 2007

4.1 2008 Tariff Phase Downs

The fact that there is still no agreed definition of “substantially all trade” (SAT) in the WTO even though there is an understanding on the interpretation of Article XXIV, competing approaches to the interpretation to at least for 85% of intra-SADC trade to be duty-free by 2008, and 95% by 2012/2015. However, in reviewing Member States implementation of the obligation, to eliminate all barriers to trade, there seems to be different understanding of what the 85% intra-SADC trade means. Some Member States have adopted a definition of product coverage in terms of a certain percentage of tariff lines using 85% of all HS tariff lines at eight-digit level while others had adopted a definition based on calculation of the percentage of trade carried out under the preferential rules of origin applying.

In terms of intra-SADC imports, it has been a challenge to establish whether SADC FTA has attained a threshold of 85% intra-SADC trade as free of duty. It can however be indicated that the top four most common product categories among the 11 SADC members for which

[2] The computation did not take into account chapter 93 for which there was agreement to exclude from the SADC Protocol on Trade. Both Zambia and Mauritius excluded chapter 93 as agreed during the negotiations on the tariff phase downs.
[3] See foot note 2 above
[4] Does not include Chapter 93 on which Member States agreed should be excluded from the SADC Protocol on Trade
[5] See footnote 4 above

data were available are minerals, machinery, base metals, and chemicals. In terms of global imports, machinery appears in the top three most common product categories for all SADC members except Lesotho and South Africa. In terms of global exports, in the case of Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Swaziland, and Zambia, a single product category accounts for at least 47 per cent of total global exports. Of the remaining three countries, South Africa's global exports are the most diversified, followed by those of Namibia, Zimbabwe and Tanzania.

4.1.1 SACU

2008 Summary: As of January 2008, SACU had notified their 2008 SADC Schedule to the SADC Secretariat. The amendment indicated the phase down of duties in terms of the FTA with SADC. The amendment also reduced the SADC rates of duties in chapter 87 to a free rate of duty for 2008. A number of tariff lines in chapter 17 that were categorized as E (excluded) in the original offer (2000) were removed and declared free according to the 2008 tariff phase down leaving only 4 lines out of the original 13 category E products. In addition, SACU established a new tariff subheading for abalone to monitor the effect of law enforcement efforts being made and thus essential that there was accurate data on abalone. For this purpose additional subheadings were inserted in Schedule No.1 Part 1 for abalone products.

The introduction of a new tariff line introduced a duty rate for abalone which was pointed out as not complying with the original offer.

4.1.2 Malawi

2007 Summary: For the SADC Member States offer excluding South Africa, 33.4 per cent of Malawi's total tariff lines[6] were duty-free (Category A) for qualifying products and based on 2002-2004 imports from SADC Member States, this accounts for 24.0 per cent of the imports from non-SACU SADC countries.[7] With regards to South Africa, 33.4 per cent of Malawi's total tariff lines were duty-free for products of South African origin. Based on 2002-2004 imports from South Africa, this is 24.9 per cent of imports.[8] The 2007 audit identified discrepancies regarding applied SADC tariff rates being higher than the MFN tariff rates and some of these were rectified. The Malawian authorities had committed to correct the remaining anomalies. There was no evidence in 2008 that these anomalies had been corrected. At the November 2007 Ministerial Task force on Economic Integration meeting, it was indicated that the impact of the tariff cuts on government revenue would be carried out during the mid-term review of Malawi’s budget in December 2007 and consideration to effect further tariff reductions would be given after the budget review.

2008 summary: No tariff phase down was implemented in 2008. During the February 24 2008 Senior Officials Task Force meeting, held in Lusaka, Zambia, Malawi reiterated its commitment to the SADC Protocol on Trade and further informed the meeting of the following: That

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[6] Malawi's tariff schedules applied to SADC Members and to RSA are each composed of 5,443 tariff lines at the 8-digit tariff level. All lines contain *ad valorem* rates. The base rates used by Malawi for implementation of tariff liberalization are MFN 1998 rates.

[7] Trade figures are based on the average value of Malawi's imports from SADC Members (excluding RSA) in 2002-2004, involving 2,606 tariff lines (47.9 per cent of total tariff lines).

[8] Trade figures are based on the average value of Malawi's imports from South Africa in 2002-2004, involving 4,381 tariff lines (80.1 per cent of total tariff lines).

- the second tariff reduction for 2007 was not implemented as earlier undertaken because there was no supplementary budget; and
- the 2008/9 budget framework will determine the level of tariff reduction that can be effected for 2008 and will take effect after the June/July national budget.

4.1.3 Mauritius

2007 Summary: Mauritius published its 2007 SADC tariff reduction schedule through Government Notice No 251 of 2006, which came into force on January 1, 2007. 69.7 per cent of *Mauritius*' total tariff lines[9] were duty-free for products of SADC origin (except RSA). Based on 2002-2004 imports from SADC Members (excluding Republic of South Africa - RSA), 40.3 per cent would enter duty free.[10] 69.4 per cent of Mauritius' total tariff lines were duty-free for products of South African origin; in terms of 2002-2004 imports from South Africa, the corresponding figure amounts to 53.6 per cent.[11] In 2006 Mauritius combined its differentiated and RSA tariff offers as the MFN and SADC tariff rates for most goods had moved to zero. Since submitting their 2007 SADC phase down schedules Mauritius had made significant reductions to their MFN tariff, and therefore they reviewed and lowered their tariff phase schedules rates for SADC partners to maintain a preferential margin in favour of SADC.

2008 Summary: Mauritius notified its 2008 SADC Tariff Phase down to SADC Secretariat. A review of this notification confirms that Mauritius had effected further tariff reductions on the 2007 rates. In implementing the 2008 tariff phase down, Mauritius also had introduced specific duties on products in chapters; 62, 64 and 90 categories as category C products when they had ad valorem duties in the original offer. Twenty-one (21%) percent of tariff lines for goods originating from RSA attracted duty and 8% of the lines for goods originating from SADC as of January 2008. A number of discrepancies were also indentified in the gazetted schedule. Apart from chapter 93, Mauritius has no category E (exemptions) in her schedule.

4.1.4 Mozambique

According to Mozambique, as part of the implementation agreement in 2000 they negotiated for an agreement to extend the tariff phase down on sensitive products over fifteen-year period for products originating from South Africa.

2007 Summary: 30.1 per cent of *Mozambique*'s total tariff lines[12] were duty-free for products of SADC origin (except RSA) and 28.1 per cent for products of South African origin. In the 2007 audit Mozambique was found to be lagging behind with her tariff reduction commitments.

2008 Summary: Mozambique notified the implementation of the 2008 tariff phase down and was compliant with their original tariff offer. Seven percent of tariff lines for goods originating

[9] Mauritius' tariff schedules applied to SADC Members and to RSA are each composed of 5,479 tariff lines at the 8 digit tariff level. All lines contain *ad valorem* rates. The base rates used by Mauritius for implementation of tariff liberalization are MFN 1999 rates.
[10] Trade figures are based on the average value of Mauritius' imports from SADC Members (excluding RSA) in 2002-2004, involving 445 tariff lines (8.1 per cent of total tariff lines).
[11] Trade figures are based on the average value of Mauritius' imports from South Africa in 2002-2004, involving 3,739 tariff lines (68.2 per cent of total tariff lines).
[12] Mozambique's tariff schedules applied to SADC Members and to RSA are each composed of 5,246 tariff lines at the 8-digit tariff level. All lines contain *ad valorem* rates. The base rates used by Mozambique for implementation of tariff liberalization are MFN 1998 rates.

from RSA attracted duty and 93 percent of the tariff lines were free of customs duties as of January 2008. For SADC six percent of tariff lines attracted duty and 94 percent were free of customs duties as of January 2008.

4.1.5 Tanzania

2007 summary: The June 2007 Audit, found Tanzania to be non-compliant in terms of implementing the SADC tariff phase down and that because Tanzania is a member of the East African Community (EAC) and as such applying a common external tariff, no amendments were made to the Schedule of offers to SADC and RSA to take into account the changes brought about by the establishment of the EAC Common External Tariff (CET). Some products' rates had gone up as a result and this did not conform to the requirements of Article 4:4 of the SADC Protocol on Trade. However, a number of products had their duty rates reduced as a result of the introduction of the EAC CET.

2008 Summary: Tanzania notified the 2008 tariff phase down.[13] While Tanzania had made some positive progress in implementing their tariff phase down, they introduced a trade levy of 2% on all imported goods regardless of origin.

In addition, the 2008 audit found discrepancies between the number of category C products in the two schedules (2000 schedule and the 2008 one). In some HS chapters the number of category C had increased e.g. chapters 4, 7 and 9 to name a few. There was need to review the schedules line by line and address the discrepancies. Furthermore, Tanzania still needed to address some anomalies with regard to applied rates and those in the original offer.

4.1.6 Zambia

2007 summary: In the 2007 Budget, a number of tariff lines were either reduced or increased. Customs duty rates on woven polyester staple fibres of headings 5208.11 90, 5208 19 90, 5513 19 90 and 5513 39 90 were reduced from 25% or K7000 per kg whichever is greater respectively to 15%. In addition, the 2007 budget announcement increased duty rates on woven polyester staple fibres of headings 5208 11 10, 5208 12 10, 5208 19 10, 5513 19 10, 5513 29 10 and 5513 39 10 from 0% to 15%. According to the Zambian authorities this only applies to MFN rates and does not affect the SADC offers. These amendments are intended to harmonize duty rates for like products and to promote growth of the local textile industry respectively, for purposes of tariff treatment.

2008 summary: Zambia gazetted the 2008 tariff phase down (SI 103 of 2007 but a number of discrepancies have been identified. Product lines 4819 60.00 and 4823 20.00 which should have been at 0% in 2008 are instead attracting 25% duty and tariff lines 4820 1000 and 4823 4000 which should have been at 25% in 2008 are now at zero for products originating from SADC excluding RSA. The consultants were unable to establish whether it was a print error or not. In addition tariff line 6209 9900 which should have been at 0% in 2008 is instead attracting duty of 25% for products originating from SADC excluding RSA.

[13] A notice issued by Tanzania Revenue Authority notifying the general public that The SADC 2008 tariff rates had become effective from 1 January 2008. www.tra.gov.tz

4.1.7 Zimbabwe

2007 Summary: The June 2007 Audit found that Zimbabwe had published its 2007[14] SADC tariff reduction schedule (meant to cover RSA), this entered into force on January 1, 2007 repealing the 2002 instrument but not the differentiated offer (excluding RSA). The reductions however were not in line with Zimbabwe's tariff offer of 2000 as they were below the 2007 levels.

The tariff phase down implemented in terms of the 2002 Statutory Instrument and the successor 2006 Statutory Instrument 257, applies to all SADC countries and yet this was the original tariff phase down offered to South Africa. Zimbabwe had not implemented any tariff reductions on the differentiated offer in terms of the SADC Protocol on Trade.

2008 summary: Zimbabwe gazetted one offer for SADC Member States for 2008 in which offer defined "Member State" as a Member of the SADC with the exception of the Non Least Developing Countries. According to the Zimbabwean authorities, they did not see the need to gazette the differentiated offer because the countries concerned would trade with Zimbabwe either under the COMESA trade regime or bilateral trade agreements. This decision however implied that Lesotho and Tanzania who were not members of COMESA nor had bilateral agreements with Zimbabwe were left out and forced to trade under the terms originally meant to be for products originating from South Africa. During the Ministerial Taskforce Meeting in November, Zimbabwe committed to rectify the situation.

Zimbabwe had under the Customs and Excise (SADC) (Suspension) (Amendment) Regulations No. 6 of 2007 made tremendous strides in reducing tariffs on a number of lines and has in some instances gone beyond its scheduled commitments for 2008.

However, there were a number of tariff lines that had not been reduced in accordance with the 2000 schedules and new tariff lines that were introduced. Although there was commitment by Zimbabwe to gazette the differentiated offer, a copy was never submitted to SADC Secretariat.

4.2 2009 Sensitive Products Schedules

The current schedules of commitments were prepared based on Harmonised System (HS) 1996 and since then the HS has been amended twice, in 2002 and 2007. It is imperative that SADC Member States update their Schedules of commitments to the SADC Protocol to ensure clarity of product coverage. Although the HS plays an important role in terms of providing a uniform structural framework for recording Member States' tariff concessions/commitments and ensuring clarity of product coverage of the SADC Protocol on Trade, it should be recognized that HS amendments pose certain difficulties. The SADC Secretariat has therefore prepared draft category C schedules for Member States and these are still under consideration by the Member States before they can considered binding documents and made available to the public.

[14] Statutory Instrument 257 of 2006: Customs and Excise (Southern African Development Community) (amendment)

4.2.1 Draft Sensitive Products Schedules based on HS 2007

The creation of Schedules based on different breakdowns and national codes presents its own challenges in relation to data collection for the assessment of intra-SADC trade and in ensuring common interpretations. In order to implement a Ministerial decision that required Member States to update their Tariff Schedules and to facilitate the implementation of the HS amendments and to ensure common interpretation, the SADC Secretariat prepared draft updated Tariff phase down schedules for Category C products harmonised up to eight-digits and updated to HS 2007 using the approved harmonized SADC Combined Tariff Nomenclature (CTN) based on HS 2007. The SADC CTN was approved by the SADC Technical working group on the SADC Customs Union and the Committee of Ministers responsible for Trade in 2007.

Member States are now being requested to verify and certify before submission to multilateral verification and adoption as binding schedules to be uploaded onto the SADC FTA Website.

In summary, Table below shows that the numbers of sensitive and excluded tariff lines have remained within the agreed threshold of not exceeding 15 percent of the total tariff lines to ensure that the FTA covers at least 85 percent of intra SADC trade.

Country	Number of Category C Products Lines Offer to SADC (based on HS 2007) up to 8 Digits						
	Total number of lines original offer	Total number of tariff lines (Updated Offer	Sensitive Products (original Offer 2000)	Sensitive Products based on HS 2007	Excluded Original offer 2002	Excluded (based on HS 2007	Coverage (%) Based on HS2007
Madagascar	n/a	n/a	n/a	n/a	n/a	n/a	
Malawi	5 443	8,993	777 (14%)	1484 (17%)	19 (0.3%)	67 (0.75%)	99.25
Mauritius	5,479	8,993	520 (10%)	437 (5%)	64 (1%)	64 (0.72%)	99.28
Mozambique	5,246	8,993	299 (6%)	632 (7%)	19 (0.36)	69 (0.77%)	99.23
SACU	7,804	8,993	33 (0.42%)	0	33 (0.42%)	31 (0.35%)	99.65
Tanzania	6,215	8,993	790 (13%)	1168 (13%)	43 (0.7%)	74 (0.83%)	99.17
Zambia	6,066	8,993	251 (4%)	393 (4%)	64 (1%)	64 (0.72%)	99.28
Zimbabwe	7,167	8,993	410 (6%)	627(7%)	89 (1%)	176 (1.96%)	98.04

Country	Number of Category C Products Lines Offer to South Africa (based on HS 2007) up to 8 Digits						
	Total number of lines original offer	Total number of tariff lines (Update d Offer	Sensitive Products (original Offer 2002)	Sensitive Products based on HS 2007	Excluded Original Offer 2002	Excluded (based on HS 2007	Coverage (%) (based on HS 2007)
Madagascar	n/a	n/a	n/a	n/a	n/a	n/a	
Malawi	5 443	8,993	803 (15%)	1608 (17%)	91 (2%)	67 (0.75%)	99.25
Mauritius	5,479	8,993	520(10%)	437(5%)	64 (1%)	64 (0.72%)	99.28
Mozambique	5,246	8,993	370(7%)	632((7%)	31 (0.6%)	69 (0.77%)	99.23
Tanzania	6,216	8,993	903(15%)	1454(16%)	9 (0.1)	74 (0.83%)	99.17
Zambia	6,066	8,993	254(4%)	406(5%)	64 (1%)	64 (0.72%)	99.28
Zimbabwe	5,957	8,993	751 (13%)	1063(12%)	39 ((0.75)	40 (0.45)	99.55

4.3 2009 Sensitive Products tariff reductions and potential impact on revenue

The economic crisis will have a negative effect on trade in general for all SADC Member States with those that are reliant on export of commodities because of the declining prices for these commodities. The declines in commodity prices and export volumes have led to a decrease in export revenues which could constrain a country's ability to finance imports thus reducing import volumes and revenue from import duties. These among others could be the reason why most Member States have been reluctant to implement the 2009 tariff phase downs.

However, the impact of lower export revenues and loss of customs duty revenue on total government revenue will differ from country to country depending on how much each of the different sources for government revenue contribute to total government revenue. For example South Africa's revenue from taxes on international trade and transactions accounted for only 4.72 % of the total tax revenue for 207/08. For those countries that are heavily dependent on revenue from customs duties, they might experience the negative impact on revenue more than those that are less dependent on such revenues. However, the impact should not be much as all SADC countries have been restructuring to reduce their dependence on customs duty for government revenue and most of them have already lowered duties applicable to category C products either under the COMESA, EAC and bilateral trading arrangements.

The analysis below is very limited in that it was not possible to obtain all the relevant information to facilitate a more detailed analysis of possible impact on revenue. The findings so far are indicative only though the final conclusion would be the same even with a comprehensive analysis.

4.3.1 SACU

With the implementation of the 2008 tariff phase down it means that almost 99.65% of the tariff lines for products originating and meeting the rules of origin are now free of customs duties into the SACU Member States. SACU has completed the tariff phase down leaving only a small number of products as category E. On February 13, 2009 under Government

Gazette No. 31892 issued by Hon. N Nene Deputy Minister of Finance, the SACU rate for sub-chapter 1701(Sugars and Sugar Confectionary) was amended from free to 6c/kg for SADC Member States and other trading partners.

In addition, with regard to clothing and textiles products, South Africa is exploring how best to assist the country's ailing clothing and textiles manufacturing industry. The clothing and textiles sector has in recent years come under a lot of pressure from cheap imports mainly from China and the current global financial crisis has led to calls from the clothing and textile industry for government to enact measures to protect them. A draft rescue package has been drafted which proposes 12 policy measures among them proposals to increase import duties on clothing up to about 45% (bound rate), to implement safeguard measures and closing loopholes which allow other SADC Member States and SACU countries to be used as conduits for imports into South Africa. These proposed measures could have implications on the MMTZ and other textiles and clothing exports from SADC Member States such as Mauritius.

4.3.2 Malawi

No tariff phase down has been implemented by Malawi in 2009. Therefore Malawi's tariff treatment applied to SADC Member States is based on her 2004 phase down level. Malawi has continued to lag behind and indicated at the April 2009 meeting held in Gaborone that due to budgetary constraints, Malawi would not be in a position to effect any tariff phase downs in 2009. Sixty nine (69%) percent of tariff lines for goods originating from RSA attract duty and 68% of those originating from the rest of SADC. It can be concluded that most trade between Malawi and other SADC Member States is taking place under the COMESA and bilateral trade arrangements since only category A products are at zero.

The approved 2007/08 budget total of revenue and grants originally estimated at K163.9 billion is being revised to K174.9 billion as tax collection and grant receipts are higher than expected. Of this K11.1 billion total increase, K4.9 billion is from domestic revenue and K6.2 billion arises from additional grants. Nonetheless, government departments collected K800 million less than the targeted non-tax revenue. Malawi's development partners have demonstrated their confidence in the country again by increasing pledged grants of K65.7 billion which Parliament approved for 2007/08 to K71.8 billion.

Using these underlying assumptions the level of resources in the 2008/2009 budget comprising revenues and grants is estimated at K208.1 billion. This represents an increase of 27 per cent over the approved 2007/08 budget and 19 per cent over the revised estimates for that year. Total domestic revenue is estimated at K118.2 billion of which tax revenue is estimated at K107.3 billion representing an increase of 24.5 per cent over the revised estimate for 2007/2008. Pledges of grants amount to K89.9 billion for the 2008/09 budget which represents a 36.9 per cent increase over the 2007/08 figure and 24 percent over the revised figure of K71.8 billion.

The latest calculations of Malawi's revenue losses arising from the projected tariff phase-downs are shown in the following table:

Country	Value in 2007, USD	Estimated 2007 Tariff Revenue	Estimated 2009 Tariff Revenue	Estimated 2009 Tariff Loss	Comments
South Africa	401,035,000	23,985,000	16,635,000	7,350,000	
Mozambique	167,801,000	1,784,000	1,217,000	566,000	
Tanzania	82,465,000	462,000	320,000	142,000	
Zimbabwe	47,521,000	0	0	0	COMESA member
Zambia	32,042,000	0	0	0	COMESA member
TOTAL	730,864,000	26,231,000	18,172,000	8,058,000	

Source: ITC / USAGCH

Malawi's phase down schedule for category C products is heavily back loaded with reductions only scheduled to take place starting in 2009. Tariff rates during the period of 2000 – 2008 remained the same. In computing the estimated tariff loss for the first increment of category C phase down, it has been assumed that tariff revenue in 2008 is approximately equivalent to that of 2007, for which figures were available.

South Africa was Malawi's primary trading partner in 2007, with products accounting for a 29% share in Malawi's imports. 493 product lines at the six digit level entered Malawi in 2007 from South Africa at a value of approximately $401 million USD. Of these lines, 92 fell under Category C. In computing the estimated tariff loss resulting from (anticipated) tariff phase down in 2009, product lines of South African imports valued under $100,000 for the year of 2007 were not included.

Category C product lines valued under $50,000 USD were excluded from estimated revenue losses for Malawi's other primary SADC trading partners; Mozambique and Tanzania, accounting for 12% and 6% of imports respectively. Taken together, products from Malawi's five primary SADC trading partners accounted for a 53% share of Malawi's total imports. It should be noted that all products from Zimbabwe and Zambia, fellow members of COMESA, received duty free treatment. A preferential trade agreement exists between Mozambique and Malawi, providing duty free treatment with the exception of 12 product lines. It is unclear if this agreement is being implemented and the revenue loss indicated from Mozambique imports have been assessed at indicated Category C rates.

Implementing the 2009 tariff rate as indicated in Malawi's SADC phase down schedule would result in an estimated loss of $8 million USD; a majority of this value, $7.3 Million USD, coming from South Africa.

All other SADC Member States accounted for no more than 0.7% of Malawi's imports and includes Swaziland (0.4%), Botswana (0.2%) and Mauritius (0.1%). These were not included in revenue loss estimations.

4.3.3 Mauritius

Mauritius effected the 2009 tariff phase down in December 2008 which also reduced category C (sensitive) products to about six percent of the total tariff lines from about 10% in January 2008. Although Mauritius has in a way gone beyond her commitment for 2009 in terms of tariff lines categorised as sensitive, a number of tariff rates are higher than what would apply for 2009 reduction. Mauritius also informed the CMT Meeting of June 2009 that she would not be implementing any further tariff reduction until an assessment has been conducted on the impact of the global economic recession on their economy.

A review of the reduction so far brings out a number of discrepancies between the applied rates and the rate for 2009 in the 2000 original schedule. Below is a list of those products where the applied rate is high than what it should be in 2009.

HS	DESCRIPTION	CATEGORY	2009 Rate of duty	Applied Rate in 2009
0902.30.00	Black tea (fermented) and partly fermented tea, in immediate packings of a content not exceeding 3 kg	C	24	30
0902.40	Other black tea (fermented) and other partly fermented tea	C	24	30
0902.40.10	---In immediate packings exceeding 3 kg but less than 5kg	C	24	30
0902.40.90	---Other	C	24	30
0910.20.90	---Other	**C**	9	10
1101.00.10	---Packed for retail sale	C	9	12
1101.00.90	---Other	C	9	12
1517.10.00	- Margarine, excluding liquid margarine	C	9	12
2201.10.21	----In closed bottles or other containers, ready for drinking	C	24	30
2201.10.29	----Other	C	24	30
2201.90.00	- Other	C	24	30
2202.10.10	---Mineral waters, not aerated	C	24	30
2202.10.9	---Other	C	24	30
2202.90.90	---Other	C	24	30
2309.10.00	Dog or cat food, put up for retail sale:	C	9	12
2501.00.11	---- Coarse salt	C	9	12
2501.00.19	----Other salt	C	9	12

In 2006, Mauritius embarked on plan to improve trade competitiveness. A three-year program to liberalize tariffs and turn Mauritius into a duty-free island aimed at levelling the playing field between producing for the domestic and export markets. In the first year, the maximum tariff was to be lowered from 65 percent to 30 percent, and the number of bands reduced from seven to three. Subsequently, revenues come down to 0.1 percent of Gross Domestic Product (GDP) by *2008- 2009* from one percent before reforms. As a result Mauritius tariff reductions are also aimed at achieving the set goals mentioned above.

Country	Value in 2007, USD	Estimated 2007 Tariff Revenue	Estimated 2008 Tariff Revenue	Estimated 2009 Tariff Revenue	Estimated 2009 Tariff Loss	Comments
South Africa	286,782,000	6,452,000	5,162,000	3,871,000	1,290,000	
Zambia	12,586,000	0	0	0	0	COMESA member
Swaziland	9,851,000	0	0	0	0	COMESA member
TOTAL	309,219,000	6,452,000	5,162,000	3,871,000	1,290,000	

The Category C schedule for Mauritius began phasing down tariffs in 2008, with rates held steady during the course of 2000 – 2007.

Compared to other SADC countries, Mauritius was far less dependent on SADC partners for its imports. South Africa remained the largest trading partner of all SADC Member States (ranked 4th overall) accounting for 7.4% of Mauritius imports at a value of approximately $286.8 million USD. Of the 373 product lines imported at a value equal to or above $100,000 USD per year, 31 entered under category C. South Africa is the primary source of SADC related customs revenue and implementation of Category C tariff rates would result in an estimated loss of $1.29 million USD in 2009.

Zambia and Swaziland, each accounting for approximately 0.3% of Mauritius imports, were the other primary SADC trading partners. Given the relatively low value of imports from these two countries, a cut off threshold was set at value of $30,000 per year, per Category C product line. Mauritius imported two products from Zambia in 2007, cotton products and maize, neither of which had an applicable Tariff. Swaziland, a COMESA member, receives duty free access to the Mauritius market. The remaining SADC Member States that had registered trade with Mauritius, Zimbabwe and Mozambique, each accounted for approximately 0.1% of imports.

The estimated revenue loss for Mauritius does not take into account additional tariff reductions that may have taken place. A review of the Mauritius Customs Tariff Schedule (HS 2007 Effective as from June 7, 2008) indicates that, where tariffs are applied, a rate of 30% is never exceeded. Furthermore, when applied, most tariffs are in the range of 10% - 15%. Given the current state of play, it can be concluded that customs revenue loss for Mauritius will be far less than the estimated $1.29 million USD as determined in this exercise.

4.3.4 Mozambique

Parliament made a block approval of Mozambique’s tariff phase down program from 2001 up to 2015. However, each year every Member State is expected to notify the SADC Secretariat on the implementation of that year’s particular tariff phase down. Mozambique has not notified her tariff phase down for 2009. Mozambique effects tariff reductions in the second half of the year as opposed to the 1st of January each year and this could be the reason why no notification has been made yet. During the CMT meeting Mozambique informed the meeting that they had effected the 2009 tariff phase down. A verification mission will be undertaken by the consultants to confirm the implementation of the 2009 tariff phase down sometime in September 2009.

According to Mozambican authorities, based on 2007, most Mozambican exports are destined to the Organisation for Economic Co-operation and Development (OECD) countries with Mozambique’s exports to SADC made up 20.78% of the total, of which 17.18% of the total was accounted for by South Africa. Mozambique's imports from the SADC region, constituted 35% of the total. Mozambique's import profile is limited in terms of its product mix, with over 40% of imports being accounted for by four HS chapters, machinery, electrical goods, vehicles and cereals. With the extended period for tariff phase-downs that Mozambique has negotiated the impact on her revenues will be minimal year to year.

Country	Value in 2007, USD	Estimated 2007 Tariff Revenue	Estimated 2009 Tariff Revenue	Estimated 2009 Tariff Loss	Comments
South Africa	312,981,000	59,466,000	58,223,000	1,242,000	Large trade increase
Malawi	9,000	2,000	1,000	1,000	
Mauritius	4,000	1,000	1,000	0	
Tanzania	10,000	2,000	1,000	0	
Zambia	1,000	1,000	1,000	0	
Zimbabwe	12,000	2,000	1,000	1,000	
TOTAL	313,017,000	59,474,000	58,228,000	1,244,000	

4.3.5 Tanzania

Tanzania like Mozambique make a block approval of the tariff phase down schedules and only issues notices very year informing the public that new tariff rates were in force for products originating from SADC.

Bilateral contact with the Tariff Division of the Tanzania Revenue Authority (TRA) confirms that these reduced down duty rates have been implemented in their 2009 tariff, though it was not possible to obtain independent confirmation of this. However, no such notice has been notified to SADC Secretariat and thus no mission was taken to Tanzania to verify this through the ASYCUDA system and confirm the implementation of the 2009 tariff phase down and also whether the outstanding issues from 2007 and 2008 audits findings have been addressed.

When this report was presented to the Committee of Ministers' responsible for Trade, Tanzania indicated that they had not effected the 2009 tariff reductions citing problems related to the global economic recession.

Country	Value in 2007, USD	Estimated 2007 Tariff Revenue	Estimated 2009 Tariff Revenue	Estimated 2009 Tariff Loss	Comments
South Africa	61,123,000	18,337,000	14,245,000	4,091,000	
SACU ex RSA	23,000	3,000	2,300	700	
Malawi	6,000	1,000	700	300	
Mauritius	3,000	500,	300	200	
Mozambique	17,000	2,000	1,500	500	
Zambia	18,000	2,000	1,500	500	
Zimbabwe	2,000	300	200	100	
TOTAL	61,192,000	18,345,800	14,251,500	4,093,300	

These estimations show that Tanzania stands to lose about US$4 million in revenue as it reduces its average tariff rate on the importation from SADC countries of category C goods. The reduction is from 30% in 2007 to 15% in 2009. The reduction is mitigated somewhat by a significant increase in the value of imports from South Africa, up from approximately US$400 million in 2007 to US$500 million in 2008. An assumption has been made that imports in 2009 will stay approximately level with the 2008 figure.

4.3.6 Zambia

Zambia has not notified the 2009 phase down even though it was announced during the April 2009 Trade Negotiating Forum (TNF) Meeting that Zambia had effected the 2009 Tariff phase downs. As a result no assessment of the status of Zambia's tariff phase-down schedules in 2009 is possible until current customs duty rates are available. However, as noted in the 2008 audit report only four (4) per cent of lines for goods originating from South Africa attract duty and about three (3) per cent of lines for the rest of SADC as of January 2008.

In the 2009 budget, Zambia, announced that in order to foster a strong manufacturing sector, with intent to achieve broad-based economic growth and reduce dependency on imports, reclassified and re-categorise certain goods with a view to lowering customs duty rates. The amendments were on materials mainly used in the manufacturing and textile industry namely crude vegetable oils, grey fabric and packaging materials. To encourage investment and reduce the cost of doing-business, customs duties were on selected capital equipment. In addition, Zambia has increased duty on petroleum products (2710) from 5% to 25%[15]. It is not clear whether this increase in duty excludes import from SADC Member States.

On the basis that only four and three per cent of goods originating from South Africa and SADC respectively attract duties, the potential impact on Zambia's revenues will be minimal in 2009. Between 2008 and 2009 Zambia has offered to reduce approximately 55% of its remaining dutiable (category C) tariff rates imposed on SADC countries and RSA. Of these, approximately 55% of tariff lines represent a reduction from 25% to 15% and 45% of the lines a reduction from 15% to 10%. These calculations make the assumption that the categories of goods imported are evenly spread.

Country	Value in 2007, USD	Estimated 2007 Tariff Revenue	Estimated 2009 Tariff Revenue	Estimated 2009 Tariff Loss	Comments
South Africa	1,883,068	6,214	3,728	2,486	
Malawi	12,165	0	0	0	COMESA member
Mauritius	8,004	0	0	0	COMESA member
Mozambique	54,102	332	204	172	
Tanzania	23,485	134	88	46	
Zimbabwe	111,028	0	0	0	COMESA member
TOTAL	2,091,852	6,680	4,020	2,704	

[15] Reported by Global Trade Alert.

4.3.7 Zimbabwe

Zimbabwe has not notified the 2009 phase down even though it was announced during the April 2009 TNG Meeting that Zimbabwe had effected the 2009 Tariff phase downs. At the committee of Minister's meeting in June 2009, Zimbabwe indicated that she would not be in a position to implement the 2009 tariff phase downs due to the economic situation which is not favourable. According to the national budget for 2009, Zimbabwe's export performance has been deteriorating over the years, and as a result, the country has been experiencing balance of payments problems with a deficit of US$410 million being recorded in 2008, from US$33 million in 2007. In 2008, exports under performed, amounting to US$1.376 billion compared to US$1.606 billion in 2007. This represents a 14.32% decline in exports of goods and services. With regard to imports, they increased by 7.6%, from US$1.9 billion in 2007 to US$2 billion in 2008. Zimbabwe also suspended duty on basic commodities from May 2008 to address some of the food security challenges which contributed towards poor customs duty performance.

Country	Value in 2007, USD	Estimated 2007 Tariff Revenue	Estimated 2009 Tariff Revenue	Estimated 2009 Tariff Loss	Comments
South Africa	55,476,050	14,923,057	13,433,308	1,489,749	
SACU ex RSA	417,981	112,744	66,897	45,847	
Malawi	171,572	0	0	0	COMESA member
Mauritius	9,622	0	0	0	COMESA member
Mozambique	172,220	46,499	27,555	18,944	
Tanzania	937	252	149	103	
Zambia	110,538	0	0	0	COMESA member
TOTAL	2,420,792	15,082,552	13,527,909	1,554,643	

Between 2007 and 2008 there was a significant increase in imports into Zimbabwe from RSA, which would greatly reduce the potential revenue losses if Zimbabwe's tariff phase down were to be implemented.

5 Elimination of Non-Tariff Barriers (NTBs) to Trade[16]

In pursuance of the Protocol's provisions on NTBs, the 6th Special Meeting of the SADC Committee of Ministers of Trade and Industry held in Dar es Salaam, Tanzania on November 8, 1999 agreed on two broad issues relating to NTBs, namely:

- core NTBs that should be eliminated immediately on commencement of the FTA implementation process; and
- other NTBs for gradual elimination.

There has been substantial progress in the reduction of a number of these core NTBs since this time. The core NTBs were identified as:

- Cumbersome customs documentation and procedures;
- Cumbersome import and export licensing/permits;

[16] Most of the information is extracted from the 2007 NTB Studies facilitated by RTFP

- Import and export quotas; and
- Unnecessary import bans/prohibitions.

The removal of non-tariff barriers has been more challenging for SADC due to their complexity. In some cases, they result from policies that are not intended to restrict imports. As SADC has continued to liberalise their trade, NTBs have become more arbitrary, qualitative and non-transparent.

There are a number of non-tariff barriers that continue to hinder the free movement of trade in the region. In some cases, these relate to the complex regulations that confront the trading sector as goods move across borders. Regional cross-border payment mechanisms are cumbersome and expensive, insurance cover is inconsistent and differing standards for traded goods and their means of transport act as restraints to legitimate trade. Granting of visas to truck drivers is not always a smooth process, as is the granting of temporary import permits for the truck. The movement of international shipping containers is restricted. There are a number of international conventions that facilitate such issues elsewhere in the world, for which the minimum conditions do not exist in many SADC Member States.

In addition, the existence of over-complex rules and regulations, for example in respect of SADC Rules of Origin and the non-implementation of the various trade facilitation measures set out below represent in themselves a form of non-tariff barrier. In certain cases, such as intellectual property rights, plant health requirements, biotechnology certification and phytosanitary regulations, these barriers can be seen as technical barriers to trade.

The need for licences, permits and quotas for certain goods can be seen as non-tariff barriers. However, these arrangements constitute concessions for example to Malawi as a least-developed country to export the goods concerned, mainly sugar and textile products. It is essential that the information on the availability of these quotas is made available on a transparent basis, to allow for a level playing field as far as possible. It has proved difficult to obtain up to date data on the current status of sugar and textile quotas.

Rules of original applied under the SADC Protocol on Trade continue to be cited as complex by some traders. One of the tasks agreed to by the Member States after the Mid-Term review was to simplify the SADC Rules of Origin. There is no evidence that the SADC rules of origin have been simplified.

The SADC together with the COMESA and the EAC, as part of the tripartite collaboration arrangement, have agreed to an NTB monitoring mechanism which is available on the internet. This web-based NTB mechanism will enhance transparency and easy follow-up of reported and identified NTBs. Preparations for the implementation of the mechanism are at an advanced stage. The COMESA one is already up and running and therefore some of the SADC COMESA Member States may already be making use of this mechanism.

More is required in publicising the NTBs in place, and what is being done at regional level to remove them. The SADC Secretariat needs to continue to act as the focus for rationalisation of the foreign trade environment in general, and the removal of non-tariff barriers in particular.

5.1 SACU

5.1.1 Botswana

According to the NTB mechanism, all sectors still need to establish focal points for reporting NTBs in the private sector and the existence of the focal point requires extensive advertising to make it effective. Botswana has identified Botswana Exporters and Manufacturers Association (BEMA) as the private sector focal point for this purpose. Botswana needs to review all requirements for import permits to ascertain if they are still required or serve a defendable purpose. Government also needs to review all regulatory legislation to determine if what have emerged as unintended consequences of such inventory of regional NTBs. The registration process for the importation and sale of drugs and related substances is another area that Botswana may wish to review as it is considered as a NTB by other trading partners. It is unlikely that Botswana will have eliminated all NTBs by the end of the timetable adopted by SADC mandates.

5.1.2 Lesotho

Due to its geographical position and industrial base, the majority of Lesotho’s intra-SADC trade is with the Republic of South Africa. There does not appear to have been any domestic discussion with regard to the proposed national structure for a National Focal Point for Notifications, Monitoring and Elimination of NTBs. However, it is recommended that discussion on this matter takes place in conjunction with the initiatives to improve the facilitation of trade in line with Lesotho’s needs. In terms of an action plan for dismantling NTBs, this should also be coordinated with the existing processes to improve Lesotho’s competitiveness.

5.1.3 Namibia

South Africa is Namibia’s major trading partner in the region and trade with South Africa is governed by the SACU, a fully-fledged customs union, and of the Common Monetary Area (CMA), both greatly facilitating the cross-border movement of goods between these countries. In many instances, authorities may not even be aware that the regulations they are enforcing and the manner in which they are enforcing them could impose a NTB therefore, sensitization on the existence of the NTB Mechanism and the potential impact of NTBs on trade in general and intra-SADC trade in particular should feature high on the agenda. A number of institutions are already in existence in Namibia that could be actively involved in the process of notification, monitoring and elimination of NTBs.

5.1.3 South Africa

South Africa is the largest and most dominant economy in SADC, contributing around two-thirds of the region’s GDP. A number of those NTBs affecting exports also affect imports, particularly transport related factors. With regard to customs issues there has been an improvement with regard to clearance, but one or two issues have still been highlighted as problematic. These include acquittals and cargo inspection issues. The strict and complicated rules of origin also inhibit the flow of regional imports into South Africa. Some traders have also struggled to ascertain the correct South African requirements with regard to Sanitary and Phytosanitary (SPS) measures, and testing certification. South Africa has import bans on specific products, mostly on health, environment and safety grounds, but also on used goods which could potentially hinder regional trade.

5.1.5 Swaziland

Like all the SADC Member States, a number of NTBs have been reported by both exporters and importers. Delay in return of export documents for the purpose of acquittals causes major problems. Failure to acquit at the stipulated one month results in fines of E1000.00[17] per set of documents. Failure to submit documents for acquittals on time may result in paying 14% Value Added Tax (VAT) of total value of goods every time the goods are to exit through South Africa. Delays translate into higher costs.

While Swaziland is a net importer, there appear to be more NTBs related to exports than imports. However, a majority of NTBs apply to both the exports and imports with Custom's administration NTBs the most prevalent. Transport throughout the region is complicated by the different border procedures. Because the border requirements in the SADC, COMESA and EAC countries are not harmonized this causes congestion and delays resulting in rising costs. However, the SAD500 form is a good beginning towards harmonization, but needs to be improved and expanded.

5.2 Malawi

Over 85% by value of the items exported are primary agricultural products which have nominal value added in Malawi. There is a small, but growing trade in manufactures in the form of clothing. Malawi maintains few non-tariff import restrictions and, all licensing requirements on imports were removed, except those maintained, for health, safety, and national security and environmental reasons. The import licensing system is regulated by the Control of Goods (Import and Export) Act. Only a few products still require an import license, and well over 95% of all the goods imported into Malawi are now import license free. Continued efforts to automate administrative systems remains a real challenge in Malawi however, it is imperative that this focus remains a priority. In order to improve trade efficiency, customs and all other border agencies or officials need to understand the importance of facilitating trade.

5.3 Mauritius

Mauritius has been in the forefront of automation of customs clearance and port management procedures in the region. As the first country in the region to adopt the ASYCUDA system (since superseded), Mauritius installed the automated ships' manifest write-off feature. Using this facility customs was able to process customs import declarations electronically and simultaneously write-off bills of lading against the ship's manifest. This led to fewer delays as queries were more quickly identified and resolved, leading to faster port turn-around times.

Coupled with direct trader input (DTI) for the submission and processing of customs declarations of all regimes Mauritius was able to offer a facilitated and efficient interface to the commercial sector. Mauritius has developed the NTB Website and well prepared to utilise it.

[17] Equivalent to R1000.00

5.4 Mozambique

With Portuguese as her official language, Mozambique suffers from the overwhelming use of English in official documentation. In the past there have been cases of lack of translation of certain critical SADC documents into Portuguese.

Mozambique also suffers from the same problems relating to non-tariff barriers as other countries in the region. In particular, the lack of a properly-functioning regional transit system and an efficient transport infrastructure inhibits Mozambique's trade with other SADC Member States. Looking at Mozambique's overall trade performance as summarised under 'References' later in this report Mozambique's main trading partner is South Africa. Apart from RSA and Zimbabwe which ranks third in her export destinations, no other SADC country appears in the top five import or export destinations for Mozambique.

5.5 Tanzania

Tanzania suffers from many of the non-tariff barriers described in preceding paragraphs. In particular, the multiplicity of procedures based on Tanzania's dual membership of SADC and the EAC present a further level of complexity for traders.

The main port in Tanzania, Dar es Salaam, handles a significant amount of cargo destined for transit to neighbouring inland countries. This makes the development of a regional customs transit system vital for Tanzania's economy.

In addition, the requirements of supply-chain security and the need to respect international standards for port security act as an obstacle to exports to many developed countries.

5.6 Zambia

As a land-locked country, Zambia is vulnerable to a variety of non-tariff barriers that hinder regional transport by road and rail. In common with other countries in the region, transport operators are faced with the need to present differing customs documents at the various border crossings. The presence of various different agencies at land borders, including customs, health, immigration, insurance, border police and transport officials often delays the movement of goods across borders, adding significantly to the cost of imports and the price of exports. In some case a bureau of standards official will be present.

In neighbouring countries, the trader may encounter additional officials whose role is to check on the performance and integrity of the other officials. In some cases the poor pay and conditions of officials responsible for border controls may lead to informal payments being extracted from traders and travellers. Zambia through its Revenue Authority has improved the salary and conditions of personnel, and has implemented a vigorous anti-corruption policy.

The removal of other non-tariff barriers in the region is progressing slowly.

5.7 Zimbabwe

In addition to the non-tariff barriers that affect other SADC Member States there are a number of additional barriers to trade specific to Zimbabwe. Many of these arise from the poor internal economic conditions currently experienced in Zimbabwe, with high inflation and the replacement of the local currency by US dollars or South African Rands. No progress has been noted in removing these barriers. However, a one-stop border post has been developed at Chirundu on the border with Zambia. The intention is to facilitate and expedite border crossing of cargo by operating common import / export / transit procedures jointly by the Zimbabwe and Zambia Revenue Authorities. It has been reported by authorities that it will soon be operational.

6 Preferential Trade Arrangements among Members States and with third countries

Out of the 11 SADC Member States that are implementing the Protocol on Trade, five (5) (Malawi, Mauritius, Swaziland[18], Zambia and Zimbabwe) are also members of COMESA and participate in the COMESA Free Trade Area. The COMESA FTA predates the signing of the SADC Protocol on Trade. Tanzania belongs to the East Africa Community, which has transformed itself into a Customs Union and introduced a common external tariff. Botswana, Lesotho, Namibia, South Africa and Swaziland belong to a Customs Union-SACU, which predated the signing of the SADC Protocol on Trade.

The dual membership of several countries of both SADC and COMESA presents an opportunity for practical co-operation in the development of a common customs transit system. Tanzania is also a member of the EAC, which further complicates the picture. In this respect a positive way forward has been proposed by the commitment to enhance trade and economic co-operation between SADC, COMESA and the EAC at the tripartite summit in Uganda on October 22, 2008.

In addition, most of these countries also have or entered into preferential bilateral trade arrangements with each other or third parties with the exception of Lesotho[19] and Zambia. Some of these bilateral intra-SADC trade agreements predate the SADC Protocol on Trade others have been revived after 1996. The bilateral agreements between South Africa and Malawi, Mozambique and Zimbabwe were all negotiated prior to 1996. However, many of the other bilateral agreements involving SADC Member States that are not members of COMESA and the non-SACU countries have been negotiated after 1996 (although legally they are grandfathered from agreements negotiated during the colonial period[20]). These bilateral trade agreements aim to allow the participating countries to trade duty free or at reduced rates, under more simple and liberal rules of origin than the SADC Protocol on Trade.

The overlap of membership between regional integration arrangements in the wider southern and eastern African region is without parallel anywhere else in the world.[21] The development of a series of Economic Partnership Agreements (EPA) between certain groupings and the European Union (EU) has added a further layer of complexity.

As pointed out by the Institute for Global Dialogue, Member States in the region are involved at varying stages in EPA negotiations with the EU. The negotiations aim to replace the trade component of the Cotonou agreement with a WTO-compatible trade agreement. Given the different EPA group memberships, the SADC Customs Union risks being seriously compromised as the Member States would have to maintain complex internal tariffs to accommodate the differing EPA group offers made to the EU. The reason that the EPAs can

[18] Swaziland however has derogation till 2008 to enable Swaziland to complete negotiations with SACU regarding her full participation in the FTA. Swaziland originating goods do benefit from the tariff reductions offered under the PTA rates prior to the introduction of the FTA in 2000.
[19] SACU members have entered into a bilateral trading arrangement with the EFTA.
[20] For example the bilateral agreement between Mozambique and Zimbabwe refers to an earlier agreement between the East African Federation and the Government of Portugal.
[21] Institute for Global Dialogue: SADC, COMESA and the EAC Conflicting regional trade agendas

have such a significant effect is that the EU is a major trade partner for nearly all of the SADC, COMESA and EAC states (see the annex to this report).

6.1 SACU

SACU has bilateral agreements or is currently negotiating bilateral agreements

SACU-EFTA

The SACU-European Free Trade Association (EFTA) Free Trade Agreement's main objective is to achieve the liberalisation of trade in goods in conformity with the relevant WTO provisions. The dismantling of tariffs is asymmetrical in that the EFTA states liberalise trade in goods in all fields on the entry into force of the agreement while the SACU states will do so gradually until 2014 on almost all industrial products.

EFTA has offered SACU full duty and quota free access for industrial products with rules of origin equivalent of better than those contained in the TDCA. EFTA has provided SACU with limited but enhanced access to their agricultural markets. SACU offered EFTA what it has already offered the EU in terms of the South Africa-EU TDCA on both agriculture and industrial products with some adjustments (taking into account BLNS sensitivities and errors made in the TDCA). SACU has excluded any preferential offer on products that benefit from export subsidies and trade distorting support.

SACU-MERCUSOR PTA

The SACU MERCUSOR Preferential Trade Agreement (PTA) was concluded in April 2008 and approved by SACU in June 2008. The PTA is aimed at promoting trade between the two sides in terms of a selected number of products. It contains 1 000 tariff lines on both sides for which preferences will be granted. The two parties will also explore possibilities for further trade liberalisation, they will take into due account the importance of improving market access for the smaller economies in MERCOSUR and SACU.

SACU - INDIA PTA

The SACU India PTA is planned to be completed by the end of 2009, the SACU-India PTA framework agreement has already been concluded and signed. The progression is to move towards a FTA encompassing services and investment. Under the PTA, India and South Africa, Botswana, Lesotho, Namibia and Swaziland will lower tariffs on certain goods.

6.1.1 Botswana

The Botswana – Zimbabwe agreement came into force on June 1, 1956 and was amended in 1988. Although signed in 2001, it has been reported that implementation failed due to an error in the texts, indicating that the 1988 agreement effectively remains in force which works on a de facto basis, whereby all goods, except spirits, reared, grown or produced, can be imported duty free. The agreement is rarely used.

The current agreement between Botswana and Malawi also stems from the 1956 Agreement. Officials from both countries reported that no further amendments have occurred to the original agreement, but that it is not being utilized. It can be assumed that trade between Malawi and Botswana is taking place under the SADC Protocol on Trade in particular for sugar and the MMTZ arrangement.

6.1.2 Lesotho

Lesotho is a member of the SACU and the SADC and has no bilateral agreements with any SADC Member State or third party.

6.1.3 Namibia

Namibia belongs to SACU and has a bilateral preferential trade agreement with Zimbabwe.

The bilateral agreement with Zimbabwe is a reciprocal one and it came into force in 1992 replacing a 1964 Agreement signed between the Republic of South Africa (which included the territory of South West Africa) and the Government of Southern Rhodesia. It covers all products and grants duty free access for products that confer origin (grown or wholly produced from partially imported materials with a 25% local content). This agreement was reviewed in 2000 to introduce among others the inclusion of the principle of cumulation to the rules of origin. However, it is not clear whether this new agreement has been ratified.

6.1.4 South Africa

South Africa is a member of SACU and has bilateral trading arrangements with Malawi, Zimbabwe and Mozambique. South Africa also has a bilateral trading arrangement with the EU – the Trade and Development Cooperation Agreement that entered into force on January 1, 2000.

The South Africa – Zimbabwe preferential bilateral arrangement was concluded in 1964.[22] This was a reciprocal arrangement whose coverage was limited to a specified list of products. The agreement underwent several reviews most recent years to improve its terms and conditions, scope, product coverage and levels of tariff concessions. Among other changes, the amendments in 2000 replaced specific rebates with specific rates of duties. The rules of origin under the agreement include 25% local content for some of the manufactured products made from non-originating products with some textiles products requiring up to 75% local content. In addition, some of the agricultural products and textiles require import permits to qualify for preferential treatment.

6.1.5 Swaziland

Swaziland, a SACU member, is also a member of COMESA. Under the agreed derogation with COMESA Swaziland' exports will continue to enjoy non-reciprocal duty-free access into the COMESA FTA which was extended in 2008 for another limited period.

6.2 Malawi

In addition to Malawi's membership of both SADC and COMESA, she also trades under bilateral trade agreements with Botswana, Mozambique, South Africa and Zimbabwe.

6.2.1 Malawi – Botswana

Malawi and Botswana have a reciprocal customs agreement dating back to 1956, which works on a de facto basis, whereby all goods, except spirits, reared, grown or produced, can be imported duty free. The agreement is rarely used.

[22] The signatories to this agreement were the Republic of South Africa (including the territory of South West Africa) and the Government of Southern Rhodesia).

6.2.2 Malawi – South Africa

The Trade Agreement between the Government of the Republic of South Africa and the Government of the Republic of Malawi was reached in 1967 and subsequently amended in 1990 and 1999. All goods of Malawian origin enter South Africa duty-free upon meeting specified rules of origin criteria; a 25% local content requirement and for the last production process to have taken place in Malawi. The principle of cumulation is also provided for in this agreement. All quantitative restrictions have been removed in regards to Malawi’s imports into South Africa. It is a non-reciprocal agreement with South African goods entering Malawi under the most-favoured-nation (MFN) rate of duty.

6.2.3 Malawi – Zimbabwe

The Trade Agreement between the Government of the Republic of Malawi and the Government of the Republic of Zimbabwe replaced an earlier agreement that was signed in 1995. The current Trade Agreement was signed in July 2006 and offers duty free treatment for all products subject to meeting rules of origin criteria. For most products, a 25% local content requirement is stipulated. However, change in tariff heading and special processing applies for plastics and plastic products, leather and leather products, footwear, textiles and clothing and some electronics (refrigerators; transmission and reception apparatus for radio, TV, sound recorders and producing apparatus for video monitors and projectors).

The agreement allows for protection of sensitive and strategic products through the suspension of tariff preferences in line with WTO provisions. Zimbabwe did not declare any products as sensitive while Malawi has designated the following:

1. Granulated sugar.
2. Table eggs.
3. Dressed chickens.
4. Cooking oil.
5. Fresh Milk.

These products are also categorised as sensitive under the SADC Protocol on Trade. Almost all the trade between these two countries takes place under the bilateral agreement because it has slightly more liberal rules of origin than the COMESA FTA and significantly more lenient rules than SADC.

6.2.4 Malawi – Mozambique

The Preferential Trade Agreement between the Government of the Republic of Malawi and the Government of the Republic of Mozambique was signed in December 2005 and supersedes the 1959 Trade Agreement between Portugal and the Federation of Rhodesia and Nyasaland. The agreement was signed after entry into force of the SADC Protocol on Trade, which permits for new preferential trade arrangements provided that such arrangements are not inconsistent with the provisions of the Protocol (Article 27:2). Subject to rules of origin provisions (25% value addition), the PTA is a reciprocal arrangement providing duty free treatment to all products with the exception of the following twelve items:

1. Sugar (1701).
2. Beer (2203).
3. Branded Soft Drinks (220290).

4. Manufactured tobacco (2402, 2403).
5. Refined edible oil (1506, 1507, 1508, 1511, 1512, 1513, 1514, 1515, 1516).
6. Dressed chickens (0207).
7. Table eggs (04070090).
8. Un-manufactured tobacco (2401).
9. Stationery excluding exercise books (48).
10. Petroleum products (2710).
11. Firearms and ammunition (9301).
12. Explosives (3602).

With the exception of firearms and ammunitions, and sugar which are categorised as E, the rest of the products are excluded from the bilateral agreement and are categorised as sensitive under the SADC Protocol on Trade.

6.3 Mauritius

In addition to her SADC Membership, Mauritius is a Member of COMESA and the Indian Ocean Commission (IOC). The country completed a Preferential Trade Agreement with Pakistan in November 2007. Mauritius also has a PTA with India which was signed in 2005 providing lower or duty free treatment to a selected number of products.

6.4 Mozambique

Mozambique does not belong to any other regional group other than the SADC.

6.4.1 Mozambique –Malawi

Mozambique has bilateral agreements with Malawi, Zimbabwe and South Africa. The agreement with Malawi was described above under paragraph 6.2.5 above.

6.4.2 South Africa – Mozambique

The South Africa Mozambique Trade Agreement was completed in 1990 and provides preferential tariff treatment for a limited number of Mozambican goods; fish, shrimps and prawns, cashew nuts, citrus fruit, wooden furniture, coconut oil, cigarettes, asbestos roofing tiles, new tyres, inner tubes and handicrafts. A 35% value addition is stipulated under the agreement. South African products receive MFN tariff treatment.

6.4.3 Mozambique – Zimbabwe

Signed in January 2004, this agreement provides for duty free trade between the two members in conformity with rules of origin specifying 25% value addition. The following products are excluded from the agreement:

1. Refined and unrefined sugar;
2. Branded soft drinks;
3. Firearms, ammunition and explosives;
4. Motor vehicles; and
5. Cigarettes.

With the exception of firearms, ammunition and explosives categorized as E, the rest are categorised as sensitive under the SADC Protocol on Trade.

6.5 Tanzania

Tanzania is a member of SADC and the EAC. The United States (U.S.) has signed a Trade Investment and Framework Agreement (TIFA) with the East African Community, which includes Burundi, Kenya, Rwanda, Tanzania and Uganda. The TIFA establishes a framework for deepening the U.S. – EAC trade and investment relationship, expanding and diversifying bilateral trade, and improving the climate for business between U.S. and east African firms.

6.6 Zambia

In addition to its membership of SADC, Zambia is a member of COMESA and hosts the COMESA Secretariat. Zambian importers and exporters have a choice between COMESA and SADC when it comes to trading with countries with dual membership. There are seven such countries (DRC, Madagascar, Malawi, Mauritius, Seychelles, Swaziland and Zimbabwe). Evidence thus far shows that where possible traders in Zambia prefer to make use of COMESA preferential trading systems with its fellow Member States. This has much to do with the simpler regulatory environment developed by COMESA, particularly in relation to rules of origin.

6.7 Zimbabwe

Zimbabwe is a member of both SADC and COMESA. In addition a number of bi-lateral trade agreements are in place with Botswana, DRC, Malawi, Mozambique, Namibia and South Africa. Please see previous sections on Botswana, Malawi Mozambique, Namibia and South Africa for more details about the bilateral agreement.

7 Implementation of Trade Facilitation Instruments

7.1 Standard customs procedures, documents and data

A major impediment to intra-SADC trade is the lack of complete standardisation and harmonisation of regional customs procedures, documents and data. However, some progress has been made. With the successful implementation of ASYCUDA++ by many countries in the region, customs declaration documents have been reduced in number and standardised along the lines of the EU's Single Administrative Document (SAD). This provides a good basis for the adoption of the SADC SAD.

Similarly, ASYCUDA projects have served to automate and align customs procedures to international standards. In this context SADC Member States have adopted the revised Kyoto Convention of the World Customs Organisation (WCO). This is the International Convention on the Simplification and Harmonisation of Customs Procedures which came into force 2006.

The WCO states that once implemented widely the Kyoto Convention will provide international commerce with the predictability and efficiency that modern trade requires. The Revised Kyoto Convention elaborates several key governing principles, chief of which area:

- transparency and predictability of customs actions;
- standardization and simplification of the goods declaration and supporting documents;
- simplified procedures for authorized persons;
- maximum use of information technology;

- minimum necessary customs control to ensure compliance with regulations;
- use of risk management and audit based controls;
- coordinated interventions with other border agencies; and
- partnership with the trade.

The Revised Kyoto Convention promotes trade facilitation and effective controls through its legal provisions that detail the application of simple yet efficient procedures. The Revised Convention also contains new and obligatory rules for its application which all Contracting Parties must accept without reservation.

SADC Member States have also adopted the WCO Nairobi and Johannesburg Conventions on Mutual Administrative Assistance and the Arusha Declaration on Integrity. These provisions have found expression in SADC Integrity Plan to Fight Corruption and the Memorandum of Understanding (MoU) for SADC Customs Administration. In addition Member States have accepted the WCO's Capacity Building Strategy of 2003.

7.2 Classification

Harmonised customs classification codes represent a significant element of the customs standardisation necessary to facilitate regional trade. SADC Member States have adopted the latest version of the WCO's HS (HS 2007). This forms the basis for the regionally-standard customs tariff classification for trade in goods, and for the collection of standard trade statistics. The development of the SADC Combined Tariff Nomenclature (CTN) and Common External Tariff (CET) are vital if the SADC Customs Union is to become a reality in 2010.

7.3 SADC Combined Tariff Nomenclature and Common External Tariff

Once implemented, the SADC CTN and CET will offer major benefits to the regional trading community. In addition, this standardisation process is a fundamental requirement for the collection of meaningful, coherent and consistent regional trade statistics. SADC Member States have implemented automated customs declaration processing systems of varying types and functionality, which will form the basis for the collection of complete, accurate and up to date trade statistics. These statistics are essential for the evaluation of past trade policy decisions, and the formulation of future trade policy.

Trade and revenue collection departments experience a number of constraints in managing the trading environment and balancing the needs to facilitate trade whilst maintaining control of government revenues. Other challenges are presented by poor infrastructure in road, rail and port facilities. Delays at borders are unacceptably long, and the development of one-stop border crossings has been slow.

7.4 Regional customs transit system

In this context work on the implementation of a regional customs transit system has been very slow. Whilst improvements have been made in the development of facilitated transit controls along major transit corridors in the region, the movement of transit traffic is still unacceptably slow. The central position of **Zimbabwe** to regional transit routes coupled with its recent internal problems only exacerbates the delays.

As a land-locked country **Malawi** also suffers greatly from the delays and expense facing land-based importers and exporters, so early implementation of a regional customs transit system would be a major benefit. The majority of goods arriving at Malawi land borders continue to clearance at their final destination under internal transit controls which need to be reinforced, as do the arrangements for the storage in bonded warehouses.

As an island state **Mauritius** does not suffer directly from the slow development of a customs transit system in the region, as transit systems are by nature land-based. However, her exports to fellow SADC Member States suffer from the delays and costs resulting from the lack of a properly-functioning regional transit system.

The adoption of transparent and regionally-agreed rules for customs transit procedures will help to eliminate the random imposition of escort charges for goods in transit.

As a major transit country **Zambia** has a significant interest in the adoption of a unified COMESA-SADC-EAC customs transit system. Without this unification, transport operators will not see the benefits of utilising a single transit guarantee from departure to destination.

Inward transit is particularly important to Zambia, that is, the movement of duty-free goods under customs bond from the border entry point to an inland point of customs clearance. Significant volumes of Zambia's land-based imports are handled in this way. Recently successful trials of internet-based transit controls based on the ASYCUDA system have taken place in Zambia.

The development of a regional customs transit system must include the provision of simplified procedures for so-called authorised traders. These simplified procedures consist of a series of concessions for traders who are able to satisfy customs authorities that they control their transit traffic in an effective manner. In reality most large and efficient transport operators maintain effective internal controls, as the value of the goods they transport is much higher than the customs duties and taxes at risk. Once authorised by customs, a transport operator will be able to load goods at his own depot as an 'authorised consignor' and deliver them to an 'authorised consignee' in the country of destination, saving considerable amounts of time and money in the process, to the benefit of the economies concerned. These concessions are so valuable commercially, that traders will make every effort to retain them by respecting all the conditions imposed by customs. In this way a significant proportion of regional transit trade will be largely self-controlled, apart from initial customs systems audit and subsequent random spot-checks, leaving customs authorities to concentrate on smaller less compliant traders.

For the regional customs transit system to work effectively it is essential that the required Information and Communications Technology (ICT) framework is in place once the common procedures, transit route approvals and truck specifications have been agreed. ASYCUDA is currently testing an internet-based transit system, and SADC should be prepared to negotiate common access to this system for Member States once the system is implemented. Careful co-ordination will be needed to ensure that traders are not presented with competing SADC and COMESA transit systems.

7.5 Valuation

All Member States have adopted the WTO Valuation Agreement. In previous audit reports it was noted that more training on valuation was necessary for certain countries. The countries particularly concerned were those in the process of divesting themselves of pre-shipment inspection (PSI) regimes such as Malawi and Tanzania. Under PSI contracts countries usually arrange for sufficient valuation training to be provided to their customs officials as part of the contract, so it is unclear what went wrong in these cases.

ASYCUDA caters for the on-line control of valuation during the declaration process, and other automated systems have similar controls. From the information available, it appears that more training is needed on the WTO Valuation Agreement. Previous audit reports have recommended that SADC Member States publicise the reasons for valuation decisions, and this does not appear to have been done.

All countries under review would greatly benefit from simplification of the SADC Rules of Origin.

7.6 Other Issues

Malawi has signed up to the majority of remaining regional trade facilitation instruments, including the SADC Rules of Origin, the SADC Integrity Plan to Fight Corruption, the MoU for SADC Customs Administrations and the Conformity Assessment. There is a need for SADC to help increase the capacity of Malawi's trade and revenue departments to implement these instruments.

Previous audit reports have noted the complexity and cumbersome nature of the SADC rules of origin. It has been recommended that these rules be rationalised and simplified, as this was one of the stated reasons traders preferred to use COMESA preferences where possible; by contrast COMESA rules of origin are straightforward and easy to understand and apply. There is no evidence that the simplification of SADC Rules of Origin has yet been achieved.

Mauritius has signed the majority of trade facilitation instruments, including the Conformity Assessment and the SADC Integrity Plan to Fight Corruption.

Mozambique has adopted SADC Integrity Plan to fight corruption, the MoU for SADC Customs Administrations and the Conformity Assessment.

In 2004 **Tanzania** implemented a container x-ray scanner scheme covering destination inspection at the port of Dar es Salaam. Included in the scheme are training for Customs, maintenance and the development of a risk management system. In June 2005 the scheme was expanded to include two air freight pallet scanners at the airport.

The presence of the x-ray scanner acts as a deterrent to importers seeking to evade customs controls and taxes by making false declarations or smuggling prohibited goods. The risk management programme facilitates trade by allowing speedy clearance for reliable and legitimate traders whilst targeting unreliable traders for in-depth examination.

Little information has been obtained on the current status of **Zimbabwe's** implementation of trade facilitation instruments. However, Zimbabwe has signed the SADC Integrity Plan to fight corruption, the MoU for SADC Customs Administrations and the Conformity Assessment. There is no information available on the progress of implementation of these instruments.

A summary of the current position, taken from the 2007 Audit Report, is below:

Instrument	Bot	Les	Mal	Mau	Moz	Nam	RSA	Swz	Tan	Zam	Zim
WTO Valuation Agreement	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
HS Coding System (a) Schedule of Concessions (b) Migration to 2007	Y On-going	Y* Y	Y On-going	Y* Y	Y N[23]	Y* Y	Y* Y	Y On-going	Y Y[24]	N Y	Y Y
SADC Certificate of origin	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Regulations on SADC RoOs	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
RoOs Manual for customs	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
RoOs Manual for Trader	N	N	N	N	N	N	Y	N	N	N	N
SADC SAD[25]	SAD 500	SAD 500	n/a	n/a	n/a	SAD 500	SAD 500	SAD 500	n/a	n/a	n/a
Voucher for correction of SAD	Y	Y	N	N	N	Y	Y	Y	N	N	N
Guidelines for completion of SADC Customs Documentation	Y	N	N	N	N	N	N	N	N	N	
SADC Transit Regulations	N	N	N	N	N	N	N	N	N	N	N
SADC Transit Documentation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SADC Transit Customs Bond Guarantee	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SADC Integrity Plan to fight corruption	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
MOU For SADC Customs Administrations	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y
Conformity Assessment	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Source: 2007 Audit

8 Conclusion and Recommendations

General Conclusions

This audit was hindered by the lack of up to date tariff and trade data, despite direct appeals to the tariff departments of the customs services of Member States. However, the main conclusions remain valid. Whilst some Member States have made some progress towards meeting their tariff phase-down commitments up till 2008 under the SADC FTA, there is much more work to be done.

The FTA cannot be seen in isolation, as the work being done to prepare for the FTA and to lay down the groundwork for regional economic convergence are essential building blocks for SADC's longer term objectives of the Customs Union and the Common Market.

There are a number of major customs-related issues that need to be addressed if the Customs Union is to be successful. Principal among these are the adoption by Member States of a common external tariff and domestication of the SADC harmonised tariff nomenclature, a standard customs declaration for all regimes, the development of a regional customs transit system and the harmonisation of customs procedures.

[23] Mozambique's integrated tariff schedule is based on HS 2002, which incorporates the SADC tariff schedule.
[24] The East African Community Common External Tariff has been modified into a 2007 Version in conformity with the HS Version 2007.
[25] SACU Member states have a common document the SADC 500 while the rest of SADC have national form which however are not very different from the SADC SAD and the SAD 500.

The main conclusions from this study are that:

- More work needs to be done in adjusting customs tariffs in line with the phase-down of schedules;
- Non-tariff barriers still represent a significant obstacle to the free movement of trade in the region;
- Insufficient progress has been made in the implementation of trade facilitation instruments;
- The development of competing customs transit systems represents a danger to a harmonised trading environment in the region;
- Recent trade and tariff data were not fully available, which hindered estimates of trade flow trends and revenue losses; and
- The SADC Secretariat has more work to do on publicising progress on the removal of non-tariff barriers and the result of valuation rulings and the general monitoring of the implementation of the SADC Protocol on Trade.

8.1.1 Malawi

On the evidence available Malawi has not yet fully implemented the tariff phase down schedules she has submitted. However, Malawi is one of the smaller, least industrialised economies among SADC Member States. As a Least Developed Country (LDC) she has one of the least diversified economies in the region, and relies for export earnings on the export of unprocessed agricultural goods. With a large proportion of GDP represented by government revenues Malawi is more vulnerable than others to the reductions in customs duties called for under the SADC Trade Protocol and the FTA.

In this circumstance, it is recommended that Malawi redoubles her efforts to bring her tariff phase down schedule to the minimum necessary to respect the undertakings she has made for the formation of the SADC FTA. Further, the SADC Secretariat should offer more support to Malawi in the form of training on the WTO Valuation Agreement, the SADC Rules of Origin and the SADC Integrity Plan to Fight Corruption.

8.1.2 Mauritius

Mauritius benefits from a more industrialised and diversified economy than some of her fellow SADC Member States. Over the past few years Mauritius has attracted more than 9,000 offshore entities, many aimed at commerce in India and South Africa, and investment in the banking sector alone has reached over $1 billion. With its strong textile sector Mauritius has been well poised to take advantage of the Africa Growth and Opportunity Act (AGOA).

Export of services amounted to more than $2 billion in 2007.[26]

Top sectors attracting FDI inflows from Mauritius are electrical equipment, telecommunications, fuels and financial and non-financial services sectors, particularly in international data processing and information technology services.

It is clear that Mauritius has considerable expertise to contribute to other SADC Members in the development of an enabling environment that fosters successful entrepreneurial activity.

[26] Source: WTO

8.1.3 Mozambique

Mozambique would benefit from more training in Portuguese on all the trade facilitation measures listed above. Although she has not adopted the ASYCUDA system, Mozambique would benefit from more automation and rationalisation of the foreign trading environment. In particular, Mauritius may be able to offer technical assistance in automation of port management procedures.

8.1.4 Tanzania

The EAC includes Rwanda and Burundi. Preparations are under way for the EAC Customs Union, the EAC Common Market and the EAC Federation. This will cause problems with the development of the SADC Customs Union.

On the one hand the trading environment will become unnecessarily complicated for traders in the region; on the other, key staff in the government departments who are conducting the EAC negotiations will not be able to give SADC-related issues their maximum attention. The only solution to these problems is high-level agreement to co-operate between the regional groupings concerned, i.e. COMESA, the EAC and SADC.

8.1.5 Zambia

Over the past few years the stable economic environment has helped Zambia's efforts in implementing trade facilitation instruments. Zambia's central geographical position means that the implementation of a common customs transit system is becoming imperative.

8.1.6 Zimbabwe

Because of its geographical position, Zimbabwe is a key member of SADC, particularly in relation to the intra-regional movement of goods by land. However, the current economic conditions in Zimbabwe have the effect of obstructing the free movement of goods.

It is recommended that more support is made available to the Zimbabwe Revenue Authority in the form of supplementary training on the SADC rules of origin and the WTO Valuation Agreement.

8.2 General Recommendations

- The SADC Secretariat should expedite the formation of a monitoring and compliance unit designed to improve the performance of Member States in fulfilling their tariff phase-down commitments and the other issues set out below;
- The implementation of trade facilitation instruments must be pursued more vigorously by the SADC Secretariat and Member States;
- There is need to review all the bilateral trade arrangements negotiated and concluded after entry into force of the SADC Protocol on Trade as these continue to undermine the implementation of the SADC Protocol on Trade;
- In particular practical co-operation between different regional groupings is imperative for the development of a common regional customs transit system;
- The SADC Secretariat should take the lead in simplifying and rationalising the SADC rules of origin, and in delivering training on the revised version;

- The SADC Secretariat should develop a programme publicising the non-tariff barriers that reduce trade in the region, and describe the plans being made to remove them;
- A study on the time taken for cargo to cross the major border crossing points in the region should be undertaken. This study should take into account the Time Release Studies that have been conducted by some Member States and include the feasibility of showing border delays on the internet on a daily/hourly basis, to allow transporters to plan ahead;
- The SADC Secretariat should publicise decisions taken under the WTO Valuation Agreement, and negotiate arrangements for individual rulings to be applied generally within SADC Member States;
- More training should be provided to Member States on the WTO Valuation Agreement;
- The implementation of a Single declaration document for all regimes should be facilitated expeditiously by SADC Secretariat;
- Implementation of the SADC combined tariff nomenclature by Member States should be expedited and the development of a common external tariff for SADC must be completed by the SADC Secretariat if the region is to realise the establishment of a Customs Union in the next few years as planned;
- The SADC Secretariat should develop a common Customs Code of harmonised regulations and procedures for adoption in all Member States prior to the introduction of the Customs Union.
- The SADC Secretariat should improve the on-line availability of accurate, up to date and complete trade and tariff data from SADC Member States;
- The SADC Secretariat should offer technical assistance to Member States to improve the dissemination at national level of tariff and statistical data, the regulatory framework and the requirements for trade in the region, particularly via the internet;
- More information to traders should be made available on the SADC website, offer all relevant information about the trading environment which should include legislative, regulatory, transport, customs, immigration and health requirements;
- Electronic commerce represents a rapidly growing proportion of foreign trade; SADC should take steps to maximise the opportunities it offers whilst controlling revenues on the import of goods from outside the region; and
- In agreement with the SADC Secretariat, the audit process should be extended in 2010 and following years to cover the most critical issues facing the development of the SADC Customs Union.

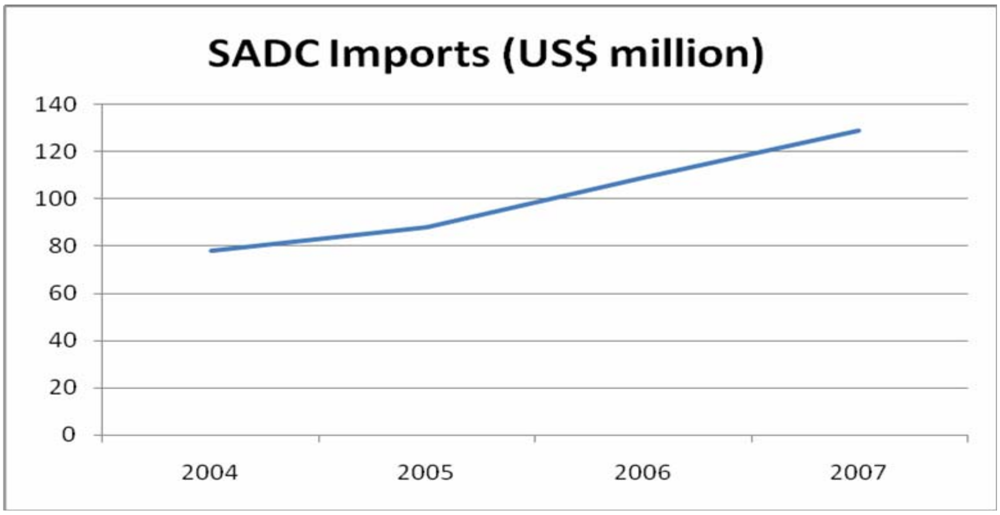
Annexes

Annex 1: SADC Trade Flow Trends

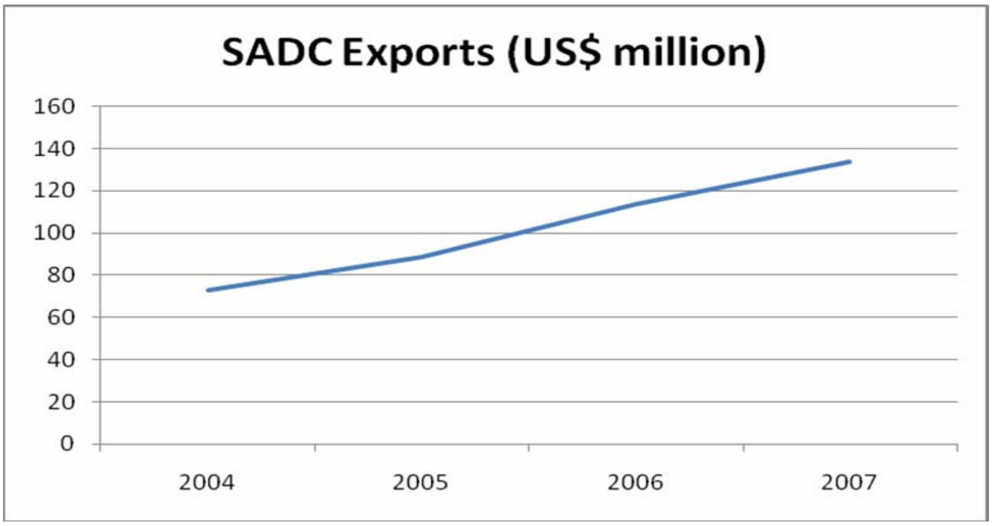
As noted in previous studies, with the exception of South Africa the levels of intra-SADC trade are low. Over the past few years world trade has generally increased but there has been little corresponding increase in the proportion of intra-SADC trade.

One of the objectives of the tariff phase downs on intra-SADC trade was to increase trade between Member States. The development of intra-SADC trade and the possible effect of these tariff phase downs must be seen in the context of overall world trade volumes.

The most recent available trade statistics (2007) show that trade between SADC and the rest of the world has expanded. The figures below of SADC imports to and exports from the rest of the world highlight the trends:

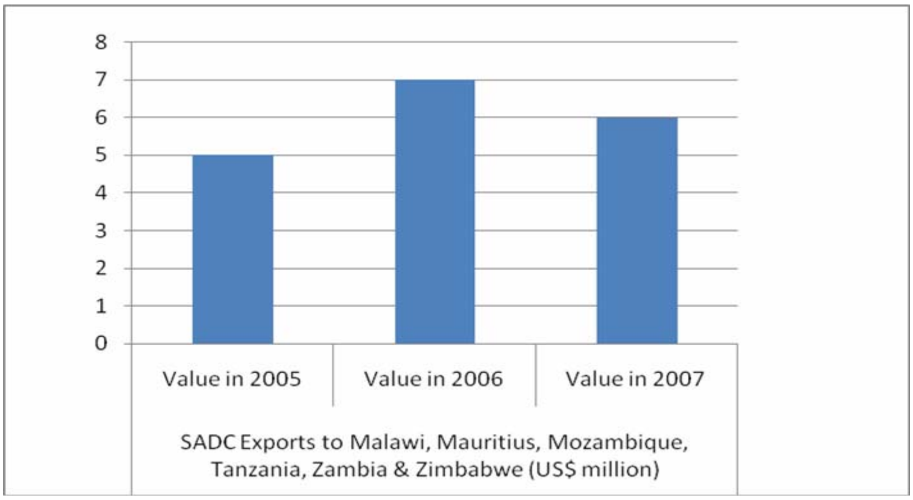


Source: ITC

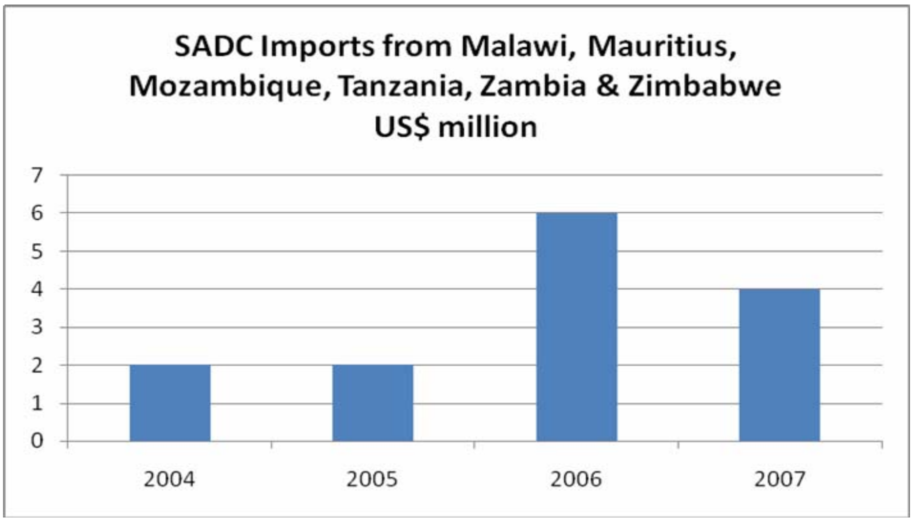


Source: ITC

SADC trade performance with the six countries under review, Malawi, Mauritius, Mozambique, Tanzania, Zambia and Zimbabwe is shown in the chart below:



Source: ITC



Source: ITC

These figures show that trade between SADC and the six countries under review has not kept pace with the growth in international trade and in 2007 has fallen back. Of course there are many other factors at work, some of which have been listed in previous studies.

The exports of the six countries under review include a high proportion of raw materials. In addition, there are high degrees of competition and protection in agricultural products. In this context it is worth noting that most major international markets place stringent restrictions and controls on the imports of agricultural produce. On the evidence above, however, the reductions in tariffs on intra-SADC trade over the past few years appear to be having little impact on regional trade patterns.

Recommendations from 2007 & 2008 audits	SADC	SACU	Mal	Mau	Moz	Tan	Zam	Zim
Notification of tariff phase downs to be made on January	n/a	Y	N	Y	N	N	N	N
Improve dissemination of information	Y*	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Improve publicity of SADC Protocol, regulations & procedures	Y	Y	N	Y	N	N	N	N
Simplify SADC rules of origin	N	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Simplify documents & procedures for small traders	N**	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Update tariff phase down schedules to latest version of HS	Y	o/g	o/g	o/g	o/g	o/g	o/g	o/g
Build more one-stop border posts	N	N	N	N	N	N	N	N
Implement regional Customs transit system	N	N	N	N	N	N	N	N
Merge RSA & SADC schedules where appropriate	n/a	n/a	N	Y	N	N	N	N
Develop schedule showing elimination of NTBs	N†	N	N	N	N	N	N	N
Agree treatment of tariff phase downs for countries with balance of payment difficulties	N	N	N	N	N	N	N	N
Review bilateral trade agreements	N	n/a	n/a	n/a	n/a	n/a	n/a	n/a

* More improvement on information dissemination still needed
† TMCM Implemented by Southern Africa Global Competitiveness Hub to be supplemented by proposed NTB monitoring & reporting mechanism
** SCCC to finalise recommendations of WGCC
o/g On going.
‡ Provided to RSA by Southern Africa Global Competitiveness Hub

Annex 2: Global Trade Performance

Most recently available global trade statistics for the six countries under review (source: WTO):

Malawi

MERCHANDISE TRADE	Value	Annual percentage change		
	2007	2000-2007	2006	2007
Merchandise *exports*, f.o.b. (million US$)	710	9	7	31
Merchandise *imports*, c.i.f. (million US$)	1 378	15	4	14

	2007		2007
Share in world total exports	0.01	**Share in world total imports**	0.01
Breakdown in economy's total exports		**Breakdown in economy's total imports**	
By main commodity group (ITS)		By main commodity group (ITS)	
Agricultural products	86.9	Agricultural products	11.0
Fuels and mining products	0.1	Fuels and mining products	13.8
Manufactures	12.8	Manufactures	69.2
By main destination		By main origin	
1. European Union (27)	39.0	1. South Africa	29.1
2. Zimbabwe	15.2	2. European Union (27)	15.8
3. South Africa	14.8	3. Mozambique	12.2
4. United States	4.2	4. United Arab Emirates	7.0
5. Korea, Republic of	3.5	5. Tanzania	6.0

Mauritius

MERCHANDISE TRADE	Value	Annual percentage change		
	2007	2000-2007	2006	2007
Merchandise *exports*, f.o.b. (million US$)	2 238	5	9	-4
Merchandise *imports*, c.i.f. (million US$)	3 895	9	15	7

	2007		2007
Share in world total exports	0.02	**Share in world total imports**	0.03
Breakdown in economy's total exports		**Breakdown in economy's total imports**	
By main commodity group (ITS)		By main commodity group (ITS)	
Agricultural products	29.1	Agricultural products	21.3
Fuels and mining products	0.9	Fuels and mining products	19.5
Manufactures	61.8	Manufactures	57.7
By main destination		By main origin	
1. European Union (27)	69.9	1. European Union (27)	27.0
2. United States	7.5	2. India	21.2
3. Madagascar	6.0	3. China	11.4
4. United Arab Emirates	3.8	4. South Africa	7.4
5. South Africa	3.1	5. Japan	3.6

Mozambique

MERCHANDISE TRADE	Value	Annual percentage change		
	2007	2000-2007	2006	2007
Merchandise *exports*, f.o.b. (million US$)	2 700	33	34	13
Merchandise *imports*, c.i.f. (million US$)	3 300	16	19	15

	2007		2007
Share in world total exports	0.02	**Share in world total imports**	0.02
Breakdown in economy's total exports		**Breakdown in economy's total imports**	
By main commodity group (ITS)		By main commodity group (ITS)	
Agricultural products	24.8	Agricultural products	15.2
Fuels and mining products	68.4	Fuels and mining products	14.7
Manufactures	5.4	Manufactures	53.0
By main destination		By main origin	
1. South Africa	17.8	1. South Africa	31.8
2. European Union (27)	6.1	2. European Union (27)	23.5
3. Zimbabwe	3.0	3. India	4.3
4. China	1.8	4. China	3.4
5. Kenya	0.9	5. United Arab Emirates	3.3
Unspecified destinations	65.7	Unspecified origins	12.6

Tanzania

MERCHANDISE TRADE	Value	Annual percentage change		
	2007	2000-2007	2006	2007
Merchandise *exports*, f.o.b. (million US$) b	2 227	...	...	16
Merchandise *imports*, c.i.f. (million US$)	5 281	19	29	24

	2007		2007
Share in world total exports	0.02	**Share in world total imports**	0.04
Breakdown in economy's total exports		**Breakdown in economy's total imports**	
By main commodity group (ITS)		By main commodity group (ITS)	
Agricultural products	43.9	Agricultural products	12.5
Fuels and mining products	13.1	Fuels and mining products	31.2
Manufactures	21.2	Manufactures	55.4
By main destination		By main origin	
1. Switzerland	20.5	1. European Union (27)	17.7
2. European Union (27)	19.7	2. United Arab Emirates	13.2
3. South Africa	9.5	3. South Africa	10.1
4. China	7.3	4. India	8.7
5. Kenya	5.8	5. China	7.0

Zambia

MERCHANDISE TRADE	Value	Annual percentage change		
	2007	2000-2007	2006	2007
Merchandise *exports*, f.o.b. (million US$)	4 619	26	108	22
Merchandise *imports*, c.i.f. (million US$)	3 971	22	20	29

	2007		2007
Share in world total exports	0.03	**Share in world total imports**	0.03
Breakdown in economy's total exports		**Breakdown in economy's total imports**	
By main commodity group (ITS)		By main commodity group (ITS)	
Agricultural products	8.6	Agricultural products	5.6
Fuels and mining products	78.2	Fuels and mining products	17.1
Manufactures	12.5	Manufactures	76.1
By main destination		By main origin	
1. Switzerland	41.8	1. South Africa	47.4
2. South Africa	12.0	2. European Union (27)	16.8
3. Thailand	5.9	3. United Arab Emirates	6.4
4. European Union (27)	5.5	4. China	5.9
5. Congo, Dem. Rep. of	5.3	5. India	4.1

Zimbabwe

MERCHANDISE TRADE	Value	Annual percentage change		
	2007	2000-2007	2006	2007
Merchandise *exports*, f.o.b. (million US$)	2 300	3	8	15
Merchandise *imports*, c.i.f. (million US$)	2 550	5	-3	13

	2007 a		2007 a
Share in world total exports	0.02	**Share in world total imports**	0.02
Breakdown in economy's total exports		**Breakdown in economy's total imports**	
By main commodity group (ITS)		By main commodity group (ITS)	
Agricultural products	31.2	Agricultural products	29.1
Fuels and mining products	36.6	Fuels and mining products	15.8
Manufactures	31.5	Manufactures	54.1
By main destination		By main origin	
1. South Africa	37.4	1. South Africa	42.8
2. European Union (27)	16.5	2. Botswana	11.4
3. Mozambique	13.0	3. European Union (27)	8.3
4. Botswana	6.1	4. China	5.7
5. Switzerland	4.0	5. Mozambique	4.8

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