SOUTHERN AFRICA GLOBAL COMPETITIVENESS HUB

AUDIT REPORT

MADAGASCAR'S IMPLEMENTATION OF THE SADC PROTOCOL ON TRADE

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EXECUTIVE SUMMARY

Between April and June 2007, the Southern African Trade Hub (SA Trade Hub) undertook an audit of eleven (11) SADC Member States on the implementation of the SADC Protocol on Trade to assess their compliance with their commitments ahead of the official launch of the SADC Free Trade Area (FTA) scheduled for August 2008. At the time of the audit, Madagascar which had already ratified the SADC Treaty in December 2004 and acceded to the SADC Protocol on Trade had not yet started implementing the SADC Protocol on Trade tariff phase downs and was therefore left out of the audit.

At the 35th Meeting of the SADC Trade Negotiating Forum held in Botswana on March 24, 2008, the SADC Member States were informed that Madagascar which had started implementing the SADC Protocol on Trade on October 1, 2007 would be audited in April/May 2008 to establish her level of compliance with her obligations under the SADC Protocol on Trade.

A summary of the key findings on Madagascar is presented below:

- Madagascar is a member of COMESA, the Indian Ocean Commission and SADC and had signed bilateral agreements with the Seychelles, Mauritius, South Africa and Botswana.

- Madagascar is applying its 2008 SADC tariff rates in line with her original offer. However, formal notification to the SADC Secretariat is still to be made.

- Madagascar's SADC Tariff schedule is updated to HS 2007 and has been uploaded onto the Ministry of Economy, Commerce and Industry (MECI). Nonetheless, the Ministry of Economy, Commerce and Industry needs to update their schedule with the schedule in use by Customs.

- There is a general lack of awareness of the SADC program especially on the part of the private sector. There is need for SADC publicity awareness campaigns to be conducted in Madagascar.

- There is very little trade being conducted under the SADC Protocol on Trade. The records of the Customs office at the airport revealed that in March 2008 the office had processed a total of 2886 declarations (2514 - import and 372 - export out of which 20 entries were said to be SADC entries).

- The lack of SADC instruments and documents in French is affecting the implementation of the SADC Protocol on Trade by Madagascar. The SADC website should be in all the three SADC official languages, namely, English, French and Portuguese and all documents translated into the three official languages.

- Madagascar has been applying the WTO Agreement on Customs Valuation since year 2000 with reservations, with most imported goods being valued under the transaction value method.

1. BACKGROUND

The Southern African Development Community Protocol on Trade was signed in Maseru in August 1996 by eleven (11) Member States and came into force on January 25, 2000. Tariff phase down commenced on September 1, 2000[1], and is scheduled to result in a WTO compliant Free Trade Area by January 1, 2008[2]. The SADC Protocol on Trade is being implemented by Botswana, Lesotho, Madagascar[3], Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Angola also acceded to the Protocol and is expected to submit a tariff offer in 2007. The Democratic Republic of Congo is not yet party to the Protocol on Trade.

In 2004, the Mid-Term Review (MTR) of the Protocol on Trade identified a number of implementation issues including rules of origin constraints, back-loaded tariff liberalization schedules, and inconsistency in executing tariff reductions. The Committee of Ministers (CMT) accepted the key recommendations of the Mid Term Review with the following comments:

1. The current SADC Rules of Origin are complex and restrictive and SADC should strive for clear, straightforward, transparent, and predictable rules of origin that will encourage trade;
2. For consistency and transparency in implementation, tariff phase down schedules should be effected annually on January 1;
3. For the purposes of harmonization, Member States should update their tariff offers, which originally were based on the Harmonized System (HS) 1996 tariff classification, to the current HS 2002;
4. For countries that had back-loaded their tariff cuts, it was suggested that they should implement their tariff cuts twice a year;
5. As far as possible, tariffs below 5 % should be eliminated;
6. In cases where the Most Favored Nation (MFN) rate has been reduced Member States are encouraged to also reduce the SADC preference rate in order to ensure a minimum preference margin;
7. Initial phase down schedules for sensitive products should be reviewed in view of the decision by SADC to move towards a Customs Union by 2010 as well as the need to take into account latest economic developments;
8. There is need for improvement of the capacity for monitoring and communication among all stakeholders on the implementation of the SADC Protocol on Trade both at national and regional level. A section within the Trade, Industry, Finance and Investment (TIFI) Directorate, dedicated solely to implementation of the SADC Protocol on Trade, would be able to undertake the following:
    - Improve the collection and dissemination of information including the status of implementation, trade flow data and changes in tariff regimes;
    - Update and verify the original tariff phase down offers against the gazetted schedules in order to reflect any changes in coding systems or in the overall tariff regime.

Following the decisions of the CMT and working through the Trade Negotiating Forum, SADC Secretariat began working with Member States to implement the above recommendations and requested for assistance from the Southern Africa Global Competitiveness Hub on monitoring and verification of the tariff phase down and implementation of the SADC Protocol on Trade to assess the status of implementation of the SADC Protocol on Trade and a FTA in 2008.

1.1 Introduction

In February 2007, the Southern African Global Competitiveness Hub was requested by the SADC Secretariat to assess the status of Member States implementation of the SADC Protocol on Trade.

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[1] This is the case for SACU and Mauritius. The rest of member states started implementation from 2001.
[2] In terms of Article XXIV (GATT, 1994), interpreted to mean that at least 85 per cent of intra-SADC trade would be duty free and no major sector would be excluded.
[3] Madagascar started implementing the SADC Protocol on Trade on 1st October 2007.

Between April and June 2007, the Southern African Trade Hub (SA Trade Hub) undertook an audit of eleven (11) SADC Member States on the implementation of the SADC Protocol on Trade to assess their level of compliance with their commitments ahead of the launch of the SADC FTA scheduled for August 2008. The 2007 audit findings were presented to the SADC Ministerial Meeting held in August 2007 in Lusaka prior to the SADC Summit. At the time of the 2007 audit, Madagascar was not covered because the implementing the SADC Protocol on Trade tariff phase down was still under negotiations and was therefore left out of the audit.

In March 2008, an audit update was conducted covering all the countries implementing the SADC Protocol and its findings presented to the 35th Meeting of the SADC Trade Negotiating Forum (TNF) held in Gaborone, Botswana on March 24, 2008, with the understanding that a comprehensive audit on Madagascar's implementation of the SADC Protocol on Trade. Madagascar started implementing the SADC Protocol on Trade as of October 1, 2007.

This report therefore provides the results of a joint audit of Madagascar carried out by the Southern Africa Global Competitiveness Hub (SA Trade Hub) and the SADC Secretariat from May 4 to 10, 2008.

1.2 Structure of the Report

The report is divided into six sections. Section 1 provides the background to the audit. Section 2 presents the findings on the implementation of the tariff phase down, the treatment of sensitive products, rules of origin, preferential trade arrangements and the pattern of trade under the SADC Protocol on Trade. Section 3 provides an update on the implementation of trade facilitation instruments and documentation. Section 4 addresses capacity building issues with section 5 on views of the private sector on the SADC Protocol on Trade and the last section concludes with a series of issues and recommendations arising from the audit.

1.3 Methodology

In carrying out the audit of Madagascar, the audit team followed the same methodology that was adopted in the 2007 audit. The audit was carried in two stages, namely desk research followed by a trip to Madagascar for site visits.

1.3.1 DESK RESEARCH

The desk research included reviewing various SADC instruments and documents including the 2007 SADC audit report and subsequent updates, the WTO' Trade Policy Review of Madagascar of February 2008, evaluating Madagascar's tariff offers to South Africa and the rest of SADC and bilateral trade and cooperation arrangements that Madagascar is party to. The 2007 audit checklist was used and translated into French to facilitate the information gathering process which sent to the Madagascar government authorities prior to the site visits.

1.3.2 FIELD WORK

The auditors were in Madagascar from May 4 to 10, 2008. The audit team visited the Ministry of Economy, Commerce and Industry, Ministry of Finance and Customs, the Statistics and Information Systems Directorates. The SADC contact point in Madagascar attended the meetings with Ministry of Economy, Commerce and Industry. Meetings were also held with private sector representatives namely the Chamber of Commerce, the Clearing and Forwarding Agents Association, the Madagascar Export Processing Zone Association, two major importers - Magro and Shoprite - to get their views on the implementation of the SADC Protocol on Trade. A list of individuals met is attached to this report as Annex I.

The auditors visited the Customs head office and the Customs office at Ivato Airport to check on the application of the SADC reduced tariff rates through the ASYCUDA system. The auditors also checked on whether the officials at this point of exist and entry had SADC publications as part of their reference material.

To assess the application of the WTO Valuation Agreement on Customs valuation the audit team held interviews with customs officials and carried out on the spot checks at the airport office and interviewed the representative of the Clearing and Forwarding Agents Association.

Trade data was collected to analysis the trade flows and patterns. However, the data collected was incomplete to allow for detailed analysis. This is a common problem in the SADC region and availability of accurate data continues to be major challenge in analyzing trade flows and patterns to illustrate the impact of tariff reductions.

2. IMPLEMENTATION OF SCHEDULE AND PREFERENTIAL TRADE

2.1 Tariff phase down

The SADC tariff reduction program grouped the SADC Member States into three clusters based on the level of economic development: Developed, Developing, and Least Developed Countries (LDCs). Each cluster was scheduled to implement their tariff phase-down based on different timetables. Countries considered "Developed" (SACU[4]) were expected to front-load their tariff reductions. Zimbabwe and Mauritius were both considered developing countries, and permitted to mid-load their tariff reductions and achieve zero tariffs by 2008. While the LDCs such as Angola, the Democratic Republic of Congo, Malawi, Mozambique, Tanzania and Zambia were permitted to back-load their tariff reductions in order to eliminate tariffs on 85 per cent of products by 2008 and on virtually all products by 2012. Madagascar had not yet joined SADC.

It was agreed to allocate tariffs into four categories:

- Tariff lines that will be reduced to zero upon implementation of the Protocol (Category A);
- Tariff lines that will be removed within one to eight years (Category B);
- Sensitive products, which should not exceed 15 per cent of total intra-SADC trade and will be removed between eight and twelve years (i.e. 2008-2012). The Mozambique submission for sensitive products was over a 15 year period – this was adopted as part of the implementation agreement in 2000; and
- Tariff lines that will be excluded from preferential tariff treatment under Articles 9 and 10 of the Protocol (Category E).

SADC Member States are required to deposit their Instruments of Implementation with the SADC Secretariat to both implement their tariff offers and receive concessions from other Members. Tariff reductions must be published by each Member State on 1 January of each year.

Each non-SACU SADC Member of the Protocol on Trade submitted two tariff offers: one applicable to all SADC members except South Africa; and the other applicable to South Africa[5]. SACU members submitted a single offer applicable to non-SACU Members.

Madagascar' tariff phase down was adopted by the SADC Summit at its meeting in October 2006, and following its approval by Parliament, it became part of Madagascar's Finance Law. This means that there is no need for Madagascar to annually present the tariff reduction to Parliament for approval. The tariff schedule became effective from October 1, 2007. According to the authorities, the published schedule was availed to the private sector associations electronically and in addition, it was posted on the Ministry of Economy, Commerce and Industry' (MECI) website as public

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[4] SACU was defined as developed because of South Africa and the fact that SACU has a Common External tariff.
[5] Some SADC members have updated these offers to HS 2002. This has created some difficulty with regard to the status of implementation and matching the original tariff offer with the new coding system.

information and the audit team confirmed this aspect. According to the clearing agents, the Customs authorities write a letter to advise them of the applicable tariff rates for each year, that is, the rates applicable on the first of January of each year.

At the time of the audit, Madagascar had not yet sent any form of notification to inform to the SADC Secretariat on the implementation of the 2008 tariff reductions as required. The explanation by the authorities was that they were not aware of this requirement. The audit team suggested that for future tariff reductions, Madagascar authorities should send copies of notifications/notices issued on the implementation of the annual SADC tariff rates to the SADC Secretariat to advise the date of implementation of given tariff reductions. The audit team further explained that such notification would be useful for purposes of monitoring the implementation of the SADC tariff phase down by the SADC Secretariat. The Ministry of Economy, Commerce and Industry advised the audit team that such notification would be sent to the SADC Secretariat as soon as possible.

The audit team was advised that Madagascar was experiencing some problems with the effective date of implementation of the SADC Tariff reduction schedule. According to the Authorities, the Department of Trade and Industry (DTI) of South Africa had written to them to indicate that the effective date would be that when South Africa accepted their offer (to RSA) and it is alleged that to date this has not been honored by South Africa. The audit team was provided a copy of communicated dated November 2007 from South Africa Revenue Authority (SARS) stating that the implementation of the SADC Protocol for Madagascar would be retrospectively with effect from October 1, 2007. The Authorities therefore had questions on when the offer to RSA became effective as a result. The Customs administration indicated that as a result there are pending requests for refunds by the traders on goods importer from and those exported to South Africa. Further discussions with the private sector revealed that the problem arose because at the time of negotiations the Madagascar authorities were promised by South Africa that refunds would be done on their exports to South Africa and some exporters quoted prices taking into account that there would be a duty refund to the South African importer.

A review of the applied 2008 SADC tariff rates (for both imports from RSA and from other SADC Member States) in the ASYCUDA system on selected tariff codes at the Customs Airfreight section at Ivato Airport showed that Madagascar was applying her 2008 SADC tariff rates and thus complying with her tariff phase down for 2008. The following table shows the sample tariff codes that were used by the team to verify the application of 2008 SADC tariff rates by Madagascar:

Table 1: Sample tariff codes

HS Code	Category	2008 SADC offer to RSA (%)	2008 applied SADC rate to RSA (%)	2008 SADC offer [excluding RSA] (%)	2008 applied SADC rate [excluding RSA] (%)
0204.1000	B	10	10	5	5
0303.7900	B	10	10	5	5
1507.1000	C	0	0	0	0
1702.4010	A	0	0	0	0
2815.2000	B	5	5	5	5
4005.2000	B	5	5	5	5
5601.1000	A	0	0	0	0
7301.1000	B	5	5	5	5
8414.1000	A	0	0	0	0
9701.9000	B	10	10	5	5

Madagascar has updated her SADC Tariff phase down schedule to HS 2007 in the ASYCUDA System but the Ministry of Economy, Commerce and Industry was yet to update the scheduled uploaded on their website and that submitted to SADC Secretariat. The audit team was able to obtain a copy of the Schedule based on HS 2007

According to the WTO Trade Policy Review of Madagascar of February 2008, *"in 2007, Madagascar levied excise duty on alcoholic beverages, perfumes and cosmetics, cigars, cigarettes* *and tobacco[6]; there was also a charge on alcoholic beverages, perfumes and cosmetics, cigars, cigarettes and tobacco.[7] A charge (but not excise duty) was levied on sugar, wheat and meslin flour, and chemical matches. In several cases, the rates in force in 2007 differed according to the origin of the product (Table III.4), for the purpose of protecting the local industry; changes are understood to have been introduced by the 2008 Finance Law. With regard to the 80 per cent excise duty on cigarettes, a 50 per cent reduction is granted if the reference price of the product does not exceed the threshold established by regulation, while cigarettes whose Malagasy tobacco content equals or exceeds the minimum laid down by regulation benefit from a further reduction of 15 per cent. The taxable base for locally manufactured products is the sale price, whereas that for imports is the c.i.f. customs value plus duty".*

2.2 Sensitive products

During the negotiations of the tariff phase down schedules, it was agreed that sensitive products - category C products, should not exceed 15 per cent of total intra-SADC trade and the rates reduced to zero between 2008 and 2012.

Madagascar's sensitive category is about 14.5% of the total eight-digit lines of the 2007 version of the Harmonized Commodity Description and Coding System (HS) and these products will be reduced to zero by 2011 for the rest of SADC and 2012 for South Africa. The audit found Madagascar to be compliant with the schedule submitted to SADC. According to the schedule Madagascar only starts reducing tariff rates for category C products in 2009. Chapters 18 (…), 24 (…) 93 (…) total tariff lines are categorized as Category C product and almost 99% of chapter 34 (…). Category E products are about 0.59% of the total eight digit lines of the 2007 version of the HS. It has only been about 9 months since Madagascar started implementing the SADC Protocol on Trade and it was not possible on the basis of available data to determine whether Madagascar's category C products does not exceed 15% of the total intra-SADC trade.

2.3 Preferential Trade Arrangements

Madagascar is a member of the Common Market for Eastern and Southern Africa (COMESA) Free Trade Area and the Indian Ocean Commission (IOC). COMESA Member states are expected to implement a Common External Tariff by December 2008. In addition, Madagascar' Trade Policy Review indicates that Madagascar has signed bilateral trade agreements with Mauritius[8], and the Seychelles, and bilateral cooperation agreements with South Africa [9]and Botswana. Outside SADC, Madagascar has signed bilateral trade agreements with Japan, Switzerland, Finland, Spain, Denmark, Norway, Russia, Algeria, Cuba, China and Turkey.

In principle, Madagascar grants preferences to products originating in other COMESA member countries, on a basis of reciprocity, and to products originating in other SADC member countries. Moreover, since 1998, Madagascar has applied a duty reduction of 100 per cent to goods originating in the Indian Ocean Commission (IOC) countries.

A 35 per cent reduction in the duties and taxes applicable is granted to goods imported by Radio Nederland, under an agreement concluded with the Madagascar. Exemptions from customs duties and taxes may also be granted, by decision of the Government Council, in exceptional circumstances, in the public interest and for reasons of state.

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[6] Part 3, Title 1, General Tax Code (2006 edition).
[7] Part 4, General Tax Code (2006 edition). Mobile phone communications and the reception of pay television programmes delivered locally are also subject to a charge.
[8] Signed on 9 November 2005 in Port Louis, Mauritius
[9] According to the authorities the agreement with South Africa and Botswana are cooperation agreements signed in Antananarivo on 13 December 2006 and 26 June 2006 respectively.

2.4 Rules of origin

Madagascar Customs is the authority designated to certify SADC Certificates of Origin by Madagascar. Meetings held with both the public and private sectors showed that the private sector was not conversant with the SADC rules of origin and the authorities requested for an awareness workshop.

Initially, Madagascar main problems with the specifications of SADC Certificate of Origin, was what color the Certificate of Origin should be, but the problem has since been addressed following its redesign on the basis of SADC approved specifications contained in the SADC Rules of Origin regulations. The copies of certificates of origin obtained from one of the two importers visited indicated that some exporters from South Africa were still using an old SADC Certificate of Origin which referred to the need to fill in a registration number as an optional requirement. Discussions with Customs officers at Ivato Airport revealed that the office was yet to process a SADC Certificates of Origin for SADC exports.

2.5 Pattern of Trade under the SADC Protocol on Trade

Madagascar began implementing the SADC Protocol on Trade on October 1, 2007. However, the statistics provided by Madagascar are up to 2006, which is before implementation of the Protocol. The following tables show the trade flows between Madagascar and other SADC Members.

Table 2: Madagascar's exports to SADC prior to implementation of the SADC Protocol on Trade

SADC country	2004 Exports USD	2004 Proportion of Madagascar' SADC exports (%)	2005 Exports USD	2005 Proportion of Madagascar' SADC exports (%)	2006 Exports USD (2006)	2006 Proportion of Madagascar' SADC exports (%)
Angola	0	0	0	0	105 394	0.381
Botswana	161	0.000395	0	0	2267	0.0082
DRC	60878	0.0149	1369 499	5.743	9074	0.0328
Lesotho	78 080	0.192	0	0	22841	0.0826
Malawi	0	0	0	0	3568	0.0129
Mauritius	35 418 816	87.10	16 369 165	68.65	14360193	51.978
Mozambique	237 739	0.584	124 668	0.522	205 296	0.743
Namibia	0	0	0	0	38 460	0.139
South Africa	3 728 598	9.168	4 887 231	20.496	10188 035	36.877
Swaziland	7512	0.0184	0	0	0	0
Tanzania	58 982	0.145	80 192	0.336	174 167	0.63
Zambia	15 829	0.0372	14 814	0.062	7334	0.0265
Zimbabwe	318 812	0.784	44 597	0.187	97 936	0.354
SADC total	**40 666 107**		**2 3844 056**		**27627284**	
Total World exports	**1002287232**		**850835484**		**1001587945**	

Mauritius and South Africa have remained Madagascar' major export markets within the SADC region. Exports to Mauritius recorded a high of 87% of Madagascar's total exports in 2004. However, this figure declined progressively to 68.65% in 2005 and 51,978% in 2006, respectively. Exports to South Africa saw a steady rise from 9.168% in 2004, 20.496% in 2005 to 36.877% in 2006. Exports to the rest of the other SADC countries contributed to total SADC exports less than 4% in 2004, slightly above 10% in 2005 and 11.145% in 2006, respectively. The impact of the SADC Protocol on Madagascar's exports to SADC cannot be determined as the above figures show the position prior to the implementation of the SADC Protocol on Trade.

Table 3: Madagascar's imports from SADC prior to implementation of the SADC Protocol on Trade

SADC country	2004 Imports USD	2004 Proportion of Madagascar' SADC imports (%)	2005 Imports USD	2005 Proportion of Madagascar' SADC imports (%)	2006 Imports USD (2006)	2006 Proportion of Madagascar' SADC imports (%)
Angola	16 856	0.0102	0	0	241	0.000128
Botswana	0	0	59 220	0.0268	8 950	0.0047
DRC	2 5093	0.0152	83 349	0.0321	94 181	0.050
Lesotho	1 846 757	1.123	4 274080	1.648	3 962 024	2.104
Malawi	3 353 298	2.040	2 314 844	0.893	1 863 351	0.989
Mauritius	45 941 596	27.958	129632 660	50.00	54067 706	28.718
Mozambique	458 406	0.278	2 996 588	1.1588	1 734 727	0.921
Namibia	5 991	0.00364	0	0	39	0.00002
South Africa	97 754 188	59.489	99 541 455	38.394	100875737	53.58
Swaziland	8 236 573	5.012	9 797 585	3.778	16 873 713	8.962
Tanzania	3 887 827	2.366	2 448 522	0.944	1 510 752	0.802
Zambia	347 819	0.212	0	0	3859	0.0020
Zimbabwe	163 078	0.0992	46 096	0.0177	781 052	0.414
SADC total	**164 320 895**		**259 261 468**		**188 269 993**	
Total World imports	**1696515456**		**1708900596**		**1759147992**	

Mauritius and South Africa are a major source of supply for Madagascar with the two countries contributing 87.447% (2004), 88.394% (2005) and 82.298% (2006) to Madagascar's total SADC imports. Imports of sugar from Swaziland were modest from 5.012% (2004), 3.778% (2005) rising to 8.962% of total SADC imports in 2006. The rest of SADC countries contributed an average of 8% per year to Madagascar's total SADC imports.

3. IMPLEMENTATION AND CONFORMITY WITH TRADE FACILITATION INSTRUMENTS

The key trade facilitation instruments include the application of a common tariff nomenclature, legislation, procedures and practices, exchange of information and customs cooperation, the use of modern technologies in Customs processes and capacity building in Customs.

The preamble to Annex II, of the SADC Protocol on Trade, Concerning Customs Co-operation within SADC, notes that the implementation of harmonized Customs laws and procedures can effectively contribute to the development of intra-SADC trade and other intra-SADC exchanges. To achieve this objective, Article 11 to Annex II of the SADC Protocol on Trade provides for the establishment of the Sub-Committee on Customs cooperation (SCCC). Their mandate is to promote Customs cooperation among Member States, simplify and harmonize Customs laws and procedures and to build customs administration capacity within SADC. The Sub-Committee on Customs Cooperation developed (through Working Groups on Trade Facilitation, IT, Transit, Customs Cooperation, Rules of Origin) a number of trade facilitation instruments and documents in line with its Indicative Strategic Plan (2000 – 2010) that was adopted at its 8th Meeting, based on international standards for implementation by Member States. Each of the Working Groups formed by the SCCC consists of representatives from the respective SADC Members' Customs administration.

The trade facilitation instruments include, Regulations on SADC Rules of Origin which were approved by the Integrated Committee of Ministers (ICM) during its 1st Meeting in 2003, SADC Transit Regulations, SADC Model Customs Act, SADC Tariff Nomenclature which was adopted at the 17th meeting of the SADC Ministers of Trade, Model SADC Customs MOU, SADC Transit

Customs bond guarantee scheme, Rules of Origin manuals for officers and traders, respectively and Common Customs documentation, including, the Single Customs Administrative Document (SADC-SAD), the SADC Certificate of Origin, Transit Documentation, the Voucher of Correction of SADC-SAD and Guidelines for the completion of SADC Customs documentation. In addition, a peer review mechanism for SADC Customs Administrations has been put in place. To fight corruption and achieve SADC' vision of establishing "World Class Customs Services" a SADC Code of Conduct for Customs Officials was also developed and adopted by SADC Member States.

A Model Memorandum of Understanding (MOU) for Customs Cooperation and Mutual Administrative Assistance was also developed by the SCCC and adopted by SADC Member States to facilitate the exchange of enforcement information and to enable SADC Customs Administrations to extend various forms of assistance to each other in the implementation of the SADC Protocol on Trade.

Through the EU funded SADC-EU RICB Technical Assistance Project the SCCC Working Group on Training developed the following training modules and a training strategy to be used by SADC Customs Administrations in their national training programmes: SADC Protocol on Trade; SADC Rules of Origin, ACP-EU Rules of Origin, Post-clearance Audit, WTO Customs Valuation Agreement, Trade Facilitation, Client care, Risk Management, Warehousing, and Transit.

3.1 Customs procedures and documentation

Madagascar is currently applying a few of the SADC approved trade facilitation instruments, namely, the Regulations on SADC Rules of origin, the SADC certificates of origin and the Model Memorandum of Understanding for SADC Administration where she expects to sign one with South Africa. The rest of the approved instruments and documents are still to be applied by Madagascar.

The Customs authorities were concerned that it had taken them about four months to get a copy of the SADC Staff Manual on Rules of origin from the SADC Secretariat. The audit team took note of this concern as the Staff Manual is very important for Customs as it provides guidance on the procedures to be followed in the clearance of SADC originating goods. Furthermore, the audit team availed photocopies of the SADC Regulations and Staff Manual on Rules of origin to the Customs authorities. In addition, photocopies of the Trader' Guide to SADC Rules of Origin were also provided to Customs, MECI, the Chamber of Commerce and to the two companies (Shoprite and Magro) that were visited by the audit team.

A visit to the Customs office at the airport revealed that in March 2008 the office had processed a total of 2886 declarations (2514 - import and 372 - export). About 20 entries were said to be SADC entries.

3.2 WTO Customs Valuation Agreement

Madagascar has been applying the WTO Agreement on Customs Valuation since November 17, 2000 with reservations and the provisions of this Agreement are contained in Madagascar's Customs Code. However, it was not clear as to whether the valuation system was being applied on c.i.f or f.o.b basis as according to Customs, an f.o.b system is in use while according to the Clearing Agents Association, it was a c.i.f valuation system that was being applied.

The Transaction Value Method is the most widely used valuation method, and a sample of ten (10) declarations checked by the audit team at the Customs Airfreight office at Ivato Airport showed that this was the case as in all the declarations, the Transaction Value Method was indicated as the applied valuation method. However, the audit team was advised that used imported motor vehicles were not valued under this primary method. Instead, the Customs authorities are provided with pricing information by SGS.

The private sector generally viewed the WTO Customs Valuation Agreement as a complicated valuation system because of difficulties experienced in getting appropriate valuation information from the country of export. There has also not been much regular training for the private sector in this area.

An appeals process which is in line with Article 11 of the WTO Agreement on Customs Valuation is supposed to be in place. However, differences arose as to the applicable appeals process, as according to Customs, there was an Appeals Committee in place while the Clearing Agents stated that such a Committee was in place up to 2006 and abandoned and now they were waiting for the setting up of a Reconciliation Commission to deal with appeals against Customs decisions.

3.3 Harmonized System Coding

Madagascar' Tariff schedule is based on the Harmonized System 2007 version. Madagascar' tariff comprises 6 362 eight-digit tariff lines and after re-organization of its tariff structure, it now applies four rates: 0 percent, 5 per cent, 10 per cent and 20 per cent with most duties being ad valorem. A few tariff lines categories as E attract specific duties in chapters 17 and 27.

4. CAPACITY BUILDING (TRAINING OF CUSTOMS OFFICERS)

Madagascar Customs has a staff complement of 1200 and has a Customs school which offers various Customs training courses with some leading to the conferment of National Diplomas, which, according to the authorities are recognized at international level.

The school also provided training for the private sector, in the ASYCUDA system, customs valuation, rules of origin, Economic Partnership Agreements (EPAs) including regional economic arrangements such as COMESA, IOC and SADC.

The team however noted that Madagascar did not have the SADC approved modules for its training program. These would have to be translated into French if they were to be used by Madagascar. It should be noted that a similar observation was made during the initial audit of Mozambique in 2007 and the post-audit assessment carried out early 2008 where Mozambican authorities indicated that they could not use modules prepared in English until they were translated into Portuguese**.** The challenge now is for the SADC Secretariat to ensure that these modules and other SADC instruments and documents are translated into Portuguese and French. The SADC Secretariat representative advised the officials that the Secretariat would look into translating all SADC instruments and documents.

Madagascar has also benefited from various training courses offered by the SADC Secretariat under its RICB Technical Assistance Project.

5. PRIVATE SECTOR VIEWS ON THE SADC PROTOCOL ON TRADE

The team held various discussions with the Chamber of Commerce, Shoprite, Magro and the Export Processing Zone Association and VIDZAR S.A.R.L. While the representative of the Export Processing Zone Association was quite knowledgeable about the SADC Protocol on trade and its benefits, the others had very little or no knowledge. As a result, the private sector appreciated the presence of the audit team in Madagascar as it gave them an opportunity to get information on the SADC integration agenda.

An important issue discussed with the private sector was how Madagascar could benefit from the MMTZ arrangement on textiles. In this regard, Madagascar would quickly write to the SADC Secretariat to ensure that the issue is raised at the next SADC TNF scheduled for June 2008 while at the same time lobbying the MMTZ group of countries.

Among the things discussed and agreed was the need for the SADC Secretariat to provide Madagascar with requisite information on SADC, the need to conduct SADC awareness campaigns in Madagascar and the preparation of a simple guide for the private which provides step-by-step procedures on how the private sector could benefit from the SADC Protocol on Trade. The need for improved communication between the various government Ministries tasked with implementing the SADC Protocol on Trade and the private sector was also emphasized.

6. RECOMMENDATIONS

1) **Notification of dates for effecting annual tariff reductions:** Madagascar is applying 2008 SADC tariff rates to both RSA and to other SADC Member States. However, Madagascar authorities should send copies of their 2008 notification on the implementation of the annual SADC tariff rates to the SADC Secretariat to advise the date of implementation.

2) **SADC Tariff schedule HS migration errors in the Schedule on the MECI website:** The Secretariat should urge Madagascar to work with their Customs administration to update the SADC Tariff schedule on the MECI website and bring it in line with the copy used by Customs which is accurate.

3) **SADC publicity awareness:** The Secretariat should organize SADC publicity awareness workshops as a matter of urgency to facilitate the effective implementation of the SADC Protocol on Trade by Madagascar*.* The Trade Hub will facilitate the workshop to be conducted in June 2008 and produce a simple guide on import and export procedures for the private sector.

4) **Translation of SADC instruments and documents:** Madagascar as a French-speaking country (with English declared as an official language only recently) requires all SADC instruments and documents in French. The Secretariat should make an effort to have all SADC instruments and trade facilitation documentation translated into French and forwarded to Madagascar as a matter of urgency.

5) **SADC Website:** The SADC website should be in all the three SADC official languages, namely, English, French and Portuguese to facilitate easy access of SADC information by all SADC Member States. The Secretariat should address difficulties experienced by Member States in accessing documents on the SADC website.

6) **Service delivery by SADC Secretariat:** There is need for quick response to queries from Member States.

7) **Appeals against Customs decisions:** It is recommended that Madagascar should come up with an appeals process which is understood by both Customs and the private sector in the same way.

8) **Access to MMTZ:** Madagascar should quickly write to the Secretariat to ensure that this issue is placed on the agenda of the next TNF in June.

9) **Communication between public and private sector:** There is need for improved communication between the various government Ministries tasked with implementing the SADC Protocol on Trade and the private sector.

10) **Correct Certificate of Origin:** SADC Secretariat should immediately send to Madagascar a correct copy of the SADC Certificate of rules of origin.