SOUTHERN AFRICA GLOBAL COMPETITIVENESS HUB

Project Note

Recommendations for Improving the Enabling Business Environment: Southern Africa Global Competitiveness Hub: Trade Management, Trade Facilitation, and Capacity-Building Activities

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ABBREVIATIONS AND ACRONYMS

AGCI	African Growth Competitive Initiative
AGOA	African Growth and Opportunity Act
ASYCUDA	Automated System for Customs Data
BCS	Business Climate Survey
BEDIA	Botswana Export Development and Investment Authority
BHC	Botswana Horticulture Council
BIDPA	Botswana Institute for Development Policy Analysis
CET	Common External Tariff
CIT	Company Income Tax
CPI	Consumer price index
COMESA	Common Market of Eastern and Southern Africa
DAO	Development Approval Order
DC	District of Columbia
EAC	East African Cooperation
ECOWAS	Economic Community of West African States
E.g.	Exempli gratia [Latin]; For example
EPA	Economic Partnership Agreements
EPZ	Export Processing Zone
ESDP	Education Sector Development Project
EU	European Union
FDI	Foreign Direct Investment
FIAS	Foreign Investment Advisory Service
FPSE	Free Primary School Education, Lesotho
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
GIS	Geographic information system
HIES	Household Income and Expenditure Survey
HIPC	Heavily indebted poor country
IBRD	International Bank for Reconstruction and Development
ICA	Investment Climate for Africa
ICD	Inland container depot
ICF	Investment Climate Investment
Idem.	Ibidem [Latin]; Same as above
IFSC	International Financial Services Centre
IMF	International Monetary Fund
Inc.	Incorporated
IPR	Intellectual property rights
LOE	Level of effort
LTTA	Long-term technical assistance
MOEE	Ministry of Enterprise and Employment, Swaziland
MOH	Ministry of Health
MSME	Micro, small, and medium enterprises
MT	Mauritius Telecom
NAMA	Non-Agricultural Market Access
No.	Number
NTB	Non-tariff barrier
ODC	Offshore Development Corporation, Namibia
OECD	Organisation for Economic Co-operation and Development

PAL	Promoting Agribusiness Linkages
PRGF	Poverty Reduction and Growth Facility
RCSA	Regional Center for Southern Africa
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAIBL	South African International Business Linkages
SIPA	Swaziland Investment Promotion Authority
SME	Small and medium enterprises
SOP	Standard operating procedure
SOW	Scope of work
SPS	Sanitary and phyto-sanitary
STC	Secondary Tax on Companies
STTA	Short-term technical assistance
TCP	Trade Competitiveness Project
TPU	Trade Promotion Unit, Swaziland
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TSG	The Services Group
TVET	Technical and Vocational Education and Training
UNCTAD	United Nations Conference on Trade and Development
UNECE	United Nations Economic Commission for Europe
USAID	United States Agency for International Development
VAT	Value-added tax
WB	World Bank
WBEPZMC	Walvis Bay Export Processing Zone Management Company
WCO	World Customs Organisation
WTO	World Trade Organization

CONTENTS

Executive Summary 1

I. Introduction 2

II. Summary Overview by Country 4

III. Doing Business: Summary of Findings and Analysis 12

IV. Need for Regional Integration 41

Bibliography 44

EXECUTIVE SUMMARY

The main goal of the present work is preparation of a Project Note to advance the work of the Southern African Global Competitiveness Hub in supporting a more competitive business environment. This Project Note outlines areas in which Southern African countries fall short on access, transparency, and the ease of investment and doing business. The Project Note serves to inform the Competitiveness Hub of areas in which targeted assistance might be given to support necessary reforms. In instances where reforms might be warranted, a matrix showing a "package" of interventions that the Competitiveness Hub might undertake in selected countries. The matrix includes estimates of level of effort for both short and long-term technical assistance experts.

Constraints to trade, business, and investment in Southern African countries are associated with poor governance, poor economic policies, human resources constraints, poor provision of services by public utilities which are crucial inputs in the production process – for example water, sanitation, transport, electricity and telecommunications, various problems with access to finance, problems with access to and ownership of land and enforcement of property rights. Every country is different, but as a whole the region is characterize by low GDP, high inflation, corruption at the state level, poor or inappropriate infrastructure, and lack of legal instruments suitable for business.

Research and data suggest that living standards in Southern Africa are very poor, and reducing poverty depends upon broad-based economic growth. Economic growth, however, which can only occur with the identification of the problems facing businesses, creation of good legislation to guide the business investment and trade processes, reform of administrative procedures and public services, and training and assistance provided to the private sector, where needed.

The improvement of the **legal and regulatory framework,** within which investment and trade decisions are made by private companies function, is one of the most important aspects of creating an overall enabling business environment for business development. It involves removing or easing regulatory constraints needed in many Southern African countries and improving the overall legal framework governing business activities as is the case in many countries in transition to a market economy.

Improvements in **administrative reforms** are also warranted in many cases. Once the proper legislation is in place, interventions are often required to change thinking, processes, and procedures among line agencies and ministries. While it is often easy to get buy-in for legislative changes among high-level reform-minded politicians, it is more difficult to effect that change at lower levels. Administrative reforms should not proceed without the prerequisite changes in legislation, and should also not be done without the proper buy-in from all agencies affected.

Many interventions also call for **e-government** or automated and computerized solutions. This is the case, for example, with the adoption of ASYCUDA –Automated

System for Customs Data. This project note outlines the resources needed for adoption of e-government solutions, but cautions that such interventions should only proceed where there are transparent and properly functioning paper-based “manual” systems already in working order. Adopting an electronic interface for a poorly functioning licensing or registration system, for instance, would be a waste of project resources, time, and reputation.

I. INTRODUCTION

This report identifies and proposes policy recommendations towards improving the enabling business environment in the Southern African Region to enhance the long-term viability of the region's competitiveness, both in terms of trade and sustainability in the region and world economy. The region is characterized by poor conditions for doing business and an inability to attract national and foreign investment. There is also a general lack of workable legislation, lack of regional dialogue on a trade issues, corruption, poor governance, poor economic policies, human resources constraints, and the poor provision of services by public utilities. It is recognized that any proposed policy recommendations recommended herein must have buy-in from the respective bilateral governments, SADC and coordinated with other donors.

The report is based on a trip from October 27, 2005 to November 13, 2005 in Gaborone, Botswana. During the assigned period, Edward T. La Farge conducted research of available information and read various studies on the enabling business environment for the Southern Africa. Mr. La Farge also liaised closely with the Trade Competitiveness Team. On November 10, 2005, he debriefed the USAID Regional Mission on the preliminary findings and recommendations. At the Mission's direction, it was suggested that the concept paper include some short-term interventions that would lead to short-term and immediate results. This Project Note will be an input into the new work plan and is consistent with the Trade Hub focusing on assisting Southern African countries to increase their participation in the world economy.

1. AFRICA GROWTH AND COMPETITIVENESS INITIATIVE

In July 2005, President Bush announced the Africa Growth and Competitiveness Initiative (AGCI) to build Sub-Saharan Africa's capacity for trade and competitiveness. The AGCI will provide $200 million of resources over five years. AGCI goals are to expand African trade with the U.S—under the Africa Growth Opportunity Act (AGOA)—and with other regional and international trading partners through increased export competitiveness.

The AGCI has four strategic objectives that guide the framework for specific project interventions:

a) Improve the policy, regulatory, and enforcement environment for private sector-led trade and investment;
b) Improve the Market Knowledge, Skills, and Abilities of Workers and Private Sector Enterprises;
c) Increase Access to Financial Services for Trade and Investment; and,
d) Facilitate Investment Infrastructure.

2. TRADE FACILITATION AND CAPACITY-BUILDING PROJECT

The Trade Facilitation and Capacity-Building (TFCB) Project marks the launch of the implementation of the 2004 – 2010 Regional Strategic Plan for the Southern Africa Development Community (SADC) as envisioned by the USAID Regional Center for Southern Africa. The TFCB Project has four activity components.

Component 1: Capacity Building and Policy Reform for Trade and Competitiveness
Component 2: Trade Facilitation
Component 3: Financial Services for Trade and Competitiveness
Component 4: Dialogue for Competitiveness.

It is this framework that provides the purpose of this report. The report identifies key areas/issues that increase trade costs and adversely impact on economic development (regionally) in Southern Africa, thus adversely impacting the enabling business environment. The specific focus is to center on the broad question of how lowering trade transactions costs and policies could immeasurably support the Southern African Regional trade competitiveness and directly impact its development prospects.

3. DATA SOURCES AND METHODOLOGY

Economic and environmental data presented herein are drawn from several sources: primary data collected by the World Bank, country statistical publications, research on the Southern Africa region, and international organizations such as USAID, the United Nations and its specialized agencies, the World Bank and the International Finance Corporation. The main sources are: Doing Business in 2006: Creating Jobs (World Bank), Investor Road Maps (Namibia and Swaziland), WB FIAS Reports (Botswana, Lesotho, and Zambia), World Bank Investment Climate Assessment Reports, and various TSG Reports, listed in Appendix D. The data presented are generally consistent with those in *World Development Indicators 2004*. Any differences are likely a reflection of revisions to historical series and changes in methodology. All dollar figures are current U.S. dollars, unless otherwise stated.

II. SUMMARY OVERVIEW BY COUNTRY

This report analyzes the following countries: Angola, Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe. Southern Africa still remains among one of the poorest regions of the world. Statistics indicate that the region accounts for less then one percent of global merchandise trade. Aggregate GDP in the Southern African Development Community (SADC) is $ 188 billion in real terms, which yields a GDP per capita of approximately $ 1,000. Foreign investment to the region has declined over the past decade.

The business-enabling environment plays a major role in promoting market-led growth, trade and reducing poverty. Improving living standards and reducing poverty depends upon broad-based economic growth. The key is that firms will only invest when the enabling business environment is favorable. The business-enabling environment includes economic incentives, which are shaped by macroeconomic and regulatory policies and public administrative procedures.

1. SOUTH AFRICA

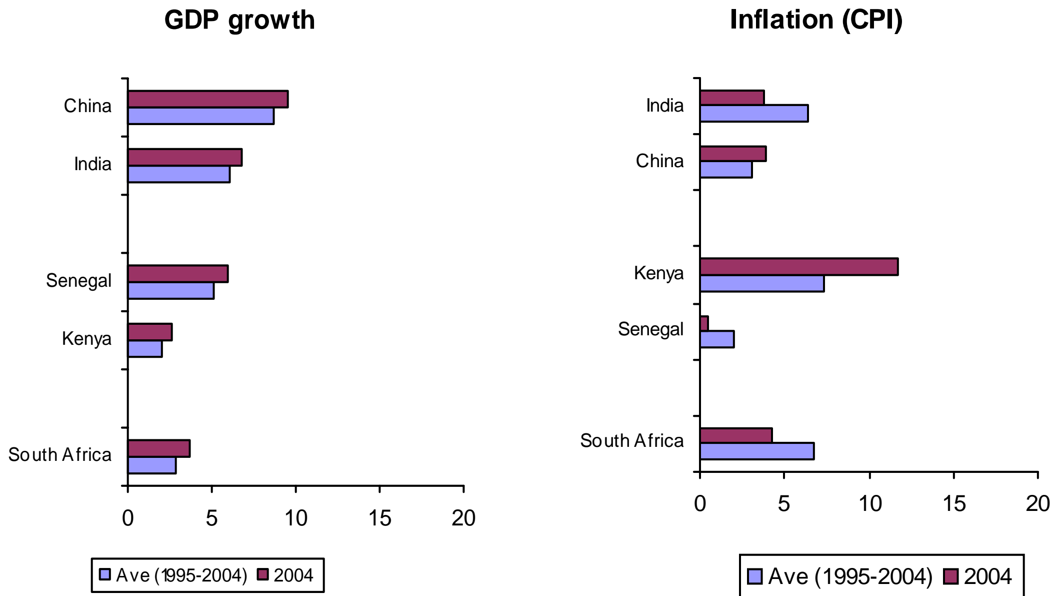
Macroeconomic instability was rated as a serious obstacle to enterprise operations and growth by about 33 percent of **South African** firms[1]—making it the second greatest constraint asked about in the Investment Climate Survey. This might seem puzzling given that although growth has not been spectacular over the past decade—at least when compared to the fastest growing economies in Asia such as China and India—it has not been especially poor either. Similarly, inflation has also been relatively modest. It has averaged about 7 percent over the past decade and was only about 4 percent in 2004.

One possible explanation for the concerns about macroeconomic instability is that exchange rates have been relatively unstable—especially against the U.S. dollar. Between 2000 and 2002, the trade-weighted real exchange rate depreciated by about 25 percent. The rand depreciated against most major currencies over this period, falling by about 27 percent against the US dollar, 26 percent against the British pound and 28 percent against the euro in real terms.[2] Over the next two years, the rand appreciated against all major currencies, especially the U.S. dollar. Between 2002 and 2004, it appreciated 29 percent against the euro, 35 percent against the British pound and 67 percent against the U.S. dollar in real terms. Since the question on the Investment Climate Survey refers explicitly to exchange rates and inflation, it seems plausible that the serious concern about macroeconomic instability reflect concerns about exchange rate instability.

[1] South Africa: An Assessment of the Investment Climate

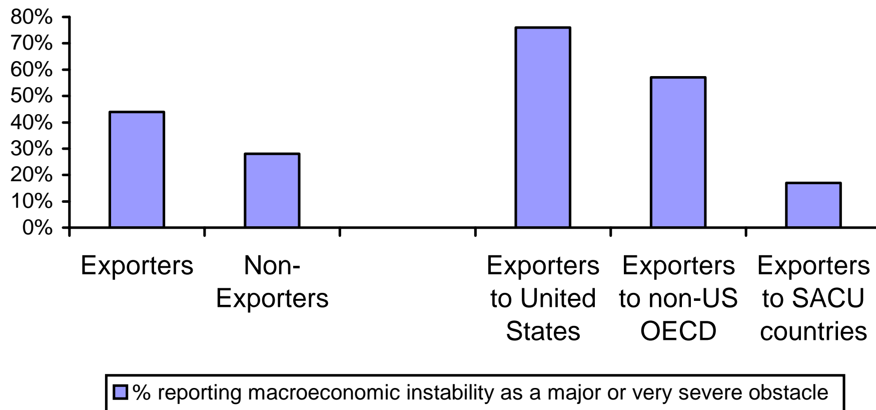
[2] The bilateral real exchange rate against the euro is calculated using CPI inflation for Germany.

Figure 1: South Africa has enjoyed moderate economic growth and modest inflation over the past decade—although both indicators are worse than the best performers in Asia



Consistent with the idea that exchange rate instability is driving the negative perceptions about macroeconomic instability, exporters were far more concerned about it than non-exporters. Whereas 28 percent of non-exporters rated macroeconomic instability as a major or very severe problem, 44 percent of exporters did the same. Since many South African manufacturing firms appear to be price takers on international markets, changes in the exchange rate can have a serious impact of enterprise revenues.

Figure 2: Exporters—and especially exporters to the United States—were far more likely to rank macroeconomic instability as a serious obstacle than non-exporters



Also consistent with this idea, there were noticeable differences between types of exporters. About 76 percent of firms that export to the United States—the major currency against which the rand has appreciated over the past two years—saw macroeconomic instability as a serious problem, compared to only 57 of exporters that exported to other OECD economies and 17 percent of exporters that export to other countries in SACU. Since most other countries in SACU peg their currencies against the rand, exchange rate instability would presumably be a lesser concern for these enterprises.

In the last decade of Apartheid, the economy grew at 1.1% per annum. In the ten years 1994 TO 2003, the growth rate averaged 2.9 percent; 2.7 percent per annum over the last five years.[3] For 2004, growth was 3.7 percent.[4] While there have been fluctuations in the growth rate, it is worth noting that there has been no decline in any calendar year since 1993. In a similar vein, growth in any one year, has never exceeded 4.5 percent per annum. South Africa therefore appears "locked into" a sustained—albeit, moderate—growth path.

In the short term, higher growth will be heavily dependent on two major factors: the value of the rand and the maintenance of historically higher dollar prices for South African commodity exports. With the rand showing an unexpected resilience and concerns that commodity prices will peak in 2005, some forecasters are lowering their projections.[5] There are also concerns as to infrastructural and particularly skill bottlenecks if the economy were to sustain high growth rates for any extended period.

In terms of sector contribution to GDP, over the last decade, the outstanding feature has been a shift to the tertiary and services sectors (see Table 1). Over the last five years, there has been some decline in the primary sectors and in manufacturing, construction, and electricity and water. There has also been a pronounced decline in the share of government services. Transportation, communications, finance, real estate, and business services have all had an increase in their share.

Table 1: Sector Composition of GDP, 1998 -2003

	Agriculture	Mining	Manufacturing.	Elec. and Water	Const	Trade Hotels Rests.	Transport Comms.	Finance, Real Estate, Business Services	Comm Social Personal Services	Govt. Services
1998	4.2	6.5	20.1	3.8	3.2	13.7	10.1	17.9	2.6	15.3
2003	4.0	5.5	19.8	3.5	3.1	13.7	12.2	19.6	2.7	13.1

Source: Statistics South Africa, Bulletin of Statistics, December 2004. vol. 38 No. 4. National Accounts GDP by industry at constant 1995 prices.

[3] Statistics South Africa released revised GDP estimates in November 2004. Nominal GDP was revised upwards some 3.5%. Nominal GDP for 2003 is currently estimated at R1251 billion. GDP Recent growth rat estimates were similarly revised upwards.
[4] Financial Mail, 18/02/2005:36
[5] See Financial Mail 18/02/2005:36. A much lower consensus forecast of 3.2 for 2005 is given by Business Monitor International, BMI, January 2005:6.

Within manufacturing, the share of labor-intensive sectors (food and beverages, textiles, clothing and footwear) declined significantly.[6] Within the tertiary sector, the government share has declined but there have been significant increases in the shares of financial and business services and transport and communications. While the final data are not yet available, the indications are that in 2004, wholesale and retail trade, hotels and restaurants (6.5 percent); construction (6.3 percent) and transportation and communications (5.5 percent) made the most significant contribution to GDP growth.

South Africa maintains a diverse market-based economy. The government continues to implement prudent fiscal and monetary policies. The budget proposed in February 2005 focused on accelerating growth and investment. In order to alleviate supply-side constraints, the government has called for reducing the regulatory burden on small business, reducing taxes, improving the supply of skilled labor, and cutting transportation costs. South Africa is moving slowly forward with the restructuring of state owned enterprises. In 2003, the government divested much of its interest in Telkom, the state-owned telecommunications giant. In February 2005, it finally approved the shareholding structure of a second national telecommunications operator, setting the stage for the licensing of the new company to begin competing with Telkom later in the year. South Africa is making progress on IPR protection. Police increased seizures of counterfeit goods, but follow-up and prosecution have been inadequate. Copyright protection is a problem. A gap in the counterfeit goods law makes it difficult to seize pirated goods that transit through the country. South Africa provides national treatment for foreign investors. A bilateral Trade and Investment Framework Agreement and a bilateral tax treaty are in force with the United States. South Africa is engaged in negotiations for a free trade agreement between the United States and the Southern African Customs Union.

2. ANGOLA

Angola is benefiting from greater macroeconomic stability, having cut annual inflation from 77 percent in 2003 to 31 percent at end 2004 and achieved 11 percent GDP growth. Efforts are underway to reach agreement with the IMF on a Staff Monitored Program. A new customs regime came into effect March 2005, lowering many tariffs by 5 to 10 percent. The government officially promulgated a law banning biotechnology food products in January 2005. A Voluntary Arbitration Law, which provides the legal framework for non-judicial dispute resolution, has been approved, but not yet implemented. In 2003 in Angola, a new law on private investment was passed to provide tax incentives for potential investors and establish the National Agency on Private Investment to facilitate the investment process. In 2005, the government approved a memorandum that calls for privatization of dysfunctional state-owned enterprises.

[6] The share of these sectors in MVA declined from 23% to 20% between 1990 and 2000. Kaplan, 2003.

3. BOTSWANA

Botswana has a stable, market-oriented economy. Real GDP per capita has increased 10-fold since independence – the fastest growth rate in GDP per capita in the world. Botswana is now classified as an upper middle-income country, and has approximately 7,000 kilometers of tarred roads, a GDP per capita in 2003 of approximately US $4000, almost universal free education, three doctors per thousand population, and infant mortality of approximately 58 per 1,000 live births. There are few trade or investment barriers, apart from some restrictions on licensing for some business operations that are reserved for citizen owned and operated companies. Botswana has maintained investment grade sovereign credit ratings from Standard and Poor's and Moody's since 2002. Government policy is geared toward diversifying the economy away from dependence on the mineral sector, which accounts for 34 percent of GDP. Botswana has transformed itself from a largely agrarian and beef exporting country to an economy based on mining exports, the service sector and the government sector. This was achieved because a combination of effective institutions, political stability and sound economic policies allowed it to successfully harvest a natural resource abundance in diamonds – Botswana has become the second largest diamond volume producer in the world after Australia, and the largest producer in terms of output value[7].

The private sector is small, but is gradually expanding. Government still plays a dominant role in the economy, but is actively advancing new policies to clarify the rules for investors and to encourage foreign direct investment and expansion of trade. Plans are proceeding to privatize some parastatal companies in the airline, telecommunications, and banking sectors. Reforms in the capital markets are ongoing, including proposals to create an autonomous regulatory authority for non-bank financial institutions and to reform the Botswana Stock Exchange Act of 1994.

However, Botswana still faces a number of development challenges. First, Botswana has one of the highest HIV infection rates in the world, estimated in 2002 to be 25 percent between those aged 15-49 years. Second, poverty has declined considerably, although about one-third of the population still live below the poverty datum line and inequality levels are comparable to Colombia and Brazil[8]. Third, diversifying the economy beyond Botswana's principal export – diamonds – is a major policy goal for Government, but is proving difficult to achieve.

4. LESOTHO

Lesotho has a free market economy. A major privatization effort was concluded in 2003. The subsequent initiative for privatization of the Lesotho Electricity Corporation was in its final stages in early 2005. Due to the success in the garment industry, manufacturing sector employment now exceeds government employment. Lesotho has been an active participant in the ongoing negotiations for a free trade agreement

[7] Economist Intelligence Unit, 2004a.

[8] The 1993 Household Income and Expenditure Survey reported a Gini coefficient of 0.537, which rose to 0.57 in 2002/03 according to the latest HIES.

between SACU and the United States. The government has also been a valuable interlocutor in WTO negotiations. Lesotho has been highly successful in attracting foreign investment. Since 2001, employment in the garment industry has reportedly grown from around 15,000 to over 51,000 in 2004.

5. MADAGASCAR

Madagascar's government has taken significant steps to liberalize trade, and there are few barriers to U.S. trade and investment. Madagascar continues to implement its program of macroeconomic and structural reforms under the guidance of the World Bank and the IMF. Under these policies, the government is seeking to move towards a market economy that attracts foreign investment and private sector development, while withdrawing the government from productive sectors. Madagascar's privatization continues to move forward, albeit slowly. Banking, fuel distribution, telecommunications, cotton, sugar, utilities, railways, and airlines are either completely or partially under private management.

In October 2004, the country reached completion point under the HIPC initiative. As a result, the Paris Club creditors in November 2004 agreed to cancel US$752 million worth of debt and reschedule $305 million. Total U.S. debt forgiveness to Madagascar amounted to US$42 million. Enforcement of intellectual property rights is limited by a shortage of trained personnel, legal capacity, and resources.

6. MALAWI

Malawi's government has generally made a commitment to a market-based economy. Domestic and foreign investment in most sectors of the economy is encouraged and is not significantly restricted. In 2004, the government continued to make progress on its privatization program, under which it has sold off 64 of 110 companies since 1996. Early in 2004, the IMF halted its Poverty Reduction and Growth Facility (PGRF) funds because of government overspending. After the installation of a new administration in May, fiscal discipline was quickly restored with help from an IMF Staff-Monitored Program.

7. MAURITIUS

Mauritius has a market-based economy with a strong and dynamic private sector. However, the government still controls key utility services directly or indirectly through parastatals. The government welcomes foreign investment and is continuously improving its package of incentives to investors. Since telecommunications services were liberalized in 2003, five private companies have begun competing with Mauritius Telecom (MT) in the international call services market. However, a joint venture involving a U.S. investor has been engaged in a lengthy dispute with MT over allegations of unfair competitive practices. Successful court actions that were taken in early 2004 against local manufacturers and retailers of counterfeit garments have significantly improved IPR enforcement and awareness in Mauritius. In December

2004, at the request of an American company, the customs authorities and the police anti-piracy unit carried out a “cleaning” exercise against counterfeit sunglasses in the local market. In April 2004, the government published regulations governing the Patents, Industrial Designs and Trade Marks Act. In August 2004, the Customs Act was amended to enable customs authorities to intercept counterfeit and pirated products entering Mauritius.

8. MOZAMBIQUE

Mozambique has few trade barriers, but continues to make steady progress toward establishing an investment-friendly, market-based economy. Over the past 10 years, the government has privatized more than 1,200 enterprises. Some large state-owned companies remain, including the national airline, the national electricity company, the national insurance company, port and rail companies, and water and fuel distribution companies. Foreign direct investment and donor government contributions have fueled rapid economic growth in recent years. The economy grew 7.1 percent in 2004.

Mozambique met the targets associated with its Heavily Indebted Poor Country (HIPC) debt relief program and reached completion point in 2001. Fitch Ratings gave Mozambique an international credit rating of B/B in July 2004. Mozambique has carried out significant tariff reform since 2001, reducing the average nominal tariff to less than 10 percent. The government remains cooperative on intellectual property rights protection but has little ability to investigate crimes or enforce intellectual property rights (IPR) laws. Foreign direct investment is welcome, but there are still many obstacles to investment. Private ownership of land is not allowed and the World Bank has estimated that it takes new businesses an average of 153 days to secure basic licensing and registration.

9. NAMIBIA

Namibia’s economy remains open to international investors. The government actively encourages private investment and has created attractive tax benefits for would-be investors and exporters. Despite this, many important sectors of the economy, such as transport, electricity, and telecommunications, continue to be controlled by large parastatals. Since 2001 FDI in Namibia has declined in both absolute terms and as a percentage of gross capital formation. From a high of $365 million in 2001, inward flows diminished to $84 million in 2003. This is a worrisome trend that could have a significant negative impact on Namibia’s economy with attendant effects on employment and social stability should the trend continue. Namibia ranks 84 in UNCTAD’s “FDI Potential Index.”[9] Namibia’s 1990 Foreign Investment Act provides for equal treatment of foreign and national investors. As a member of the SACU, Namibia is participating in negotiations for a U.S.-SACU free trade agreement. Land reform remains an emotionally charged topic and a key determinant of the country's business climate. The government’s “willing buyer; willing seller” approach has been criticized for the slow pace of acquiring commercial farmland for resettlement. The government has

[9] Idem

indicated its willingness to acquire land through expropriation as permitted under the constitution. While mainstream farming organizations support the process of land reform, there is general concern that the government's expropriation criteria are not sufficiently transparent.

10. SWAZILAND

Swaziland's economy relies on export-oriented industries, which provide 65 percent of GDP. There is relatively little government intervention in Swaziland's free market economy. As a member of the Southern Africa Customs Union (SACU), Swaziland is actively involved in the U.S.-SACU free trade agreement negotiations. Swaziland has never had an IMF program.

11. TANZANIA

Tanzanian government continues to implement the comprehensive economic reform and stabilization program that it began in the mid-1980s. Agricultural marketing has been liberalized; foreign exchange controls have been lifted; prices deregulated; and a new investment code has attracted increased foreign investment. These reforms have resulted in improved competitiveness, lower tariffs, increasing levels of foreign investment and trade, improved key economic indictors, and greater integration into world markets. The government has privatized nearly all of its parastatal enterprises. Market forces determine interest and exchange rates. Still, the nascent private sector is weak, and poverty persists throughout the country. Foreign investment in Tanzania is slowly increasing, but is hindered by corruption, poor infrastructure, and bureaucratic inefficiencies, the last of which has significantly prolonged debt repayment and intellectual property protection cases involving major U.S. corporations. The inability to own land or offer it as collateral remains a major impediment to new investment. In January 2005, Tanzania entered the new East African Community Customs Union, under which tariffs between it and Uganda and Kenya will be phased out over five years. The Customs Union also established a common external tariff that generally lowered Tanzania's overall tariffs, although tariffs were raised on some U.S. exports.

12. ZAMBIA

Zambia experienced its fifth consecutive year of positive economic growth in 2004, while inflation fell below 20 percent for the first time in two decades. Zambia began a new IMF PRGF in June 2004 and anticipates reaching the HIPC completion point in the spring of 2005. The government is reviewing legislation in a variety of areas, including the investment act and the labor code. It also intends to revise laws and regulations to promote job creation by the private sector. There is no distinction in Zambian law between foreign and domestic investors, except in the retail sector. The government has concluded agreements to turn over two major mining operations to foreign investors this past year.

13. ZIMBABWE

Since the late-1990s, the Zimbabwean government has approached the economy through broad interventionism, with parastatals serving as monopolistic middlemen for products such as gold, tobacco, and grain. In 2004, the government suggested it would create parastatals to supervise the production and export of platinum and cut flowers, although it has not yet taken action. The government's disastrous fast-track land reform program has undercut agricultural productivity, while failing to rectify the social justice concerns it was alleged to address. Much of the redistributed land went to government insiders rather than small landholders or agricultural workers, and the latter were given virtually no assistance in making the farms productive. The Reserve Bank of Zimbabwe continues to maintain an artificially strong currency through enforcement of an official exchange rate and highly restrictive foreign currency laws. This has had distorting effects on the economy, proving a disincentive for exporters while providing the government with a means to favor some importers over others. It has also furthered corruption through rent-seeking activities on the part of insiders with access to hard currency and led to a vibrant parallel currency market. There are many barriers to trade, including high duties for importers and exchange requirements for exporters. The government is paying only a small portion of its international arrears, which now exceed US$2 billion. Due to exchange rate management, annual inflation dropped from 623 percent to 133 percent, but indications in early 2005 are that inflation is increasing again. The government made no progress privatizing inefficient parastatals. Growth remains negative, and an estimated two-thirds of the working-age population is unemployed.

Hereunder on Table 2 are some comparison indices for Namibia, South Africa and Botswana.

Table 2 Comparatives Indices

Source	Namibia	South Africa	Botswana
Index Of Economic Freedom	81	56	37
Corruption Perceptions Index	4.1	4.6	6.0
Global Competitiveness Index	52	42	36
Business Competitiveness Index	51	25	52

III. DOING BUSINESS: SUMMARY OF FINDINGS AND ANALYSIS

This section of the Project Note describes a number of legal, regulatory, and administrative barriers that hamper business development throughout Southern Africa. Much of following analysis encapsulates findings of the World Bank *Doing Business in 2006* report. Specific country examples are cited for countries in which the Southern Africa Global Competitiveness Hub has already initiated diagnostic or reform interventions. Following the discussion are sample interventions that the Competitiveness Hub might consider over the course of the project.

Africa's comparative disadvantage has been caused by high transaction costs, due to a poor policy environment. According to the World Bank annual report on *Doing Business in 2004*, cumbersome and excessive business regulations in Southern Africa stifle productive activities. According to the report, productive business thrives where governments focus on the definition and protection of private property rights. Regulatory interventions are particularly constraining and demanding where its enforcement is subject to abuse and corruption.

Legal and administrative framework is a key element of a successful investment climate. In order to make markets function effectively in a globalized environment, legal and regulatory institutions must be in place, and have a body of legislation and clear regulations in place to enable companies. Such legal instruments govern company start-up, dissolution, competition, and tax regime. (Typical legislation includes licensing acts, company law, labor codes, investment law, competition law, and financial institution laws). Perhaps more important than the legal framework itself, however, is the enforcement of a country's laws and regulations.

1. CORRUPTION

Corruption is one of the main barriers for investment in Southern Africa. Mauritus and South Africa have much lower incidences of perceived corruption than their Southern Africa peers, according to Transparency International's Corruption Perception Index. Bureaucratic inefficiencies, rent seeking, crime, theft, and corruption were deemed to be the greatest concern among businesses. Major barriers to the development of intra-SADC trade are due to corruption in customs procedures, bureaucracy, and border limitations. These issues need to be addressed and can have further impact on strengthening trade after tariffs are reduced.

The Investment Climate Surveys showed that the majority of the firms in developing countries expect to pay bribes. They showed how corruption in Tanzania can vary by firm size and by region[10]. Corruption also can have disproportionately negative effects on local entrepreneurs and small and medium-sized firms in the region. Larger established companies, or foreign corporations, often have the connections, cash, and

[10] A Better Investment Climate for Everyone, The World Bank, 2005, page 41, figure 2.1

clout needed to navigate a corrupt bureaucracy. This is not the case for many start-up ventures, and the region suffers as a result.

Not one law like Anticorruption Trust was found in the targeted countries, with the exception being in Botswana, which created a Directorate of Corruption and Economic Crime in 1994 with power to investigate and prosecute suspects, prevent corruption and educate the public. There are few statistics concerning corruption in the most Southern African countries. According to World Bank Investment Climate Survey[11] data, corruption was deemed a major constraint in the region, with Tanzania ranked at—51.1 percent, and Zambia even higher—70.1 percent. In conclusion, the corruption in these countries is considered one of the largest barriers, which calls for administrative reform in the region.

2. EASE OF STARTING A BUSINESS

Southern African countries are among the most difficult places to start businesses. According to statistics[12], only Mauritius, South Africa, Namibia, and Botswana have environments where it is relatively easy to do business. It takes a significant amount of time for company registration—between 35 to 46 days for Madagascar, Malawi, Mauritius, South Africa, Tanzania and Zambia. In other Southern African countries, the wait is longer: from 92 days in Lesotho to 153 days in Mozambique. The cost of company registration is also quite high outside Mauritius, South Africa, and Botswana. In those countries, registration costs an average of 9 percent of income per capita. Costs are higher elsewhere—an average of 53.35 percent in Lesotho, Madagascar, Mozambique and Zambia, and an average of 59.7 percent in Angola, Malawi, Tanzania and Zimbabwe.

The general lack of progress in improving administrative and regulatory processes for business in the region has many causes, some of which relate to governments' approaches to administrative and regulatory procedures and bureaucratic indifference to business concerns. There is a clear need for broad evaluation of administrative and regulatory procedures with a view to streamlining them and reducing their costs to both public and private sector.

Company registration is a long and time-intensive process in Southern African countries, as shown in Tables 3 and 4, which compare African countries to other countries such as Hungary, Chile, and U.K. The number of days to start a business is probably the better measure than the number of "steps", since a single "step" may involve multiple complex procedures, depending on the individual country.

[11] World Development Report 2005, Table A1, p. 246
[12] Doing Business in 2006, IBRD and The World Bank edition, 2005

Table 3:
Registration Times

Country	Steps	Days
Namibia	10	85
Botswana	11	108
South Africa	9	38
Angola	14	146
France	7	8
Chile	9	27
Singapore	7	8
United States	5	5

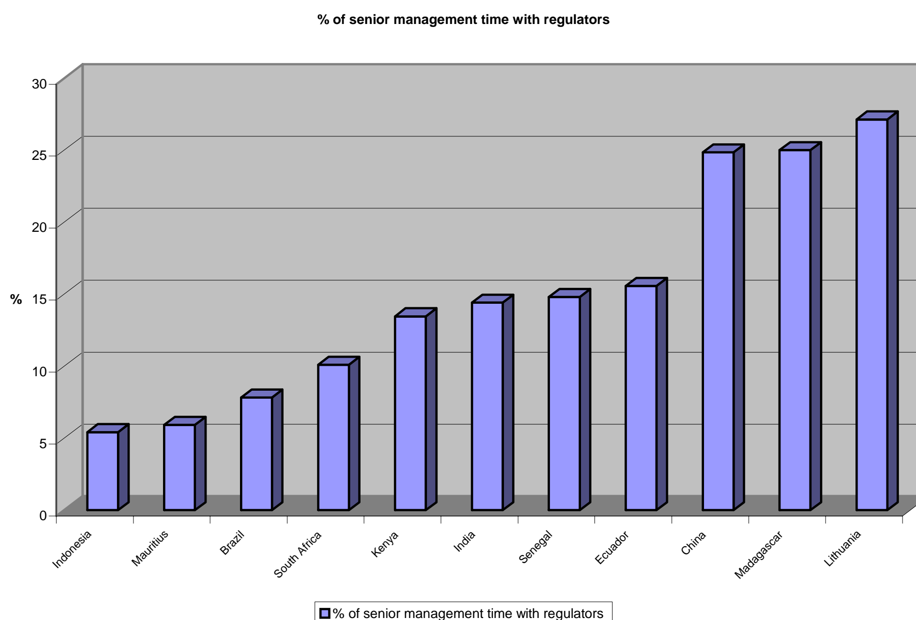
Source: *Doing Business 2005*

Table 4: Length of Company Registration Procedure

Country	3 Days	3 Days	3 Days	3 Days	3 Days	3 Days	Total
Botswana							6-8 Weeks
Latvia							3-15 Days
Hungary							3-4 Days
Jordan							5-7 Days
Chile							1 Day
South Africa							3-8 Days
U.K.							1-5 Days
Zambia							1-2 Weeks

Source: FIAS.

Figure 3: The burden of regulation is not particularly high by international standards



The figure below shows that senior management of manufacturing firms in South Africa spend an average of 10 percent of their time dealing with regulatory officials and regulations. The average time spent with regulations is uniform across different categories of firms. Firms in South Africa face a less predatory regulatory regime than a number of middle-income countries. The average number of inspections is equivalent to about one per month. Larger companies, and firms that export, are subject to a higher frequency of inspections; exporting firms experience twice as many inspection visits as non-exporting firms[13].

ISSUES SPECIFIC TO NAMIBIA

In Namibia, issues surrounding starting a business include the following:

- The internal procedures for processing applications are unduly burdensome and subject to error.
- Current plans to computerize the office risk solidifying archaic and inefficient processes.
- The Close Corporations Act of 1988 has become a patchwork of successive amendments.
- There is talk of limiting foreign investment to companies alone.
- Clerks in the Office of the Registrar may exercise inappropriate discretion.
- Company registration procedures and times are not reflective of the best international benchmarks.

[13] South Africa: An Assessment of the Investment Climate

ISSUES SPECIFIC TO SWAZILAND

Problems with establishing a business in Swaziland include:

- **Registrar of Companies offers poor service.** While company registration is not high among investor complaints in Swaziland, the process is characterized by poor service, unresponsive civil servants, and a lack of centralized information. Investors cite examples of delays caused by a lack of Certificate paper or computer problems, and the Registrar's records are not completely computerized. By law, only lawyers can register a company so investors are rarely involved directly in the process. While this requirement shields investors from bad service, it imposes a necessary cost of approximately E 3,000 (US $526) in the start-up phase of business including the modest fees paid to government. While these fees are modest by international investor standards, they are likely high enough to deter formalization of the micro, small, and medium enterprises (MSMEs).

- **Forms are not easily accessible and must be purchased.** Only one form is provided by the Registrar directly and none are available for downloading from the internet. Some, but not all, of the required forms are available for purchase in the lobby of the building that houses the Registrar for a nominal amount.

- **Company registration legislation is outdated.** The Companies Act is quite old, dating back to 1912, and proposed revisions are being held up by Royal signature. Some observers suggest that revisions in the law could allow for more flexibility in the options available for company registration. The legislation allows for essentially four types of companies – proprietary limited companies, public companies, non-profit organizations, and sole proprietors – and such options as branch offices and individual limited liability companies are not allowed. In addition, the regulations regarding names – such as the requirement that companies have at least two words in the company name – can cause a minor inconvenience to some investors when their first choice is rejected.

- **Confusion among some investors about the process and requirements.** Neither the Registrar nor SIPA adequately explain the company registration process the Registrar offers no comprehensive process information. Therefore, information on how to register a company is largely in the hands of lawyers, who charge for their services and information. While this is not a major deterrent to large companies, MSMEs may find the inaccessibility of the process and required cost a barrier to formalization. Some specific requirements are particularly confusing. For example, foreign investors are not required to have a local shareholder but there is some confusion about this. According to some facilitators, the Registrar is not good at clarifying the rules and requirements to investors.

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

The Southern Africa Trade and Competitiveness Hub can advance interventions throughout the region that ease the start-up burden on local and international firms. Possible scopes of work are briefly outlined in Table 5 below. Interventions can proceed individually, or be grouped as a coordinated "package", depending on the particular reform needs and government readiness and willingness in each country. An estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided.

Table 5: Phased Interventions to Ease the Starting of a Business

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Diagnostic	Analyze the impediments to doing business through use of a process such as the Investor Roadmap methodology, or single administrative process diagnosis. Prioritize recommended actions.	**SOW:** 1 to 3-person STTA team, requiring 50 to 90 days total LOE, depending on the depth and breadth of study. **Commitment:** Public and private sector willingness to commit to interviews.
Legislative	Review, amend, and/or abolish business start-up legislation, regulations, and policies as necessary, such as the Companies Act. Discontinue extra-statutory requirements. Abolish Stamp duties on share capital. Simplify fee structure.	**SOW:** STTA legal draftsperson, often in team with STTA or LTTA business specialist, often under supervision of LTTA project advisor. **Commitment:** Government willingness to change legislation, often after LTTA adviser has sought buy-in.
Administrative Processes Change	Eliminate duplication of efforts between government departments. Streamline procedures and forms. Simplify fee structures.	**SOW:** 1-person STTA, requiring 20 – 40 days LOE; best supervised and followed up by LTTA adviser. **Commitment:** Agency willingness to alter procedures.
	Institute one-stop investor services center. Provide clear explanation of what is required of businesspersons in the registration process.	**SOW:** 1-person STTA, requiring 40 – 70 days LOE to establish, often on multiple visits; best supervised and followed up by LTTA adviser. Often followed by 20 days STTA LOE for training. **Commitment:** Government willingness to establish center or new system. Often capital and budget for new staff.
	Increase standards of service delivery such as customer service training.	**SOW:** 1-person STTA, requiring 10 to 20 days LOE, often on multiple visits. **Commitment:** Agency willingness to accept training.

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
E-Government	Computerization of Registry, include process mapping of company registration and all other business services processes the system will be tied to, such as licensing, permitting, land registry, inspections, etc.	**SOW:** 2-5 person STTA, requiring 15 to 30 days (process mapping); 15 to 30 days (computer system mapping); 50-75 days software development and testing; 15 days system training; and 25 days web-enablement and hosting. **Commitment:** Requires a registration system that is already well functioning manually; total government commitment for development and use; and system MUST interface with other government databases. Often involves extra costs for purchase of software and web design and hosting.
	Full creation of government database platform, with links to Company Registrar.	**SOW:** 2 - 3-person STTA, requiring 50 to 80 days LOE. Should be part of a broad administrative reform and IT enablement project supervised by LTTA adviser. **Commitment:** Should only be considered with a government that has the IT acumen to understand and service database platform and software. Otherwise, this is a wasted intervention. Capital costs for system, back-up, and interface software are between US$ 2 million to US$ 4 million.

3. OBTAINING LICENSES

Licensing procedures can delay the start of business by over six months in Southern African countries. In order to obtain a license, one has to pass through between 12 to 21 procedures in all countries except Botswana. In Botswana, there are 42 procedures involved in obtaining licenses, and it takes a businessperson an average of 268 days to obtain a license at an average cost of 1,237 percent of per capita income. In Mauritius and South Africa, on the other hand, licensing costs just 16.7 percent and 38 percent of per capita income, respectively.

The “time for licensing” a business ranges from a minimum of 132 days (Mauritius) to a maximum of 481 days in Zimbabwe. It is an enormous cost to pay for simply licensing a business. The costs—in terms of the percentage of per capita—ranges from a low of 16 percent in Mauritius to over 4,110 percent in Tanzania. By comparison, the cost of licensing in Hong Kong averages 38.5 percent of per capita income in that autonomous region of China.

Most countries in Southern Africa are in need of licensing reform. Throughout the region, there often exist duplication of licenses and requirements for the same business activity. The licensing procedure is often also centralized in capital cities, while businesspersons are often investing in other regions. Documentation requirements are also overly cumbersome. The rationale for licensing and permitting business activity

should be to protect public safety and health. It is needed to give builders a step-by-step procedure chart; consolidate project clearances at municipalities; and introduce risk-based inspections.

Table 6: Comparison of Licensing Fees and Times in Selected African Countries

Country	Manufacturing License	License Fee	Time
Lesotho	Renewal, annually	1,000 M (US $ 152.6)	3-5 weeks
Botswana	Renewal, annually	140 P (US $ 26.9) initially; 100 P (US $ 19.2) renewal	7-8 weeks
The Gambia[14]	Renewal, annually	1,500-30,000 Dalasi (US $ 49 - 981) depending on size	1-2 weeks
Kenya	Renewal[15], annually	10,000-150,000 KES (US $ 130 – 1,950) depending on size	2 days
Zambia	Renewal, annually	180,000 Kwacha (US $ 39.8)	3-6 weeks

Source: FIAS, 2004

ISSUES SPECIFIC TO SWAZILAND

All investors need a Trading License prior to commencing operations in Swaziland. Investors must file an application in the district where they are operating. A Trading License may be transferred to a new owner provided he or she files a Trading License transfer application. In addition, business owners may amend Trading Licenses to cover additional business activities providing they apply for a license amendment. Investors must obtain a license for each relevant business activity.

Previously, Swaziland had a master business license system: business owners obtained a single operating license. Currently, however, the Ministry of Enterprise and Employment requires a separate license for each activity. This imposes a series of nuisance procedures and costs on investors. International best practice suggests that business licenses should only be issued to regulate a vital public interest and should be linked to an effective monitoring system. For example, licensing regimes for restaurants and hospitals are designed to ensure that basic standards related to food hygiene and public health are followed. The Trading License in Swaziland regulates no such vital public interest.

The Ministry of Enterprise and Employment's Commercial Department is responsible for granting or rejecting Trading Licenses. However, there are no written process guidelines. Nor does the Commercial Department publish written information explaining the documentation the investor must bring to the licensing hearing. Investors learn

[14] Licenses are issued on municipality level. Fees and duration of the procedure vary considerably. Provided data is for Banjul City.

[15] In the year 2000, Kenya introduced the annual Single Business Permit required by all businesses including manufacturing businesses.

about the process steps and fees from a licensing officer at the Commercial Department or one of the regional offices. The lack of information could cause considerable confusion on the part of investors, create additional process steps, and delay approval.

The three different application forms required for a Trading License are not available electronically. Investors must visit the Commercial Department to obtain the relevant application form. This adds an additional step to the process, which could be eliminated if forms were available online.

There is a broad consensus among the investors interviewed that the process for obtaining a health inspection—a required permission to receive a Trading License—is arbitrary and unprofessionally conducted. Some foreign investors note that their own company standards related to health are far more sophisticated than those enforced by local authorities in any case. This perception adds to the frustration investors feel when they fail an inspection because they have been inspected before their facilities are complete. Both the Ministry of Enterprise and Employment (MoEE) and Ministry of Health (MoH) concede that the there is a shortage of health inspectors and transport capacity.

Health inspections are also badly sequenced in Trading License approval process. Several investors note that their operations were delayed by problems in acquiring the Trading License. Investors perceive that the MoH and MoEE do not communicate adequately about the approval procedures related to the Trading License and health inspection. While the Trading License process has its own delays and inefficiencies, a major cause of delay is obtaining the health inspection certificate. Several investors note that because a health inspection is required before a company is operational, investors cannot pass, as firms are unwilling to complete construction and operate machines without the legal permission conveyed by the Trading License. Therefore, when inspectors come to assess a building site they cite the investor for such lapses as having an incomplete and inoperable facility. Some facilitators suggest that investors must have a Trading License to apply for a health certificate. At the same time, the MoEE process steps note that investors must produce a Health Certificate at the Trading License hearing.

In Swaziland, there is also confusion over timing of obtaining an Entry Permit and a Trading License. If the investor or his partner is not a Swazi citizen he must produce an Entry Permit at the Trading License hearing. However, Immigration also requires investors to provide a Trading License for the Entry Permit application process. Therefore, investors often arrange for a friend or associate with Swazi citizenship or an Entry Permit to assume temporary company leadership. This individual will then apply for the Trading License onbehalf of the company.

Both the licensing advertising process and hearing process are unduly lengthy. An investor's Trading License application must be advertised in the *Times of Swaziland* for 21 business days. This is a long period, especially for a small country and particularly

because private sector sources noted that the government has tended to ignore objections unless they are very serious, such as a firm polluting a neighbor's property, for instance. Private sector sources noted that the licensing hearing process is also overly time consuming. On the hearing date, and investor must wait in line with 20 to 30 other applicants, waiting his or her turn to file into a room with the licensing officer. The officer apparently handwrites receipt of each of the investor's supporting documents onto a piece of paper. There is no standard checklist on which the licensing officer notes receipt.

ISSUES SPECIFIC TO LESOTHO

The industrial licensing procedure is also a significant administrative barrier to doing business in Lesotho. The completion of the 16-page application and renewal form takes considerable time, and the applicant must assemble much information before the application can be submitted.

Table 7: Comparison of Decision-makers Issuing General Manufacturing Licenses/Approvals in Selected Countries

Country	Decisionmaker	Time
Lesotho	Board	
Botswana	Board	7-8 weeks
Zambia	Committee	3-6 weeks
Kenya	Officer	2 days
Slovenia	Officer	2-4 weeks
Turkey	Officer	2 days
Germany	No general license required	-/-
United Kingdom	No general license required	-/-
Denmark	No general license required	-/-
United States	No general license required	-/-

Source: The World Bank, 2004

The industrial licensing procedure itself is cumbersome, time-consuming and costly, mainly because of the involvement of the PIB. Involvement of the PIB means a delay of at least several weeks and up to months in case a quorum is not reached or a member of the Board is not satisfied with the application. In practice, any single objection can delay the issuance of a license. The yearly interview (whether for a new application or renewal) is also time consuming because the exact time of the interview is hard to predict.[16]

[16] There are cases in which the application was refused only because the applicant was not in the waiting room at the very moment his case was called in.

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

This section describes possible interventions to ease the burden of licensing and permitting on businesses in Southern African countries. The interventions outlined in Table 8 can proceed individually, or be grouped as a coordinated "package", depending on the particular state of the licensing and permitting system in a given country. An estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided in Table 8.

Table 8: Phased Interventions to Improve Licensing and Permitting System

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Legislative and Regulatory	Abolish redundant licenses and permits. Recommend provisions for collection of necessary information currently attached to redundant licenses to the reformed company registry. Better sequence licensing procedures to reduce counter-dependency on prerequisite steps. Abolish cumbersome procedures such as ministerial or cabinet decisions for all license applications. Shorten length of applications from 16 pages—in some cases—to 3 pages or less. Replace annual license requirements with a reporting obligation of each business. (The information should be stored in a registry database accessible by line ministries and authorities).	**SOW:** STTA legal draftsperson, often in team with STTA or LTTA business licensing specialist, often under supervision of LTTA project advisor who should help shepherd changes through parliament, cabinet, or other government body. Total 40 – 90 days STTA LOE, depending on the extent of systemic and legal changes required. **Commitment:** Government willingness to change legislation, often after LTTA adviser has sought buy-in.
	Revamp public safety and health inspection system. This might rely on information collected through a reporting obligation.	**SOW:** STTA or LTTA permitting inspection specialist., often working with legal draftsperson. Estimated 40 – 50 days STTA LOE, depending on the extent of systemic and legal changes required. **Commitment:** Government willingness to change legislation, often after LTTA adviser has sought buy-in.
	Create technical requirements for permitting and systems for dealing with new activities that have never been undertaken before in the country.	**SOW:** 20 days STTA LOE for research of international permitting requirements, and drafting those requirements into regulations. **Commitment:** Government willingness to change legislation, often after LTTA adviser has sought buy-in.
Administrative Processes Change	Tie licensing and permitting procedures and inspections in with company registration process, land registration process, and other administrative processes	**SOW:** STTA or LTTA permitting inspection specialist., often working with legal draftsperson. Estimated 40 – 50 days STTA LOE, depending on the extent of systemic and legal changes required. **Commitment:** Government willingness to change administrative processes, often after LTTA adviser has sought buy-in.

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
	Strengthen the health and safety inspection services, providing training, standard operating procedures, and/or equipment.	**SOW:** STTA permitting inspection specialist, with 20 days LOE for SOP manual writing; 20 to 30 days training; and 40 days follow-up procedure monitoring. **Commitment:** Government willingness to change procedures, often after LTTA adviser has sought buy-in. Activity often involves procurement of laboratories, testing equipment, computers, and hand-held computers for inspectors.
	Create clear written process guidelines for accepting or rejecting licenses and permits.	**SOW:** 15 days STTA LOE. **Commitment:** Participation of relevant ministries or agencies.
E-Government	Create a platform for a national business register in which licensing information can be stored and retrieved by various line ministries and agencies.	See Table 5.
	Computerize the licensing and permitting process on-line.	**SOW:** 50-90 days STTA LOE for computer programmer; 15-30 days LOE for web designer. 20 days LOE for expert to train government workers on new on-line system. **Commitment:** Often involves procurement of software and computer hardware. Intervention requires the full commitment and initiative of the government; otherwise system likely to not be utilized. Manual licensing and permitting system must be well functioning before a computer interface is added.
Private Sector Training	Offer training for private sector businesses through institutions such as the Chamber of Commerce to learn about new licensing and permitting procedures.	**SOW:** 15 days STTA LOE. **Commitment:** Involves commitment of the government and private sector bodies.

4. LABOR PERMITS, REGULATIONS, AND TECHNICAL AND BUSINESS SKILLS

Adequate and appropriate skills are prerequisites to attracting FDI and are key determinants of firms' site selection decisions. The skills deficit throughout Southern Africa is constraint for firms to overcome. The quality of education in South Africa for example is insufficient, and is not in line with the needs for the economy. A complete reorientation of the education system would do well to serve businesses in the agriculture, services, and manufacturing sectors throughout the southern half of the African continent.

Currently, many managers in firms throughout Southern Africa lack the necessary know-how about productivity technology, basic productivity improvement technologies, and how to identify and isolate core problems that cause most of the negative impacts on businesses. Therefore, national government and industry associations need to embark on intensive programs to expose managers to tools that can improve productivity and technology. Few firms regularly use trade support services, technical assistance, pre-export services, and modern information technology for their business

activities. This passiveness is attributable to flaws on both supply and demand sides. On the supply side, the concentration of trade support services is still with government agencies that tend not to be effective, and private export service providers have been slow to emerge throughout Southern Africa. On the demand side, many exporting firms have not been willing or able to adjust their strategies to meet the challenges of an increasingly liberalized and competitive business environment.

Table 9: Time Required to Obtain a Permit (Residence or Self-employment) for Foreign Investors

Country	1 year	1 year	1 year	Deciding Body	Duration
Botswana				Immigration Board	2 - 3 years
Slovakia				Ministry of Interior Affairs	1/2 – 1 year
Sweden[17]				Immigration Board	3-4 months
Turkey[18]				Investment Department	1 – 2 months
U.K.				Home Office	9 months
Zambia[19]				Immigration Committee	2 – 3 months

Source: FIAS.

ISSUES SPECIFIC TO NAMIBIA

In terms of ease of hiring, Namibia performs exceptionally well against international benchmarks, and this factor is a marked advantage in the country's struggle against unemployment.[22] It does not do nearly so well in its difficulty of firing rating, even though it outperforms some other countries in the region. The following table is illustrative.

[17] Self-employment permit, which is basically a residence permit for six months. After four consecutive six-month permits (total of two years), permanent residence can be granted. A work permit is not needed by foreign investors.
[18] Work permit and residence permit procedures are separated. Each procedure takes about two weeks.
[19] Self-employment Permit

Table 10: Hiring and Termination[20]

Country	Hiring	Firing
Namibia	0	40
Botswana	0	40
South Africa	56	60
Angola	44	100
France	78	40
Chile	17	20
Singapore	0	0
United States	0	10

A barrier to firing can be a barrier to hiring, since employers tend to remain on the side of caution in hiring an unknown or unproven worker if terminating his or her service poses significant administrative obstacles and costs.

- The complexity of termination allows an undesirable employee to affect the company for an excessive period of time.
- Even when judged guilty by a group of peers, a terminated employee may appeal to the Labor Court.
- The usefulness of *previously disadvantaged persons* as the accepted definition for the prime beneficiary group for affirmative action is under question.
- The Affirmative Action Report may embody a complexity that exceeds its usefulness.
- The Employment Equity Commission is considering lowering the employment threshold for relevant employers from 50 to 25 employees.
- Statutory paid leave (including holidays) of 36 days per year, in addition to sick and maternity leave, is a burden for the small investor to pay.
- Alternative dispute resolution mechanisms are not functioning optimally.

ISSUES SPECIFIC TO BOTSWANA

- Procedures do not differentiate expatriates at all levels (e.g., investors, managers, technicians and workers) and from all source countries.
- Poor administrative services.
- Extremely time-consuming process
- Lack of clearly defined objectives, decision criteria and guidelines;
- Lack of transparency;
- Temporary permits were designed for filling a gap, but have become a permanent solution

[20] Source: *Doing Business 2005*

- Practically no differentiation between investors and foreign employees.
- Lack a meaningful level of data collection on applications by foreign investors and foreign employees.
- Statutory paid leave (including holidays) of 36 days per year, in addition to sick and maternity leave, is a burden for the small investor to pay.
- Alternative dispute resolution mechanisms are not functioning optimally.

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

This section describes possible interventions to increase business skills, and ease the burden of labor regulations on the private sector. An estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided in Table 11.

Table 11: Phased Interventions to Improve Labor Laws and Business and Technical Skills

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Legislative and Regulatory	Revamp labor legislation to address the ease of hiring and firing workers; overtime pay; labor union rules;	**SOW:** 30 – 40 days STTA LOE for labor attorney, and LTTA presence to shepherd legislative changes through parliament or Cabinet. **Commitment:** Government willingness to change labor law, often after LTTA adviser has sought buy-in. This is extremely politically charged work to undertake.
Administrative Processes Change	Decrease the amount of time it takes to issue worker permits by making operations more efficient and transparent.	**SOW:** 20 days STTA LOE to work with government to design better system. LTTA adviser to follow up with implementation **Commitment:** Government willingness to change administrative procedures.
Private Sector Assistance	Provide firm-level assistance to increase sales, employment, and profitability. Assistance would address business and technical skills currently lacking in selected businesses with which the project chooses to work.	**SOW:** 30 – 40 days STTA or LTTA LOE for consulting team of 1 to 3 persons to evaluate firms in need of assistance. 30 – 60 days STTA or LTTA LOE for each company being assisted. **Commitment:** Intervention may involve procurement of local consulting services for the companies in need. Commitment of private sector and private sector associations for change is helpful.

5. REGISTERING PROPERTY

There are complex political and institutional impediments to property registration in Southern Africa. This includes a lack of clear procedures for investors seeking land, as well as difficulties in record keeping at country land registries. There is also a short supply of commercial land sites, resulting in high prices across the region. Other

problems include deficient state land allocation processes and a lack of contract enforcement, poor coordination among land administration agencies, and a lack of administrative resources within agency offices. The region also suffers from a perceived deterioration of transparency in the system of state land allocation.

Southern African countries should ensure that property registration simple, fast, and inexpensive. Property rights should be strengthened by encouraging formal titling of all lands. In Armenia, for example, the country streamlined land registration procedures—cutting fees by 50 percent and time required to 6 days—and registrations immediately increased. Proper land registration reforms require simplification and combination of procedures, linking and unifying agencies involved, and providing easier access to registries. Additionally, registration should be made an administrative process; and taxes and fee structures should be simplified.

ISSUES SPECIFIC TO BOTSWANA

- Short supply and high prices of building land at the market, while plenty of available building land lay idle around Gaborone.
- Deficient State land allocation process and lack of contract enforcement have led to the dilemma of:
  - widespread failure of plot development as required by Deeds of FPSG;
  - undeveloped plots cannot be offered at open market to investors, according to "pre-sale development" requirements; and
  - increasing problem of "fronting," which benefits speculators more than serious investors.
- Poor coordination among various land administration agencies.
- Land administration agencies are understaffed and lack resources.
- There is perceived deterioration of transparency in the system of State land allocation.
- The situation regarding state land allocation, and has a tension between policy goals of investment-led growth and citizen empowerment
- Lack of institutional organizations capacity
- Dispute resolution system not works
- Lack of transparency and high corruption

ISSUES SPECIFIC TO LESOTHO

- Patent and trademark registration process is not seen as an obstacle for investment, but the legislative situation needs improvement.
- Delayed implementation of the TRIPS agreement in several fields.
- Delayed signing and ratification of main international agreements such as the Nice and Madrid Agreements in the area of trademark registration and the Locarno agreement on industrial design.
- Slow registration procedure and weak quality of services.

- Short supply and high prices of building land at the market, while plenty of available building land lay idle around Gaborone.

ISSUES SPECIFIC TO NAMIBIA

- Land identification and acquisition is easy in urban areas but capacity and administrative integrity varies in smaller locations.
- Local deeds registration process could be speedier.
- Acquiring rural land and land from the Ministry of Lands, Resettlement, and Rehabilitation is restrictive.
- Acquiring rural land and land from the Ministry of Lands, Resettlement, and Rehabilitation can be a slow process.
- Ministers' personal signatures on certificates of approval for land sales and ODC leases can delay the process.
- Perception of a lack of consistent transparency of negotiation and tender processes.
- Value of the role of ODC EPZ Committee in approving of leases is unclear and possibly unnecessary.
- Necessity of subsidizing ODC land is unclear
- Short length of ODC leases discourages long-term investment.
- WBEPZMC Board decision process is unnecessarily slow.
- Paying monthly taxes increases transaction costs.

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

This section describes possible interventions to increase business skills, and ease the burden of labor regulations on the private sector. An estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided in Table 11.

Table 12: Phased Interventions to Improve Registration and Sale of Property

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Legislative and Regulatory	Amend legislation to allow for freer access to land, both government and private, including provisions for the freehold of land.	**SOW:** 30 – 50 days STTA LOE for attorney, and LTTA presence to shepherd legislative changes through parliament or Cabinet. **Commitment:** Government willingness to change property laws, often after LTTA adviser has sought buy-in. This is extremely politically charged work to undertake.

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Administrative Processes Change	Create land registry and title system (manual). This includes designing the new system, drafting of administrative procedures, coordinating among government agencies, reviewing necessary legislation, making staff change recommendations, evaluating technology gaps, and providing training and follow up implementation support to the government.	**SOW:** 20 days STTA LOE for attorney, 70 days for land planner and administrative change expert for assessment and training (on multiple trips), and 30 days for GIS and cadastre technology expert, and LTTA presence to oversee and coordinate work. **Commitment:** Assumes that proper legislation is drafted, approved, and passed by parliament. Government willingness to change registry system is a must, after LTTA adviser has sought buy-in.
	Increase transparency of land administration and tenure system to make it easier to register, title, buy, and sell land.	**SOW:** 30 – 40 days STTA LOE for expert to map out new procedures and train government agency in the proper implementation. Extra 15 days STTA LOE for follow-up. **Commitment:** Government willingness to change administrative procedures.
E-Government	Electronically enable the land registry system.	**SOW:** 30 – 40 days STTA or LTTA LOE for consulting team of 1 to 3 persons to evaluate firms in need of assistance. 30 – 60 days STTA or LTTA LOE for each company being assisted. **Commitment:** Intervention may involve procurement of local consulting services for the companies in need. Commitment of private sector and private sector associations for change is helpful.
	Create a geographic information system (GIS) for the country, including recommendation for hardware and software that will interface with other government databases and platforms.	**SOW:** 90 days STTA or LTTA LOE for a GIS implementation expert to design system, make recommendations, and train staff. **Commitment:** A potentially expensive undertaking,, particularly if the procurement of software and hardware is involved. Country should already have developed a standard database platform for the entire country (See Table 5.)
	Create a land cadastre system for the country, in conjunction with development of improved land registry and titling system and GIS system.	**SOW:** 120 days STTA or LTTA LOE for consulting team of 1 to 3 persons to design system, implement, and provide staff training. **Commitment:** An expensive undertaking that involves procurement of hardware and software. Government should already have a functioning standard database platform used by all agencies, and have a functioning GIS system or be developing a GIS system. A functional land registry and titling system is also a prerequisite, or corequisite of this intervention.

6. OBTAINING CREDIT

Financial markets, when functioning well, connect firms to lenders and investors willing to fund their ventures and share some of the risks. Good infrastructure connects them to their customers and suppliers and helps them take advantage of modern production techniques. Credit systems need to be established – banking and capital markets interventions are necessary. Governments have often directed banks to lend to specific regions and sectors, often eliminating rural areas where lending is discouraged by sparse population, high transport costs and a lack of traditional collateral. Japan, Singapore and South Korea appear to have had some success with directed lending for manufacturing, but experience in most countries been poor.

Enterprise managers often see access to finance and the cost of financing as serious obstacles to their enterprises' operations and growth. In 17 of 49 low- and middle-income countries, over 40 percent of enterprises reported that finance was a major or very severe problem.[21] It has been an especially great problem in Sub-Saharan Africa, with access and cost of finance rating among the top five investment climate-related problems in most countries.[22]

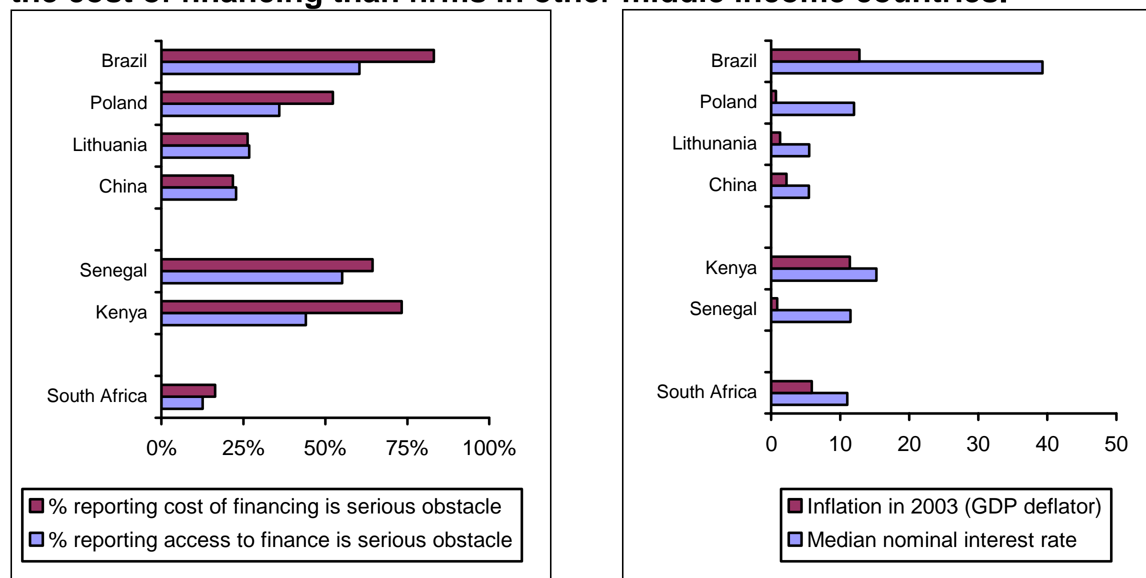
The credit systems in Southern African countries are not working well. Credit is unavailable (especially to SMEs), primarily because of limits in debt collection, the range of collateral, and credit information, but also because of underdeveloped financial institutions. In Southern Africa, governments must learn to take new approaches, which involves the following key elements: ensuring macroeconomic stability; fostering competition; securing the rights of borrowers, creditors and shareholders; facilitating the flow information; and ensuring that the banks do not take excessive risks.

In contrast to results in other countries, however, South African firms rated neither access to finance nor cost of financing as serious obstacles to enterprise operations and growth. Fewer than 20 percent of enterprises rated either as a major or very severe obstacle, placing them at eighth and eleventh among the eighteen constraints that the survey asks about. This was considerably lower than in most of the middl-income comparator countries (See Figure 4).

[21] World Bank (2004b)

[22] For example, cost of and access to financing ranked first and fourth in Uganda (Cotton and others, 2004); second and eleventh in Kenya (Blattman and others, 2004); and third and sixth in Tanzania (World Bank, 2004a).

Figure 4: South Africa firms are less concerned about access to financing and the cost of financing than firms in other middle income countries.



As part of the Investment Climate Survey, enterprises were asked what the interest rate was on their most recent loan. The median nominal interest rate reported by enterprises in South Africa was 11 percent—lower than in Senegal (12 percent); Poland (12 percent), Kenya (15 percent) and Brazil (40 percent). Although nominal interest rates were lower in Lithuania and China (about 5.5 percent in both cases), inflation is also lower in these countries. In 2002 and 2003, inflation was 0 and 1 percent in Lithuania and -1 percent and 2 percent in China. In comparison, inflation was 10 percent and 6 percent in South Africa in 2002 and 2003.[23] In summary, real interest rates appear to be relatively low in South Africa compared to other middle income countries and other countries in sub-Saharan Africa. This is consistent with the perceptions based data that suggests that most enterprises in South Africa do not see the cost of financing as a serious obstacle.

Another important source of financing, especially for working capital, is trade credit. This part of the South African financial system is also well developed compared to both countries elsewhere in Sub-Saharan Africa and other middle-income countries. South African firms rely upon trade credit to finance close to 12 percent of their working capital needs (see Figure 4). This is higher than in any of the comparator countries except Kenya and Brazil. Firms are also more likely to sell goods on credit than firms in any of the comparator countries other than Brazil. This reliance upon trade credit and willingness to extend credit to other firms suggests that firms are able to enter arms-length deals with other firms and that they believe that they can rely upon formal and informal enforcement mechanisms to ensure payment. This is consistent with evidence

[23] Inflation is the change in the implicit GDP price deflator for those years, taken from

that South African firms trust the court system to uphold their property rights and enforce contracts. An additional 25 percent of firms reported that they had never applied for a loan. These firms were even less likely to rate either access or cost of financing to be a serious obstacle[24].

Private credit bureaus should be established throughout Southern Africa. Other reforms should include passing simplified regulations, sharing of credit information, expanding the scope of information, including more loans, providing data on-line, and enhancing data quality. Also necessary is the creation and enforcement of collateral laws, and easing recovery of collateral from bankrupt firms. Collateral laws should be altered to allow a greater range of assets as financial security. Additionally, legal obstacles that limit credit sharing should be eliminated, and public registries should be focused on supervision. This is especially relevant in developing countries due to market size. Secured creditors should also be given clear priority to collateral, which reduces lending risk and gives borrowers better terms of credit.

Success in credit reform might involve the following:

- Distribution of both positive and negative information
- Expanding providers of data to credit registries
- Making credit registries electronic
- Introduction of universal security for debtors and creditors
- Establishing registries for all security interests
- Permitting out-of-court collateral enforcement. [25]

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

This section describes possible interventions to increase access to credit by private businesses. An estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided in Table 13.

[24] South Africa: An Assessment of the Investment Climate

[25] World Bank *Doing Business*, FIAS, Timberg Report Mozambique

Table 13: Phased Interventions to Improve Access to Credit

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Legislative Changes	Draft laws to allow property, long-term leaseholds, and other assets to be used as collateral.	**SOW:** 30 – 40 days STTA for legal property expert. **Commitment:** Project first needs to have full government support after a process of private sector comment and buy-in.
	Improve Financial Institutions Law. Improve the circumstances for taking credits, transactions, and insurance for capital.	**SOW:** 30 – 40 days STTA for legal expert. **Commitment:** Project first needs to have full government support after a process of private sector comment and buy-in.
Administrative Reform	Include consumer credit information into company registry database.	**SOW:** 30 days to design the database changes by STTA expert, working in conjunction with a local software and database expert. **Commitment:** Intervention must have the total support and buy-in from land and company registry agencies.
Private Sector Assistance	Create a pan-African credit bureau and enforce collateral agreements between countries. Eliminate laws to sharing credit information within and across countries. Lenders look at borrowers credit history and collateral when extending loans. Where credit registries are lacking—as they are in Southern Africa—banks make fewer loans.	**SOW:** LTTA, supported by at least 120 days STTA LOE over multiple trips to the region. **Commitment:** This is a multi-year intervention, requiring effort by an LTTA team, supported by STTA experts. It requires the support and negotiations with multiple governments in the region, many which might not see this as a priority.

7. PROTECTING INVESTORS

Only in South Africa and Mauritius have relatively good environments for investment protection[26]. The most significant obstacles for investors identified in the region are macroeconomic instability, cost of finance, economic and regulatory uncertainty, tax rates, crime, corruption, access to finance, electricity, telecommunications, and labor regulation.

Protecting investors is very important. Where expropriation of minority interests is curbed, equity investment is higher and ownership concentration is lower. Poor investor protection means less equity investment. Thus, four areas of reform is recommended:

- Notifying investors of directors' interest in deals
- Requiring approval of disinterested directors or investors for related-party transactions
- Eliminating loopholes in rules for shareholder approval
- Where courts are strong, helping investors bring lawsuits.

[26] World Development Report 2005, Table 7.1, page 39

ISSUES SPECIFIC TO NAMIBIA[27]:

The Foreign Investment Act is obsolete in its incentive provisions. All of Part II and most of the remainder of the Act are devoted to the Certificate of Status optionally available to the foreign investor. Historically, the chief advantages of the Certificate lay in easier access to foreign exchange and greater freedom of foreign currency transactions than allowed to non-Status firms. Since 1993 these advantages have been almost entirely superseded by progressive liberalization of currency controls in Namibia. Anecdotal evidence suggests that a very small percentage of foreign investors even bother to apply for the Certificate, showing that it has largely outlived any usefulness it may have had in attracting FDI[28].

The Act allows the Minister of Trade to reserve sectors for nationals. In Part I Article 3 (4) the Minister is permitted, by a simple notice in the official Gazette, to "specify any business or category of business . . . which can be provided or produced adequately by Namibians" and in which, from the date of the notice, foreign participation would be disallowed. The decision to exclude foreign investment from an entire sector can have extraordinary consequences for the economy as a whole, for national competitiveness, and for foreigners already invested in the sector. This kind of clause raises serious concerns among potential foreign investors and runs contrary to best practice in foreign investment acts internationally. To place this authority into the portfolio of a single minister leaves decisions of long-term national consequence to the shifting environment of political
pressures.

National treatment is subject to ambiguities. While the Act in Part I Article 3 (2) and (3) offers a comforting statement in regard to national treatment, the Status conditions in Part II suggest that in fact a foreign investment may be subject to scrutiny distinct from that of domestic enterprises. The expropriation clause in Part II Article 11 is a case in point. Furthermore, the Act is possibly remiss in not distinguishing between pre- and post- establishment of commercial investments.

ISSUES SPECIFIC TO SWAZILAND

There is no comprehensive investment legislation. Swaziland does not have legislation on investment that would provide the legal basis for all policy aspects of investment, allocate responsibility for granting incentives, and prescribe criteria for making investment decisions and the process for obtaining incentives. As a result, incentives are scattered in several enactments, responsibilities are shared among several Government ministries and institutions, and sometimes there are disagreements over who should be entrusted with what powers. To give two examples, the Minister of

[27] Namibia Investment Road Map

[28] Nearly ten years ago the Foreign Investment Advisory Service commented similarly on the confused purpose of the Act and the meager value of the Status provisions. "Namibia: Administrative Barriers to Investment," (Washington, DC: World Bank, 1996), p.11.

Employment and Enterprise is not responsible for granting DAOs although he is the one in charge of investment promotion. The responsibility is vested in the Minister for Finance. Secondly, the TPU is issuing rebate certificicates although rebates come under the SACU legislation, which is implemented by the Customs. Rebate certificates should be issued by the Customs. These contradictions may result in lack of a common vision, mission and drive, and in dissipation of resources for promoting investment and exports. It also adds bureaucracy in the process of obtaining approvals and certificates (e.g. rebate certificate). The potential investor might not know where to go for information and assistance and can be frustrated where he or she has to shuttle between competing authorities.

There is no comprehensive information on the available incentives. SIPA has a number of printed materials and information on the website about available incentives. However, these are simple publicity materials that do not explain much about individual incentives and procedures for acquiring them. Since there is also no ad hoc legislation on investment incentives, it is very difficult for an investor to carry out research and evaluate the incentives that are available. One would need to find all the relevant legislation, some of which, like the Customs tariff, is very difficult to study.

Local investors perceive that the incentives are not for them. This perception stems from the fact that the factory shells have been given to foreign companies, mostly those engaged in the textiles and garments cluster. Several companies that were interviewed also pointed out that the Swaziland Investment Promotion Agency (SIPA) gives the impression that their responsibility is to assist only foreign investors. Furthermore, it is evident from the many publications on Swaziland, both private and official, that the government initiatives to promote foreign investment are given more publicity than those for promoting local investment.

Table 14: SADC Member States' Investment Incentives

Country General Incentives Sectoral Incentives Regional	Incentives	FDI	Prohibitions	Botswana Capital allowances
Accelerated depreciation	Training deduction	Discretionary incentives	Financial services	Stock Exchange
Manufacturing	Mining	The Beef Industry does not	receive any direct export	incentives from the State.
Only indirect support given	under the WTO AOA	(Green Box support).	No Yes	Lesotho Capital allowances
Training deduction	Tax holidays	Manufacturing No None	Malawi Capital allowances	Indefinite loss-carry forward
Training deduction	No No Trade	informally	discouraged	Mauritius 10 year tax holiday
Tax free dividends	Permanent residence status	Manufacturing	Spinning	Agro industries
Hotel development	Yes None	Mozambique Loss carry	Accelerated depreciation	Investment credit

Country General Incentives Sectoral Incentives Regional	Incentives	FDI	Prohibitions	Botswana Capital allowances
Technology investment	deduction	forward Training deduction	Infrastructure rehabilitation	deduction
Property transfer tax	reduction	Cultural works purchase	deduction	Large scale projects
Mining	Petroleum	Agriculture	Tourism	Yes No
Namibia Capital allowances on	resident shareholders' tax	Manufacturing No No	South Africa Capital allowances	Training deduction

Source: The Services Group, SADC Investment Incentives Study, 2004.

ISSUES SPECIFIC TO BOTSWANA

The overall legislative, legal and institutional framework for investment in Botswana is generally good. Foreign exchange controls, which had not been very restrictive anyway, were progressively liberalised during the 1990s and were finally abolished in 1999.[29] Taxation is relatively low. Employment legislation is non-restrictive, although a number of concerns have been expressed about the rules governing the employment of non-citizens. Property rights and the rule of law are well enforced.[30] The Companies Act has been modernized to a high standard to enforce appropriate disclosure of accounts in accordance with generally accepted international accounting practices[31].

Botswana has traditionally maintained a very liberal and open foreign investment regime (BIDPA, 2004e). Restrictions only apply to limited sectors and activities, and have the objective of protecting local entrepreneurs. The only sectors in which FDI is specifically not permitted is in "small scale" business activities (e.g., an investment of under US $15,000 in the manufacturing sector) and some retail trade services and manufacturing. The state continues to own and control the key utilities for communications, power and water (Botswana Telecommunications Corporation, Botswana Power Corporation and Water Utilities Corporation, respectively); but it is committed under the Privatisation Policy to privatising, under appropriate regulatory frameworks, such entities, including having limited foreign involvement, especially as strategic partners, in these sectors[32].

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

Table 15 lists some sample interventions that the Southern Africa Global Competitiveness Hub might undertake to facilitate investment in the region. An

[29] BOB, 2002.
[30] World Bank, 2004
[31] BEDIA, 2004.
[32] ROB, 2000b.

estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided.

Table 15: Phased Interventions to Protect Investors and Promote Investment

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Legislative and Regulatory	Draft or amend investment legislation and corporate laws. Include provisions that require shareholders and directors to put the best interests of companies ahead of personal interests.	**SOW:** 40 – 60 days STTA LOE for attorney, and LTTA presence to shepherd legislative changes through parliament or Cabinet. **Commitment:** Government willingness to change necessary legislation, often after LTTA adviser has sought buy-in.

8. PAYING TAXES

Taxes are essential – without them there would be no funds available to construct schools, hospitals, courts, roads, airports or other public infrastructure works that are essential both to business and society to be more productive. Rich countries tend to have lower business taxes and are less complex. Moderate taxes and efficient administration mean less hassle for business – as well as higher revenues for governments. In contrast, poor countries tend to use business as a collection point, charging higher business taxes[33]. The total tax payable as a percent of gross profit in the targeted countries is between 32.5 percent in Angola and 58.9 percent in Madagascar.

Businesses in Africa faces the highest taxes[34]. In 2004, three countries – Ghana, Tanzania, and Senegal – revamped their tax codes and eased tax burdens. Ghana cut corporate taxes and launched a unit to ease tax administration for large business. But it raised VAT by 2.5 percentage point. Tax reforms inquire political strategy. But both business and government benefit when taxes are simple and fair and set incentives for growth.

Burdensome taxes generate undesirable outcomes, such as corruption and the perpetuation of an informal economy. Streamlining taxes brings savings to government, creating more vibrant businesses. Overall growth is also higher with lower taxes and better collection. There are four ways to start reform:

- Consolidate the number of taxes
- Cut back special exemptions and privileges
- Simplify filling requirements
- Broaden the tax base by keeping rates moderate.

[33] Doing Business in 2006, IBRD and The World Bank edition – page 47, figure 8.2
[34] Doing Business in 2006, IBRD and The World Bank edition – fig.8.4, page 48

ISSUES SPECIFIC TO SOUTH AFRICA

Over the last decade the amount of income tax paid by South African companies has expanded at a very rapid rate. The only exception was in 1998/1999 when, following the Asian financial crisis, economic growth and company profits plummeted. Since that time, the Company Income Tax (CIT) increased very rapidly. The CIT has increased as a share of total tax revenue consistently over the last decade and now exceeds 20 percent. As a share of GDP, the CIT has increased from around 3 percent in the mid-1990s to 5 percent in 2003/2004.

Table 16: Company Income Tax (CIT), 1994/5-2003/4

Year	CIT Rand (million)	Y/Y change	% of tax revenue	% of GDP
1994/95	13 777	18.9	12.1	2.8
1995/96	15 831	14.9	12.4	2.8
1996/97	19 060	20.4	12.9	3.0
1997/98	21 609	13.4	13.1	3.1
1998/99	22 822	5.6	12.3	3.0
1999/2000	21 279	(6.8)	10.6	2.6
2000/01	29 956	40.8	13.6	3.3
2001/02	42 979	43.5	17.0	4.3
2002/03	56 326	31.1	20.0	4.9
2003/04	61 712	9.6	20.4	5.0

Notes: CIT comprises all provisional and assessed taxes paid by companies (net of refunds)
Source: South African Revenue Services Annual Report, 2004:15

The corporate rate of tax was 35 percent until 1998. It then declined to 30 percent. In the 2005 budget, the corporate tax rate fell to 29 percent of corporate income. Despite the significant reduction in the tax rate, tax revenues increased substantially. From a base of 100 in 1995, revenue derived from taxes on companies doubled to 200.8 in 2000-2001 and then more than doubled to 410.9 in 2003.[35] The robust growth in CIT is a consequence firstly of increased company profitability, but also improved enforcement and compliance and a considerable increase in the company register.[36]

In addition to CIT, South African companies pay taxes on the profits that they distribute known as Secondary Tax on Companies (STC). While payments fluctuated considerably, the overall trend is for STC to increase its share of tax revenue from about 1% in the mid-19990s to a little over 2% in recent years. As a share of GDP, STC increased from around 0.2% in the mid-19990s to 0.5% in 2003/2004.[37]

[35] National Treasury, 2004. Cited in Chamsa, 2004:10
[36] The number of companies on the register increased by almost 20% over the two year period 2001/02 – 2003/04. South African Revenue Services, Annual Report 2004:24
[37] South African Revenue Services, Annual Report, 2004:16.

ISSUES SPECIFIC TO LESOTHO

- Ineffectiveness of Department of Taxes
- Low levels of compliance within community
- The two-tier system of company tax creates problems.

ISSUES SPECIFIC TO NAMIBIA

- There are delays in processing income tax returns and issuing final assessments.
- Inland Revenue lacks a modern computer system and trained operators.
- Income tax legislation is not codified and amendments are not easily available.
- Income Tax legislation is not easily available to the taxpayer.
- There is no income tax guide or manual for taxpayers.

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

This section describes possible interventions to decrease the burden of taxation on businesses, while increasing the rate of tax revenue collection. An estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided in Table 17. All of the recommended interventions below should proceed from top to bottom, beginning with a feasibility study. Under no condition should an initiative lower in the hierarchy be conducted without the prerequisite actions.

Table 17: Phased Interventions to System of Taxation

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Feasibility Study	Conduct a feasibility study to simplify the corporate taxation structure, including introduction of a low flat tax of about 15 percent. Feasibility study should examine the current nominal and actual rates of taxation for all categories of business, as well as examine the actual percentage of taxes that are collected given the current Inland Revenue structure.	**SOW:** 40 - 50 days STTA LOE for expert conduct a feasibility study and give presentation to government. **Commitment:** Government willingness to examine change in taxation rate and tax collection structure.

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Legislative and Regulatory	Amend corporate taxation legislation to reduce the corporate tax rate, and consolidate the number of taxes affecting businesses. Cut back special non-transparent exemptions and privileges that are not in line with the investment promotion or revenue-generation interest of the country.	**SOW:** 30 – 40 days STTA LOE for attorney, and LTTA presence to shepherd legislative changes through parliament or Cabinet. **Commitment:** Government willingness to change labor law, often after LTTA adviser has sought buy-in. This is extremely politically charged work to undertake. Feasibility study is a prerequisite.
Administrative Processes Change	Reform the country's corporate tax collection structure. Design a new system, and make administrative reform recommendations. Follow up to implement regulations. Simplify filing requirements, and train Inland Revenue staff and general public in new system.	**SOW:** 40 – 50 days STTA LOE for expert to map out new procedures and train government agency in the proper implementation. Extra 30 days STTA LOE and LTTA adviser time for implementation follow-up. **Commitment:** Government willingness to change administrative procedures. Should be preceded by a feasibility study and legislative changes, and followed by revenue collection reform. This initiative should not be undertaken without all those elements, and government must desire the intervention.
	Improve revenue collection system through better collection methods, employee training, and new software and procedures as outlined in structural reform above.	**SOW:** Approximately 60 days STTA LOE to design new tax collection procedures, train Inland Revenue Staff, and provide follow-up implementation support, under the advisement of LTTA support. **Commitment:** Intervention must follow tax structure reform, as outlined above. There may be procurement needs in terms of computer systems and software.
Private Sector Assistance	Improve revenue collection system through awareness and public education, based on the implementation of the new tax system and new revenue collection procedures outlined above.	**SOW:** 20 to 30 days STTA for private sector training. **Commitment:** Intervention should follow implementation of reformed tax collection system.

9. TRADING ACROSS BORDERS

When the General Agreement on Tariffs and Trade (GATT) was negotiated, its preeminent objective was to bring down tariff walls that hindered the free flow of goods. Since 1948, tariffs in developed countries have been cut by more than 80 percent in eight successive rounds of trade negotiations. However, while the level of tariff protection has decreased substantially, the ingenuity of some Members to invent new measures of protection has increased and non-tariff barriers (NTBs) are now ubiquitous. In order for Africa to derive maximum benefits from trade, it is important and indeed necessary to look at all the NTBs hindering the free movement of goods across frontiers including trade facilitation barriers. In this context, it is important to note that efforts to address trade facilitation barriers have been undertaken by a number of international organizations such as the World Customs Organization (WCO), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Economic Commission for Europe (UNECE) the World Bank, and others.

Southern African countries require a comprehensive and integrated approach to improve the environment in which international trade transactions take place.

- The starting point must be reform and standardization of physical infrastructure and facilities, including customs and transportation facilities and all the institutions or agencies that deal with trade facilitation.

- The second step must focus on the use of international standards and best practices to rationalize, simplify and harmonize customs procedures, formalities, documents, regulations and laws related to import, export and transit of goods; making them transparent, efficient and predictable.

- The third step should then look at automation and the use of cutting edge information and communication technology to exchange trade facilitation-related information. The objective will be to expedite the movement, clearance and release of goods while optimising necessary controls and revenue collection.

It is thus clear that trade facilitation cuts across a wide range of issues and sectors, from government regulations and controls, business efficiency, transportation, information and communication technology to the financial sector. The major problems affecting cross-border movement of goods in Southern Africa include political unrest, poor infrastructure development—particularly roads, rail and air links, and the hostile attitude of the public to private sector initiatives. Further problems result from the use of outdated procedures, excessive documentary requirements, lack of automation and information technology, too many roadblocks, and long customs and administrative delays at ports and borders. Moreover, poor international payment and insurance

mechanisms dealt a debilitating blow to African trade. All these problems add to the already high transport and communication costs[38].

With all these problems, it is not surprising that sub-Saharan Africa suffers from the highest average customs delays in the world. In Estonia and Lithuania for example, it takes an average of one day for customs clearance, but in Africa, delays at the customs are as long as 10 to 30 days, and traders can wait for up to 24 hours to pass through borders[39]. Furthermore, the OECD estimates that the trade transaction costs are between 2 percent and 15 percent of the value of goods (OECD: 2002). Interestingly, these costs sometimes exceed import tariffs, and as opposed to tariffs, are dead-weight losses for the economy with no redistributive effects. Trade facilitation will bring more benefits to SMEs which are normally unable to cope with the high costs of compliance.

With proper reform, Southern African governments will benefit from better controls and enforcement through use of sophisticated risk-management techniques, correct revenue yields, allocation of resources, increased compliance from traders, economic competitiveness and increased transparency and integrity. Traders will see a reduction in costs through reduction of delays, faster clearance and release, predictable application and explanation of rules, more efficient and effective deployment of resources and increased transparency and integrity. These benefits may be passed on to consumers in the form of lower prices[40].

The Chilean Experience

Chile invested $5 million to overhaul its customs system but in less than a year it had recouped this amount. The benefits included a 75% drop in the average processing time and substantial reductions in costs both to the government, business and the ultimate consumer (UNECE 2003: 141).Other developing countries that have benefited from improving trade facilitation measures include Peru, Mauritius, Singapore, Morocco, Sri-Lanka, Philippines, Jamaica and Panama. Since trade facilitation requires huge investments in infrastructure which many poor African countries will not be able to undertake, the modalities make it clear that these countries will not be obliged to undertake investments in infrastructure beyond their means.

The main problem in Africa is the lack of adequate infrastructure necessary to expedite the movement, clearance and release of goods. This means that roads must be built and railway lines must be erected. Regulatory barriers in the transport sector must be removed; air and sea transport must be reformed. Financial institutions need to be strengthened and information and communication technology must be installed. Customs authorities must reform root, stem and branch, and customs procedures, formalities and document requirements must be rationalized, standardized or even

[38] For example, the closures of neighbouring transport corridors in the 1980s because of civil unrest caused Malawi cumulative losses of more than $75 million in additional transport charges (OECD: 2005)
[39] Commission for Africa: 2005
[40] For example, delays result in traders missing connecting ships and incurring penalties. In some cases delays in delivery result in lost contracts, and in the case of perishables you risk the deterioration of your merchandise.

harmonized at the regional level. Likewise, the spaghetti bowl of regional organizations which results in different documents, formalities and procedures should also be addressed urgently and harmonized, where possible.

Regional organizations, such as COMESA, SADC, ECOWAS, EAC and others must accelerate their trade facilitation programmes. The Economic Partnership Agreements (EPAs) that are being negotiated between the EU and these various groupings must be designed in a way that promotes the afore-mentioned goals. Africa should put trade facilitation high on the agenda and take positive steps to remove barriers to trade facilitation that are imposed among African countries as these can be more damaging in some cases than other barriers imposed by developed countries.

Tariff, quotas and distance from large markets greatly increase the cost of goods, sometimes enough to prevent trading completely. Yet Africa's share of global trade is smaller today than 25 years ago. One reason is that entrepreneurs in the targeted region face numerous regulatory hurdles to exporting. In case of manufactured goods, customs and transport together present the single greatest cost of trading – even higher than the cost of tariff on their exports imposed by rich countries. In reducing the regulatory and transport costs of trading, 3 most effective reforms in 2004 were: make document filling electronic; use a risk assessment policy for inspection and go regional with reform of customs and transport rules. In Southern Africa, Botswana, Namibia, Lesotho and South Africa share customs forms. This reduces paperwork and cost. The next step for them is to remove border check altogether and introduce harmonized transport rules. When the reputation of the customs office is damaged because of long delays or corruption, reformers can contract out the services to a private company. This reform was successful in Bulgaria, where is started in 2002. By the following years, annual customs revenue rose by 18 percent or nearly $ 500 million. The number of fines for smuggling increased threefold to 12,000 a year.

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

This section describes possible interventions to reform trade facilitation among Southern African countries. Table 18, below, provides an estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) recommended for these interventions. These interventions should be undertaken in the order that they are presented below.

Table 18: Phased Interventions to Improve Trade Facilitation

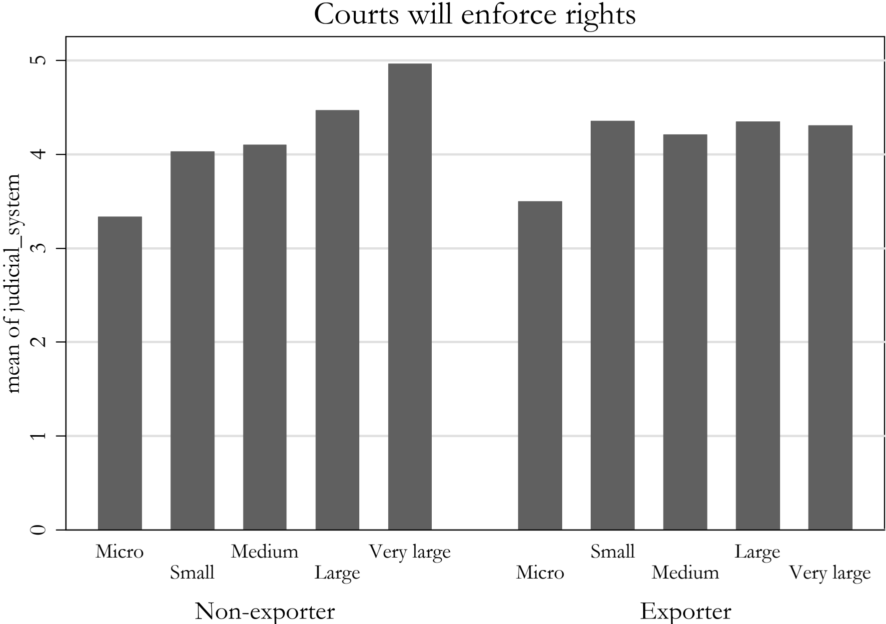
Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Legal and Regulatory Reform	Amend laws and regulations related to import, export, and transit of goods, making the system more transparent, efficient, predictable, and in line with procedures in other Southern African countries.	**SOW:** Team of trade facilitation expert and legal draftsperson, totaling 50 to 70 days STTA LOE. **Commitment:** Government willingness to change customs and other trading procedures. This intervention should proceed only if the project's long-term staff have researched procedures throughout Southern Africa, and have sought buy-in from various governments on the need to harmonize customs systems.
Infrastructure	Reform and standardize physical infrastructure and facilities, including customs facilities and transportation and logistics centers. This should begin with infrastructure feasibility studies and take into account reform in administrative trading procedures.	**SOW:** 50 to 70 days STTA LOE to complete feasibility study. 50 to 70 days STTA LOE for civil engineer to supervise physical construction of facilities. LTTA presence to shepherd local construction tendering process. **Commitment:** Government willingness to change not only infrastructure, but also customs and other trading procedures that the infrastructure will support.
Administrative Processes Change	Use of international standards and best practices to rationalize, simplify, and harmonize customs procedures, formalities, and documents, making them transparent, efficient, and predictable.	**SOW:** 20 to 25 days STTA LOE to conduct needs assessment and recommendations for customs reform. 20 days STTA LOE to develop new SOPs and develop work organigram. 40 days STTA LOE to train staff and supervise customs reform implementation. **Commitment:** Support from high levels in government to change customs procedures, and buy-in from lower levels of government to enact change.
Automation and E-Government	Automate customs procedures by adopting systems such as ASYCUDA. The objective is to expedite movement of goods, clearance and release of goods, while optimizing necessary controls and revenue collection.	**SOW:** 30 to 35 days STTA LOE for installation and training of the ASYCUDA system. **Commitment:** Support from high levels in government to change customs procedures. This intervention may involve a procurement of software and hardware. If not funded by the Hub, then the country government or another donor must fund it.
Private Sector Assistance	Provide training for private sector on how to utilize new forms, procedures, and infrastructure.	**SOW:** 15 – 20 days STTA for private sector training, or training customs to provide the training to the private sector. **Commitment:** Intervention assumes that new customs system—manual or computerized—is in place and functional.

10. ENFORCING CONTRACTS

Firms were asked how confident they were "that the judicial system will enforce my contractual property rights in business disputes". The figure below shows the average response of firms: 0 indicates strong disagreement, 6 indicates strong agreement. As

the figure shows, manufacturing firms are generally confident in the judicial system. Non-exporting firms are more confident than exporting firms. Of potential concern is the average response of the micro firms in the survey. On average, these firms are unsure if they could use the judicial system to resolve disputes. This likely reflects the costs of using the judicial system that are potentially prohibitive for very small firms.

Figure 5: South Africa firms are relatively confident that the courts will enforce their rights



The median time required to resolve business disputes is four weeks. There is significant variation in case duration as evidenced by the average which is about 6 times as large as the median court time. While there is substantial variation in case duration across firms in South Africa, court cases are resolved more quickly relative to a number of competing middle-income economies. Firms in Brazil take 2.5 times as long to resolve cases, while firms in China take about the same time[41].

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

Recommendations for reform in contract enforcement include the following:

- Streamline appeals
- Impose time limits on their filings
- Introduce rules to ensure that debtors do not abuse the process.
- Shorten time for enforcement of judgments.
- Establish case management systems. In Armenia, for example companies are now asking legal advice and assistance.
- Reduce delays in deciding cases, and cut the number of appeals to Supreme Court
- Make enforcement competitive so that easier contract enforcement is associated with higher bank lending plus lower interest rates. Efficient courts increase entry by

[41] South Africa: An Assessment of the Investment Climate

new firms and hiring by established firms, and reduces demand on government budgets.

- Reallocate judiciary budget to better uses, bringing more cases to courts.
- Improve dispute resolution by establishing information systems in courts; taking transactions that are not disputes out of hands of judges (e.g. business registration); reducing procedural complexity; and establishing small claims courts and specialized commercial courts.

11. DISTANCE TO MARKETS

Reviews of the domestic road transportation market in Southern Africa suggest that there are no major policy restrictions to new entry among the commercially established operators—with the exception of passenger transportation, which is restricted to citizen-owned enterprises. However, restrictive *laws* (common to all SADC countries) contribute to the high costs of transportation in the region. For instance, cargo carriers are not allowed to pick up loads at the delivery destination except those destined for their originating country. Key features of the trade facilitation landscape include proximity to major South African markets, distance from major developed country markets, and reliance on transit through neighboring countries.

High transportation costs were quoted as a major constraint for the entire background sector studies conducted for this report. Transportation costs for imports of intermediate and capital inputs and exports from Botswana to South Africa and beyond are high in comparison to international competitors such as Mauritius and South Africa, or Argentina or Brazil for beef. High air transportation costs are a major constraint to the development of services exports, reinforcing the importance of liberalization in the air transportation sector.

ISSUES SPECIFIC TO LESOTHO

The unreliability and high cost of transportation and logistics have been identified as one of the constraints in Lesotho's competitiveness in international trade, particularly with regard to the textile and garment industry.

- Shipping agents usually work for many clients, some of who probably hold huge portfolio compared with the relatively small shipments from Lesotho, and as such may offer substandard service to Lesotho shippers.

- There appears to be excessive inspection of transit goods resulting in considerable additional costs on the shippers.

- There appears to be a requirement in South Africa that hauliers carry road bond for the goods. As such, some Lesotho hauliers have difficulty rising sufficient funding for this cover, and are therefore denied the opportunity to participate in the conveyance of Lesotho bound goods. The current trucking capacity of near 100 long

haul trucks needs to be increased to match the expected improved dry port operations

- The delays in the processing of the Bill of Entry are a cost to the industry in Lesotho. So too is the poor quality of service by clearing agents.

- The most significant constraint in Lesotho's transportation system is the lack of a proper ICD, fully developed and promulgated as a dry port to/from which goods can be consigned like any sea port. Lesotho is in someway at crossroads to ensure the retention of her export industry, and if anything can be done to support this industry at the margin, government should do its utmost to facilitate. Furthermore, development of the dry port would result in improved hours of service and meet the current need.

- Reliable and timely information on ship arrival to exporters is vital for planning of the export cargo, and can make a difference in the entire transport and logistics chain.

- The availability of empty containers at competitive rates is tied to improvements of the container terminal.

- Opening of seals of another authority and at border posts is an inconvenience and cost placed on industry.

ISSUES SPECIFIC TO SWAZILAND

Swaziland has all the key institutions needed to support her foreign trade. However what remains is to harness her various institutions into an effective unit, which should and can adequately address key concerns of the business sector and thereby improve the country's foreign trade competitiveness.

- Swaziland has a functioning dry port, which means that imports and exports can be consigned to and from it as if it were a sea port. Adoption of appropriate import and export trading contracts could avoid unnecessary costs, but will depend on appropriate logistics linkage at modal change points especially at Durban.

- Rail services should brace themselves for competition with road transport. If they are to maintain their market share, increased marketing strategies are required to interface with clients and know more the clients' requirements.

- The ICD could take advantage of its classification as a port and therefore make use of the Multimodal Transport Convention operations. But this will mean that the depot and Swaziland Railways should establish closer coordination with Durban port for the smooth intermodal cargo transfer.

- The port of Durban will remain the major artery for Swaziland's foreign trade, as there is no immediate major alternative port. The nearest option is Maputo in Mozambique, which if and when operations improve can in the medium to long term emerge as an alternative to Durban. But only aggressive action by Swaziland to keep step with the developments of the port can see this option mature for her foreign trade.

- Airfreight will remain a service for high value goods until airfreight services are fully developed in Swaziland through improved air connections and air traffic.

- The inspection of transit goods may add considerable cost in time and financial resources to the competitiveness of Swaziland exports. The inspections appear to bring apprehension and are considered intrusive among the business community and negatively impacting on industry. Additionally, lack of speedy processing of AGOA certification can lead to business incurring costs resulting in their competitiveness.

POSSIBLE COMPETITIVENESS HUB INTERVENTIONS

This section describes possible interventions to ease problems associated with distance to markets. An estimate of short-term technical assistance (STTA) and long-term technical assistance (LTTA) level of effort (LOE) is provided in Table 19.

Table 19: Phased Interventions to Improving Problems Associated with Distance to Markets

Intervention Level	Description of Activities and Potential Scopes of Work for Interventions	Effort Required
Administrative Processes Change	Promote investment in the entire industry value chain. Often, only large projects are promoted, without thought to promoting suppliers, services, repair, and logistics attached with a main industrial activity.	**SOW:** 30 to 60 day STTA LOE for industry mapping activity. 30 days STTA LOE for marketing training with investment promotion agency. **Commitment:** Relationship with investment promotion agency, which has requested training.
Private Sector Assistance	Provide targeted assistance to industry and cluster value chains. This can proceed using a cluster identification approach, followed by value chain interventions. The logistics cluster is an important piece of the value chain, and assistance can be targeted to helping businesses identify, articulate, and solve logistics needs.	**SOW:** 90 days STTA LOE per sector or cluster identified and given project support. **Commitment:** Commitment from existing business associations and organizations is helpful.

IV. NEED FOR GREATER REGIONAL INTEGRATION

The Member States of SACU and SADC should develop a clear long-term vision based on a transformation of SACU from a customs union to a single market. The new SACU Agreement, renegotiated in 2002, falls well short of a bold new vision for further regional integration. The Agreement excludes cooperation on investment protection and incentives, but does include an agreement "in principle to develop common policies and strategies".

Government should develop a clear long-term vision based on a transformation of SACU from a customs union to a single market. The new SACU Agreement, renegotiated in 2002, falls well short of a bold new vision for further regional integration. It maintains the basic customs union with very limited aspirations towards a single market. The Agreement excludes cooperation on investment protection and incentives, but does include an agreement "in principle to develop common policies and strategies". Similarly there is no commitment to develop a common competition policy, although there is a commitment for Member States to cooperate on the enforcement of competition laws and regulations. There is no provision to allow for the freer movement of people. Services remain outside of the agreement. However, the report identified a wide number of issues that need to be resolved at the regional level

A Customs Union, such as SACU, requires a common external tariff, a customs pool and a common trade policy. However, fiscal borders have remained in place and border controls are maintained for differences in standards (e.g., safety standards). In contrast, a single market means that goods circulate freely, with a common trade policy, the harmonization of standards, common policies in competition, and harmonization of regulations where there is substantial intervention in the market.

South Africa is the regional superpower, accounting for 90 percent of SACU's GDP. As the dominant regional economy it has a past record of setting trade and economic cooperation policy according to its own interests with little consultation with its smaller neighbors. This has led to fears over the pooling of sovereignty associated with closer economic integration. However, this report advocates deeper economic integration in SACU, based on the concept of "open regionalism"[42] where barriers are also reduced between the region and the outside world.

1. IMPORTANCE OF SOUTH AFRICAN MARKETS

Smaller states such as Botswana cannot 'go it alone' given their small populations. South Africa is likely to remain the major market for its non-diamond exports because of high transport costs and the trading benefits of proximity. Apart from Egypt, South Africa is the only major market in the region. The record of using import substitution in the region to promote demand for more advanced products is not good, and small countries have had particular difficulties in using such techniques because of their small market size. A small domestic market size is also a major constraint to investment

[42] GEP, 2005.

since it limits the scope for economies of scale and expansion. A survey of French companies found small market size to be the main factor limiting investment in Africa[43]. Trade ties with South Africa have played a central role in the development of Botswana. South Africa is the primary market for Botswana's non-traditional exports, constituting 75 percent of non-traditional exports. The case studies for this report suggest a mixed reliance on the South African market. Fifteen percent of beef exports are destined for South Africa, although this may represent a more important market as preferences to the EU are eroded. All ostrich exports are destined for the EU. Data is not available on financial services direction of exports. Over half of holiday visitors come from South Africa. South Africa has traditionally been the dominant market for textiles and apparel exports.

Second, although Botswana has a higher GDP per capita than South Africa, it can still benefit from South Africa's more developed private sector, market know-how, expertise and investment. South Africa accounts for almost half of the stock of FDI in Botswana. Investors from outside the African continent are so far mainly interested in minerals. Attracting high quality investors who actually understand the international market is a challenge given that the economy of the entire SACU region is still approximately the size of Belgium's economy. Recent surveys of South African investment in Africa indicate that familiarity and the need to use South Africa as the "anchor" economy are important determinants of investment[44]. In some sectors, for example the textile or automotive products sectors, South Africa offers the potential to link into regional supply chains, although progress in developing such linkages has been limited to date.

Third, the harmonization of regulations required to move towards a single market could act as a major spur to increased investment and trade within the SACU region and beyond. It would ultimately remove the need for the customs control of goods at the border, would encourage inwards investment to the region (since investors would have a common rules platform), and would encourage greater cross-border competition in services. As argued throughout the report, without such cooperation the impact of having a customs union with a common external tariff is limited. The European Union did not have free circulation of goods before the single market: "Despite the absence of customs duties in trade between Member States, in fact there was little difference in administrative burden or appearances between intra – Community trade and trade with non – member countries… Customs clearance at the Community's internal frontiers was elaborate and time consuming"[45]. Of course, this is not a rapid process – it took the EU thirty years to harmonize its non-tariff barriers. Further, the liberalization of movement in people would also be beneficial to labor markets within the region, and could take place at a pace acceptable to SACU members, given concerns over its impacts. In the EU, regulations liberalizing the movement of people were introduced after the liberalization of goods.

Fourth, there is not a choice between aligning Botswana with Europe, North America or South Africa. Closer integration with South Africa would not be at the expense of closer

[43] Charalambides, 2004.
[44] Charalambides, 2004
[45] European Commission, 1999.

trade and investment ties with other regional partners and beyond. "Trade diversion" costs should not be exaggerated – tariffs can be a small part of the importing decision in relation to other costs. Nevertheless, closer regional integration should be accompanied by continued reductions in high external tariff walls[46] (Hinkle, 2004).

2. COMMON EXTERNAL SACU TARIFFS

Import tariffs are moderate in Southern Africa, although there is still a need to reduce protection and simplify the tariff structure. A key feature of the SACU common external tariff (CET) is a high tariff dispersion, from 0 to 325 percent with a simple average tariff of 8 percent and an import weighted average of 6 percent, a cascading tariff and a high tariff variance. This increases effective rates of protection and inefficiencies. A combination of high and low tariff rates reflects a South African policy of keeping input tariffs low and maintaining high tariffs on some final products. Botswana should initiate a renewed program of trade reforms through the new SACU Secretariat. This should include a phased program of tariff reforms that would continue the progress made during the early liberalization period in the 1990s, and would include SACU accelerating its tariff rationalization program to reduce the number of tariff categories from 41 to six, in line with WTO commitments. SACU tariffs largely protect South African industries at the expense of Botswana consumers and businesses (including exporters – see below). A reduction from over 100 to 41 *ad-valorum* tariff bands has so far taken place. Less complexity would increase transparency, reduce the scope for protectionist lobbying, and therefore facilitate trade.

SACU tariffs provide relatively high effective protection to some industries. Using standard tariff analysis, tariffs raised the incentives for Botswana companies to serve the domestic SACU market above the world market by raising the profitability of doing so by on average 88 percent for a sample of 33 firms surveyed in Botswana by The Services Group in 2003. The most protected sectors according to the TSG analysis are food processing, textiles, clothing, wood products and furniture production.

Botswana should use its influence in the new SACU Secretariat to reenergize the liberalization efforts of SACU. This effort should include tariff and non-tariff measures that feature throughout this study. On tariffs, this should include a phased program of tariff reforms that would continue the progress made during the early liberalization period in the 1990s. This would focus on reducing SACU's average applied rates (which would be strongly in Botswana's interest), urging SACU to accelerate its tariff rationalization program to reduce the number of tariff categories, lobbying within SACU for the number of anti-dumping initiations to be further reduced, and reviewing the impact of liberalizing beef imports with a view to discussing this with SACU neighbors.

[46] Hinkle, 2004

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