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## WTO Trade Policy Review: Southern African Customs Union\*

*Note: This text provides brief description of the conditions foreign business will encounter in trade with the Southern African Customs Union. It is based on a WTO Trade Policy Review for the Southern African Customs Union, early November 2009. Readers wishing for deeper analysis should turn to the original Trade Policy Review available on the WTO website. ([www.wto.org/english/tratop\\_e/tpr\\_e/tp322\\_e.htm](http://www.wto.org/english/tratop_e/tpr_e/tp322_e.htm))*

*Trade Policy Reviews are an exercise, mandated in the WTO agreements, in which member countries' trade and related policies are examined and evaluated at regular intervals.*

### • ECONOMIC ENVIRONMENT

The five member states of the Southern African Customs Union (SACU) – Botswana, Lesotho, Namibia, South Africa, and Swaziland – continue to show substantial differences in levels of economic development. Botswana and South Africa are classified as upper middle-income countries, while Namibia and Swaziland are considered lower middle-income countries, and Lesotho is a least developed country. Nonetheless, SACU countries face common challenges, notably unemployment, income inequality, poverty, and HIV/AIDS.

Since 2003, SACU economies have collectively expanded at an average annual rate of about 4% in real terms. In some SACU countries the growth performance has been somewhat erratic mainly reflecting infrastructure constraints, electricity supply shortages, cyclical mining output, and exchange rate adjustments, as well as the impact of the global financial crisis.

Monetary policy within SACU is to a large extent directed by South Africa. Lesotho, Namibia, and Swaziland form a common monetary area with South Africa, and have pegged their currencies to the South African rand at par. Botswana applies a crawling band exchange rate mechanism based on a basket of currencies comprising the rand and the SDR.

*\* Extracted from WTO Secretariat Report on Trade Policy Review of the Southern African Customs Union*

There is no formal harmonization of fiscal policy in SACU. Botswana, Lesotho, Namibia, and Swaziland have relatively narrow tax bases; customs and excise duties constitute a major source of public revenues but make up a negligible portion of South Africa's fiscal receipts.

### • INSTITUTIONAL FRAMEWORK

A new Southern African Customs Union Agreement (the 2002 SACU Agreement) entered into force on 15 July 2004. It provides for further harmonization of policies in a number of areas, including customs procedures, standards, technical regulations, SPS measures, competition, and unfair trade practices, but alignment in these areas has not yet taken place. The only trade policies so far harmonized in SACU are the applied customs tariff; excise duties; duty rebates, refunds, and drawbacks; customs valuation; non-preferential rules of origin; and contingency trade remedies.

The 2002 SACU Agreement established a new revenue-sharing formula under the Common Revenue Pool. The change has contributed to an increase of public revenues in Botswana, Lesotho, Namibia, and Swaziland. South Africa continues to manage the Common Revenue Pool.

SACU countries are members of the Southern African Development Community (SADC) and have preferential trade agreements with EFTA and MERCOSUR. Swaziland is also a member of the Common Market for Eastern and Southern Africa (COMESA). SACU countries are eligible for non-reciprocal preferential treatment under the Generalized System of Preferences (GSP), and the U.S. African Growth and Opportunity Act (AGOA). Some SACU countries have bilateral trade agreements. To further harmonize trade policy, SACU members have agreed to negotiate new preferential trade agreements as a group. They are finalizing negotiations on economic partnership agreements with the EC.

The investment regimes of SACU countries are not harmonized, with the exception of certain duty concessions, the Motor Industry Development Programme, and the Textile and Clothing Industry Development Programme. Other incentive schemes are country-specific, with the most developed country being the most generous. SACU countries are generally open to foreign investment; some members maintain restrictions on foreign investment in small scale industries and services.

## • TRADE POLICY INSTRUMENTS

South Africa continues to set the applied MFN Common External Tariff (CET) in consultation with its SACU partners. In some cases, it appears that the structure of the CET does not adequately reflect the needs of the individual economies of the other SACU members.

The simple average rate of SACU's applied MFN CET decreased from 11.4% in 2002 to 8.1% in 2009. The pattern of protection has shifted in favour of agricultural products, with an average rate for agricultural products (WTO definition) of 10.1% in 2009, up from 9.6% in 2002, against an average rate for non-agricultural products (WTO definition) of 7.8% in 2009, down from 11.6% in 2002.

The tariff structure has been somewhat simplified. In 2009, 96.8% of all tariff lines carry ad valorem rates, up from 75% in 2002. The number of tariff lines with mixed duties has been reduced from 1,774 in 2002 to 98 in 2009; those with specific duties have been reduced from 195 to 109. Mixed duties apply to agricultural products, coal, textiles, and footwear. Specific duties apply mainly to agricultural products (94 tariff lines), coal, and some textiles; their ad valorem equivalents range from zero to 60%. Compound duties are no longer applied by SACU but there remain five tariff lines with formula duties.

Tariff bindings by all SACU members are at ad valorem rates. The imposition of non ad valorem rates on some tariff lines creates a risk of non-compliance by SACU Members with their individual tariff bindings, and the use of formula duties based on reference prices does not ensure conformity with obligations under the WTO Agreement on Customs Valuation.

South Africa has WTO tariff-quota commitments on textiles and clothing, and certain agricultural products; some agricultural tariff quotas have not been opened where the applied out of quota tariffs have been equal to, or lower than corresponding bound in-quota tariffs.

Non-tariff barriers such as (seasonal) import quotas and prohibitions, or additional duties on imports of certain agricultural products from all countries, including other SACU members, are aimed at encouraging domestic production of certain agricultural goods.

Botswana, Lesotho, Namibia, and Swaziland apply the anti-dumping, countervailing, and safeguard measures determined by South Africa, a leading initiator of anti-dumping actions among WTO Members. Botswana, Lesotho, Namibia, and Swaziland are in the process of establishing their own legal and institutional framework to enable them to initiate trade remedies. In the areas of standards, technical regulations, and SPS measures, some SACU countries have adopted South Africa's regimes.

Incentives aimed at export-oriented industries, services, and SMEs include duty and tax exemptions, some of them subject to local-content requirements or contingent on export performance. The Motor Industry Development Programme, and the Textile and Clothing Industry Development Programme are export incentive schemes available throughout SACU, but not utilized by all of the member countries. Namibia and South Africa also provide incentives in designated export processing or industrial development zones.

Some SACU countries apply export taxes (on rough diamonds by Namibia and South Africa; on sugar by Swaziland). Botswana maintains a statutory export monopoly on beef exports.

Progress has been made at national level towards implementing competition policies. South Africa's competition legislation has been strengthened, while Swaziland has established a Competition Commission to enforce its new competition law. Namibia has also recently adopted competition legislation. Overall, little progress has been made in restructuring public enterprises in SACU countries.

Some SACU countries have taken steps to strengthen intellectual property laws, notably in the area of copyright.

## • SECTORAL POLICIES

The 2002 SACU Agreement calls for common agricultural and industrial policies with the aim of fostering economic integration and achieving a more balanced development of the customs area, but little progress has been made in this regard.

SACU countries have a narrow export base, with the exception of South Africa. The principal policy imperative remains

diversification away from their key export products (diamonds and other minerals in Botswana and Namibia, textiles in Lesotho, and sugar in Swaziland). Some labour intensive manufacturing activities, particularly textiles and clothing, have been seriously affected by increased competition on foreign markets.

Services play a crucial role for diversification of the SACU economies. Export opportunities, however, remain largely untapped by SACU (with the exception of South Africa). In tourism, for example, constraints in infrastructure, marketing and promotion, and finance, and lack of skilled labour have impeded the development of the subsector. Further liberalization and investment in services should generally improve the efficiency of other economic activities and the competitiveness of SACU's exports, especially by reducing costs for telecommunications, transport, and energy.

In Botswana, the challenge lies in reducing its heavy reliance on diamond mining as the main driver of economic growth and development. There is also a need to accelerate structural reforms to improve the economy's productivity and competitiveness. Agricultural policy is aimed principally at achieving food security and diversification away from beef production. The small agriculture sector receives substantial government support through tariff protection, import quotas (for some products), and input subsidies. To promote cross-border financial services, Botswana has established an International Financial Services Centre. The licensing regime for telecommunications services has been reformed, to encourage competition in the subsector. The transport infrastructure has been further developed but restrictive transport rules pose a considerable constraint for competitiveness of the land locked economy.

Lesotho is in the process of implementing the National Action Plan for Food Security 2007 17 which is also aimed at reducing poverty in rural areas by, inter alia, improving farm productivity through intensification, diversification, and commercialization of farming systems; and promoting sales of agricultural produce. The private sector is expected to be the main engine of growth within the framework of the implementation of the Industrialization Master Plan 2007 10, and the Lesotho Government is creating an enabling environment. The development of the services sector is also promoted, and some state-owned enterprises have been privatized.

Namibia's third National Development Plan and "Vision

2030 Namibia" set out ambitious objectives for economic and social development. One of the main policy tools for industrial development is the extensive set of tax incentives to encourage investment in manufacturing, particularly through export processing zones. Farming, fishing, and mineral extraction industries are excluded from these incentives. In agriculture, Namibia has applied import restrictions to encourage domestic production of some basic products. Namibia has a well developed and regulated financial sector and a growing tourist industry based on its landscape and wildlife.

South Africa's economy is relatively diversified. The importance of agriculture in the economy, including in trade, has declined since the previous Review of SACU, but the sector remains crucial for absorbing unskilled labour. Government intervention in agricultural markets appears to have declined but its involvement in manufacturing, mining, energy, and services sector remains important. The manufacturing sector benefits from a range of incentive schemes, some contingent on export performance. Several state-owned enterprises operate in the mining and energy subsectors. These policies have contributed to low profitability in the manufacturing sector, electricity shortages due to a lack of investment in electricity generation, and inefficient and costly supply of key services. South Africa's shortage of electricity is also having a negative spill-over effect on its SACU partners dependent on imported electricity.

In Swaziland, food security and agricultural productivity are promoted through the diversification and commercialization of activities, while ensuring community participation and sustainable development of its natural resources. Manufacturing remains largely based on sugar and related products (confectionery and soft drinks), which benefit from preferential access to the EC and the United States. Some food-processing industries primarily interested in low-cost inputs have expressed concerns about the structure of the SACU tariff. Exports of garments and apparel to the United States have fallen in recent years, despite Swaziland's eligibility for AGOA preferences. The financial services legislation has been modernized, and the mobile telecoms market has been opened to competition.