Cape *to* Cairo

Exploring the Tripartite FTA agenda

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Foreword

On 22 October 2008 in Kampala, Uganda, the Heads of State and Government of the Member States of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), and the Southern African Development Community (SADC) agreed to establish a grand Free Trade Area, which is now referred to as the Tripartite FTA (T-FTA). This is supposed to encompass all 26 Member States of the three Regional Economic Communities (RECs). Apart from the economic imperative arising from such an enlarged regional market, the T-FTA initiative has received wide support as it was expected to address the problem of conflicting trade regimes due to overlapping memberships of most members in the three RECs.

The Trade Law Centre (tralac) has been following this development with keen interest through the publication of three books focusing on the T-FTA process.

The first book presented an economic impact assessment of the T-FTA, with particular focus on agriculture and agri-business development. A number of policy lessons were drawn from such an analysis, notably that agriculture plays an important role in all the economies of the proposed FTA and that agribusiness and agricultural trade opportunities were often hampered in a regional context by the designation of products as 'sensitive' and their exclusion from liberalisation as well as from a range of non-tariff barriers.

The second book, published in 2011, delved more deeply into a range of issues relevant to making the T-FTA work, drawing from Africa's experience of grand schemes, weak legal and institutional foundations for a rules-based dispensation of regional integration, and an implementation record that demonstrates very little serious commitment. A central message was that Member States should be committed to a rules-based trading regime which goes beyond trade in goods to include services, regional investment governance, competition policy, and other behind-the-border issues to promote competitiveness.

The third book published in 2012, and influenced by an explicit decision by Member States to include the infrastructure and industrial development pillars, aimed at encouraging an enquiry and new thinking about the African paradigm of regional integration, specifically about the nature, design and architecture of a T-FTA to address the region's fundamental development challenge, i.e., the inadequate capacity to produce goods and services competitively.

This fourth book presents a collection of papers that explore a range of issues that are shaping important debates about the T-FTA in particular and the African regional integration agenda more generally. During the past five years there has been a sea change from the vision of the T-FTA as a grand FTA integrating the 26 Member States of COMESA, EAC and SADC, to a much less ambitious plan for only those Member States that are not parties to FTAs to engage in negotiations. This book includes an analysis of the implications of the 'clarification' of the T-FTA Negotiating Principles. It is now clear that the T-FTA will not address the problem of overlapping membership. What would happen if a smaller group of 'willing participants' decided to integrate at a faster pace? Two country case studies (Malawi and Rwanda) are also included; they provide insight into the important questions that Member States are engaging to assess what's in the T-FTA for them.

Two chapters focus on industrial development issues. The industrial development pillar of the T-FTA requires innovative approaches to addressing the region's competitiveness challenges. What are the options to support regional industrial development? Energy sector development and climate change issues, both integral to the development of the region's integration plan, are also addressed in the book.

T-FTA developments are important not only for the eastern and southern African region; they also provide a reality check on the feasibility of establishing a Continental Free Trade Area by (indicative date) 2017.

Trudi Hartzenberg

Executive Director, tralac
November 2013

Chapter 1

Introduction

The Tripartite Free Trade Area: from the 2008 Kampala vision to…

Trudi Hartzenberg

It is five years since the Kampala Summit, and the decision on 22 October 2008 by Heads of State and Government to establish a single FTA, encompassing the 26 Member States of the Southern African Development Community (SADC), the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA). Technical experts in the REC Secretariats had within 6 months of the Kampala decision, and with a view to the implementation of the Kampala Summit decisions, conducted a study and developed a roadmap for the establishment of the FTA, the legal and institutional framework to underpin the FTA, and measures to facilitate the movement of business persons. A draft T-FTA Agreement was prepared by the REC Secretariats, based on the study findings, national consultations with stakeholders, existing texts of the REC FTAs, as well as lessons from the experiences of the existing REC FTAS on how the envisaged T-FTA could be improved. The draft T-FTA Agreement, which was intended to be used by Member States as the basis for negotiations, had 14 Annexes covering various complementary areas necessary for effective functioning of a regional market. The main proposal was to establish a tariff-free, quota-free, and exemption free trading arrangement, with simplified rules of origin. There was, however, a possibility of maintaining a few sensitive products for a specified period of time. Market integration was to be underpinned by robust infrastructure programs designed to catalyse the regional market integration through interconnectivity (facilitated for instance by all modes of transport and telecommunications) and to promote competitiveness (for instance through adequate energy supplies).

At their meeting on 9th November 2009 in Dar es Salaam, the Chief Executives of the three Secretariats cleared the draft FTA documents for transmission to the Member States for consideration in preparing for the Second Tripartite Summit. This Summit was held on 12 June 2011 in Johannesburg, South Africa, and 23 Member States signed a declaration launching the T-FTA negotiations, adopting the negotiating principles and a roadmap for the negotiations. The roadmap entails a preparatory phase (6-12 months), and Phase I of the negotiations on core trade in goods issues and parallel track on movement of business persons to be completed in 36 months, i.e., by June 2014. The phase II negotiations, covering trade in services and trade-related areas, are only to commence after completion of the Phase I negotiations.

What has happened since June 2011 raises important issues and concerns. The negotiating principles, which were not clarified upon adoption, were clarified in December 2012; the clarifications raise important concerns as they will lead to a very different outcome from what was initially envisaged. They are likely not to achieve the fundamental objectives and expectations of the T-FTA, particularly as they relate to improved market access and resolving the problem of overlapping and conflicting trade regimes within the tripartite region. As it appears, it seems that the 'spaghetti bowl' of regional trade agreements will become more complex. One of the negotiating principles which raises particular concerns in light of the original objectives for the T-FTA, is the '*acquis*'. This concept has been borrowed from European Community law and means 'that which has been agreed.' Originally, the T-FTA was to build upon that which the regional economic communities (COMESA, EAC, and SADC) have already achieved to create a single, large free trade area (FTA).

The 'clarification' of the *acquis* means something very different. It means that only those Member States that do not have FTAs between them will be conducting tariff liberalisation negotiations. This is clearly not 'a clarification' of the principle of *acquis* but a new negotiating principle which will result not in resolving the problems of overlapping membership of RECs, but compound the problem with the establishment of more FTAs. Reading the interpretation of the principles of the *acquis* and *variable geometry* will mean the 'co-existence of different trading arrangements which have been applied within COMESA, EAC and SADC and any trading arrangements that may be reached during the negotiations' and that 'tariff negotiations and the exchange of tariff concessions would be among Member/Partner States of the Tripartite FTA that have no preferential arrangements in place

between them'. In other words, there will not be a single tariff regime and by implication rules of origin. The overall design as now foreseen is problematic.

Furthermore, the Ministers of Trade adopted modalities on tariff negotiations in June 2013, which clearly suggest that the original objective of establishing a duty-free quota-free trading regime is no more. Instead, tariff reduction thresholds agreed are between 60 – 85% of tariff lines over 5 to 8 years. As an example, the Southern African Customs Union (SACU) already has 56% of its most-favored-nation (MFN) tariffs at 0%. This means that it needs to liberalise a mere 4% of tariff lines upon entry into force of the T-FTA. This threshold, coupled with the tariff-based *acquis* approach, suggests that the T-FTA will produce limited gains. In addition, considering that trade in services and trade-related issues will only be addressed in the Phase 2 negotiations, the immediate potential benefits to be derived from the T-FTA are seriously compromised. Member States are now in the process of finalising their tariff offers based on the agreed negotiating principles and tariff liberalisation modalities.

Two and half years have lapsed since the launch of the negotiations. A general assessment of the process suggests that the T-FTA negotiations are behind schedule. Member States are currently engaged in text-based negotiations and these seem to be progressing very slowly. While it is commonly expected that trade negotiations do take longer than the enthusiastic targets initially agreed upon, the signs at this stage raise serious concerns as to whether the negotiation process will produce a development outcome. These negotiations are, of course, also of interest from the perspective of the broader continental integration project. At the 18th African Union Summit held in early 2012, African Heads of State agreed to establish a Continental Free Trade Area (CFTA), by (indicative date) 2017. They further agreed that the FTA of the Economic Community of West African States (ECOWAS) and the T-FTA would serve as building blocks for the consolidated CFTA. This is yet another very ambitious agenda. From the state of progress in the T-FTA negotiations, as well as the approach and level of ambition espoused in the clarified negotiating principles, the CFTA could be a long way off.

Rather than end on a pessimistic note… we could ponder the possibility that the T-FTA could be redirected back to the Kampala vision. The expectation in 2008 was that the T-FTA could mark a watershed in African market integration. Where are the political champions for that FTA?

Chapter 2

The Agreement preceding the Agreement: how the Negotiating Principles decided the Tripartite FTA game plan

Gerhard Erasmus

1. Introduction

African regional integration makes sense, is necessary, and involves an old debate. A fragmented continent, small markets and small economies, poor infrastructure, as well as a large number of land-locked countries have always provided a strong motivation for regional integration. This process has been pursued for political reasons too and as a demonstration of solidarity among African nations.

The negotiations on the establishment of the Tripartite Free Trade Area (T-FTA) presently underway offer an opportunity to take stock of the African approach to regional integration. Is it still the traditional linear approach where governments set the agenda and the pace of integration? Is the focus primarily on tariff liberalisation (accompanied by ample provision for 'sensitive goods' and infant industry protection) or will trade related disciplines and services be included? Have the lessons from experiences elsewhere been taken on board?[1] Are we, as part of the T-FTA negotiations, also designing custom-made answers for our unique problems, such as the wide-spread overlapping membership of Regional Economic Communities (RECs)? Will we see pursuit of rules-based trade?

[1] Regional integration in East Asia has rendered some impressive results but is based on a process where the "flag follows the trade". See further the World Trade Report 2011, *The WTO and Preferential Trade Agreements: From co-existence to coherence*, available at: http://www.wto.org/english/res_e/publications_e/wtr11_e.htm.

Ultimately, regional integration has to be about new market access opportunities, economic growth and the alleviation of poverty. It should also assist the process of integrating African economies into the global economy through increased competitiveness and the ability to comply with international standards. The regional agreements should reflect the right balance between tariff deals, trade related issues, trade facilitation and services, sound governance, and dispute settlement. There should be a proper plan for each exercise.

This chapter looks at the signals from the present T-FTA deliberations and traces some of the developments which preceded the formal negotiations now underway. The negotiations are a work in progress but a number of significant decisions on the content of the 'Negotiating Principles' have been adopted. They provide clues as to the contours of the emerging new deal and the nature of the agreement(s) which will anchor the outcomes of the negotiating process. The indications are that several new ad hoc trade arrangements will be concluded and that an important shift away from the original "Kampala Plan" of 2008 has taken place.

2. The Negotiating Principles and the direction of their guidance

The original objective behind the establishment of the T-FTA was to establish an inclusive FTA, with the typical legal and institutional features of such an arrangement.[2] One of the Kampala Summit decisions stated: *In the area of trade, customs and economic integration, the Tripartite Summit approved the expeditious establishment of a Free Trade Area (FTA) encompassing the Member/Partner States of the 3 RECs with the ultimate goal of establishing a single Customs Union and directed the three RECs to undertake a study incorporating, among other things, the following elements:*

i) Development of the roadmap, within 6 months, for the establishment of the FTA which would take into account the principle of variable geometry;

ii) The legal and institutional framework to underpin the FTA; and

iii) Measures to facilitate the movement of business persons across the RECs.

Summit directed the Chairpersons of the Councils of Ministers of the three RECs to ensure that the RECs speed up the development of joint programmes that enhance cooperation and deepening of coordination in industrial and competition policies,

[2] See for example, the Terms of Reference for the "Study on the Establishment of the COMESA- EAC-SADC Free Trade Area (FTA)".

financial and payments systems, development of capital markets and Commodity Exchanges.

Certain studies were undertaken before the Tripartite Task Force, through the Tripartite Trade and Customs Sub-Committee, prepared a Draft FTA Roadmap and a Draft Agreement for establishing the Tripartite FTA, including annexes on tariff liberalisation, non-tariff barriers, rules of origin, customs cooperation and related matters, transit trade and transit facilities, trade remedies, competition policy and law, technical standards, sanitary and phyto-sanitary measures, movement of business persons, Intellectual Property Rights, trade development, trade in services, and a dispute settlement mechanism. This constituted, in terms of coverage, a detailed blueprint for one comprehensive Free Trade Area.

In June 2011, another Tripartite Summit was convened in Johannesburg, South Africa, where a Declaration and a set of Negotiating Principles, to guide the process, were adopted. These Negotiating Principles are now the pacesetters. They have seen further elaboration and are directing the negotiations towards agreements between only those Member States which do not at present have FTAs between them. This has finally happened through the new "clarifications" adopted at the end of 2012. The principle of the *acquis* (which has to be read together with the principles of variable geometry and reciprocity[3]) is the driver of this evolution.

3. The "Clarified" Negotiating Principles

The new version of the Negotiating Principles was adopted in December 2012 and provides as follows:

The negotiations shall be REC and/or Member/Partner State driven

This is taken to mean that Member/Partner States can either negotiate as blocks or individual countries

Variable geometry

Variable geometry means the principle of flexibility which allows progression in cooperation among Member/Partner States in a variety of areas at different speeds. The Tripartite Free Trade Agreement will allow the co-existence of different trading

[3] See below the note on the principle of *variable geometry.*

arrangements which have been applied within COMESA, EAC and SADC Member States and any trading arrangements that may be reached during the negotiations. The principles of variable geometry, reciprocity and Acquis are complementary.

Flexibility and Special and Differential Treatment

Flexibility and special and differential treatment should apply, among others, to transitional periods for implementation of agreements under the T-FTA by countries who are at different levels of economic development and who have individual specificities as recognised by other Member States. (The application of S and D treatment would be considered during the negotiations.) Tripartite FTA countries should allow flexibility and recognise the special challenges facing different economies.

Transparency including the disclosure of information with respect to the application of the tariff arrangements in each REC

This is a standard requirement in all trade negotiations and refers to the need to share information on tariffs, trade statistics, trade policy instruments, and other trade related measures, as agreed by the first Tripartite Trade Negotiating Forum held in December 2011. In this case, the T-FTA principles ensure that all Member/Partner States and RECs share information in all areas. In the T-FTA situation, the agreement is to share information on trade taxes and related taxes at the 8-digit HS level as well as information on trade values, also on the 8-digit HS level, for both extra and intra-regional trade. This will also entail an open and predictable negotiating process in which all interested parties are free to participate in an inclusive manner.

Building on the acquis of the existing REC FTAs in terms of consolidating tariff liberalisation in each REC FTA

Acquis is a French term meaning "that which has been agreed". In the context of the Tripartite Free Trade Agreement, it means that the negotiations should start from the point which the COMESA, EAC and SADC trade negotiations have reached. Tariff negotiations and the exchange of tariff concessions would be among Member/Partner States of the Tripartite FTA that have no preferential arrangements in place between them. This will both preserve the acquis and build on it.

A single undertaking covering Phase I on trade in goods

The Single Undertaking means that all components of the negotiations are parts of the whole and indivisible package and cannot be agreed separately. The Single Undertaking is usually described as meaning "nothing is agreed until everything is agreed". The Single Undertaking as it refers to the Tripartite Free Trade Area could be interpreted as all the tripartite countries negotiating the T-FTA should agree on components covering phase 1 on trade in goods.

Substantial liberalisation

Substantial liberalisation means that the T-FTA should cover substantially all trade among the Tripartite FTA.

MFN Treatment

Most Favoured Nation (MFN) Treatment would mean that advantages that any tripartite country offers to third parties outside the tripartite FTA would be offered to other tripartite countries. The purpose is to ensure that T-FTA partners trade amongst each other on terms as good as or better than that offered to non-FTA partners. These advantages would be extended on reciprocity.

National Treatment

National Treatment means the products of the territory of any tripartite member state imported into the territory of any other tripartite member state shall be accorded treatment no less favourable than that accorded to light products of national origin in respect of all laws, regulations and requirements affecting their sale, offering for sale, purchase, transportation, distribution or use.

Reciprocity

Reciprocity means that Member/Partner States or RECs in the T-FTA will grant to each other mutually agreed trade concessions.

Decisions shall be taken by consensus

This means that all decisions will be taken on the basis of consensus as defined in the TTNF Rules of Procedure.

These Principles have finally been elevated to substantive treaty provisions. Article 6 of the new T-FTA Agreement now contains the "Principles" of the Agreement, which are the exact same Negotiating Principles, albeit without corresponding definitions in the Article on Interpretation.[4] These terms (and the *acquis* in particular) will presumably soon be defined along the same lines as their "clarifications". This will be an interesting exercise; some of them are entirely new concepts which have been coined for the purposes of guiding the negotiations, not to direct the interpretation of the T-FTA. What is clear is that an entirely new game plan has been adopted for the T-FTA, which is the philosophy of the Negotiating Principles, not the original Kampala Plan. And the local vocabulary on regional integration has been enriched by the discovery that each REC has in fact always had its own unique *acquis*.

4. The broader setting

Where does this development leave the T-FTA process? Regional trade arrangements have globally become an important vehicle for promoting competitiveness, industrialisation, economic growth and development. They reflect important developments in the world economy and respond to the challenges of prospering in an increasingly competitive and integrated environment, while dealing with associated governance issues. The demise of the Doha Development Round has strengthened this trend.

An important feature of contemporary industrial organisation is the increasing preponderance, complexity and sophistication of global value chains.[5] This has prompted the development of modern Free Trade Areas, which focus on issues such as services, regulation, standards, recognition of qualifications, competition, intellectual property rights, movement of people and capital, in addition to the traditional import tariff agenda. Customs Unions (CUs) have become rare; the predominant form of regional integration is now the comprehensive FTA. Among the members of the World Trade Organisation only 10% of all notified RTAs are CUs, the rest are FTAs.[6]

Africa's RECs have not yet delivered the expected results. Intra-regional trade levels are generally low, and there are many infrastructural and trade facilitation bottlenecks. The

[4] Which is the new Article 1.
[5] Chapter 7 of the World Trade Report 2011 by the WTO elaborates on global value chains.
[6] According to the WTO, customs unions only account for 10% of regional trade agreements as at 31st July 2013. See: http://www.wto.org/english/tratop_e/region_e/region_e.htm.

implementation of treaty obligations has been inadequate. These RECs are, in addition, entangled in complicated overlapping membership configurations. To mention one example: the East African Community (EAC) consists of five Member States[7] and all of them simultaneously belong to other RECs. Tanzania is in SADC and the other four are members of COMESA too. This results in different sets of legal obligations on rules of origin, tariffs, customs procedures, technical standards, etc. Firms doing business in these countries have to comply with different rules and procedures, resulting in additional costs and duplication. And since the African integration model foresees that all RECs will eventually become customs unions, another inevitable snag will arise: states cannot simultaneously belong to more than one customs union.

The theoretical solution for these particular complications and institutional burdens lies in consolidating the existing RECs and eventually amalgamating the different legal regimes or adopting the same rules of the game. The T-FTA between the members of COMESA, the EAC and SADC originally set out to achieve exactly this. One of the expressly stated objectives in the first Draft Tripartite FTA Agreement was to 'resolve the challenges of multiple memberships and expedite the regional and continental integration processes.'[8] Article 8 of that version provided for the elimination of import duties and charges in terms of one coordinated scheme consisting of schedules of tariff commitments which would have brought all 26 countries into one FTA arrangement.[9]

The evolution of the Negotiating Principles shows how the objective behind the formation of the T-FTA has shifted. The new arrangement(s) will consist of several new FTAs between those Tripartite states which do not presently have such trade agreements between them. The problems generated by overlapping membership will not be resolved. The T-FTA will also not generate a bold new impulse for market access on a wide scale; it is not designed to do so.

5. Concluding observations

The Tripartite started off with the potential to be part of a much needed answer to the vexing problem of overlapping membership of preferential trade arrangements. That would have required strong political leadership and buy-in from the leading economies such as South

[7] Burundi, Kenya, Rwanda, Tanzania and Uganda. South Sudan has apparently also applied for membership.
[8] Article 3(3) Draft Tripartite FTA Agreement, version of December 2010. The latest version of this Agreement of October 2013 does not mention the elimination of overlapping membership as an objective, although its Preamble refers to "resolving the challenges of multiple memberships".
[9] See further the text of Article 8 below.

Africa, Egypt and Kenya. It did not materialise. The objective to resolve the overlapping membership complications will not be realised; there will in fact be several new trade arrangements and more overlapping membership complications. The new game plan means that the rationalisation of the overlapping membership issues cannot be an objective of the T-FTA anymore.

Could the T-FTA provide a new paradigm for intra-African trade? It will spawn several smaller FTAs (if the tariff negotiations are successful) which will exist next to the three RECs to which the Member States presently belong. It cannot therefore constitute an inclusive new paradigm, and the African Union will have to revisit its enthusiastic blessing of the original T-FTA process as the blueprint for continental integration. Two different sets of expectations are at work here.

The Tripartite FTA is at most a new approach to trade negotiations which some may view as a more realistic reflection of how far important players are prepared to go in terms of agreements on trade in goods. Their stance is dictated by national interests and domestic policies. This development will result in a considerable decrease in the attractiveness of the T-FTA deal on offer. Some Tripartite Member States may not be tempted to sign up, as confirmed by the new provision in the Draft Agreement on entry into force of the Agreement. It now requires a simple majority, as opposed to the two thirds in the earlier version. We have apparently entered a phase where regional hegemons will continue to pursue national interests via bilateral deals more actively.

These developments and their implications for inclusive growth and development strategies have not yet sufficiently permeated the discourse on regional integration in Africa, which officially still reflects a step-wise linear agenda and a preference for grand designs. This modus operandi has become fraught with political and governance challenges, such as concerns about loss of sovereign policy space and frequent examples of violations of commitments already entered into.

The recent developments around the Tripartite process might be the indication that important players have lost their appetite for the traditional ball game. Where exactly this leaves the African integration debate is not yet clear.

Chapter 3

Implications for Tanzania of a new approach to a regional Free Trade Agreement in east Africa with just the 'willing participants'

Ron Sandrey and Hans Grinsted Jensen

1. Introduction

Earlier tralac research has argued that in assessing South Africa's future trade policy options the increasing focus on the African continent and in particular the so-called 'tripartite' agreement has to be considered. The trade and political economy background to this agreement was discussed in Sandrey et al. (2011), along with the quantitative analysis of how South Africa's trading relationship with the tripartite countries may be advanced by the adoption of an FTA between South Africa (or, more properly, SACU) and COMESA, EAC and SADC with a focus on trade in agriculture. Jensen et al. (2012) extended that analysis to the manufacturing sector. Both papers used the GTAP database and its associated general equilibrium model for the analysis, and the starting point was a simulation of the 'known' and best estimate conditions that will prevail at the end of 2020, followed by an assessment of the difference that the selected FTA policy change under consideration is likely to make. The earlier work concentrated upon the results for South Africa. This paper duplicates the analysis (and uses much of the background material) but emphasises the results for Tanzania.

These earlier papers both stress how that in order to reach the final Tripartite FTA there needs to be a resolution of the overlapping memberships in the region. Furthermore this problem was exaggerated by the GTAP country/regional aggregation used in the computer model. Jensen et al. (2012) partially overcame the first problem by running the four sequential FTA

scenarios of 1) SADC, 2) EAC, 3) COMESA, and finally, 4) the full tripartite. Each one is deemed to be fully operational before the next simulation in the sequence is run, and the results showed that as both the powerhouse of Africa and one of the few countries not claiming multiple memberships, South Africa gains the most from a final Tripartite FTA.

This earlier work lacked realism in that several countries in the tripartite region are patently not ready for further integration, leaving this work open to the justifiable criticism that the exercise was more of an academic one than one of political and economic realism. In this current paper we overcome this criticism by modelling only 'willing participants' in the integration.[1] We have identified the five SACU members (South Africa, Botswana, Lesotho, Namibia and Swaziland) as being in this category, along with the EAC members (Kenya, Tanzania, Uganda and Rwanda) and, finally, in considering the COMESA members we feel that only Egypt justifies inclusion.[2] Furthermore, our economic realism is enhanced by the latest GTAP country aggregations which now splits Namibia off from 'rest of SACU' as a country in its own right, and, similarly, in east Africa, Kenya and Rwanda now join Tanzania and Uganda as countries in their own right in our model. Thus, our one aggregation is Lesotho and Swaziland and our omission is Burundi. We believe this juxtaposition of political-economy realism and modelling advances adds realism to our results. We do, however, acknowledge an assumption that we treat the EAC grouping as a fully operational FTA in our modelling work, and while that is valid for SACU it is not necessarily the current case for the EAC. This assumption is, of course, redundant for COMESA as only Egypt is included as an FTA partner.

2. Earlier analyses of an FTA in eastern and southern Africa

Jensen et al. (2012) report that much of the literature related to FTAs has focused on the relationship between the EU and African countries/regions with their Economic Partnership Agreements (EPAs). Both Lewis et al. (2003) and Keck and Piermartini (2005) reach the conclusion that these EPAs are generally more important that regional FTAs, while McDonald and Thierfelder (2009) confirm that for a 'pure' SADC FTA the welfare gains are substantial but heavily weighted towards South Africa. Karingi and Fekadu (2009) examine the implications of rationalising the trade regime of the COMESA, EAC and SADC

[1] We eschew the term 'coalition of the willing' due to its aggressive military connotations!
[2] Note that Burundi is not included. We apologise to the good people of that country but as the GTAP model we use for analysis aggregates Burundi with seven other East African members we cannot realistically include them in our subsequent modelling analysis.

groupings through the formation of what they called a 'Grand CES[3] FTA' (our Tripartite FTA) and find that, overall, there are benefits from this Grand CES FTA, but that SADC takes most of the gains.

As will be further discussed later, Jensen et al. (2012) report that overall gains from these sequential simulations were just over $6bn in real terms for South Africa. This result completely dominates the results. Other significant gainers are the rest of SACU, Mozambique, Tanzania, the rest of east Africa and Egypt. The biggest loser was Angola/DRC, with losses of -$2.096bn from the fully completed FTA sequence. All other countries outside of these FTAs lose, but not heavily enough to result in a global loss as the final global gain is around $1.5bn. However, these results must be interpreted with caution, as they combine the sequential changes in welfare from each step of the integration process through a complete SADC, EAC and COMESA FTA to the full regional Tripartite FTA. A closer look at the data in Jensen et al. (2012) clearly shows that most of these changes resulted from a full SADC FTA. We consider that such an FTA seems distinctly unlikely and hence our concentration on a 'partnership of the willing' that this paper addresses.

Instead we need to concentrate upon the gains from the final Tripartite FTA, although acknowledging that this, too, may be misleading as it includes all those countries deemed to be 'unwilling' and excluded from our present analysis. Examining the data we find that Jensen et al. (2012) found that gains to South Africa were some $1, 371 million, and along with gains of $184 million for Egypt and $94 million for Mozambique, these are the only meaningful gains from the FTA. Almost everyone else loses, and the net result was a meagre worldwide gain of $91 million. For the three regional FTAs leading to full integration they found that the SADC FTA was extremely welfare enhancing for South Africa but highly negative for Angola/DRC and the rest of the world (or all those countries outside of Africa), and furthermore that these patterns carried through into the full Tripartite FTA. For both the EAC and COMESA FTAs the results were negative globally but welfare enhancing for most, but not all, of the EAC and COMESA countries for their respective simulations.

It is these somewhat confusing results that this present paper hopes to avoid by presenting an analysis of what partial regional integration of the willing may look like. For a model of this form of regional integration one only needs to look at the EU, as it is precisely this integration approach starting with the six original willing Member States in 1960 that our approach

[3] COMESA-EAC-SADC.

parallels.[4] Over half a century later the sequenced admission of the previously unwilling (or non-qualifying candidates) enlarged the EU to its present 27 members, with others still be considered. Rather than waiting for all countries to join in what may be viewed as a 'convoy' approach, the early integration of the willing should be considered as a politically acceptable approach to east African integration. The objective of this paper is to analyse the economic impacts of such an approach in East Africa.

3. The trading relationship

Before undertaking any analysis it is important to firstly examine the trade and economic background of those involved to put the partners in perspective. Table 1 shows the overall big picture for Tanzanian trade, with most of the data relating to the 2011 year. Annex Table 2 extends this information to all members of SADC.

Table 1: Tanzania's overall trade and economic profile

Population (millions)	48 218
GDP 2011 ($ millions)	23 705
Trade to GDP ratio (2008-10)	69.5%
Merchandise export $m 2011	5 098
Merchandise import $m 2011	10 724
Rank in world exports 2011	113
Rank in world imports 2011	91
Main export destination & %	Switzerland 19.4%
Main import source & %	EU 14.0%

Source: WTO at www.wto.org/statistics

This information is expanded in Table 2 where the detailed Tanzanian profile of source of imports and destination of exports for 2012 is shown. Also shown are the bilateral trade balances and the partner shares in Tanzanian trade.

[4] To those who say that political uncertainty in Egypt may preclude such a trade agreement we point out that the EU was founded not long after the parties had been involved in one of the most acrimonious and certainly the costliest war in history.

Table 2: Tanzania bilateral trade for 2012, $1,000 & % shares

Trader	Imports $1,000	Balance $1,000	Exports $1,000	Imports (%)	Exports (%)	Total %
Total	8,785,479	-6,181,889	2,603,590	100%	100%	100%
China	2,084,730	-1,703,324	381,406	23.7%	14.6%	21.7%
India	1,602,489	-1,110,169	492,320	18.2%	18.9%	18.4%
South Africa	692,764	-633,925	58,839	7.9%	2.3%	6.6%
Japan	301,463	-89,434	212,029	3.4%	8.1%	4.5%
Oman	477,957	-467,556	10,401	5.4%	0.4%	4.3%
Germany	227,452	-43,223	184,229	2.6%	7.1%	3.6%
US	238,759	-120,466	118,293	2.7%	4.5%	3.1%
UK	282,192	-228,759	53,433	3.2%	2.1%	2.9%
Indonesia	236,655	-172,894	63,761	2.7%	2.4%	2.6%
Netherlands	132,009	-16,701	115,308	1.5%	4.4%	2.2%
Rwanda	**164,773**	**-90,227**	**74,546**	**1.9%**	**2.9%**	**2.1%**
Korea	199,648	-176,350	23,298	2.3%	0.9%	2.0%
France	168,512	-125,910	42,602	1.9%	1.6%	1.9%
Belgium	101,087	-15,153	85,934	1.2%	3.3%	1.6%
Malaysia	165,668	-156,731	8,937	1.9%	0.3%	1.5%
Zambia	101,406	-29,139	72,267	1.2%	2.8%	1.5%
Sweden	154,414	-149,522	4,892	1.8%	0.2%	1.4%
Turkey	130,592	-104,570	26,022	1.5%	1.0%	1.4%
Italy	101,657	-66,639	35,018	1.2%	1.3%	1.2%
Thailand	100,310	-86,340	13,970	1.1%	0.5%	1.0%
Russia	60,606	-8,495	52,111	0.7%	2.0%	1.0%
Pakistan	96,930	-86,080	10,850	1.1%	0.4%	0.9%
Uganda	**54,023**	**-4,053**	**49,970**	**0.6%**	**1.9%**	**0.9%**
Singapore	81,649	-62,056	19,593	0.9%	0.8%	0.9%
Argentina	94,620	-94,577	43	1.1%	0.0%	0.8%

Source: UNCTAD personal communication

Not directly shown in Table 2 above is that 1) there is no bilateral trade with Kenya reported, 2) the total BRICS (including the S for South Africa) bilateral trade represents some 48.2% of the Tanzanian total (51.3% of the imports and 37.8% of the exports), 3) the TFTA trade is 10.2%; and 4) the 'Big Five' is 12.6%. South Africa, as a member of BRICS, Big Five and TFTA, represents 6.6% of the Tanzanian trade. Thus, South Africa has a dominant effect on African integration; and what happens in the BRICS really matters. Relating to this point re

South Africa, Tanzania's role and performance within the SDAC FTA will have a major impact upon its regional trade. Given Tanzania's dependence on imports from the BRICS we have expanded the details of these imports for 2012 by the major HS 6 tariff lines in Annex Table 3. This shows that petrol from India was the main import during 2012.[5]

We also note that while the United Nations Conference on Trade and Development (UNCTAD) does not report on Kenyan trade, the World Trade Organisation (WTO, 2012) reports that during 2011 some 4.7% of Tanzania's exports were traded to Kenya and 3.0% of imports were from Kenya. The WTO reporting on the composition of Tanzania's exports notes that gold was the major export (36.3%), followed by food (20.4%), 'other mining' (11.9%) and ores and concentrates of precious metals (11.4%). Similarly, fuel (32.1%) was the main import, followed by non-electrical general machinery (12.4%), chemicals (11.6%) and agriculture (10.7%).

To further place the South African/Tanzanian merchandise trade in a regional perspective, Tables 3 and 4 show South African exports to and imports from the EAC countries, both collectively and individually, and the trade with Egypt. Table 3 shows that the South African exports have been modest but consistent over the period shown. Kenya, ranked at number 28 (one ahead of Tanzania), was the top South African export destination in the EAC for 2012, and, collectively, the EAC plus Egypt group accounted for 1.94% of the exports in that year. Note that this percentage has been consistent over the period, and this consistency is reinforced by the change shown in the right-hand column. This change is measured as the increase of the average 2011/2012 exports over the base year of 2000, and highlights that the exports to both the Big Five in total has been just above the overall average of 3.06.

Table 4 highlights that imports from the partners are significantly lower than the comparable exports to them. In total, these imports accounted for a minor 0.17% of South Africa's total imports, although both the percentage share and the 'change' column show that these imports are increasing from the even lower 2000 base and that they have been consistent as a percentage share in recent years.

[5] We have not shown BRICS imports (Tanzanian exports) in this table, but report from the World Trade Atlas data that for 2012 these BRIC imports were as follows. China reported $381.7 million, with precious metal ores ($184m) and sesame seeds ($84.8m) being the major HS 6 lines. India reported imports of $489.6 million, with cashew nuts ($160.8m) and gold ($93.4m) being the main trade lines. Russia reported imports of $50.9 million, with $36.5 million in tobacco.

Table 3: South African exports to the partner countries, $ million, rank and change from 2000

Rank	Partner/Year	2000	2005	2010	2011	2012	Change
	World	30,058	51,870	81,311	96,702	87,264	3.06
	EAC	473	1,007	1,604	1,709	1,604	3.50
28	Kenya	219	467	791	863	716	3.61
29	Tanzania	192	433	567	593	685	3.33
51	Uganda	49	91	212	221	168	3.97
63	Egypt	19	39	143	84	89	4.55
101	Rwanda	6	11	24	26	28	4.50
133	Burundi	6	6	9	6	6	1.00
	FTA % total	1.63%	2.02%	2.15%	1.85%	1.94%	

Source: Global Trade Atlas

Table 4: South African imports from partner countries, $ million, rank and change from 2000

Rank	Partner/Year	2000	2005	2010	2011	2012	Change
	World	26,916	55,029	80,212	100,008	101,558	3.74
	EAC	14	77	98	109	101	7.50
63	Egypt	8	27	39	52	74	7.88
69	Tanzania	3	39	63	77	59	22.67
80	Kenya	6	31	25	24	29	4.42
95	Uganda	1	6	9	7	10	8.50
112	Rwanda	3	1	0	1	4	0.83
154	Burundi	0	1	0	0	0	na
	FTA % total	0.08%	0.19%	0.17%	0.16%	0.17%	

Source: Global Trade Atlas

Not shown is that in most cases for the trade above the top four HS Chapters account for at least 50% of the total during 2012. For exports to the EAC, these top four in sequence were iron and steel, general manufacturing, electrical machinery, and vehicles, while to Egypt they were general machinery, rubber and rubber products, wool, and plastics. The top imports from the EAC were fuel, coffee and tea, general machinery, and vegetables, while the imports from Egypt were chemicals, fuel, tanning and dye extracts, and general machinery.

4. The GTAP database/model

The standard GTAP model[6] is a comparative static general equilibrium model: while it examines all aspects of an economy it does not specifically incorporate dynamics such as improved technology and economies of scale over time. The economic agents (consumers, producers and government) are modelled according to neoclassical economic assumptions, with both producers and consumers maximising profits and welfare respectively, with markets perfectly competitive, and with all regions and activities linked. Results are measured as a change in welfare arising from the reallocation of resources and the resulting change in allocative efficiency; as terms of trade effects; as capital accumulation; and as changes in employment. This change in welfare is based upon a representative household, so unless this is modified it is not possible to examine the distributional aspects. The standard GTAP model also does not address the time path of benefits and capital flows. These changes are important as they allow consumers to borrow, which in turn allows consumption patterns to vary over time. The database is the pre-release Version 8.1 GTAP database[7] (Badri and Walmsley, 2008) with the base year 2007 where the 2007 tariff data originates from the Market Access Maps (MacMap) database compiled by the Centre d'Etudes Prospectives et d'Information Internationales (CEPII). The main unskilled/skilled labour market closure of the model has been changed so that the supply of unskilled/skilled labour is endogenously determined by labour supply elasticities.

The GTAP model expresses the welfare implications of a modelled change in a country's policy as the Equivalent Variation (EV) in income. This measures the annual change in a country's income (gains or losses) from having implemented, for example, an FTA. The EV in this case is simply defined as the difference between the initial pre-FTA scenario income and the post-FTA scenario income, with all prices set as fixed at pre-FTA levels. If a country's EV in income increases due to a policy change, the country can increase its consumption of goods equal to the increase in income and thereby improve the national welfare in the country. Total welfare gains/losses can be decomposed into contributions from improvements in allocative efficiency, capital accumulation, changes in the employment rate of the labour force, and terms of trade (Huff and Hertel, 2000).

[6] See Hertel and Tsigas (1997) for an explanation of the structure of the GTAP model; Hertel et al. (2007) for a discussion of its usefulness in policy making; and Valenzuela et al. (2008) for its sensitivity to modelling assumptions.
[7] The Version 8 database can be found at https://www.gtap.agecon.purdue.edu/databases/v8/v8_doco.asp.

Gains from allocative efficiency arise from improved reallocation of resources from less to more productive uses. For instance, when import tariffs are abolished, resources shift from previously protected industries towards sectors where the country has a comparative advantage, producing an increase in real Gross Domestic Product (GDP) and economic welfare.

Terms of trade effects are the consequence of changing export and import prices facing a country. So, when a country experiences an increase in its export price relative to its import price (e.g. due to improved market access), it may finance a larger quantity of imports with the same quantity of exports, thus expanding the supply of products available to the country's consumers. While allocative efficiency contributes to increases in global welfare, the terms of trade affect the distribution of welfare gains across countries; essentially, one country's terms-of-trade gain is another country's terms-of-trade loss. The global total must therefore add to zero, and if a large proportion of the benefit to South Africa from an FTA is derived from terms-of-trade effects, this implies transfers to South Africa from the rest of the world.

Capital accumulation summarises the long-run welfare consequences of changes in the stock of capital due to changes in net investment. A policy shock affects the global supply of savings for investment as well as the regional distribution of investments. If a trade agreement has a positive effect on income through improvements in efficiency and/or terms of trade, a part of that extra income will be saved by households, making possible an expansion in the capital stock. At the same time, rising income will increase demand for produced goods, pushing up factor returns and thus attracting more investments. Generally, economies with the highest growth will be prepared to pay the largest rate of return to capital, and will obtain most of the new investments. Therefore long-run welfare gains from capital accumulation tend to reinforce the short-term welfare gains deriving from allocative efficiency and terms of trade.

The welfare effects of changed employment rates are the consequence of changes in the employment of the labour force due to changes in the real wage. In a situation where the demand for labour increases and thereby the real wage, the amount of labour employed increases, reducing the relative increase in the real wage and thereby increasing the competitiveness of the country's industries.

5. The GTAP simulations[8]

The analysis undertaken here is based upon a variant of the GTAP model to simulate the impact of possible market-access reforms resulting in an FTA involving SACU, the EAC and Egypt. Regional production is generated by a constant return to scale technology in a perfectly competitive environment, and the private demand system is represented by a non-homothetic demand system (Constant Difference Elasticity function).[9] The foreign trade structure is characterised by the Armington assumption (a technical term implying imperfect substitutability between domestic and foreign goods).

The macroeconomic closure is a neoclassical closure where investments are endogenous and adjust to accommodate any changes in savings. This approach is adopted at the global level, and investments are then allocated across regions so that all expected regional rates of return change by the same percentage. Although global investments and savings must be equal, this does not apply at the regional level, where the trade balance is endogenously determined as the difference between regional savings and regional investments. This is valid as the regional savings enter the regional utility function. The quantity of endowments (land and natural resources) in each region is fixed exogenously within the model, while the extent to which labour is employed is endogenously determined. The capital closure adopted in the model is based on the theory that changes in investment levels in each country/region are online instantly, updating the capital stocks endogenously in the model simulation.[10] Finally, the numeraire used in the model is a price index of the global primary factor index.

The applied ad valorem equivalent (AVE) tariff data found in the pre-release GTAP Version 8.1 database originates from the MacMap database (Bouet et al., 2005) and contains bilateral applied tariff rates (both specific and ad valorem) at the 6-digit Harmonised Systems (HS6) level. These are then aggregated to GTAP concordance using trade weights.

The baseline scenario updates the standard database with a projection of the world economy from 2007 to 2025, applying suitable shocks to GDP, population, labour and capital, as well as incorporating important developments, realised or planned, since 2007. These developments are the full implementation of the EAC and implementation of the Trade,

[8] See Hertel et al. (2007) for a discussion of the usefulness of the GTAP in modelling free trade agreements.
[9] Hence, the present analysis abstracts from features such as imperfect competition and increasing returns to scale, which may be important in certain sectors. We are therefore using what can be thought of as a base GTAP structure.
[10] This is the so-called Baldwin closure as documented in Francois et al. (1997).

Development and Cooperation Agreement (TDCA) between South Africa and the EU. In addition, the assumption is made that the EPAs between all African countries except South Africa and the EU will be implemented. For the EPA, the assumptions are made that (a) EU27 tariffs are reduced to zero for all EPA countries and commodities, except for sugar and beef where reductions of 50% were made, (b) for South Africa, the EU reduces its tariffs by 20% in an agreement associated with the EPA, and (c) all EPA countries reduce their tariffs by a blanket 40% on EU imports.[11]

The countries and regional aggregations used in the model are shown in Table 5.

Table 5: GTAP country/region used and the associated GTAP codes

The willing partners	
ZAR (RSA)	South Africa
BWA	Botswana
NAM	Namibia
XSC	Rest of SACU (Lesotho and Swaziland)
KEN	Kenya
TZA	**Tanzania**
UGA	Uganda
RWA	Rwanda
EGY	Egypt
Other Africa	
NGA	Nigeria
XAC	Rest of southern Africa (Angola and DRC)
ETH	Ethiopia
MDG	Madagascar
MWI	Malawi
MUS	Mauritius
MOZ	Mozambique
ZMB	Zambia
ZWE	Zimbabwe
XEC	Rest of eastern Africa (including Burundi from EAC)
RAF	Rest of Africa

[11] While this may not be an accurate prediction of the EPA outcomes, it seems to be a realistic one.

Outside of Africa	
EU	EU27
US	United States of America
CHN	China
IND	India
BRA	Brazil
RUS	Russian Federation
ROW	Rest of the World

Source: GTAP database

- Within SACU, South Africa, Namibia and Botswana are countries in their own right while the only alternative for the 'rest of SACU' is an aggregation comprising Lesotho and Swaziland.
- Within the EAC and COMESA there are the five 'willing' countries, namely Kenya, Tanzania, Uganda and Rwanda plus Egypt (again note that we cannot incorporate Burundi).
- Omitted from the FTA are another 10 African countries/groupings who are members of the EAC or COMESA, plus Nigeria[12] and 'Rest of Africa'.
- The remaining groupings are the EU, the US, China, India, Brazil, the Russian Federation and the rest of the world (RoW).

For the GTAP sectors we have aggregated the agricultural sectors into primary agriculture and secondary agriculture along with the two sugar-related sectors of the non-tradable cane that normally would be in primary agriculture and sugar that would normally be in secondary agriculture as the processed output from cane. We used this approach as an analysis of the results of the simulations from Sandrey et al. (2011) showed that for agricultural products, sugar was the only sector that resulted in significant gains to South Africa. Manufacturing has retained its full suite of 16 sectors while natural resources and services are merged into their respective aggregated sectors. The focus of this report is on manufacturing, although only those sectors where there is a meaningful change will be reported on in most cases.

[12] We have modelled Nigeria as a country on its own as our hypothesis is that as the only non-partner country with significant industrial capacity the FTA may be detrimental to its economic welfare. Our results show that this is not the case.

As always, we apply shocks to GDP, population, labour force, and natural resources to project the world's economy to the baseline year of 2025 – a year in which we assume that an FTA could be fully implemented. The projection of the world economy uses the exogenous assumptions listed in Table 6, and this is important in shaping the baseline scenario. The general sources for the assumptions in Table 6 are given in a footnote to the table, and these assumptions represent the best estimates of the possible future path of the data. Note in particular from Table 6 the projections for real GDP through to 2025, where the relatively strong growth rates for Africa are a feature. They are consistently higher than the low rates projected for the US and the rest of the world, and in particular those projected for Europe. In some cases they are nudging the stellar projects for India and China, although the lowest reported for Africa is the South African projection of 3.5% – a figure only 0.1 of a percentage point above that for Zimbabwe. Also note that the population projections for Africa are consistently higher than for non-African projections, and this has the effect of mitigating GDP per head in the medium-term future. These GDP projections do not materially affect our computer simulation results for the FTA, as these FTA results are measured as deviations from the baseline resulting from the FTA. It is the baseline itself that is driven by the projections and other assumptions.

The GTAP model then determines changes in output through both an expansionary and a substitution effect in each country/region of the model. The expansionary effect represents the effects of growth in domestic and foreign demand shaped by income and population growth and the assumed income elasticities. The substitution effect reflects the changes in competitiveness in each country/region shaped by changes in relative total factor productivity, cost of production, as well as any policy changes. The GTAP model uses this set of macroeconomic projections to generate the 'best estimate' of global production and trade data for 2025. The relative growth rates of each country/region for GDP, population, labour, capital and total factor productivity play an important role in determining the relative growth in output of the commodities when projecting the world economy from 2007 to 2025, and we can now take the resulting data set from this baseline simulation as the new base for our FTA scenario. A simulation scenario measures the difference between our baseline model's output in 2025 in the absence of, for example, the FTA, against the likely output if an FTA were concluded. The model results shown in this chapter therefore present the isolated effect of a possible FTA or other simulated scenario in the year 2025.

Table 6: Baseline 2007 to 2025: yearly percentage change

	Real GDP	Total population	Total labour	Unskilled labour	Skilled labour	Capital	TFP
Tanzania	**7.9**	**3.1**	**3.1**	**4.8**	**3.1**	**10.0**	**1.3**
South Africa	3.5	0.5	1.1	1.9	1.0	4.2	0.3
Botswana	4.0	0.9	1.4	3.4	1.3	4.3	0.4
Namibia	4.0	1.3	1.3	3.4	1.0	4.4	0.4
Swaziland & Lesotho	4.1	1.0	1.7	5.2	1.6	4.5	0.3
Kenya	5.4	2.6	2.9	6.1	2.7	6.3	0.4
Uganda	7.1	3.1	3.6	4.7	3.5	8.5	0.8
Rwanda	7.4	2.7	2.9	7.4	2.8	10.3	1.4
Egypt	5.5	1.5	2.3	6.3	1.6	5.8	0.6
Rest of east Africa	4.4	2.2	2.7	7.0	2.6	4.7	0.3
Nigeria	6.3	2.5	2.7	5.1	2.6	7.2	2.0
Angola and Congo	6.1	2.6	3.3	5.9	3.3	6.2	1.0
Ethiopia	7.2	1.9	2.9	5.6	2.8	8.7	1.3
Madagascar	4.3	2.8	3.3	5.8	3.2	3.7	0.4
Malawi	6.8	3.3	3.3	4.9	3.3	7.4	1.0
Mauritius	4.0	0.4	0.4	2.0	0.3	5.1	0.6
Mozambique	8.1	2.2	2.7	8.0	2.7	9.9	1.0
Zambia	6.7	3.1	3.1	4.3	3.1	7.6	0.8
Zimbabwe	3.6	0.5	1.2	2.4	1.1	4.2	0.4
Rest of Africa	4.1	2.1	2.4	5.1	2.3	4.1	0.4
EU27	1.2	0.2	-0.2	2.0	-0.9	1.5	0.1
US	2.5	0.8	0.5	1.2	-0.3	3.7	0.6
China	7.5	0.3	0.2	3.5	-0.1	8.8	1.0
India	6.6	1.2	1.8	4.8	1.6	8.2	0.9
Brazil	3.4	0.7	1.0	3.8	0.8	3.9	0.4
Russia	3.8	-0.2	-0.6	0.0	-1.3	4.8	0.7
Rest of world	2.7	1.0	1.3	2.9	1.0	3.0	0.2

Sources: International Monetary Fund, World Economic Outlook Database, October 2012; Foure et al, 2012; and own assumptions.

Note: The annual growth rate in total factor productivity (TFP) and capital are determined endogenously by the exogenous variables (GDP, unskilled/skilled labour force and natural resources), the model and the associated database. The world economy (real GDP) grows by an average of 2.9% a year where it is assumed that this increased production of commodities only requires an increased extraction of resources from the ground of an average 1.5% a year (this is not shown in the table as it is the same across all entries). The remaining gap between the average 2.9 percentage growth in real GDP and 1.5% increase in resource extraction is explained by increased TFP.

After updating the GTAP database to the year 2025 the 'willing' FTA is implemented using the updated GTAP database as the base for this simulation. This enables the gains achieved by implementing the 'willing' FTA to put into perspective.

More precisely the modelled scenarios assume that:

- all ad valorem tariffs and ad valorem equivalents of specific tariffs between the 'willing' are abolished;
- an assumed 2% blanket tariff equivalent to represent NTBs has been built in to proxy a reduction in these barriers from an FTA[13] (note that there is no empirical justification for this level);
- a similar 2% NTB has also been applied to services to proxy some gains from an FTA where services have been factored in – these are effects of services associated with trade and production, as the 2% NTB on services has little direct effect.

Differences between the baseline and the primary scenario as measured by the changes in **2025 as expressed in 2007 real US dollars** are therefore the results of implementation of the 'willing' FTA.

6. The economy-wide results: 100% tariff reduction plus 2% reduction for NTBs

We use as our primary scenario the simulation whereby all tariffs between participants are reduced to zero **and** factor in an additional 2% reduction as a proxy for enhanced efficiency gains in areas such as infrastructural cooperation between the two parties that can be viewed as a proxy for a reduction in NTBs. An FTA is more than just a tariff reduction programme, and we believe that this additional 2% advantage gained proxies this. To better assess the impacts of the 2% effects we will also report upon that NTB reduction as a separate simulation.

Table 7 shows the changes in welfare from the FTAs assuming the scenario of a 100% reduction in merchandise tariffs and a 2% reduction in NTBs, with the data expressed in US$ (million) as one-off increases in annual welfare at the assessed end point of 2025. Gains to Tanzania ($141m) are modest compared with those for Egypt, Kenya and Uganda. These

[13] This is done operationally by first taking the initial database and running a GTAP programme that will increase tariffs by 2 percentage points in the database across all products (even zero tariffs) to represent a 2% NTB. In the FTA base scenario we then remove the original tariff found in the database plus the additional 2% NTB tariff that has been added to the database to represent a reduction in NTB.

gains derive from increased investment which expands the capital stock ($102m), allocative efficiency gains of $33m as resources are better employed in the economy, and gains from increased labour employment ($12m), but terms of trade (TOT) deteriorate by a small $6 million resulting from an unfavourable change in relative prices between Tanzanian exports and imports.

For South Africa these gains are worth some $1.43 billion in real terms, which completely dominates the results of a total worldwide gain of $1.03 billion. These gains for South Africa derive from increased investment expanding the capital stock ($568m), allocative efficiency gains of $388m, gains from increased labour employment ($193m), and TOT improvement of $277 million (favourable change in relative prices between South African exports and imports). Within SACU, both Botswana and Namibia lose marginally (by $16 and $15 million respectively), while the Swaziland and Lesotho aggregation gains by some $97 million (with the gains spread across the most of the factors). Kenya is the other big gainer ($548m), while Uganda shows a surprisingly large gain of $245 million. Rwanda's gain of $9 million is minuscule. Finally, for those 'willing' participants of the FTA, Egypt's gains of $269 million are most satisfactory.

Except for a very small gain of $2 million for Nigeria, all African countries outside of the FTA lose modest amounts (although the loss of $57 million for Mozambique is significant). Similarly, all other countries outside Africa lose, with the EU, the rest of the world aggregation and China the biggest losers, just ahead of the US and India. Most of these losses to those outside of Africa are from capital-related losses as global capital is redirected to the FTA bloc at the margin, although globally there are gains from these capital-related changes that account for over half of the total global gains of just over one billion dollars which confirm that the FTA is welfare enhancing.

Because of the problems of overlapping memberships, different GTAP aggregations and the sequencing of FTAs used in Jensen et al. (2012) it is difficult to make direct comparisons with the full Tripartite FTA – but the South African gains here and from the Tripartite FTA are very similar, as are the gains for Egypt and the losses for Botswana – but only after the full integration of the SADC FTA (see Table 14). Importantly, the very large losses to the Angola/DRC aggregation from the Tripartite FTA are not a feature here. This in itself is an interesting conclusion as a feature from the Tripartite FTA was that there were massive increases in South African exports to this aggregation and this reinforces the fact that South

Africa has as much to gain by going forward with the 'willing' FTA as it does from a fraught Tripartite FTA.

Table 7: Change in welfare due to the FTAs at 2025, expressed in 2007 $ million

	Allocative	Labour	Capital	TOT*	Total
Tanzania	**33**	**12**	**102**	**-6**	**141**
South Africa	388	193	568	277	1,426
Botswana	1	-1	-6	-10	-16
Namibia	0	-1	-8	-6	-15
Swaziland/Lesotho	18	13	48	19	97
Kenya	154	34	571	-211	548
Uganda	70	11	167	-4	245
Rwanda	5	-2	7	-1	9
Egypt	29	16	190	34	269
Those outside the FTA					
Rest of east Africa	-5	-1	-2	6	-2
Nigeria	0	-1	-4	6	2
Angola/DRC	-2	0	-3	-1	-6
Ethiopia	1	0	-2	0	-2
Madagascar	0	0	0	0	-1
Malawi	-1	-1	0	-4	-6
Mauritius	0	0	-1	-1	-2
Mozambique	-8	-4	-19	-26	-57
Zambia	-4	-3	-7	-3	-17
Zimbabwe	-3	0	-2	-3	-8
Rest of Africa	-13	-6	-18	4	-32
EU27	-119	-9	-215	-27	-370
US	-46	-11	-115	-41	-214
China	-39	-29	-212	-13	-293
India	-61	-6	-106	-39	-212
Brazil	-9	-2	-18	-3	-31
Russia	-2	-1	-40	17	-26
Rest of the World	-111	-18	-304	34	-400
Total	275	182	573	-1	1,029

Source: GTAP output, where TOT* denotes Terms of Trade

Table 8 introduces the main contribution to these welfare increases by GTAP sector for each of the FTA partners. The totals on the bottom row of Table 8 are the same as those shown on the right-hand column of Table 7 for these countries. The first few top rows show the

contribution from the agricultural sectors and natural resources. For Tanzania, the table shows that the FTA is essentially neutral for the agricultural sectors overall while they highlight the importance of gains in the nonferrous metal sector and the catch-all sector of 'other machinery'.

Table 8: Contribution to welfare by sector, $ million

	TZA	ZAF	KEN	UGA	RWA	EGY	FTA	World
Primary agriculture	3	46	18	2	0	1	66	3
Secondary agriculture	4	111	-43	1	0	1	69	51
Sugar	-7	379	546	160	4	-36	1,045	497
Natural resource	5	3	0	2	0	0	11	-5
Textiles	-3	34	-23	-1	0	40	101	104
Clothing	-6	-25	-1	-1	0	114	81	-81
Paper products	3	69	-15	1	1	4	61	41
Chem rub plastic	1	103	-19	-4	-1	11	125	99
Iron steel	2	39	12	1	0	1	53	14
Nonferrous	83	215	83	26	0	0	402	43
Fabricated metal	-1	36	-2	0	0	7	40	11
Vehicles	13	206	1	25	2	30	274	130
Transport	1	12	1	10	0	0	24	14
Electrical	2	54	0	7	0	3	65	39
Other machinery	41	82	0	7	2	57	188	46
Other manufacture	0	24	-7	3	0	1	20	16
Services	1	2	4	1	0	10	19	-1
Total	141	1,426	548	245	9	269	2,704	1,029

Source: GTAP output

South Africa gains in the sugar sector, the nonferrous metals sector and vehicles. Not shown is that both Botswana and Namibia lose in the sugar sector (presumably as previous sugar imports from both South Africa and Swaziland are marginally diverted north at slightly higher prices), while the Swaziland-Lesotho aggregation conversely gains in sugar and in the textiles and chemical, plastics and rubber sectors. Kenya makes a big gain in the sugar sector[14] while Egypt loses in that sector and Kenya loses in other secondary agriculture. In the manufacturing sector, Egypt gains in clothing and vehicles, while Kenya (along with

[14] In this case the sugar gains are from reduced production as Kenya (and Uganda and Tanzania) move out of previously uneconomic sugar production in favour of imports from South Africa and Swaziland (see Table 9).

Tanzania) gains in nonferrous metals. The EAC group loses across the board in textiles and clothing.

Not shown is that elsewhere in Africa, Mozambique loses some $45 million in its sugar sector as SACU exports compete more aggressively with tariff-free entry, and all of SADC (and indeed all of Africa outside of the FTA) loses in the nonferrous sector. Outside of Africa the EU, the US and the rest of the world aggregation lose heavily in sugar, while both Brazil and Russia lose more modestly and India is not affected in that sector. Manufacturing losses of $588 million are reported in aggregate for the non-Africans, with these losses spread across all country/regional groupings except Russia and Brazil. The main losses in manufacturing for the non-Africans are just on $150 million in each of the clothing and vehicle sectors with these losses, again, spread across the EU, the US, China, India and our rest-of-the-world aggregation.

Changes to **production** in the partner countries are shown in Table 9 (again expressed as changes from the non-FTA base) and, as expected, these changes largely reflect the sector contributions to welfare changes as shown in Table 7. The top three rows show that the demand for unskilled and skilled labour in Tanzania increases by 0.05% and 0.07 respectively, and while this may not make a significant change to the unemployment rate it is nonetheless a valuable contribution to employment. The increased labour contribution is more significant in South Africa and the Swaziland-Lesotho aggregation, and to a lesser extent in both Kenya and Uganda. Capital increases by a significant 0.86% in Tanzania (and even more so in Kenya and Uganda).

In the agricultural sectors, sugar is again the standout across the FTA, with the increases in sugar shown in Table 7 above flowing though into production changes for firstly sugar cane as an input and then the final product. This result is interesting, as the gains shown for welfare in Table 7 are reflected in Table 9 as gains from increased production in South Africa and Lesotho-Swaziland and reductions in production in Kenya, Uganda and Rwanda (although initial sugar production in both Uganda and Rwanda is small). Table 8 above shows that much of the welfare improvement for Kenya came from sugar production, while Table 9 highlights that production declines by 27% (not shown is that the initial level of sugar production in Kenya is about one-third of that for South Africa). This reinforces the fact that sugar production in Kenya in particular is inefficient and, once cheaper imports from

SACU arrive, they improve the Kenyan economy.[15] In the manufacturing sectors there are both increases and decreases for Tanzania.

Table 9: Percentage changes in production for partners

	TZA	ZAF	BWA	NAM	XSC	KEN	UGA	RWA	EGY
Unskilled labour	**0.05**	0.14	-0.01	-0.01	0.54	0.13	0.10	-0.05	0.02
Skilled labour	**0.07**	0.14	-0.01	-0.01	0.53	0.21	0.12	-0.04	0.02
Capital	**0.86**	0.50	-0.10	-0.14	2.14	2.78	1.81	0.39	0.23
Primary agriculture	**-0.01**	-0.21	0.07	0.03	-0.33	0.70	0.42	-0.02	0.08
Sugar cane	**-3.89**	6.20	-0.05	0.07	3.39	-27.31	-10.73	-19.38	-2.93
Secondary agriculture	**-0.67**	0.39	-0.01	-0.04	0.78	2.50	0.57	-0.44	0.10
Sugar	**-9.42**	**15.58**	**1.07**	**-1.16**	**3.43**	**-30.99**	**-56.61**	**-20.25**	**-8.32**
Natural resource	**-0.04**	-0.12	-0.02	-0.02	-0.36	0.11	0.02	0.06	0.00
Textiles	**-1.80**	0.33	0.09	0.08	10.11	0.66	-1.84	0.55	0.43
Clothing	**-1.08**	-0.20	-1.37	-0.10	-4.20	3.19	0.23	0.73	0.71
Leather goods	**-1.53**	0.23	0.33	-0.42	-1.22	11.81	4.01	2.61	0.11
Lumber	**-0.89**	-0.02	0.20	-0.08	-1.36	1.70	0.78	0.58	0.34
Paper products	**-3.23**	0.86	0.31	0.13	-2.32	-0.85	-1.32	-0.96	0.39
Petroleum, gas	**-0.42**	0.38	0.15	-0.14	1.45	1.60	0.72	0.27	0.06
Chem rub plastic	**-0.10**	0.30	0.53	-0.23	18.01	3.16	1.03	-0.19	0.28
Non-metal mineral	**-0.87**	0.17	0.09	0.06	0.58	1.22	1.10	0.50	0.33
Iron steel	**-0.34**	-0.03	1.12	0.10	-1.44	3.43	1.51	-0.27	-0.07
Nonferrous	**2.66**	-0.49	-0.18	-0.42	-1.20	22.85	7.63	-1.88	-0.26
Fabricated metal	**-1.93**	0.38	0.28	0.52	-0.26	3.01	0.01	-1.37	0.22
Vehicles	**-0.38**	1.09	1.21	0.00	0.85	1.33	-0.04	-2.86	0.35
Transport	**1.22**	-0.36	-0.20	-0.22	-3.92	2.90	5.29	1.35	0.29
Electrical	**0.60**	0.98	0.44	0.08	-0.88	3.22	3.58	1.78	0.06
Other machinery	**0.61**	-0.08	0.71	0.19	-2.89	3.26	1.92	0.20	3.67
Other manufactures	**0.51**	0.20	-0.09	-0.27	0.09	2.59	1.00	0.72	0.21
Services	**0.51**	0.36	-0.08	-0.11	1.05	1.79	1.14	0.26	0.12

Source: GTAP output

Table 9 does not report on the production changes for those African countries outside of the FTA. The main change is sugar, where production in Mozambique is down (by -18.3%), Malawi (-7.4%) and Zimbabwe (-2.5%). Other changes range from modest to not really

[15] We will eschew a discussion on the controversial costs from health-related diabetic and obesity issues associated with excess sugar consumption.

discernible, although there is an increase in most manufacturing sectors in Mozambique in particular and in both Malawi and Zimbabwe in compensation for the decline in sugar production. Furthermore and not surprisingly, given the limited global importance of production in the FTA area, there are limited impacts on production outside of Africa.

Table 10 extends the Tanzanian production data from Table 9 by introducing the percentage changes to imports in the second column and then repeating the production changes from Table 9 before reporting the changes to exports in the final right-hand side column. Again, in agriculture, processed sugar is the standout, with exports decreasing by 19% as a result of declining production and increasing imports. Nonferrous metals are really the only sector in manufacturing that shows significant changes, but note that in all cases manufacturing imports increase (as do many but certainly not all of the manufacturing exports).

Table 10: Changes in Tanzania's imports, production and trade, % at 2025

% changes in	Imports	Production	Exports
Primary agriculture	0.69	-0.01	0.13
Cane production		-3.89	
Secondary agriculture	4.27	-0.67	-0.23
Processed sugar	2.61	-9.42	-19.03
Natural resource	6.15	-0.04	0.63
Textiles	1.83	-1.80	-2.6
Clothing	7.41	-1.08	0.19
Leather	5.74	-1.53	0
Paper products	3.57	-0.89	-1.83
Paper products	3.04	-3.23	-3.29
Petroleum, etc.	0.4	-0.42	0.43
Chemicals, rubber, plastic	0.86	-0.10	-0.07
Nonmetal minerals	6.97	-0.87	0.9
Iron steel	1.66	-0.34	-0.27
Nonferrous metals	5.84	2.66	2.85
Fabricated metal	1.51	-1.93	0.03
Vehicles	1.38	-0.38	1.01
Other transport	0.81	1.22	2.06
Electrical	0.97	0.60	1.44
Other machinery	1.46	0.61	4.59
Other manufacture	1.31	0.51	1.09
Services	0.61	0.51	-0.03

Source: GTAP output, and note that cane production is a non-tradable

7. The trade impacts

Table 11 extends the trading picture to show the overall trade results for each of the FTA partners plus Mozambique and Zimbabwe.[16] The latter are the two countries most impacted by the FTA of those excluded (mainly through losses in sugar production). The table shows the percentage change to both imports and exports, and the change in trade balance for each country, with the latter expressed both in dollars (million) and as a percentage of GDP. The overall trade results for Swaziland-Lesotho, Kenya and Uganda are significant when expressed as a percentage of GDP, and for all countries except Namibia there is an increase in

[16] The trade balance is fixed in the GTAP model by exports – imports = saving – investments. Therefore, when the FTA increases investment in the FTA countries the model will usually show a reduction in the trade balance.

exports. Kenya and Tanzania report the largest changes (as a loss) to their trade balance in dollar terms, while consistent with the overall welfare losses Botswana and Namibia both report a small GDP loss from trade changes.

Table 11: Overall trade position for FTA members

	Imports %	Exports %	Balance $m	% GDP
Tanzania	**1.57**	**1.52**	**-80**	**0.29**
South Africa	1.00	0.77	-51	0.33
Botswana	-0.16	-0.04	-2	-0.04
Namibia	-0.25	-0.15	1	-0.07
Swaziland/Lesotho	3.28	2.19	47	1.42
Kenya	3.60	5.79	-109	1.34
Uganda	2.71	2.27	-27	0.94
Rwanda	1.02	1.18	-1	0.10
Egypt	0.36	0.33	-63	0.11
Mozambique	-0.32	-0.14	-5	-0.13
Zimbabwe	-0.12	-0.06	1	-0.08

Source: GTAP output

8. The sugar sector

The results presented and discussed to this point emphasise that most of the activity takes place in the sugar sector. This section will present a fuller discussion on these sugar results. Firstly, an analysis of the tariff facing South Africa and Swaziland[17] shows that these tariffs are around 90% for exports to both Kenya and Uganda, and Rwanda at 30%, Egypt at 8.5% but Tanzania at only 5%. These are closely in line with other suppliers to the EAC countries indicating that South Africa and Swaziland potentially have a lot to gain from tariff-free access to those countries with high tariffs. As this paper has shown, this is indeed the case.

We must, however, also report that while there are indeed opportunities for gains from regional liberalisation of the sugar sector, there are also challenges. In particular, the World Trade Organisation (WTO, 2012) reports that the sugar sector in Kenya faces difficulties, including lack of regular factory maintenance, poor transport infrastructure, weak corporate governance and, most importantly, probably the small scale of its many producers.

[17] We will refer to the Swaziland and Lesotho GTAP aggregation in this section as Swaziland, as only Swaziland engages in sugar production and export.

Consequently, costs of production are high and the sector is unable to compete even at regional level. For example, during the 2008/09 season, the average cost of production per tonne of sugar was US$428 in Kenya, compared with an estimated US$263 for its competitors in the region. Kenya is actively engaged in supporting this sector, including the application of nonpreferential tariffs on sugar from other COMESA members until at least March 2014. This background highlights that in opening the market to South Africa and Swaziland, sugar will be a major political challenge for both Kenya and the region despite the significant welfare gains that would accrue to Kenya.

Table 12 outlines these changes and is to be read as follows. Column 1 lists the countries of interest, while Column 2 shows the value of their production at 2025[18] expressed in 2007 real dollar terms, and Column 3 shows the percentage change in production resulting from the FTA. For example, South Africa would produce sugar to the value of $3,575 million in 2025 (expressed in real 2007 terms) before the FTA. This output would increase by 15.2% due to the FTA to $4,118 million in constant prices. Similarly, Swaziland's production would increase by 3.4%, while Mozambique's production of $598 million would decline by 18.4% as sugar from the FTA partners of South Africa and Swaziland displaces Mozambique's exports.

Columns 4 to 9 inclusive show what is driving the changes shown in Column 3. Most of the attention focuses on Kenya in Column 8 and the first entry in that column of 13.4 shows that 13.4 percentage points of the 15.6% increase in South Africa's sugar production is a direct result of the elimination of the Kenyan tariffs facing South Africa. A similar picture is painted for Swaziland, but a different one for Kenya itself. The -31.0% reduction for Kenyan production in Column 3 takes place mostly (-30.1 percentage points) as a result of Kenya's own tariff reductions to zero for the FTA members. The small difference is mostly (another 0.4 percentage points) accounted for by the 2% NTB reduction for Kenyan imports from FTA partners plus a small residue change that takes place as numerous other factors play out their role in the FTA changes. Most of the changes to production in Mozambique result from the tariff changes for FTA partners enabling them to replace Mozambique's trade into Kenya, while the big decline in Uganda's rather modest production results from the imports from both South Africa and Swaziland (1.3 and 0.5 percentage points of their production increases respectively). Malawi and Zimbabwe also see a decline in their sugar production.

[18] The FTA region produces some 3.4% of world sugar production in 2025, with just over half of this produced in South Africa.

Table 12: Changes to sugar production and factors influencing that change

			Source of the contributions from tariff reductions								
Sugar	**Output (2007 US$ million)**	**Change %**	**ZAF**	**BWA**	**NAM**	**XSC**	**KEN**	**TZA**	**UGA**	**RWA**	**EGY**
TZ	**252**	**-9.4**	**0.0**	**0.0**	**0.0**	**0.0**	**-2.5**	**0.0**	**-6.1**	**0.0**	**0.0**
ZAF	3,598	15.6	0.1	0.0	0.0	0.0	13.4	**0.1**	1.3	0.4	0.0
BWA	0	1.1	0.0	0.0	0.0	0.0	0.7	**0.1**	0.1	0.0	0.0
NAM	3	-1.2	0.1	0.0	0.0	0.0	-0.8	**-0.2**	-0.1	0.0	-0.1
Swazi	333	3.4	0.0	0.0	0.0	0.0	3.2	**-0.1**	0.5	0.0	0.0
KEN	1,162	-31.0	-0.1	0.0	0.0	0.0	-30.1	**0.0**	-0.2	0.0	0.0
UGA	69	-56.6	-0.6	0.0	0.0	0.0	0.3	**0.1**	-55.2	-0.2	0.0
RWA	31	-20.2	-0.1	0.0	0.0	0.0	0.3	**0.0**	0.0	-19.3	0.0
EGY	1,601	-8.3	0.0	0.0	0.0	0.0	-8.4	**0.0**	-0.2	-0.1	0.0
MOZ	598	-18.4	0.0	0.0	0.0	0.0	-17.6	**-0.1**	-0.4	0.0	0.0
ZWE	222	-2.5	0.0	0.0	0.0	0.0	-2.4	**0.0**	0.0	-0.2	0.0

Source: GTAP output

9. Labour market changes

In this model the labour market closure is one whereby the amount of labour employed is determined by a labour-supply elasticity which is derived from initial unemployment rates (U). In a developed country with generally low unemployment rates the benefits to unskilled labour flow through in the form of higher real wages. In a country that has a high unemployment rate the changes are hopefully reflected in increased employment. Getting labour into employment is a real priority for South Africa, and earlier tralac GTAP modelling research that alters the model closures for the labour market has reinforced this (Jensen et al., 2012; Sandrey et al., 2010 and Sandrey et al., 2008).

Table 13 shows the model output results for labour market changes in the partner countries. As expected from the welfare results, there is little change in either Botswana or Namibia but important changes in South Africa, and especially so in Swaziland-Lesotho (XSC – although we again note that this imperfect aggregation really means the changes take place in Swaziland as result of the sugar sector, and, consequently, it is likely that the Swaziland changes per se may be diluted in this reporting for the aggregate grouping). Except for Rwanda there are also significant gains in the labour market for the EAC and Egypt.

Table 13: Percentage changes in the labour market for both skilled and unskilled labour

	ZAF	BWA	NAM	XSC	KEN	TZA	UGA	RWA	EGY
Percentage change in skilled employed	0.14	-0.01	-0.01	0.54	0.13	**0.05**	0.10	-0.05	0.02
Percentage change in unskilled employed	0.14	-0.01	-0.01	0.53	0.21	**0.07**	0.12	-0.04	0.02
Percentage change in skilled wage	0.48	-0.06	-0.04	1.44	1.18	**0.42**	0.66	-0.09	0.19
Percentage change in unskilled wage	0.48	-0.07	-0.03	1.45	0.72	**0.29**	0.55	-0.12	0.17

Source: GTAP output

10. Alternative scenarios

To date we have reported on the scenario of a 100% reduction in all tariffs between the partner countries plus an additional 2% reduction over all sectors to proxy an improvement in economic efficiency that could be generated by removing some non-tariff barriers to trade within the FTA. In computer modelling of this nature it is possible to run an endless number of alternative scenarios to test variations on that main theme, and for this paper we have selected two alternatives: (a) where all tariffs are reduced by 50% and NTBs are proxied by the 2% reduction and (b) where we only implement the 2% NTB reduction. Thus, alternative (a) tells us what can potentially be achieved by a partial FTA while alternative (b) tells us what may be achieved if a serious effort is made to challenge the costs from non-tariffs barriers and measures that beset the region. It does not involve any formal tariff reductions.

The welfare results for these two alternative scenarios are shown in Table 14 where, firstly, the actual welfare results and then these results as a percentage of the base results are displayed. Note that the base welfare results in Column 2 are those shown in the right-hand column of Table 5. Interest should focus on the two right-hand columns.

Intuitively, we would expect that a reduction of 50% in the tariff rates would give an overall welfare gain of around 50% of the base case with full tariff abolition.[19] The second column from the right-hand side shows that this is roughly the case for SACU members, as the welfare gains range from 41% of the base scenario to 48% for South Africa. There is more variation in the results for the EAC countries as these economies gain relatively more from a 50% reduction, while Egypt is grouped with the SACU countries at 45%. This result for the

[19] We say 'around 50% of the base case' as there is also the influence of the 2% reduction in NTBs in both scenarios, so it is not exactly a 50% reduction across the board.

EAC is encouraging and should lead it to seriously consider even a partial FTA. Thus, we can conclude that in general (but not absolutely) a 50% reduction in tariffs plus the 2% proxy for NTB gains will give overall results that are in the vicinity of 50% of the base scenario figures.

Of special interest are the impacts of a 2% reduction in NTBs as this gives us a proxy for the economic value of addressing these constraints to trade. The far right-hand side column of Table 12 provides this information. Here, it is not a percentage of the actual tariffs as was the case with the 50% reduction scenario, but rather a blanket 2% reduction. If, for example, the tariff were 10% it would reduce to 8%, while if the tariff were zero it would be proxied as a negative 2% tariff. There is therefore no consistent linear expectation between the base scenario and this NTB proxy reduction.

For SACU countries, the gains (losses) are some 8% to 16% of the full liberalisation, with South Africa showing gains of $225 million and the losses for both Botswana and Namibia reducing to a negligible $2 million. Much more diverse are the results for the EAC countries: from Kenya gaining only 5% of the base value to Tanzania gaining 74%, with Uganda and Rwanda (and Egypt) in the SACU range. Thus, we can conclude that a reduction in NTBs among the FTA partners would be significant for both South Africa and Tanzania, of modest benefit to Kenya, Uganda and Egypt within the FTA and all at the cost of (or 'funded' by for the want of an analogy) those outside of Africa.

Table 14: Welfare results for the two alternative scenarios, $m and % of base results

	Welfare $ million			as % of 100% base	
	Base 100%	**50%**	**NTB**	**50%**	**NTB**
Tanzania	**141**	**125**	**104**	**88%**	**74%**
South Africa	1,426	690	225	48%	16%
Botswana	-16	-7	-2	41%	11%
Namibia	-15	-7	-2	45%	13%
Swaziland/Lesotho	97	42	8	43%	8%
Kenya	548	303	29	55%	5%
Uganda	245	147	43	60%	18%
Rwanda	9	7	2	75%	17%
Egypt	269	120	44	45%	16%
Total	1,029	496	43	48%	4%

Source: GTAP output.

Note that the other tripartite countries and all the countries outside of Africa are not reported here.

11. Other tralac work

This section will introduce some other GTAP research that tralac has done recently. The first is the step-wise process for the Tripartite FTA to reach its logical conclusion, while the second for a simulation looking at a trade agreement between the so-called BRICs of Brazil, Russia, India and China and the newest member of that 'club' (now the BRICS), namely South Africa. The first, of course, directly involves Tanzania while the second explores the peripheral implications (in modern parlance, 'collateral damage') for Tanzania of a closer integration within the BRICS.

The steps to a TFTA

Sandrey et al. (2012) simulated not only the Tripartite Agreement but also the three regional FTA pathways to that agreement. We believe that such an analysis provides a step-by-step pointer to the potential gains for South Africa (and all other tripartite members) from full regional integration. While still using the GTAP model and associated database the results of this research are not directly comparable to this current research as a slightly earlier version was used. Note that Tanzania is treated as a member of SADC in this exercise, and since the SADC full FTA is simulated first, the gains to Tanzania will largely be reflected in this more comprehensive regional union. The sequentially additive macroeconomic results of the four FTAs are as follows (differencing the numbers as done in the full study indicates the impacts of each FTA):

- **Scenario 1: SADC FTA only**

  As a result of this initial SADC FTA the increased activity increases Tanzania's national income by $531 million or 1.13% of GDP. Most of this ($406m) came from more capital investment with another $97 from enhanced allocative efficiency. Exports rose by 10.50 % while imports increased by a lesser 8.22%. These welfare gains included $115 million to Tanzania from its own tariff liberalisation and $94 million from liberalisation in South Africa.

- **Scenario 2: SADC and EAC FTAs**

  This takes place after the full SADC integration, so all Tanzania's benefits from that SADC union have largely been accounted for. We are therefore only considering the full integration of Tanzania with Kenya, Rwanda, Burundi and Uganda (with this

complicated by Kenya not being an individual country in their earlier GTAP version but rather an amalgam with some other east African countries). Thus, the welfare gains here are only $58 million, with almost all of this deriving from capital infusions and the changes in Kenya and its associated GTAP smaller aggregations. There are effectively no gains from Uganda. Once the SADC union is in place there is little gain for Tanzania in a comprehensive EAC integration.

- **Scenario 3: SADC, EAC and COMESA FTAs**

The changes to Tanzania from this third step are minuscule – a loss of $7 million.

- **Scenario 4: SADC, EAC, COMESA and tripartite FTAs**

Finally, the full integration of the TFTA adds only $25 million to Tanzania's welfare, with almost all of these modest gains deriving from some further reforms in Tanzania itself. Clearly, regional integration for Tanzania is all about closer economic ties with South Africa and not much else!

The big picture: GTAP results

The sequential changes in welfare from the four FTAs plus the overall final total are shown in Table 15. The data is expressed in US dollars (million) as one-off increases in annual welfare at the assessed end point of 2020.[20] The result for Tanzania from the SADC FTA is an impressive welfare increase of $531 million, a value only exceeded by South Africa and (marginally) Mozambique. This is, however, almost 'as good as it gets' as the sequential FTAs show only a $58 million gain for the EAC simulation, a minor loss of $7 million for the COMESA FTA, and a final full TFTA of $608 million as discussed above.

[20] Note that the end point in the so-called Big Five simulation in 2025.

Table 15: Welfare results from the step-wise regional integration, $ million

Country / region	SADC Step 1	EAC Step 2	COMESA Step 3	Tripartite Step 4	Total benefit
SADC					
Tanzania	**531**	**58**	**-7**	**25**	**608**
South Africa	4,755	-16	-6	1,312	6,045
Botswana	-38	0	-1	-18	-57
Rest SACU	323	-1	84	17	423
Angola-DRC	-1,892	-9	-166	-28	-2,096
Madagascar	56	0	-1	-2	53
Malawi	17	0	7	-4	19
Mauritius	97	0	5	-5	97
Mozambique	561	0	-1	94	653
Zambia	233	-2	12	-12	232
Zimbabwe	71	0	1	-8	64
EAC					
Rest of EAC	476	212	241	-250	680
Uganda	-22	113	217	-4	304
COMESA					
Egypt	-18	-6	422	184	582
Ethiopia	-4	-1	211	3	209
Rest north Africa	23	-2	16	3	40
Non-tripartite					
Rest of Africa	-394	-13	-37	-52	-495
China	-930	-120	-313	-196	-1,559
EU	-827	-133	-418	-419	-1,797
US	-259	-44	-114	-105	-521
India	-359	-44	-83	-116	-603
Brazil	-152	-17	-54	-38	-260
Russia	94	-29	-63	-31	-29
Rest of world	-302	-140	-410	-259	-1,111
World	**2,041**	**-193**	**-459**	**91**	**1,480**

Source: GTAP output from Sandrey et al. (2012)

The other features from Table 15 are:

- The GTAP welfare result for South Africa's fellow **SACU** members from the FTA shows a different picture. Botswana demonstrates a welfare loss of $38 million from

SADC integration and a further loss from the tripartite configuration. The rest of SACU as an aggregation of Lesotho, Namibia and Swaziland shows significant gains of $323 million from SADC and a further gain of $84 million from COMESA – Swaziland is a member of COMESA and our hypothesis[21] at this stage would be that Swazi sugar enters Kenya with better access conditions.

- The aggregation of Angola and DRC loses heavily from SADC integration in particular.
- Both Mozambique and Tanzania show welfare gains of half a billion dollars from SADC integration, while Zambia gains $233 million and the other SADC members gain between $17 million for Malawi and $97 million for Mauritius from SADC.
- Only South Africa and Mozambique, two countries that belong exclusively to SADC, are the only SADC countries to show significant welfare gains from the tripartite FTA, while only Tanzania gains from EAC; but as outlined above the rest of SACU (Swaziland) gains and Angola/DRC loses from COMESA.
- With the **EAC** countries the rest of east Africa (read: mostly Kenya) gains significantly from each of the three 'first-step' FTAs but loses some of these gains in the final tripartite step, while Uganda makes solid gains from EAC and COMESA FTAs.
- Within the exclusive COMESA countries Egypt gains $422 million from COMESA and another $184 from the TFTA; Ethiopia's gains are almost exclusively from COMESA while the rest of north Africa (Libya) gains moderately but really only from SADC and COMESA.
- As expected, all 'outside' parties (except Russia in the case of SADC) lose significantly and sequentially across the FTAs as their trade is replaced by FTA partner members.
- Overall, the SADC FTA is significantly welfare enhancing globally and the TFTA is moderately so; but COMESA in particular is not.

The negative results for many member countries from the TFTA can be explained by the time path taken to reach the adoption of this tripartite agreement. Here we sequentially

[21] This is actually confirmed in detailed agricultural results from Sandrey et al. (2011).

modelled all three regional FTAs to be fully activated sequentially, and we have taken the current memberships at their face value. This means, for example, that Tanzania is a member of both SADC and EAC, with zero tariffs operating between other members of each group. Similarly, Botswana is a member of SACU/SADC and COMESA. For these countries with multiple memberships there is therefore (a) a limited upside from a tripartite agreement as they already have most of the gains through being allied with an extensive grouping and (b) consequently, when South Africa, the dominant economic powerhouse in the region and a country without multiple memberships enters the full tripartite agreement these countries with multiple memberships will face new competition. This suggests that provided the FTAs were to be sequenced reasonably quickly in 'the real world', multiple memberships would not be such a big issue (aside from logistical problems such as rules of origin, and so forth). This is, however, a big proviso.

Tariff revenue implications

These revenues are always a concern to developing countries, and Tanzania is no exception. This is clearly shown in Table 16 below, where import duties are reported to be some 6.5% of central government finance when expressed as a percentage of GDP for the 2010 /11 year. Note that this figure is increasing over the period shown as a percentage of GDP, and as Tanzania has been enjoying growth rates of between 6% and 7% over this period the actual nominal tax revenue is increasing strongly.

Table 16: Tanzanian central government finance as a % of GDP

Central government finance (% of GDP)	05/06	06/07	07/08	08/09	09/10	10/11[a]
Total revenue	12.5	14.1	15.8	16.9	15.3	16.3
Tax revenue of which:	11.5	13.0	14.5	15.9	14.5	15.2
Import duties	4.8	5.3	5.5	5.8	5.5	6.5
Sales/VAT and excise on local goods	2.8	3.0	3.1	3.4	3.1	3.0
Non-tax revenue	1.1	1.1	1.3	1.0	0.8	0.8

Source: WTO TPRM 2012

In this section we will examine the tariff losses to Tanzania from the series of GTAP simulations reported on above. These are shown in Table 17 by GTAP sector with the data expressed in real US dollars. In the second column the initial values of the imports are shown to give some perspective on the revenue losses. Columns 3, 4 and 5 show the results for the step-wise FTAs for SADC, EAC and COMESA respectively, while Columns 6 and 7 show

the results for, firstly, the final FTA once all the regional arrangements are in place and, secondly, the aggregate revenue losses from the full FTA being operational. Finally, on the right-hand side are shown the losses from the 'Big Five' simulation of those perhaps more willing and able to commit to a genuine regional FTA.

Highlighted in the final row is that most ($229m from $281m) of the tariff revenue losses accrue from the full SADC implementation. Again, given the dominance of South African imports it is likely to be these imports from South Africa that contribute to the tariff losses. Finally, the losses from the Big Five are about 50% of those from the full SADC FTA implementation, but, conversely, the overall welfare gains to Tanzania from the full TFTA are significantly higher than the welfare gains from the Big Five. By sector, revenue losses are concentrated in the secondary agricultural sector for the TFTA and initial SADC FTAs, while for the Big Five the losses are more evenly spread.

Table 17: Tariff revenue losses for Tanzania from the GTAP simulations

	Initial value Imports $m	SADC	EAC	COMESA	Final FTA	Total full FTA	Big Five
Primary agriculture	60	-8	-1	0	0	-9	-5
Secondary agriculture	232	-53	-6	0	0	-59	-24
Natural resources	19	-12	-5	0	0	-17	-2
Textiles	70	-8	-2	0	0	-10	-10
Apparel	38	-3	-1	0	0	-4	-5
Leather	32	-18	-3	0	0	-21	-2
Lumber	24	-7	-1	0	0	-8	-1
Paper related	32	-11	-2	0	0	-13	-7
Fuel related	32	-2	0	0	0	-2	-4
Chemical/plastic/rubber	134	-28	-5	0	-1	-33	-17
Nonmetallic mineral	51	-13	-3	0	-2	-18	-5
Iron/steel	46	-17	-3	0	0	-20	-2
Nonferrous metals	31	-18	-2	0	0	-19	-1
Vehicles	59	-4	-1	0	0	-5	-6
Fabricated metals	46	-9	-1	0	0	-11	-11
Other transport	18	0	0	0	0	0	0
Electrical goods	58	-2	0	0	0	-2	-2
Other machinery	130	-11	-1	0	-10	-22	-24
Other manufacturing	39	-8	-1	0	0	-10	-1
Services	30	1	0	0	0	1	-1
Total	1,178	-229	-37	0	-16	-281	-135

Source: GTAP output

When elephants dance does the grass get trampled?

To date, little emphasis has been placed upon examining future trading relationships within the BRICS. In general, economic theory suggests that the gains from trade are greater when a wider suite of countries is involved, and this is the fundamental basis of the multilateral liberalisation objectives of the WTO. However, the WTO is currently stalled in its trade reform objectives, and this raises the question as to whether or not trade liberalisation within the BRICS may be an objective worth pursuing. The Trade Law Centre is currently exploring this using exactly the same GTAP configuration as used in the main part of this paper in Jensen and Sandrey (2013).

We need to be realistic with our analysis and accept that a full FTA is not feasible at this time. Rather, we will undertake two base scenario runs. The first is (a) where all bilateral tariffs are reduced by 50% between the BRICS, while the second is (b) where all bilateral tariffs are reduced by a lesser 25%. In addition, we will simulate (c) where all tariffs are reduced by 2 percentage points to reflect gains from closer cooperation between the BRICS in areas such as administrative and infrastructural efficiency improvements in both (a) and (b). We only report upon scenario (a) here, reducing all intra-BRICS tariffs by 50% and at the same time reducing all tariff equivalents (including zero tariffs) by a further 2% to reflect an improvement in trade efficiencies by focusing on NTBs. Note that we include Botswana, Lesotho, Namibia and Swaziland (the BLNS countries) in SACU as part of the BRICS configuration given their common tariff border.

Table 18 shows the big-picture results of the BRICS' 50% reduction in tariffs plus a 2% proxy reduction to reflect NTB improvements. We show the results for Tanzania in the top section, followed by the BRICS (including SACU), then the other members of EAC plus Egypt (the countries in our 'partnership of the willing') and then the other main aggregates that are also outside of the BRICS configuration. Even though Tanzania is not part of the BRICS its collateral damage from a 50% tariff reduction within the BRICS on their intra-BRICS trade reduces Tanzanian welfare by $91 million. Some $34 million of this derives from the 50% reduction with the remaining 2% from the 2% non-tariff measures (NTMs) improvements within the BRICS club. Primary agriculture bears most of the 50% loss, while nonferrous metals gain $6 million from the 50% but lose $7 million from the 2% NTM reductions. So yes, elephants dancing can trample the grass!

Results from this **BRICS** simulation show that for the base scenario Tanzanian imports increase marginally but tariff revenue declines by some $2 million. Conversely, again demonstrating the importance of South Africa to Tanzania, when all BRICS blocks any reduction in their tariffs against imports of textiles, clothing and footwear, both Tanzanian imports and tariff revenue increase (the tariff revenue by $1.79 million).

Table 18: Welfare changes from BRICS 50% & 2% NTB reductions, $ million

		contribution 50% tariff				contribution 2% NTB		
EV $ million	**Grand total**	**PAgri**	**nfm**	**omf**	**Tot50%**	**PAgri**	**nfm**	**Tot2%**
Tanzania	**-49**	**-34**	**6**	**-3**	**-34**	**-3**	**-7**	-15
BRICS								
South Africa	6,365	158	2,286	92	4,295	29	804	2,070
Botswana	27	-12	-21	1	-4	-3	-8	31
Namibia	94	-13	-18	-1	52	-2	-5	42
Lesotho/Swazi	28	-7	1	0	15	-1	0	14
China	28,335	-1,254	538	784	18,508	512	181	9,827
India	24,947	11,459	1,667	168	20,585	226	936	4,362
Brazil	7,950	191	7	-94	5,179	557	14	2,770
Russia	10,191	-757	117	7	6,393	-185	196	3,798
Other Big Five					**0**			**0**
Kenya	-92	-68	-6	-1	-70	-6	-4	-22
Uganda	-41	-21	-5	0	-25	-3	-3	-15
Rwanda	-11	-3	-1	0	-8	-1	0	-4
Egypt	-542	-308	-5	-2	-431	-32	-3	-111
Others					**0**			**0**
Rest of Africa	-714	-371	-185	-26	-483	-80	-100	-285
EU	-18,248	-3,990	-451	-255	-10,954	-958	-261	-7,295
US	-8,788	-3,117	-402	-110	-5,901	-680	-208	-2,887
Rest world	-19,040	-5,351	-1,627	-333	-12,029	-1,254	-826	-7,011
Total	30,462	-3,464	1,897	230	25,124	-1,881	714	5,284

Source: GTAP output from Jensen and Sandrey (2013)

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Annex

The trading background

Annex 1 contains a series of trade facts relating to the 15 countries of SADC, with the data sourced from the WTO. The summary of the trade data is shown in Annex Table 1 where during 2011 total exports from SADC were reported as being valued at $209.7 billion, with 46.2% of these from South Africa and another 31.2% from Angola (a combine 77.4%). Similarly, total imports were reported at $207.2 billion with 58.7% imported into South Africa and another 10.6% into Angola (a combined 69.3%). We emphasise that this data (and the SACU data that is also introduced in this section) is for 2011, while the next set of detailed intra-SADC data is for 2010 – the most recent (almost) comprehensive set of data available.

Annex Table 1: Aggregate global trade data for SADC, 2011. $ million & % shares

	% of global SADC total trade			SADC global trade $ million		
Country	Angola	Botswana	DRC	Angola	Botswana	DRC
Export 2011	31.2%	2.8%	3.1%	65,500	5,882	6,600
Import 2011	10.6%	3.5%	2.7%	22,000	7,272	5,500
	Lesotho	Madagascar	Malawi	Lesotho	Madagascar	Malawi
Export 2011	0.5%	0.8%	0.7%	1,100	1,590	1,427
Import 2011	1.3%	1.4%	1.2%	2,600	2,850	2,426
	Mauritius	Mozambique	Namibia	Mauritius	Mozambique	Namibia
Export 2011	1.3%	1.7%	2.1%	2,647	3,600	4,373
Import 2011	2.5%	3.0%	3.1%	5,158	6,300	6,330
	Seychelles	RSA	Swaziland	Seychelles	RSA	Swaziland
Export 2011	0.2%	**46.2%**	1.0%	483	96,848	2,000
Import 2011	0.4%	**58.7%**	1.0%	750	121,606	2,100
	Tanzania	Zambia	Zimbabwe	Tanzania	Zambia	Zimbabwe
Export 2011	2.4%	4.3%	1.7%	5,098	9,015	3,500
Import 2011	5.2%	3.5%	2.1%	10,724	7,178	4,400
Total export 2011 $m		**$209,663 m**				
Total import 2012 $m		**$207,194 m**				

Source: WTO data at www.wto.org

RSA represents the Republic of South Africa.

Annex Table 1 shows that South Africa was reported as being the main export destination for three of the 15 SADC countries, with the EU the main destination for eight countries (another two

reported Switzerland as the main destination while this data is not available for both Angola and the DRC). Similarly, South Africa was reported as the main import source for eight countries and the EU four countries (again, Angola and the DRC are not reported and the 15th SADC country was Madagascar which reported the United Arab Emirates as the main import source). Thus, South Africa and Angola clearly dominate trade in the region while South Africa and the EU dominate as bilateral trading partners. Other than South Africa and Angola, only Tanzanian imports (91st position) and Zambian exports (95th position) are in the top 100 global exporters or importers. Clearly, South African trade data will strongly influence data on the SADC FTA, as will including or excluding Angola from the overall picture.

The WTO data for 2011 that reports the top five trading partners for both exports and imports in more detail (not shown here) finds that outside of the South African trade there is very limited bilateral regional trade in these Big Five partners. For exports, Botswana reported Zimbabwe in fifth place (2.9%), Lesotho reported Madagascar in fifth place (0.6%), Malawi reported Zimbabwe in third place (8.6%), Mauritius reported Madagascar in fourth place (6.2%), Swaziland reported Namibia in third place (2.8%), Zambia the DRC in fourth place (4.6%), and Zimbabwe reported Mozambique in fifth place (2.9%). There is even more limited intra-SADC trade outside of the South African imports in the import sector, with only Namibia reporting Zambia in fourth place (2.1%) and Zambia reporting the DRC in second place (23.8%).

Annex Table 2 reports on the trade and economic profiles for all of the SADC countries to put Tanzania in a regional perspective.

Annex Table 2: WTO country profiles for 2011

Country	Angola	Botswana	DRC
Population (million)	19 618	2 031	67 758
GDP 2011 ($ million)	100 990	17 627	15 642
Trade to GDP ratio (2008-10)	112.4	76.3	129.1
Merchandise export $m 2011	65 500	5 882	6 600
Merchandise import $m 2011	22 000	7 272	5 500
Rank in world exports 2011	52	106	105
Rank in world imports 2011	72	106	121
Main export destination & %	na	EU 65.2	n.a.
Main import source & %	na	RSA 65.7	n.a.

Country	**Lesotho**	**Madagascar**	**Malawi**
Population (million)	2 194	21 315	15 381
GDP 2011 ($ million)	2 426	9 947	5 700
Trade to GDP ratio (2008-10)	161.1	61.9	74.9
Merchandise export $m 2011	1 100	1 590	1 427
Merchandise import $m 2011	2 600	2 850	2 426
Rank in world exports 2011	149	143	144
Rank in world imports 2011	145	142	149
Main export destination & %	RSA 48.9	EU 54.3	EU 29.8
Main import source & %	RSA 95.2	UAE 16.8	RSA 25.0

Country	**Mauritius**	**Mozambique**	**Namibia**
Population (million)	1 286	23 930	2 324
GDP 2011 ($ million)	11 313	12 798	12 301
Trade to GDP ratio (2008-10)	112.3	74.7	97.2
Merchandise export $m 2011	2 647	3 600	4 373
Merchandise import $m 2011	5 158	6 300	6 330
Rank in world exports 2011	124	120	119
Rank in world imports 2011	126	115	114
Main export destination & %	EU 63.1	EU 52.9	EU 35.6
Main import source & %	EU 23.6	RSA 33.6	RSA 75.8

Country	**Seychelles**	**South Africa**	**Swaziland**
Population (million)	0.086	50 587	1 086
GDP 2011 ($ million)	1 007	408 237	3 978
Trade to GDP ratio (2008-10)	328.7	56.4	132.7
Merchandise export $m 2011	483	96 848	2 000
Merchandise import $m 2011	750	121 606	2 100
Rank in world exports 2011	160	41	134
Rank in world imports 2011	177	32	156
Main export destination & %	EU 40.9	EU 22.3	RSA 79.8
Main import source & %	EU 29.7	EU 30.6	RSA 81.4

Country	**Tanzania**	**Zambia**	**Zimbabwe**
Population (million)	**48 218**	13 475	12 754
GDP 2011 ($ million)	**23 705**	19 206	9 900
Trade to GDP ratio (2008-10)	**69.5**	80.2	110.2

Merchandise export $m 2011	**5 098**	9 015	3 500
Merchandise import $m 2011	**10 724**	7 178	4 400
Rank in world exports 2011	**113**	95	121
Rank in world imports 2011	**91**	107	132
Main export destination & %	**Switzerland 19.4**	Switzerland 51.0	RSA 54.2
Main import source & %	**EU 14.0**	RSA 34.4	RSA 50.2

Source: WTO at www.wto.org/statistics

Annex Table 3: Tanzanian imports from the BRICS

$1,000 million	Exporter	China	India	RSA	Brazil	Russia	Total
Description	HS/Totals	2,090,781	1,596,627	684,968	67,041	60,648	4,500,065
Petrol	271019	3,854	658,578	115			662,547
Cotton fabric	520852	110,458	3,236				113,694
Trucks	890120	103,800					103,800
Tires	401120	89,098	4,303	3,367	157		96,925
Medicaments	300490	5,670	77,260	2,146			85,076
Wheat	100190		25,430		14,421	39,365	79,216
Motorcycles	871120	58,331	8,381	778			67,490
Cane sugar	170111		65,807		663		66,470
Footwear	640299	58,942	138	45			59,125
Batteries	850610	53,526	453	10			53,989
Light oils	271011		50,098				50,098
Data processing	847130	3,142	1,087	44,343			48,572
Coiled steel	720839	15	10,230	28,982			39,227
Sound recorders	852380		1,666	36,474			38,140
Copiers	851762	27,384	673	5,251	4	14	33,326
Cane sucrose	170199		7,113	25	20,561		27,699
Trucks	870421	688	2,267	23,389			26,344
Ceramic tiles	690890	22,995	921	626	166		24,708
Footwear	640220	23,119	209	15			23,343
Suitcases, etc.	420212	23,223	10	37	0		23,270
Top 20 $1,000		584,245	917,860	145,603	35,972	39,379	1,723,059
Top 20 % total		27.9%	57.5%	21.3%	53.7%	64.9%	38.3%

Source: Global Trade Atlas

Chapter 4

An analysis of Africa's export performance and export similarity for select countries within the Tripartite Free Trade Area market

Taku Fundira

1. Background

With Significant efforts towards regional economic integration are under way in all regions of the world, involving developing and developed countries alike. Africa is no exception to this trend. Efforts to integrate the economies of African countries can be traced back to 1910 when the Southern African Customs Union (SACU) was established. While SACU's conception was not driven by sovereign states per se but rather by a decision from the colonial rulers – the British Empire – to facilitate economic engagement, the importance of trade integration cannot be overemphasised. On a continental basis, the establishment of the Organisation of African Unity in 1963, which was disbanded and replaced by the African Union (AU) in 2002, attests to Africa's drive to secure a long-term economic and political future.

Motivated by a consensus that by merging its economies and pooling its capacities, endowments and energies, the African continent could overcome its daunting development challenges, the Abuja Treaty (1991) laid the groundwork for the creation of the African Economic Community (AEC), with the regional economic communities (RECs) serving as the building blocks. The RECs are expected to merge into the African Common Market between 2019 and 2023 (AfDB, 2011).

The United Nations (UN, 2010) notes that economic diversification in Africa can deliver the improved utilisation of the continent's vast agricultural and mineral resources. Africa's

economic prospects can be greatly improved through minerals processing, the expansion of manufacturing activities, the production and export of non-traditional agricultural and industrial products, and the further development of services sectors such as tourism. To capitalise on these opportunities, however, African countries must become integrated into the world economy and develop stronger and more sophisticated export sectors in order to maintain and achieve sustained growth.

Despite the numerous efforts to integrate, very few successes have been attained. The African continent has been lagging behind in terms of global competitiveness although it has enormous growth potential. Indeed, the relationship between economic growth and trade liberalisation has been the subject of considerable study and analysis, with the majority suggesting a positive correlation between the two (Baldwin and Venables, 2004). For Africa, regional integration remains the key strategy for African governments to 'accelerate the transformation of their fragmented small economies, expand their markets, widen the region's economic space, and reap the benefits of economies of scale for production and trade, thereby maximizing the welfare of their nations' (UNECA, 2010).

A common understanding in Africa is that this objective can be achieved by fostering intra-African trade and unifying each regional marketplace through the progressive removal of artificial trade barriers on the continent. Therefore, RECs are forming free trade areas (FTAs) or customs unions to integrate national economies, giving them large enough internal markets with the aim of achieving production efficiency levels comparable to those in the industrialised countries. The FTA or customs union generates important spin-off effects associated with the enlarged market (UNECA, 2010)[1].

1.1 The objective

It is against this background that this study aims to discuss the issues of Africa's export performance and more specifically export competition for South Africa and Kenya[2] in the

[1] See also Sandrey et al. (2011).
[2] Our focus on South Africa and Kenya when looking at export competition is based on the fact that they are the major importers and exporters of goods within the TFTA. Earlier analysis conducted by tralac using the GTAP model confirms that amongst the winners of a successfully established TFTA are South Africa, Kenya and Egypt more especially for manufactured goods (Jensen and Sandrey, 2011).

envisaged COMESA-EAC-SADC[3] Tripartite Free Trade Area (TFTA) which was launched on 12 June 2011 at a summit in Johannesburg, South Africa.

The motivation behind this analysis is based on the premise that the apparent objective behind the trade strategies being adopted by African countries is to achieve a number of goals such as to create a competitive environment and achieve sustainable economic growth and development, with emphasis being placed on increasing exports. In this process, the TFTA will be the continent's biggest FTA comprising 26 countries spanning from Cape Town to Cairo with an estimated market potential of US$ 1 trillion.[4]

1.2 Methodology

This study investigates the degree of South Africa and/or Kenya's (RSA-Ken) export similarity with those of various exporters to the TFTA market. Calculating export similarity is useful in determining the similarity or dissimilarity of countries in terms of their export compositions. To achieve this, the Export Similarity Index (ESI) proposed by Finger and Kreinin (1979) is used. The various countries considered in this analysis include both developing and developed countries.

This comparison serves two purposes: (i) analysing the similarity of RSA-Ken's exports with those of other major developing countries provides a measure of how directly these countries compete with RSA-Ken in the TFTA market; and (ii) the comparison with developed countries offers an indication of the level of sophistication of their exports (Erlat and Ekmen, 2009).

According to Erlat and Ekment (2009), '"[E]xport similarity" is not a concept directly related to competitiveness. Evaluating the relative competitiveness levels of two countries with very different trade patterns (and especially with very different export structures) would not make much sense. In order to be meaningful and indicative for shaping future trade policies, competitiveness of a country should be analyzed relative to another country which has more-or-less a similar trade structure'. Finger and Kreinin (1979) note that one advantage of using the ESI over other measures is mainly because it uses readily available standardised international trade data.

[3] This refers to the southern and eastern regional economic communities of the Common Market for East and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC).
[4] See Fundira (2011).

The remainder of this paper is structured as follows. The next section provides an overview of Africa's export performance both externally and within the continent. This is then followed by a review of the concept of export similarity. This is followed by an analysis of South Africa and Kenya's export similarity with various major competitors in the TFTA market. The paper concludes with some policy implications and recommendations.

2. Africa's export performance and Foreign Direct Investment in perspective

Historically, Africa's export performance has typically been portrayed as poor compared to other developing regions. In the past decade Africa has become a new frontier of economic and other opportunities. Furthermore, it is host to some of the fastest-growing economies in the world. Real Gross Domestic Product (GDP) of Africa increased by 5.2% annually in the past decade, compared with 2.3% in the 1990s (WEF, 2011).

There seems to be consensus among African leaders that a strong export performance is typically a prerequisite for reaching robust, sustained and shared growth if one considers some of the regional integration initiatives that are currently being implemented within the continent. Blanke et al. (2011) note that in Africa strong export performance does not only mean high export growth, but also increased export diversification from low value-added activities to higher value-added ones. By diversifying, countries are better able to lower the volatility of growth through a reduced vulnerability of exports to external shocks. Exports of services are also critical and can play an important role in this regard.

African policymakers have also recognised the positive role that Foreign Direct Investment (FDI) can play in promoting growth, productivity, and development in their economies. According to Blanke et al. (2011), FDI can be particularly beneficial for export sectors, as foreign companies help integrate developing countries into the global economy by easing access to foreign markets and including local enterprises in global production chains. The remainder of this section looks at export trends and initiatives currently undertaken by African countries to attract FDI.

2.1 Export trends

Although the growth of African economies as a whole accelerated in the past decade, their export growth rates continued to lag behind those of other developing regions, thus further widening the gap between Africa and the rest.

Latest available 2011 data reveals that African exports constitute a mere 3% of world export share, with a value of approximately US$594 billion. Top exporters with their market share include Nigeria (18%); South Africa (16%); Algeria (12%) and Angola (11%).[5]

A six-year review of Africa's performance reveals that out of the top 10 African exporters, only Ghana (44%), Congo (17%), Nigeria (8%), South Africa (7%), Angola (7%) and Egypt (6%) were gaining market share in the world market (growth rates above world average growth of 5%).

Table 1: Trade indicators for African exports

Exporters	Trade indicators			
	2011 US$ (millions)	Compound annual growth in value (2007-2011) (%)	Annual growth in value (2010-2011) (%)	Share in exports (%)
World	**17 855 727**	**5**	**19**	**100**
Africa	**593 984**	**12**	**20**	**3.3**
Nigeria	109 116	8	37	18.4
South Africa	92 976	7	30	15.7
Algeria	73 436	1	29	12.4
Angola	66 150	7	25	11.1
Egypt	30 782	6	17	5.2
Morocco	21 796	3	22	3.7
Libya	18 740	-18	-62	3.2
Ghana	18 401	44	252	3.1
Tunisia	17 847	2	9	3.0
Congo	16 071	17	132	2.7
Rest of Africa	128 669			21.7

Source: ITC TradeMap

A closer look at Africa's export product portfolio reveals that growth in exports has been mostly driven by primary products mainly in mining and mineral products, which accounted for a 72% share of exports.

Blanke et al. (2011) note that mining represented 73% of export growth between 1995 and 2008, the highest of all regions. Vulnerability to external shocks remains a major concern,

[5] Statistics are based on the author's calculations using the ITC TradeMap database.

mainly attributed to the lack of production and export diversification – in terms of both goods and partners.[6]

Reversing Africa's marginalisation in global trade, diversifying its exports, and moving them up on the technology ladder are therefore key policy priorities. Table 2 below highlights the top exported products and top exporters' share of the particular product.

Table 2: Top Export products and top exporters (2011)

HS Code	Description	2011 (US$ million)	% share	Top exporters (%share)
TOTAL	All products	593 984		
'27	Mineral fuels, oils, distillation products, etc.	348 045	59	Nigeria (30%); Algeria (20%); Angola (19%)
'71	Pearls, precious stones, metals, coins, etc	40 908	7	South Africa (51%); Ghana (11%); Botswana (11%)
'26	Ores, slag and ash	23 536	4	South Africa (61%); DRC (7%); Mauritania (7%)
'85	Electrical, electronic equipment	12 055	2	Tunisia (37%); Morocco (29%); South Africa (14%)
'74	Copper and articles thereof	11 284	2	Zambia (60%); DRC (18%); South Africa (7%)
'72	Iron and steel	10 671	2	South Africa (75%); Egypt (9%); Zimbabwe (3%)
'87	Vehicles other than railway, tramway	8 936	2	South Africa (81%); Tunisia (4%); Morocco (4%)
'84	Machinery, nuclear reactors, boilers, etc.	8 760	1	South Africa (71%); Tunisia (6%); Guinea (3%)
'18	Cocoa and cocoa preparations	8 560	1	Côte d'Ivoire (49%); Ghana (27%); Nigeria (12%)
'89	Ships, boats and other floating structures	7 200	1	Congo (41%); Gabon (15%); Angola (13%)
	Other	114 030	19	

Source: ITC TradeMap

[6] In general, Africa's main exports to its traditional trading partners, in particular the EU and the US, constitute an average of 57% of total exports. However, China in particular and Asia in general are also increasingly becoming important export markets for Africa.

2.2 Towards creating an enabling environment for investment in Africa[7]

Working towards creating an enabling environment to attract foreign direct investment has become a common phenomenon among African countries at both the national and regional level. In the past few decades, Africa has made significant strides toward democratic governance, transparent economic systems, and the elimination of some of the crippling bureaucratic barriers to trade and investment. Since 2005, of the 53 regulatory changes observed by the United Nations Conference on Trade and Development (UNCTAD) in Africa, four-fifths (42) were favourable to FDI, while 11 made the environment less favourable (WIR, 2006).

The positive outcomes of some of these efforts can be seen in countries like Angola, Ethiopia, Mozambique and Rwanda which recently saw inflation-adjusted growth rates higher than those of India, Russia or Brazil. The World Bank rates Mauritius a better place to do business than Germany, and South Africa ranks above Chile. Botswana, Tunisia, Rwanda, Ghana, Namibia, and Zambia all offer a more favourable entrepreneurial environment than China (de Vignemont and Smallwood, 2011).

Privatisation, long viewed as generally improving the output and efficiency of the organisations that are privatised, continues across Africa. Algeria, Angola, Comoros, Congo, Côte d'Ivoire, Kenya, Libya, Mauritius, Morocco, Nigeria, Sierra Leone and Tunisia either privatised specific sectors or introduced plans to enhance cross-sectoral liberalisation. The industries affected included utilities, telecommunications and tourism. Some programmes attracted Trans-National Corporations (TNCs) from developing countries. In Angola, for example, the privatisation agency approved Telecom Namibia's bid to become the first private operator of Angola's fixed-line network. Egypt pursued a policy aimed at opening up its markets in activities where it had a clear advantage (e.g. tourism) as well as in some manufacturing (WIR, 2006).

Another set of favourable changes concerns attempts to improve the investment climate. Recognising that an investor-friendly admission phase has a beneficial effect on the subsequent relationship between host and investor, a number of countries have reformed their admission procedures by introducing one-stop shops. A number of African countries, such as

[7] For a more detailed analysis, see an earlier discussion note by the author. Available: http://www.tralac.org/2011/11/30/towards-creating-an-enabling-environment-for-investment-in-africa-highlights-of-the-comesa-investment-report/

Egypt, Ghana, Senegal and South Africa, have reformed their tax systems, often reducing corporate income taxes. Some have eased operational conditions for TNCs. For example, Egypt is facilitating the entry and residence of foreigners (WIR, 2006).

These developments have not only occurred at the country level, but also at the regional level, where RECs have developed mechanisms aimed at harnessing investments into the region. In eastern and southern Africa, COMESA and SADC are examples of RECs that have put in place a regional investment policy aimed at promoting the region as an attractive destination particularly for markets seeking FDI. For the former, regional investment policy is embodied in the COMESA Common Investment Area (CCIA) while the latter is enshrined in the SADC Investment and Finance Protocol. The only REC which is yet to develop mechanisms for a common investment area is the EAC, although as a result of multiple overlapping memberships, we note that four out of five EAC states are part of the CCIA, and one country, Tanzania, is part of the SADC Investment and Finance Protocol.

An interesting trend to note with regard to recent investments in Africa,[8] which is different to the nature and type of investments that Africa has traditionally received from the global players, is the fact that investments are diversified and focus is less concentrated on primary resource-based investments. Evidence suggests an increase in investment in services. Sectors receiving special investment attention include telecoms (towers, broadband services), financial services (commercial banks, insurance, ancillary services such as ATMs), agribusiness, infrastructure, oil and gas (marginal fields, oil field services, gas development), mining, and electric power (energy infrastructure, energy services). South Africa continues to play a significant role in terms of intra-African FDI. According to the World Investment Report (2011), the share of African host countries in the outward stock of South African FDI increased from less than 5% before 2000 to 22% in 2008, reaching almost $11 billion.

3. Export similarity and competition

The Export Similarity Index, developed by Finger and Kreinin (1979), is intended to measure the similarity between exports of any two countries to a third market. The more similar the export profiles are, the more likely that economies are competitors in global markets. High similarity indices may also indicate limited potential for inter-industry trade with a regional trading arrangement.

[8] This is mainly intra-African investments: See the COMESA Investment Report 2011.

By definition, the ESI is the sum over export categories of the smaller of the sectoral export shares (as a percentage) of each country under study. The ESI takes a value between 0 and 100%. A value of zero indicates no overlap in the export profiles (the countries are not competitors), a value of 100 indicates perfect overlap. Mathematically this can be represented as follows:

$$ESI\ (ij,w) = [\sum_{k} Min(\frac{X_{iw}^{k}}{X_{iw}}, \frac{X_{jw}^{k}}{X_{jw}})] * \ 100\%$$

Where

X_{iw}^{k} *is the amount of export to the target market of products k of country i*;

X_{iw}*is the total value of export to the target market of country i*;

X_{jw}^{k} *is the amount of export to the target market of products k of country j*;

X_{jw}*is the total value of export to the target market of country j.*

We note that ESI is also not affected by the relative sizes of the exports. According to Finger and Kreinin (1979: 906), '[S]ince the index is intended to compare only patterns of exports across product categories, it should not be influenced by the relative sizes or scales of total exports'.

The major limitation of the ESI is that it is sensitive to the chosen level of data such that its value increases with the higher level of aggregation and vice versa. By keeping this in mind in interpreting the results, we make our calculations at a relatively disaggregated level in order to see the heterogeneities across/within industries.

The analysis: **data issues**

Export figures of South Africa, Kenya, and Brazil, Russia, India, and China (the BRIC countries) as well as of the European Union (EU), Japan and the United States of America (US) are analysed in the target market of the TFTA.

Two trade data sources are used in the analysis: the Global Trade Atlas (BRICS and Japan) and the International Trade Centre (ITC) TradeMap database (Kenya, the EU and the US) at

the four-digit Harmonised System[9] (HS) level of classification. We note the limitations of trade data, and, for this section especially, access to reliable African trade data, as it does impact on the analysis. Furthermore, as trade data may be distorted or simply not reported for a given year, we only considered a review period for the years where data was available; in this case the majority had available data for a five-year period (2006-2011, with 2011 the latest available year for data sourced from ITC TradeMap for countries under review). We must therefore treat the analysis as indicative of trade flows over the review period.

We would further caution that this analysis is one that, while perhaps providing some useful pointers, does have limitations as highlighted already. Limitations include the fact that there may be non-tariff barriers operating; tastes and preferences may be a factor; and trade classifications of products at a detailed level may not be strictly comparable.

Therefore export figures of the TFTA from countries in our sample can only provide meaningful and indicative ESI at the four-digit (HS4) level of trade as opposed to the ideal relatively more disaggregated six-digit (HS6) level. At the HS6 level, our initial analysis indicates a high level of heterogeneity and is thus interpreted as implying no competition among the countries in our sample. Thus, by comparing the ESI at the HS4, some level of similarity is observed for certain specific sectors or product groups.

The analysis: results

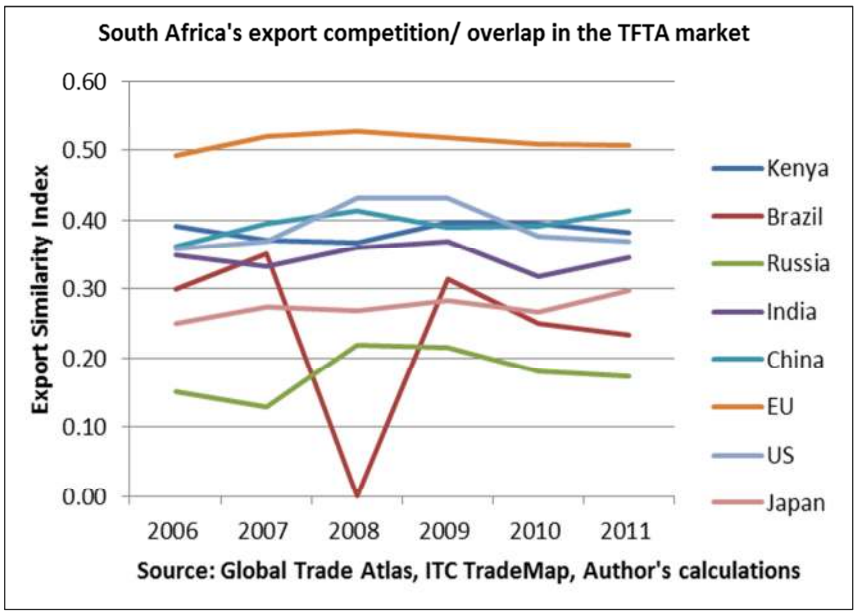
Figure 1 presents the graphical results for South Africa and Kenya's ESI with select partner countries from 2006 to 2011. As already noted, an ESI takes a value between 0 and 1. Therefore if, for example, country 'i' and country 'j' export similar goods to the TFTA market, ESI equals 1; if exports of the two countries are absolutely different, then ESI equals 0. If the index takes on an ascending trend over the review period, we can conclude that the two countries share more and more similar export structures, that is, they compete more and more fiercely in the TFTA market.

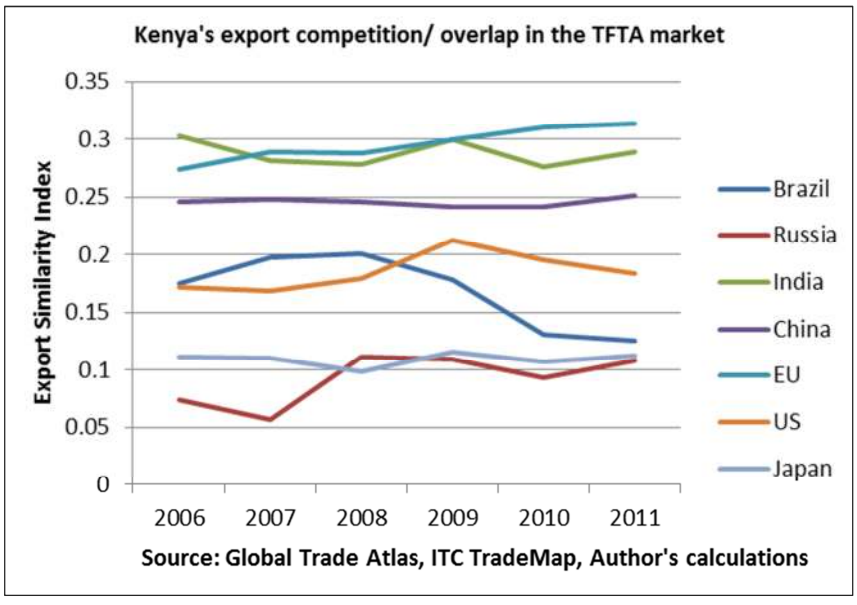
In Figure 1, the two graphs represent South Africa and Kenya's ESI with each other and other developing and developed countries. Generally, for each of the paired countries, the ESI is relatively low – below 50% for all countries under review with the exception of the South

[9] The Harmonised System is a merchandise trade classification that operates in a sequentially more detailed level from internationally harmonised (hence the name) HS2 to 4- and 6-digit levels, and often operates down even to HS10 for individual countries.

Africa-EU ESI that is over 50% for most of the period under review. Thus, given these ESI figures, the notion of fierce competition for the TFTA market is not yet prevalent now.

Figure 1: South Africa's and Kenya's Export Similarity indeces with select countries for the TFTA market





3.1 The South Africa and Kenya ESI

For South Africa, the EU has the highest ESI over the review period. The main trends are the relative increasing ESI of South Africa and all the countries under review up to the 2008/2009

period with the exception of Brazil.[10] Post-2009, the trends are somewhat mixed. First, a relative declining trend is observed for South Africa's ESI with the EU, Kenya, US, Brazil and Russia, and secondly Japan, India, and China revert to the pre-2008 relative increasing trend. The main reasons are as follows:

- Firstly, on gross trade volume level, the TFTA countries are negotiating FTAs and preferential agreements not only with South Africa but also with the other countries under review such as the ACP-EU Economic Partnership Arrangements (EPAs). Where there are no formal negotiations, cooperation agreements through initiatives such as the Forum on China-Africa Cooperation (FOCAC), the India-Africa Summit and the Brazil-Africa Summit have made these countries potential suppliers into the TFTA market. Therefore, the closer trade-partner relationships developed have positive effects on their exports to the TFTA market. All these initiatives would cause a disadvantageous environment for South African products into the TFTA market.

- Secondly, on a product level (see Table 3), South Africa competes relatively more with countries that have a relatively diversified export portfolio in the TFTA market, although this may not be evident in the top 10 exports[11] to the TFTA of the respective countries. The main competitors, which are also traditional trading partners of Africa, include the EU and the US, but also the emerging giant – China.

For Kenya, export overlap is much lower with maximum ESI not exceeding 35%. Furthermore, the main trends are somewhat different to that of South Africa in the TFTA market although the EU has the highest export overlap (ESI= 35%). Over the review period, the ESI trends fall into three categories: i) relatively increasing or stable over review period (EU, Japan and China); ii) relatively increasing and then declining (Brazil and the US); and iii) fluctuating (India and Russia). Export-product composition indicates that Kenya does not export similar products (low export overlap) to other countries under review.

[10] We note the anomaly in the RSA-Brazil ESI for 2008, which indicates no overlap of exports in that year, which may be partly attributed to competition in substitutes in the TFTA market.
[11] The top 10 products do not show any homogeneity between South Africa and its competitors.

Table 3: Top 10 export commodities for select countries to the TFTA market at HS4 level (US$ millions)

RSA				**Kenya**				**EU**			
_Total All Commodities		**2006**	**2011**	**_Total All Commodities**		**2006**	**2011**	**_Total All Commodities**		**2006**	**2011**
		1 454	**3 359**			**1 345**	**2 603**			**54 904**	**78 470**
HS	**Description**			**HS**	**Description**			**HS**	**Description**		
1001	Wheat and meslin	379	1 772	0902	Tea	168	254	2710	Petroleum oils, not crude	1 697	4 521
4407	Wood sawn or chipped	254	296	2710	Petroleum oils, not crude	96	169	8703	Cars (including station wagon)	2 995	3 339
2710	Oil (not crude)	4	172	2523	Cements, portland	45	117	8517	Electric appliances for line telephony	807	2 817
1512	Sunflower seed, safflow	41	139	1511	Palm oil & its fraction	24	104	3004	Medicament mixtures	1 485	2 651
8802	Aircraft, powered; spacecraft	0	122	3401	Soap	19	94	8708	Parts & access of motor vehicles	1 978	2 468
4412	Plywood, veneered panels	48	92	7210	Flat-rolled products of iron or non-al/s	77	94	9999	Commodities not elsewhere specified	1 640	2 027
3105	Fertiliser	9	76	3923	Plastic packing goods	46	81	8802	Aircraft (helicopters, aeroplanes)	712	1 470
7208	Fl-rl iron & na steel	33	57	2402	Cigars, cheroots, cigarillos & cigarettes	41	70	7102	Diamonds, not mounted or set	706	1 264
7203	Spongy ferrous products & iron	0	53	3004	Medicament mixtures	31	64	8471	Automatic data processing machines	1 068	1 043
8704	Motor vehicles for transport of goods	32	44	2403	Pipe, chewing & snuff tobaccos	0	58	8704	Trucks, motor vehicles	1 076	1 022
	Other	**654**	**536**		**Other**	**799**	**1 499**		**Other**	**40 738**	**55 848**

Table 3 cont.

US				Japan				Russia			
_Total All Commodities		2006	2011	_Total All Commodities		2006	2011	_Total All Commodities		2006	2011
		12 120	18 347			6 740	7 639			1 454	3 359
HS	Description			HS	Description			HS	Description		
9999	Commodities not elsewhere specified	698	2 320	8703	Motor cars & vehicles for transporting persons	1 719	1 464	1001	Wheat and meslin	379	1 772
1001	Wheat and meslin	351	1 186	8704	Motor vehicles for transport of goods	934	1 094	4407	Wood sawn or chipped	254	296
1005	Maize (corn)	504	713	8708	Parts & accessories for motor vehicles	538	501	2710	Oil (not crude)	4	172
8431	Machinery part	882	690	8408	Compression, internal combustion piston engines	247	498	1512	Sunflower seed, safflow or cottonseed oil	41	139
7108	Gold unwrought or in semi-manufactured forms	0	530	8702	Motor vehicle for transport	251	390	8802	Aircraft, powered; spacecraft	0	122
8704	Trucks, motor vehicles	189	409	8429	Self-propelled bulldozers, graders	234	342	4412	Plywood, veneered panels	48	92
2710	Petroleum oils, not crude	96	406	4011	New pneumatic tyres, of rubber	145	224	3105	Fertilisers	9	76
8701	Tractors	195	393	7208	Fl-rl iron & na steel	39	209	7208	Fl-rl iron & na steel	33	57
8703	Cars (including station wagons)	338	386	0000	Special HS CI/JP/KR/MX/NO	82	132	7203	Spongy ferrous products & iron	0	53
7204	Ferrous waste and scrap iron & steel	115	383	8406	Steam turbines & other vapour turbines, parts	5	107	8704	Motor vehicles for transport of goods	32	44
	Other	**8 753**	**10 933**		**Other**	**2 546**	**2 678**		**Other**	**654**	**536**

Table 3 cont.

Brazil				India				China			
_Total All Commodities		2006	2011	_Total All Commodities		2006	2011	_Total All Commodities		2006	2011
		4 188	**6 241**			**6 618**	**16 128**			**14 714**	**36 896**
HS	**Description**			**HS**	**Description**			**HS**	**Description**		
1701	Cane Or Beet Sugar	577	1 388	2710	Oil (not crude)	2 246	4 739	8517	Electric apparatus for line telephony	294	1 642
0207	Meat & Ed Offal Of Poultry	232	574	3004	Medicaments	314	993	6402	Footwear	325	902
2601	Iron Ores & Concentrates,	383	567	8703	Motor cars & vehicles	227	782	6104	Women's or girls' suits	248	807
0202	Meat Of Bovine Animals, Frozen	422	465	1701	Cane or beet sugar	16	433	4011	New pneumatic tyres, of rubber	231	745
1507	Soybean Oil	37	215	8517	Electric apparatus for line telephony, etc., parts	2	391	4202	Travel goods, handbags, wallets	171	742
1001	Wheat And Meslin	9	190	0202	Meat of bovine animals, frozen	78	305	8471	Automatic data process machines	269	722
8701	Tractors	145	173	2818	Artificial corundum	18	296	5407	Woven fabric of synthetic fil yarn	302	570
1005	Corn (Maize)	11	154	7210	Fl-rl iron & na steel	182	291	6103	Men's or boys' suits	169	513
8704	Motor Vehicles For Transport Of Goods	204	130	5205	Cotton yarn (not sewing thread)	124	235	9403	Furniture nesoi and parts thereof	93	443
8708	Parts & Access For Motor Vehicles	175	128	7208	Fl-rl iron & na steel	82	202	8429	Self-propelled bulldozers	135	435
	Other	**1 993**	**2 257**		**Other**	**3 329**	**7 461**		**Other**	**12 477**	**29 375**

3.2 Brazil, India and China ESI

We noted that in the TFTA market trade data used in the analysis indicates relatively low levels of export overlap/similarity (ESI ≤ 0.5) for all countries under review. It is worthwhile to analyse how other emerging markets especially Brazil, China and India are competing against a) each other in the TFTA, and b) against Africa's traditional partners from the north (namely the EU and US). Japan and Russia are also interesting countries to analyse as all of them have shown significant interest in the African market over the past decade (Fundira, 2012a). Figure 2 below provides a graphical illustration of ESI trends for Brazil, China and India in the TFTA market.

Figure 2: Export Similarity Indeces for Brazil, China and India with select countries in the TFTA market

The following can be inferred from Figure 2 above:

- For Brazil, competition relatively increased up to 2008 for all countries under review. This was then followed by a period of decline which prevailed until 2011 for some countries (the EU, China and Japan), while we also see an increasing trend for other countries from 2010 (Russia, India and the US). The 2008 financial crisis partly explains the decline; another contributing factor is the fact that Brazil's current export portfolio has increasingly become dominated by mainly agro-based manufactured products as compared to other emerging markets and developed countries which are exporting mainly manufactured industrial goods (see Table 3). In 2011, the US had the highest ESI with Brazil.

- For China, the main competitor (or country with the highest ESI) over the review period is the EU although this has been declining since 2008. This may partly be attributed to the EU's waning influence as an important trading partner for African countries and to the rise of the emerging markets of the south that are increasingly gaining market share. Apart from this, similar ESI trends as observed with Brazil also feature in the case of China; however, India in particular is increasingly becoming a competitor against China for the TFTA market.

- A look at India's ESI reveals relatively increasing export overlap with the developed countries for the TFTA market, with similar trends across the review period of 2006-2011. ESI increased relatively higher with the EU, reemphasising the point already

made of the EU's waning influence or declining market share not only in the TFTA market but also in the African market in general.

4. Conclusion

This paper reviewed Africa's export performance and the export similarity of South Africa, Kenya and also other select countries (BRIC, EU, the US, Japan) in the target TFTA market. It is undeniable that other factors exist – with the exception of tariffs – that weaken the trade effects on South Africa and/or Kenya in the TFTA. These include competition in the substitutes between South Africa and/or Kenya and TFTA members; competition from other countries signing FTAs; preferential agreements; or even increasing trade partnerships with TFTA members in the TFTA market. Such factors cannot be ignored.

It is undoubtedly true that in the future the TFTA market will be an important market, not only for the member countries whose objective is to increase intraregional trade, but also for third-party countries such as the emerging markets of the south and also the traditional partners of the north. In this context, the ESI was used to analyse the level of competition in the TFTA market. We conclude that from the current analysis we cannot state with any degree of confidence the extent to which South Africa and/or Kenya face competition for the TFTA market from third-party countries such as the BRIC countries, the EU, the US or Japan. The ESI calculated for any particular competing countries for the TFTA market was low (less than 50%) implying relatively low competition/overlap.

However, the indications are that there will be fierce competition for the TFTA market, more especially as African countries such as South Africa and/or Kenya among others diversify their export base. In the current environment, there is still space for South Africa or Kenya and other African countries not considered here to optimise their export structure so as not to lose existing or potential market share in the TFTA market. While other variables can also exert a significant influence on trade volume and trade flows in the TFTA market, the envisaged TFTA provides more opportunities for the African countries if properly structured and implemented. It is up to the TFTA members to ensure that such opportunities are harnessed.

5. Recommendations: what can African countries do to enhance their competitiveness?

This question is not a new one. It has been resonating among researchers and policy makers alike. It is one that has no one-size-fits-all approach. It is one that requires a step-by-step approach and a review of past experiences and lessons learnt. We leave these important topics for future research.

However, there is one important topic on which there is consensus regarding its role in enhancing competitiveness amongst African governments and that is the approach to regional integration. Despite the numerous efforts to integrate, very few successes have been attained. The African continent has been lagging behind in terms of global competitiveness although it has enormous growth potential.

Time for a new culture, a new ideology[12]

A new culture and a new ideology amongst African countries are necessary in order to complete effective economic integration. The fact that the African Union ceased recognising new RECs and encouraged the consolidation of existing RECs to which governments are complying demonstrates a strong political commitment on the part of the partner states. However, the existing RECs still have to overcome major challenges. The main challenge is the gap between the commitments and their implementation.

At this early stage, there are important lessons to be learnt and consideration to be given as to what would contribute to a successful regional economic integration arrangement. Within the building blocks – the RECs – there is firstly a need to provide the regional institutions and mainly the secretariats with a clear mandate to make independent decisions guided by the agreements. Furthermore, to function effectively, these regional institutions and secretariats should be provided with adequate resources both in terms of financial and human capital. The recent introduction of a community levy in CEMAC, EAC and the Economic Community of West African States (ECOWAS) is a first step to address these financial difficulties.

What will mark a turning point for African integration is the commitment of Member States to the development of a comprehensive rules-based integration arrangement within the consolidated RECs. This implies that they will implement the provisions of the agreement and

[12] For a full discussion see Fundira (2012b).

subscribe to effective monitoring of compliance and sanctions for non-compliance. The remedy lies in the outcome of the political economy that operates differently and is distinct from the past.

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Chapter 5

Investment governance in the Tripartite Free Trade Area[1]

Victoria Clark

1. Introduction

According to a recent report by Ernst & Young on Africa's investment attractiveness, intra-African investment has grown by 42% since 2007[2] and South Africa consistently figures as a top investor within the continent.[3] Furthermore, intra-African foreign investment in new investment projects has experienced a 23% compound growth rate between 2003-2011 (Ernst & Young, 2012: 31). These figures were released during Tripartite Free Trade Area (TFTA) negotiations and gave rise to optimism regarding the investment landscape in Africa. While investment within Africa is growing, factors cited by companies that are sceptical of investing in the region include political risk, corruption, and lack of security in the host country. Other factors dissuading investment in the region include the tendency to view the continent as one destination, the poor state of most assets put up for privatisation, pervasive corruption at all levels of government, mistrust in the regulatory environment, and the high costs of doing business.[4]

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[1] The personal opinions expressed in this article are those of the author alone, and they do not necessarily represent the policies or views of the Government of Canada. The author would like to thank Professors Debra Steger and Anthony Van Duzer for their commentary and guidance.

[2] See Ernst & Young Survey (2012: 6).

[3] In the 18 countries listed in Ernst and Young's FDI outlook for Africa, 12 belong to the Tripartite region. In eight of these countries, South Africa figures as a top five investor (globally) of new FDI projects (2003-2011); Kenya figures as such for three countries.

[4] See Games (2004: 5).

Investment treaty provisions typically provide minimum standards of treatment that aim to address these concerns, yet the Draft TFTA contains very basic provisions on investment. As Article 24 of the Draft T-FTA stipulates:

1. Tripartite Member States undertake to market the Tripartite region as a single investment area.
2. Tripartite Member States undertake to develop policies and strategies which promote cross-border investment, reduce the cost of doing business in the region, and create a conducive environment to private sector development.

Evidence is scarce and inconsistent regarding whether investment agreements and investment provisions in FTAs substantially attract Foreign Direct Investment (FDI) to the host country. Some studies remain sceptical of a causal relationship between investment treaties and FDI inflow,[5] while others suggest that investment treaties attract FDI by signalling predictability and stability within the host state.[6] This difference in findings may be due to the difficulty in isolating the investment treaty from other relevant factors that attract investment, such as changes in domestic policy, natural resource endowments, and labour force capacity. In one study of this relationship, Sachs and Sauvant (2009) argue that while the effects of investment provisions on FDI can be ambiguous, the signing of investment agreements strengthens the rule of law and the establishment of standards in international investment law. Notably, the investment attractiveness of a host state may be enhanced when governments commit to such standards, especially when corruption and political instability are prevalent.

Tripartite Member States have much to gain by enhancing perceptions of rule of law in the region. The inclusion of more comprehensive provisions on investment in the TFTA may serve to bolster such perceptions in the region. This paper provides a background on investment policy and practice in the Tripartite region by examining the investment regimes of the Southern African Development Community (SADC), the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA), as well as Member States' experiences with investment treaty arbitration. The differing rules on investment protection contained in the regional regimes and overlapping membership in these organisations suggest that difficulty may arise in marketing the region as a single investment

[5] Some studies remain sceptical of the ability of investment treaties to attract FDI, for example, Hallward-Driemeier (2003); Berger et al. (2010).
[6] See Neumayer and Spess (2005: 1567-1585).

area (draft Article 24(1)), absent a set of consolidated rules in the TFTA. This paper aims to provide an overview of the rules governing international investment in the Tripartite Member States and to promote further research regarding the incorporation of investment provisions in the TFTA.

2. Legal framework for investment in the Tripartite region

2.1 Customary International Law

Customary International Law represents global norms of behaviour among states that have become widely accepted to such an extent that all states become legally bound to comply with the practice.

In order for a norm to become Customary International Law, it must be practiced by a sufficient number of states that believe they are legally bound by the norm, for a long-established period of time.[7] Two principles of substantive protection within International Investment Law are enshrined as Customary International Law: the minimum standard of treatment and compensation for expropriation.[8] These principles represent the first international legal rules to protect foreign investment and provide the foundation for further investment protection in treaty law.[9] Bilateral investment treaties (BITs) and free trade agreements (FTAs) that include investment and services typically incorporate these principles in addition to other guarantees of investment protection. A brief explanation of the customary international law on investment provides a useful background to the regional investment regimes of the EAC, COMESA and SADC.

As early as 1927, the Permanent Court of International Justice held that, 'it is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form' (Chorzow Factory case, 1928: 55). The International Law Commission (ILC) later affirmed that wrongful acts giving rise to liability in this regard include 'acts which affect a state as such… as well as acts which produce damage to the person or property of its nationals' (Garcia-Amador, 1956: 181.). Customary International Law thus requires compensation in the event of state takings of property. Such expropriation is only permissible under international law if 'the taking is for a public purpose, as provided by law, conducted in

[7] See Currie (2008: 185-217).
[8] See d'Aspremont (2011). Note that while the *standard* for such compensation remains somewhat contested, the principle of compensation *per se* is accepted amongst states.
[9] Ibid. (2011: 7).

a non-discriminatory manner, and with compensation in return' (Dumberry, 2010).[10] Notably, while this general custom exists, the appropriate formula for determining compensation has yet to develop as custom.

Additionally, the minimum standard of treatment owed to foreign investors is considered Customary International Law. The historic Neer case is frequently cited to define the international minimum standard.[11] In Neer, the General Claims Commission held that 'The treatment of an alien, in order to constitute an international delinquency, should amount to an outrage, to bad faith, to willful neglect of duty, or to an insufficiency of governmental action so far short of international standards that every reasonable and impartial man would readily recognize its insufficiency'.[12] This case set a high threshold whereby treatment of the alien must be particularly egregious to constitute a violation of the customary international minimum standard. Notably, a narrow interpretation of *Neer* confines the minimum standard to procedural justice, whereas a broader interpretation assumes 'bad faith' or 'willful neglect of duty' to provide for substantive protection.

In 1967, the OECD released its Draft Convention on the Protection of Foreign Property, which represented agreed upon principles of investment protection among member countries. This document stipulates that 'each party shall at all times ensure fair and equitable treatment to the property of the nationals of the other countries. It shall accord within its territory the most constant protection and security to such property and shall not in any way impair the management, maintenance, use, enjoyment or disposal thereof by unreasonable or discriminatory measures'.[13] The note to this provision stipulates that 'fair and equitable treatment indicates the standard set by international law for the treatment due by each State with regard to the property of foreign nationals... The standard required conforms in effect to the 'minimum standard' that forms part of customary international law'.[14]

Recently in the case of Genin v Estonia, the tribunal held that acts violating the 'international minimum standard' include, 'acts showing a willful neglect of duty, an insufficiency of action

[10] See also Generation Ukraine Inc. v Ukraine; OECD (2004).
[11] See for example, Brownlie (2008: 525); Loewen v United States; Glamis Gold v United States.
[12] See LFH Neer and Pauline E Neer (USA v Mexico, General Claims Commission).
[13] See Draft OECD Convention on the Protection of Foreign Property (1967).
[14] Ibid (1967: 9, 4(a)).

falling far below international standards, or even subjective bad faith'.[15] The emergence of jurisprudence stemming from FTAs and bilateral investment treaties (BITs) has led to much discussion of international minimum standards under customary international law, especially since some treaties explicitly incorporate international law.[16] Importantly, investment agreements may shape customary international law by contributing to the 'consolidation of already existing customs and rules', yet do not represent customary international law (Dumberry, 2010: 701). Inevitably, the nearly 3 000 investment agreements worldwide contain differing obligations (UNCTAD, 2011: 101). Lacking discernible international custom on the treatment of investors, national legislation and treaties remains the most influential legal instrument governing international investment.

2.2 National legislation

Annex A lists national legislation governing investment in the Tripartite Member States. Since legislation is not in force in all Member States, investment agencies for the purposes of investment promotion and approval are more common.

2.3 Regional organisations

2.3.1 EAC investment framework

In 2002, the EAC Member States drafted a non-binding *Model Investment Code*, which governments are encouraged to adopt. Harmonisation of national investment legislation via the *Model Code* is viewed by the Member States as a necessary precursor to the development of regional investment rules, as stated in the Code's Preamble. That is, members are seeking to harmonise investment legislation domestically before concluding the EAC Common Investment Area Agreement (CIAA) currently under negotiation.

Dispute settlement is addressed in section 15. Interestingly, paragraph (1) stipulates that investment disputes are to be dealt with in accordance with national laws and procedures, yet paragraph (3) provides for international arbitration under the International Centre for the Settlement of Investment Disputes (ICSID) rules unless the parties agree otherwise. Since

[15] See Genin and others v Estonia. On the facts of this case, the tribunal found Estonia not liable for violating the FET provision in the US-Estonia BIT since ample justificatory grounds existed for the action taken by the Bank of Estonia.

[16] For example, the North American Free Trade Agreement (NAFTA) Article 1105 requires parties to 'afford investments treatment in accordance with international law, including fair and equitable treatment and full protection and security'.

international investment arbitration exists as an alternative to domestic remedies unless the treaty provides otherwise, the requirement that disputes be settled in accordance with national law may conflict with paragraph (3).

The *Model Code* also includes a provision protecting investors from expropriation (section 14). This provision prohibits the compulsory taking of property unless the taking is necessary for 'public use or in the interest of defense, public safety, public order, public morality or public health; the compulsory taking of property is made under a law which makes provision for prompt payment of fair and adequate compensation, in freely convertible currency, where necessary, prior to the taking of possession of acquisition of property; and a right of access to a court of law or other place of arbitration' (EAC, 2006: section 14). This provision resembles the customary international law on expropriation, as discussed above.

The *Model Code* further includes a non-discrimination provision, providing for national treatment. As section 15(2) states, 'a foreign investor shall be in no different position than any local investor of the Partner State except as may be otherwise provided by this Code or other relevant law'. Remarkably, the inclusion of 'other relevant law' provides an enormous exception to this non-discrimination provision. As such, a partner state could conceivably enact a discriminatory law that would not violate the *Model Code,* negating the protection provided under section 15.

Currently, Burundi is the only EAC country to have modified its investment legislation in compliance with the Model Code. However, national laws of other EAC Member States may effectively provide similar protection. For instance, Uganda's constitution includes a provision identical to section 14 on 'protection from deprivation of property', section 14 of the EAC Model Code.[17] Similarly, the constitutions of Tanzania[18] and Rwanda[19] stipulate that no deprivation of property shall occur without authority of the law and in return for fair compensation.

2.3.2 COMESA Regional Investment Agency

The COMESA Regional Investment Agency (RIA), established in 2006, is one of eight COMESA institutions and aims to promote investment in the region. The Investment

[17] Constitution of the Republic of Uganda (1995), s.26.
[18] Constitution of the Republic of Tanzania (1998), s.24(2).
[19] Constitution of Rwanda (1991), s.23.

Agreement for the COMESA Common Investment Area (CCIA) contains typical investment provisions while retaining regulatory flexibility to suit the needs of the Member States. Accordingly, Article 11 ('Rights and Obligations') states that ' [t]he objectives of Part Two of this Agreement are to provide COMESA investors with certain rights in the conduct of their business within an overall balance of rights and obligations between investors and Member States'. Accordingly, the substantive provisions have been drafted with a view toward the development goals of the Member States.

For example, the national treatment provision represents a departure from the standard provision contained in most investment treaties. Typical national treatment provisions require host states to accord investors from another party no less favourable treatment than that accorded to domestic investors in 'like circumstances'. For example, NAFTA Article 1102(1) states that '[e]ach Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments'. It does not provide further guidance in this regard apart from jurisprudence. As such, 'like circumstances' is subject to varying interpretations.[20] Jurgen Kurtz (2009: 755) suggests that the vague drafting of comparator groups in the NAFTA national treatment provision was a result of capital-exporting countries desiring to protect their investors from expropriation. Greater clarity in the national treatment provision is more appropriate for capital-importing countries.

In contrast to the NAFTA, Article 17(2) of the CCIA requires several factors to be considered in the determination of 'like circumstances' including inter alia the effects on third persons and the local community, the aim of the measure, and the effects on the local, regional or national environment. This may provide more protection for host states to enact regulatory measures pursuant to sustainable development objectives.

The provision on 'fair and equitable treatment' also provides detailed wording for 'greater certainty' in Article 14. The first paragraph of this provision stipulates that this standard includes an 'obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process', with the second paragraph clarifying that the protection prescribed is the customary international law minimum standard

[20] See for example, Cargill, Incorporated v United Mexican States; United Parcel Service of America Inc. v Government of Canada; Marvin Roy Feldman Karpa v United Mexican States.

of treatment and 'does not require treatment in addition to or beyond what is required by that standard' (Article 14(2), emphasis added). Furthermore, Article 14(3) emphasises that the preceding paragraphs do not establish a single international standard since 'Member States have different forms of administrative, legislative and judicial systems and that Member States at different levels of development may not achieve the same standards at the same time'. According to Professor Peter Muchlinski, Article 14 'appears to curtail significantly the protection afforded to an investor in relation to maladministration as it provides a novel defense to the effect that the host country can plead its level of development as an explanation for poor administrative practices' (Muchlinski, 2010: 27). While the ability of Article 14(3) to serve as a defence is uncertain, this provision does require, at minimum, a novel consideration of the respondent state's level of development.

Moreover, the expropriation provision follows customary international law, requiring the four factors to be fulfilled for a legal taking (Article 20). Interestingly, while Article 21(1) requires 'adequate compensation', Article 21(2) refers to 'appropriate compensation'. These two terms have typically signified different methods of calculating compensation (UNCTAD, 2000). The method of compensation stipulated in Article 21(2) is as follows: 'Appropriate compensation shall normally be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. *Compensation may be adjusted to reflect the aggravating conduct by a COMESA investor or such conduct that does not seek to mitigate damages*' (emphasis added). This signals that an investor's contribution to its alleged loss can influence the determination of damages, as also determined in the case of *Biwater Gauff v Tanzania* discussed below.

Furthermore, Article 20(8) states that 'bona fide regulatory measures taken by a Member State that are designed and applied to protect or enhance legitimate public welfare objectives, such as public health, safety and the environment, shall not constitute an indirect expropriation under this Article'. Article 20 thus provides host states with flexibility regarding regulatory measures.

The CCIA no doubt represents a marked departure from typical investment agreements that seldom consider the regulatory needs of developing countries. As the COMESA Court of Justice or a COMESA tribunal has yet to adjudicate an investment case, it is difficult to predict how these differently drafted provisions will affect the jurisprudence.

2.3.3 SADC Finance and Investment Protocol and Model BIT

The SADC Finance and Investment Protocol (FIP) was signed by Member States in 2007, and is currently in the process of implementation with the assistance of Finmark Trust.[21] As tralac has previously written, the Investment Annex to the FIP is ambiguous regarding whether an investor must be a national of a SADC member: if not, the Annex provides very broad protection for investments (Van Roessel, 2011). Furthermore, an investor is a legal or natural person who has been 'admitted' to make an investment, which may require a host state's national investment legislation to be invoked for clarification (Ibid.). However, investment legislation in individual SADC states is not harmonised, with some states lacking formal legislation entirely. Twelve of the fifteen SADC members have specific laws governing investment or have established investment promotion agencies.[22] The countries with no specific foreign investment legislation – South Africa, Lesotho and Botswana – nonetheless have liberal investment regimes that appear to effectively govern investment promotion. Several countries such as Zimbabwe, Namibia, and Seychelles are currently undergoing reviews of domestic legislation.

In July 2012, SADC released its Model BIT. Its focus, as articulated in Article 1, is to 'encourage and increase investments amongst Parties that support the sustainable development of each Party, and in particular the host state where an investment is to be located'. While the rationale of investment agreements is based on an implicit bargain in which the host states promise certain forms of protection in hopes of attracting investment, this Model BIT expressly prioritises host state sustainable development and investment promotion over investor protection.

This goal is especially evident in the provisions on non-discrimination and fair and equitable treatment. Similar to the CCIA, the SADC Model BIT includes a list of factors for the determination of 'likeness' under the non-discrimination provision (Article 4) including (and not limited to) effects on third persons and the local community, the aim of the measure, and effects on the environment.

Regarding fair and equitable treatment, the model provides two options. Option 1 involves the customary international law standard, requiring a demonstration of bad faith, willful neglect of duty or a patently unreasonable insufficiency of treatment to find a violation of Article 5.

[21] See Finmark Trust.
[22] See the SADC Model Bilateral Investment Treaty Template with Commentary (2012).

Option 2 introduces a new term, 'Fair Administrative Treatment' which associates fair and equitable treatment with procedural fairness in the context of administrative, legislative and judicial processes. The principle of 'fair and equitable treatment' has been interpreted ambiguously in investment arbitration, and these options provide clarity as to its intended meaning.

Uniquely, this model text imposes obligations on investors alongside those of host states, such as Article 10 ('Common obligation against corruption'. Most investment agreements contain a provision stipulating that the investment must be made in accordance with the host state's law; if the contract is procured through bribery, its legal validity is often considered invalid *ab initio*. This issue is typically addressed at the jurisdiction/inadmissibility phase of international arbitration. In the new SADC Model, Article 10.3 states: 'A breach of this article by an Investor or an Investment is deemed to constitute a breach of the domestic law of the Host State Party concerning the establishment and operation of an investment'. This provision effectively links performance-stage bribery with a jurisdictional requirement when often only procurement-stage bribery can impede a tribunal's jurisdiction.

This Model BIT was drafted with the assistance of the International Institute for Sustainable Development and aims to carve out a significant degree of regulatory space for host states. The provisions of this Model BIT may be instructive to the drafters of the TFTA.

3. Member States' experiences in ICSID arbitration[23]

The majority of TFTA Member States have both signed and ratified ICSID, namely South Africa, Angola, Djibouti, Eritrea and Libya. Ethiopia has signed but not ratified the ICSID Convention[24]. However, the ICSID Additional Facility Rules provide that a dispute may be brought under the Convention if one party is not a contracting party or a national of a contracting party. Given the vast membership of ICSID (158 signatures and 147 ratifications) most investor-state arbitrations occur under these rules. Less commonly, ad hoc arbitrations occur under the UN Commission on International Trade Law (UNCITRAL) rules, typically when one of the parties to the investment agreement is not a party to ICSID. The following table examines TFTA Member States' experiences with ICSID arbitration.

[23] I chose to survey only ICSID arbitrations as two-thirds of investor-state arbitrations occur under these rules and the cases are more readily available to the public.
[24] Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (2006).

Table 1: Tripartite FTA countries' experiences with ICSID arbitration

Member state	Claimant	Legal basis for claim(s)	Result
Burundi	Antoine Goetz and others and S.A. Affinage des metaux	Belgium-Luzemburg- Burundi BIT	Award rendered 21 June 2012. Successful claims of indirect expropriation and violation of fair and equitable treatment. Claimant awarded US $1 million in damages relating to illicit measures affecting African Bank of Commerce; €175 000 in damages relating to illicit measures.
	Antoine Goetz and others	Belgium-Luzemburg- Burundi BIT	Settled. Decision issued 10 February 1999.
DRC	Antoine Abou Lahoud and Leila Bounafeh-Abou Lahoud	Not listed.	Pending. Jurisdiction and merits hearing held on 28 September 2012.
	International Quantum Resources Ltd, Frontier SPRL, Compagnie Minière de Sakania SPRL	DRC Mining Code	Settled. Procedural order issued 12 April 2012 taking note of discontinuance.
	African Holding Company of America and Société Africaine de Construction au Congo (SARL)	Democratic Republic of Congo-United States BIT	Award rendered 29 July 2008. Tribunal declined jurisdiction (lack of temporal jurisdiction since company was under Belgian control when events giving rise to dispute arose).
	Russell Resources International Ltd and others	Not listed	Settled. Discontinuance order 10 Feb 2009 based on lack of payment for advances.
	Miminco LLC and others	Not listed	Settled. Discontinuance order issued 19 November 2007.
	Ridgepointe Overseas Developments, Ltd.	Not listed	Settled. Discontinuance order issued 30 August 2004.
	Patrick Mitchell	Democratic Republic of Congo-United States BIT	Award rendered 9 Feb 2004, not made public. Annulled 1 Nov 2006 on basis of manifest excess of powers (of tribunal) and failure to state reasons for decision.
	Banro American Resources and Societe Aurifiere du Kibi et du Maniema (SARL)	Contractual – Mining Convention	Award rendered 1 September 2000 declining jurisdiction. Claimant attempted to avail itself of both American nationality under ICSID and diplomatic espousal of its claim through its Canadian nationality.
	American Manufacturing and Trading Inc.	Democratic Republic of Congo-United States BIT	Settled. Discontinuance order issued on 26 July 2000.
Egypt	Veolia Propreté	Egypt-France BIT (unable to confirm)	*Pending*: tribunal not yet constituted.
	Ampal-American Israel Corporation and others	Egypt-United States BIT	*Pending*: tribunal constituted 15 October 2012.
	Indorama International Finance Limited	Egypt-United Kingdom BIT (unable to confirm)	*Pending.*

Egypt	Hussein Sajwani and Damac S.A.E.	Egypt-UAE BIT	*Pending*: claimants filed memorial on jurisdiction and merits on 22 October 2012.
	National Gas S.A.E.	Egypt-United Kingdom BIT (unable to confirm)	*Pending*: hearing on procedural matters held on 20 September 2012.
	Bawabet Al Kuwait Holding Co.	Egypt-Kuwait BIT (unable to confirm)	*Pending:* proceedings on merits suspended as of 10 September 2012.
	H & H Enterprises Investments Inc.	Egypt-United States BIT	*Pending*: tribunal rejects respondent's objection to jurisdiction in decision issued 5 June 2012.
	Malicorp Limited	Egypt-United Kingdom BIT	Award rendered 7 February 2011: all claims rejected. The rescission of a contract does not amount to violation of fair and equitable treatment, nor expropriation *per se*.
	Waguih Elie George Siag and Clorinda Vecchi	Egypt-Italy BIT	Award rendered 1 June 2009: Successful claims of expropriation, failure to provide full protection and security, fair and equitable treatment, subjection to unreasonable measures. Claimants awarded total of US $74 550 794.75, US$6 million in legal costs, as well as interest.
	Helnan International Hotels A/S	Denmark-Egypt BIT	Award rendered 3 July 2008: Claims dismissed; shared costs. Annulment decision issued 14 June 2010: decision slightly altered but claims remained dismissed, shared costs.
	Jan de Nul N.V. and Dredging International	Belgium-Luxemburg-Egypt BIT	Award rendered 6 November 2008: all claims dismissed and parties to bear own costs.
	Ahmonseto Inc. and others	Egypt-United States BIT	Award rendered 18 June 2007: not publicly released.
	Champion Trading Co. and Ameritrade International Inc.	Egypt-United States BIT	Award rendered 27 October 2006: all claims unsuccessful and claimants ordered to pay all arbitration fees and half respondent's costs.
	Joy Mining Machinery Limited	Egypt-United Kingdom BIT	Settled 16 December 2005. Decision on jurisdiction previously rendered 6 August 2004.
	Middle East Cement Shipping and Handling Co S.A.	Egypt-Greece BIT	Award rendered 12 April 2002. Respondent undertook measures tantamount to expropriation, without prompt, adequate and effective compensation. Claimant awarded US$2 190 430 for breach of treaty, US$1 558 970 in compound interest.
	Wena Hotels Ltd	Egypt-United Kingdom BIT	Award rendered 8 December 2000. Successful claims of expropriation, and failure to provide fair and equitable treatment and full protection and security. Awarded US$20.6 million in damages, legal costs and interest. Annulment application rejected 5 February 2002.
Kenya	World Duty Free Company	ICSID arbitration clause in contract	Award rendered 4 October 2006. Claim dismissed due to investor's corrupt behaviour.
Madagascar	SEDITEX Engineering Beratungsgesellschaft fur die Textilindustrie m.b.H.	(Unable to confirm)	Report of the Commission issued on 19 July, 1996. Case previously brought by SEDITEX in 1982 and settled 20 June 1983.

Rwanda	Olyana Holdings LLC	Rwanda-United States BIT (?)	Settled: tribunal issued discontinuance order on 7 January 2011.
Seychelles	CDC Group PLC	ICSID arbitration clause in contract	Award rendered 17 December 2003. Seychelles found liable for amount of contractual dispute (amount of principle and interest owing under Guarantees), totally GBP 2 444 011; interest daily; and GBP 100 000 in legal costs. Decision on application for annulment issued 29 June 2005 yet unavailable.
South Africa	Foresti et al.	South Africa-Italy BIT	Default award issued 4 August 2010 after claimant's attempt to discontinue proceedings; a change to the impugned measure negated basis of claim. Claims dismissed with prejudice; claimants ordered to pay €400 000 in costs
South Sudan	Sudapet Company Ltd	Investment Promotion Act?[25]	*Pending*: claimant's arbitrator appointed on 19 October 2012.
Tanzania	Biwater Gauff Ltd.	Tanzania-United Kingdom BIT	Award rendered 24 July 2008. Respondent failed to provide fair and equitable treatment as well as full protection and security; unreasonable and discriminatory conduct; and expropriation. The only case of zero damages awarded for successful claims, since these violations did not cause the loss for which Biwater Gauff claimed.
	Standard Chartered Bank	Tanzania-United Kingdom BIT	Award rendered 2 November 2012 (yet not currently publicly available). Claim arises from dispute below between Tanzania Electric Supply Co. and Independent Power Tanzania as Standard Chartered acquired the debts owed to the latter. *IAReporter* reports that the claim was dismissed on jurisdiction.[26]
	Tanzania Electric Supply Co. Ltd (TANESCO) v Independent Power Tanzania Ltd (IPTL)	Contract	Award rendered 12 July 2001. Interpretation proceeding registered 3 July 2008 yet discontinued 19 August 2010. (One of three known ICSID cases in which a state has sued an investor.)
Uganda	Tullow Uganda Operations PTY Ltd	Uganda-United Kingdom BIT (unable to confirm)	*Pending*: Case registered 31 October 2012.
Zimbabwe	Border Timbers Ltd and others	Switzerland-Zimbabwe BIT	*Pending*: Tribunal constituted on 20 January 2011; submissions filed.
	Berhard von Pezold and others	Germany-Zimbabwe BIT; Switzerland-Zimbabwe BIT	*Pending:* Tribunal reconstituted 15 September 2011; submissions filed.

[25] IAReporter has surmised that the claim may have arisen under South Sudan's Investment Promotion Act (2009) under its interim constitution, noting that 'Article 34 of the Act purports to provide for "fair and adequate" compensation for expropriation, while Article 39 grants consent to ICSID arbitration of disputes'. See 'Sudapet remains silent as to reasons for ICSID claim against South Sudan', 2012.

[26] See 'Arbitrators offer final verdict on treaty-based claim by UK-based Standard Chartered against Tanzania', 2012.

Zimbabwe	Bernardus Henricus Funnekotter and others	Netherlands-Zimbabwe BIT	Award rendered 22 April 2009. Zimbabwe liable for failing to provide just and adequate compensation for expropriation totalling €8 220 000 to the multiple parties, in addition to interest on these amounts.

3.1 Lessons learned and points of interest in regional arbitral decisions

As the above table shows, 28 cases have been brought and 11 are currently pending against twelve Tripartite Member States under the ICSID rules of arbitration.[27] Of the non-pending cases, 20 were decided by ICSID tribunals while eight were settled by the parties. In six of the 19 publicly disclosed decisions, Burundi, Egypt, Seychelles and Zimbabwe were ordered to pay damages.[28] The outcomes of the eight cases that were settled are not available to the public.

While at least 16 bilateral investment treaties exist between TFTA Member States (see list below), the majority of cases were based on agreements with either European countries or the United States, with the exception of two cases pending against Egypt. This may be due to a variety of factors, including the larger influx of foreign investment from these regions, greater investor familiarity with the dispute settlement system, and pursuit of alternative methods of dispute settlement by non-Western investors.

In a case with similar subject matter to *Funnekotter v Zimbabwe*, Mike Campbell and other Zimbabwean farmers brought an action against Zimbabwe to the SADC Tribunal for unlawful expropriation. While Campbell and others were successful in their claims, SADC Member States retained discretion over the enforcement of the award. The Zimbabwean Government unsurprisingly blocked its enforcement. Importantly, ICSID decisions are not reliant upon Member States' consent for enforcement, as this would seemingly negate the very rationale for the institution to provide a neutral forum for arbitration. This case illustrates the diminished legitimacy of the SADC Tribunal in resolving disputes due to such discretion of Member States.

Interestingly, the *Biwater Gauff v Tanzania* award is the first ever to accept the investor's claims without awarding damages. The lesson gleaned from this case is clear: if the loss was not caused by the host state's breach of the treaty, the claimant is unlikely to collect full (or

[27] As well as one case in which an investor was sued by a state, Tanzania Electric Supply Co. Ltd v Independent Power Tanzania Ltd.
[28] The decision in Ahmonseto and others v Egypt was not publicly released.

any) damages. In other words, states should not be held liable for investors' poor business judgments.[29] This approach – apportionment of damages based on contributory fault – was recently emphasised in *Occidental Petroleum v Ecuador,* the largest award issued to date under investor-state dispute settlement. There, the tribunal reduced the damages award by 25% due to claimant's 'material and significant contribution to its own loss'.[30]

During an era in which various nongovernmental organisations have expertise in the realm of international investment law and many state respondents lack experience in such litigation, the acceptance of *amicus curiae* briefs by tribunals becomes increasingly relevant. According to the international law firm of White & Case, *Biwater Gauff v Tanzania* 'affirmed the active role *amici* are expected to play in investment arbitration, and vested third-party participation with additional institutional legitimacy (beyond that conferred by the Rules themselves)' (Triantafilou, 2009). In *Foresti v South Africa*, a group of nongovernmental organisations (NGOs) under the Centre for Applied Legal Studies was also allowed to participate in the process by submitting briefs. The tribunal expressed strong interest in these groups' perception of the fairness and efficacy of nondisputing party participation and an interest in gleaning lessons learned.[31]

World Duty Free v Kenya is another noteworthy decision. It is a seminal case regarding investor corruption in investment treaty arbitration. Here, the investor had admitted to providing a $2 million bribe to then-President Daniel Arap Moi. The tribunal found that corruption offended international public policy, and thus claims for contracts procured through corruption could not be upheld.[32] Emerging scholarship is currently exploring this so-called 'defence of corruption' since most investment treaties are unclear as to whether nefarious acts should be dealt with in the jurisdiction, admissibility, merits or damages stage.[33] Article 10 of the new Model SADC BIT is important in this regard as it places a common obligation on states and investors to avoid corrupt practices.

[29] See Triantafilou, 2009.
[30] See Hepburn (2012).
[31] Foresti v South Africa award (2010: par. 29).
[32] See World Duty Free v Kenya award (2006: par. 157); also Yackee (2012).
[33] See for example, upcoming special issue of Transnational Dispute Management on corruption in investment treaty arbitration and international commercial arbitration.

4. Conclusion

The TFTA presents a unique opportunity to coordinate investment rules among 26 African states representing varying levels of economic development. If Member States purport to promote the region as a single area for investment, a single set of reliable rules that govern the protection of investments would be very useful. The drafting of such broad-based investment provisions comes at an opportune time during which SADC has released a comprehensive development-oriented Model BIT. While this model agreement is not intended as a model regional agreement, it does provide carefully drafted provisions in consideration of sustainable development.

An assessment of Member States' experiences with investment arbitration demonstrates that investment agreements do not require the arbitrary ceding of sovereignty to ad hoc arbitral tribunals. Damages will not be awarded unless the host state's behaviour is found to have caused the investor's loss.

Finally, arbitrators increasingly condemn corruption. The inclusion of provisions in the TFTA denouncing illicit activities such as bribery will signal to investors that such behaviour is neither encouraged nor permissible, thus enhancing the overall rule of law in the region.

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Constitution of Rwanda (1991), section 23.

Constitution of the Republic of Tanzania (1998), section 24(2).

Constitution of the Republic of Uganda (1995), section 26.

Chapter 6

Deriving value from the Global Value Chain (GVC) concept: an approach to regional industrial policies

Harry Zarenda

The need for sustainable structural transformation in Sub-Saharan Africa (SSA) is universally accepted and has more recently been reinforced by several international organisations, various structures within regional economic communities and analytical and policy-oriented literature. A convincing and effective regional industrial policy is one of the cornerstones of the Southern African Development Community's (SADC) regional integration strategy with member countries committing themselves to its implementation. However, minimal progress has been forthcoming on this front, as is borne out by the SADC review on this policy (SADC, 2011). As Erasmus (2012) points out, '(t)he realisation that all is not well in SADC (as reflected in the decision to review the Regional Indicative Strategic Development Plan – RISDP) presents an opportunity to rethink its approach to regional integration. There is not one single panacea but the effort will gain by accepting the need for governance reforms and the alignment of national policies to attain regional benefits for unlocking the regional potential in favour of national and regional development'.

Since the turn of the century, as a reaction to the phenomenal shifts in the trends of world trade, new analytical tools have been developed to better understand these shifts and improve the quality of information for policy makers regarding the nature of sustainable industrialisation at a country, regional and international level. The framework of the 'global value chain' (GVC) has become pivotal to the analysis of industrial policy today. Even though much of the analysis regarding GVC has hardly been specific to regional economic

communities, this brief introduction argues that the framework of such analysis can possibly be extremely 'valuable' in instituting industrial policies at a regional level.

This paper begins by assessing the limited extent of present levels of industrialisation in SADC, and by introducing the relationship between industrialisation and growth, further reinforces arguments made earlier (UNIDO-UNCTAD, 2011; SADC, 2011) regarding the urgent need for cohesive industrial policies in the region. For a more detailed review of much of this latter thinking, see Zarenda (2012).

The second part of the paper looks at the concept of the GVC and its possible applicability in a regional context such as SADC. The paper concludes by suggesting a 'needs' analysis regarding the implications of the concept of GVCs to better inform regional policy analysts as to how to begin implementing a viable regional industrial strategy.

1. Industrialisation in Africa – an opportunity missed

The failure, initially, of many of the post-independence states' attempts at industrialisation in Africa, followed by the economic crises and introduction of Structural Adjustment Programmes in much of Africa during the 1980's and 1990's led to valid claims of the continent's 'deindustrialisation'. There is a widespread consensus and evidence that much of Africa's positive growth since the mid-1990s and its ability to withstand the 2008/2009 global crisis were driven primarily by new mineral discoveries, rising commodity prices and a growth in domestic demand. As Page (2012: ii, 87) argues, 'it is doubtful whether in the absence of structural change, sufficient growth can be sustained for Africa to reach middle income levels by 2025'.

In fact, in another related paper, the same author (Page, 2011) argues that, since the mid-1990s, (in contrast with impressive 6% per year average growth in manufacturing in low-middle income countries in general), Africa's growth rate in manufacturing averaged only 3%. Citing UNIDO (2009) estimates to show that, since 1980, industry in Africa has declined in its share of global production and trade and on average is smaller as a percentage of the Gross Domestic Product (GDP) than it was in 1980 and furthermore, how estimates by the United Nations Industrial Development Organisation (UNIDO) show that Africa's share of global manufacturing (excluding South Africa) fell from 0.4% in 1980 to 0.3% in 2005, while the continent's share of world manufactured exports dropped from 0.3% to 0.2%. Page argues that apart from the contribution of the manufacturing sector being smaller than during the late

1980s it has also become less diversified and less sophisticated than it was in the 1980s. This, coupled with the global industrial economy having undergone major changes (in that developing countries have become major players in global manufacturing), means that Africa today faces a very different industrialisation challenge from that faced by earlier developing country entrants into manufacturing (Page, 2011:3).

In essence, there is a serious need for structural change in order to ensure that the growth trajectory in Africa is sustainable, and in order to achieve this, substantial industrialisation is required. The question is how to go about this major challenge. This is the central theme of a very recent UNIDO Working Paper (UNIDO, 2012) and some of the key messages in this UNIDO document (relevant to the present debate) can be found in summary form (Ibid.:v) and include *inter alia*:

- African countries can build on their recent economic growth achievements to initiate a new industrial upswing that will transform the continent's currently unbalanced economies towards increased manufacturing value added, currently accounting for less than 15% of GDP.
- Windows of opportunity for a renewed industrial effort are wide open due to the ongoing 'recomposition' of the global division of labour.
- The diversification of manufacturing industries cannot be achieved with a blueprint approach. A strategic, tailor-made mix of capacity building, private sector development, service models for cluster development and global value support is needed to boost industrial development in Africa.
- New industrial policy (NIP) can provide a platform for the specific design of these initiatives. In particular, it must address coordination problems, which impede industrialisation in developing countries, and which will not be resolved by market forces and a good investment climate alone.
- Trade policy and trade negotiations have to be aligned with the industrial-sector requirements and potential trade-offs need to be made explicit.
- Harmonised regional industrial policy is the key to the successful integration of Africa's regional economic communities (currently jeopardised by trade and fiscal imbalances and numerous Non-Tariff Barriers – NTBs).

What is of crucial importance in this UNIDO document is the elaboration of the National Industrial Policy Framework (NIP) framework relevant to the present age of industrialisation and which provides a valid explanation of the failures of previous attempts at industrialisation in African countries from really getting off the ground and building a sustainable and viable industrial base. UNIDO explains that 'blocked' or 'subdued' modes of industrialisation (which have typified much of previous industrial policies in many African countries) can better be understood using an NIP framework. Factors such as infant-industry survival, information and knowledge externalities, coordination failures in inter-industrial input delivery or pecuniary externalities, the tendency for upstream input domestic suppliers not investing in new firms or markets (while downstream clients are not investing either because inputs are not at hand) all point to market failures, which, according to the NIP viewpoint, can be turned into many 'opportunities' for coordination and support.

The document then further considers the viability of options such as beneficiation (going down the value chain) and that of providing intermediate inputs in several industries (going up the chain). According to the NIPF, value added in the latter (in terms of scale economies and exports) appears to be a more sustainable option. With regard to the former, in-country production for Global Value Chains can give guidance to industrial policy, although placing too much emphasis on this ought to be guarded against (UNIDO, 2012:8). Some of these issues will be considered in the more detailed section on GVCs, later in this paper.

The conclusion of the UNIDO paper (with its focus firmly on the NIP framework) highlights the importance of regional integration in the process of many African governments attempting to revamp their manufacturing industries. The UNIDO paper considers that a coherent regional industrial policy allows a solution to a particularly damaging coordination failure in African Regional Economic Communities (RECs) and is a 'quintessential' element, not only for the success of African RECs, but even for their survival.

> Unwilling regional champions pursuing their national industrial strategies without systematic consideration for the coherence of the region (and the necessary collective action), aggravate wittingly the regional inequalities. The policy status of regional industrial policy (RIP) has therefore to be higher than just 'supporting' competence, as it would be called in the EU, and must rise to the status of 'shared' competence between the community and Member States, with all that entails (UNIDO, 2012:20).

The UNIDO Working Paper thus considers a regional industrial policy as a 'systematic and coordinated encouragement of additional investment in otherwise neglected spaces, sectors and firm size-segments, which are flagged as regional industries. Regional industries in this sense are a golden opportunity to exploit backward or forward linkages across the region, gradually achieving a coherent industrial fabric, which avoids reoccurrence within the region and vis-à-vis external competitors' (UNIDO, 2012:20-21).

2. Global Value Chain analysis and the NIP

As trends in world trade between developed and developing countries (and among various developing countries themselves) have dramatically changed from the situation existing for much of the 20th century, the analytical approach to understanding these transformed trends has had to be adapted. In essence, the core concept in explaining these shifts is the notion of a 'Global Value Chain'

The notion of a value chain is not entirely novel and its theoretical origins can be traced back to one of the early pioneers of modern day development economics, the late Albert Hirschman in his famous work *The Strategy of Economic Development* (Hirschman, 1958). This seminal work expanded the constructs of 'backward and forward linkages' within a context of balanced and unbalanced growth for countries at early stages of development. By the 1980s, the formulation of value chain analysis was extensively formulated by Michael Porter (1990), who argued that this formed the basis of 'competitive advantage' for nations. Since then the GVC has provided a slew of literature justifying forms of policy intervention in devising industrial and trade policies for various countries.

In the Economic Report on Africa (ECA, 2009) the Schmitz approach whereby the notion of a 'value chain' incorporates all value-generating activities, sequential or otherwise, required to produce, deliver and dispose of a commodity represents the starting point in the analysis (Schmitz, 2005). The Economic Report on Africa then presents the more specific definition by Kaplinsky and Morris (2002) whereby the value chain is referred to as describing 'the full range of activities which are required to bring a product or service from conception, through the different phases of production (involving a combination of physical transformations and the input of various producer services), to delivery to the final consumer and final disposal after use'.

In other words, as modern day productive activities belong to different sectors of the economy, value chain analysis requires a multi-sectoral framework for studying the interlinkages among the activities associated with the product. The Economic Report on Africa refers to value chain analysis as involving, primarily 'drawing the economic map or footprint of inputs and outputs arising directly from the production, use and disposal of a commodity' (ECA, 2009:144).

Operationally, the analysis involves, *inter alia*, the identification by firms through disaggregation and quantification of the core functions of the firm and logically 'delineating, categorizing and quantifying all the activities through which a product passes' (Ibid.:145). Applying this framework of analysis has become more complex, involving not only the Hirschman concepts of backward and forward linkages but also identifying horizontal and vertical linkages as well as upstream and downstream activities in a productive chain.

The level of sophistication of analysis regarding the importance of a global value chain approach has increased significantly and has certainly become a key component of present day industrial policy formulation. As far as agricultural commodities are concerned, the Economic Report on Africa explores the possibility of agricultural transformation for Africa focusing on the value chain of strategic commodities. Its conclusion is that it is not only relevant in a global context, but critically important in a regional context as well (Ibid.:173).

As far as a more generalised approach to the critical importance of commodities (involving both agriculture and mining) in Sub-Saharan Africa is concerned, there has been some encouraging and important work done by Making the Most of Commodities Programme (MMCP) in a series of papers relating commodities and linkages with industrial development on the subcontinent (Morris et al., 2011a, b and c). The starting point in this analysis rests with the identification of a shift in 'global economic gravity from high-income northern to low-income southern economies' (Ibid., 2011a:7) which has not only suggested a reversal in the long-term declining trend in the commodities- manufactures terms of trade, but also suggests that the structure of global value chains themselves have shifted in many sectors in that lead firms are actively seeking to outsource non-core competencies and thus promote linkages. In these researchers' opinion, there could be a new era emerging in the relationship between the exploitation of commodities and the growth of industry.

Although the work of the MMCP focusses more on a global value chain analysis the input of this work could have enormous relevance within a southern African context. As is the case with the Economic Report on Africa (which dealt specifically with agricultural value chains) the extension of the MMCP work to other commodities (copper, diamonds, gold, oil and gas, mining services and timber) in eight SSA countries (Angola, Botswana, Gabon, Ghana, Nigeria, South Africa, Tanzania and Zambia) suggests that there exists, within the region, substantial potential and considerable scope for enhancing both the breadth and depth of linkage development (Morris et al., 2011b).

3. A needs analysis for a Regional Industrialisation strategy incorporating GVCs

What the above analysis has shown is that regional industrial strategies are essential for the substantial transformation of the economic structures in various regional communities in Africa. As a conceptual tool, the GVC framework certainly does provide essential pointers as to how such transformation could take place through economic diversification. The framework represents a much more dynamic approach to the analysis of industrialisation in the changed world of the present. Studies from international organisations, as well as a diverse range of disciplines, show that Global Value Chains have become much more prevalent and more elaborate during the past 10-15 years. While many international firms have had operations and trading relationships abroad during much of the 20th century, the introduction of Global Value Chains into the world trading environment has forced a change in thinking regarding these operations – these now focus on activities that are integrated in a much more complex manner. A value chain now refers to a full range of activities such as design, marketing, distribution and support to final consumers. The frequent geographic separation of firms and workers characterising more complex Global Value Chains has a much more profound effect today than in the past and raises interesting evolving questions regarding governance issues, technological spreads, ownership and distribution, labour policies and standards as well as competition issues, to mention but a few. There is additionally, a range of GVC patterns ranging from the relatively straightforward, more market related chains to more hierarchical chains, relying on highly complex monitoring and control by leading firms subcontracting suppliers making an overall GVC-oriented industrialisation strategy difficult to implement. In fact, within the literature on Global Value Chains, there is even a differentiation as referred to above between 'Global Commodity Chains' and 'Global Value Chains', raising questions regarding the complexity of the

operation. Commodity chains have a much more direct interaction between seller and buyer, while Global Value Chains often involve third parties (or more) in particularly complex operations. Value chain analysis is certainly is not a 'one size fits all' set of recommendations and has to be carefully designed. These difficulties, while they are not to be underestimated, ought not, however, to detract from the overall thrust of attempting to use this framework for a suggested industrialisation policy for RECs. It is certainly preferable to an uncoordinated, haphazard form of industrial policy guided by selfish national interests.

For a starting point, there is a need to construct, as comprehensively as possible, Value Chain analyses for a REC such as SADC (reflecting global, commodity and regional frameworks). This would incorporate a detailed analysis of production and consumption patterns currently prevailing in the region. A regional input-output analysis needs to be done in order to look at some of the patterns of existing linkages. This, in turn, would entail the requirement of reasonably accurate and reliable census statistics for the region that ultimately would raise questions about the 'value-added' of such an exercise. Alternatively, one could be less ambitious and expand on the micro-studies of selected individual industrial clusters, tracing the linkage effects presently existing, in the manner that Morris et al. (2011b) have done. This could be expanded to conduct a census of some kind of existing value chains at not only commodity and global levels, but also at the regional level, to focus on expanding such activities in a more formal level. Furthermore, some form of cost-benefit analysis, that indicates not only existing linkages, but also prospects for future value-added possibilities arising from enhanced value-chain activities is also needed. Not all countries will benefit equally from a regional industrialisation policy, and losers in the process will have to be compensated, if there is to be a collective buy-in from the various members of the SADC community. Participation by all members of SADC is essential for this.

Extensive participation is not only related to governments. Significant stakeholder involvement would also have to incorporate broad participation of all actors in the process - involving private-sector firms in the value chain from input suppliers through to the final market retailers, service providers, labour unions and other participants in the process. The logic of this exercise would be that local participants (as well as foreign owners of such chains) are familiar with factors more pertinent to the local setting and could be better placed to identify constraints as well as opportunities. This raises questions regarding the formalisation and degree of such participatory initiatives. There is a spectrum of possibilities

ranging from minimal (involving interviews, discussions with and questionnaires to participants), to much more formal and extensive participation in the form that the various entities are more directly involved in both implementation as well as intervention. The latter would necessitate the choice of an organisational structure that could be unwieldy and problematical, to the extent that national states could feel a threat to their autonomy.

4. Conclusions

The need for increased industrialisation in African countries is beyond question and within regional economic communities on the subcontinent there is urgent attention being directed at the formulation of integrated regional industrial policies to bolster such industrialisation and attempt to involve countries with divergent raw materials and historical production patterns into regional and global production networks.

This study has attempted to show how relevant a Value Chain Analysis framework is in helping explain more recent trends in world trade and industrialisation policies. With increased globalisation, rapid technological change and enhanced capital mobility, the subcontracting of complex production processes across geographical boundaries, either globally or regionally, has become the focal point of a 'new industrial policy' set of initiatives. With deeper levels of integration in RECs such as SADC, the need for a regional industrial policy set of initiatives that is more coordinated and coherent has become imperative and the understanding of present industrialisation patterns with a value chain framework is integral to this process in that it offers a much more complex and dynamic set of opportunities to understand future patterns of industrialisation. However, for these frameworks to be converted into viable, promising and sustainable industrialisation strategies, by communities such as SADC, requires overcoming several challenges initially at the implementation level. If these challenges are not met, the entire credibility of the SADC institutional arrangement could be threatened. There is indeed value in the concept of value-chain analyses – but there are institutional and implementation issues that have to be addressed and resolved before considering whether value could be added to this as a launching pad for a regional industrial strategy. Much of the future prospects for success in this strategy is going to hinge around the four 'C's: **cooperation, coordination, capacity and capability**.

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Chapter 7

Special economic zones and regional integration in Africa

Sean Woolfrey

1. Introduction

One of the most prominent features of the global trading landscape in recent years has been the worldwide proliferation of bilateral and regional trade agreements. Africa is no exception to this pattern, and African governments have embarked on various regional integration processes with the aim of opening up regional markets and creating new opportunities for intra-regional trade and industrial development on the continent. Central in this regard have been the integration processes currently being undertaken by the continent's various regional economic communities and, more recently, an initiative to establish a Tripartite Free Trade Area (T-FTA) between the Member States of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC).

Another prominent development in Africa over the last couple of decades has been the increasing use by many countries in the region of various types of special economic zones. These zones are more and more being viewed in the region as important mechanisms for attracting foreign investment, creating jobs, boosting manufacturing production and manufactured exports and contributing to much-needed industrial and economic development. This paper does not seek to provide an evaluation of the performance of the various special economic zone programmes established in Africa in recent years, but instead seeks to explore the various issues, challenges and opportunities that arise when countries – and especially developing countries – use special economic zones while simultaneously pursuing regional

integration initiatives. This is a particularly important subject in the context of the COMESA-EAC-SADC T-FTA as a large number of the countries involved are actively using special economic zones or are currently in the process of establishing zone programmes.

Section 2 of this paper introduces the special economic zones concept, detailing the typical characteristics of such zones, the various forms they can take and the arguments advanced for and against their use. Section 3 then provides a brief historical overview of the evolution of special economic zones, while Section 4 examines the use and performance of special economic zones in the African context. Section 5 addresses the various challenges and opportunities that arise when special economic zone programmes are established in countries embarking on regional integration processes, before Section 6 concludes.

2. Special economic zones

The term 'special economic zone' (SEZ) is generally used to describe a geographically demarcated area within a country which functions with different – usually more liberal – administrative, regulatory and fiscal regimes to the rest of the country (Dobrogonov & Farole, 2012: 5). The different rules applied in these zones usually concern investment conditions, taxation and international trade, and are typically intended to ensure that the business environment in the zone is more liberal from a policy perspective and more efficient from an administrative perspective than that prevailing in the rest of the domestic economy (Baissac, 2011:23).

Firms which set up operations within an SEZ are generally provided with specific incentives, such as tax holidays, duty-free imports and simplified customs procedures (FIAS, 2008: 2). Not all countries provide different tax regimes within their SEZs, however, and some have even done away with the idea of geographical demarcation, instead applying the SEZ concept as a 'purely legal space' that can be applied across the entire country or at least large parts of it (Baissac, 2011: 23). The most important feature of a SEZ is that it benefits from a specific regulatory regime which differs from the rest of the economy. Another common feature of SEZs is the provision of dedicated physical infrastructure such as industrial or mixed-use parks and of transport infrastructure connecting the zone to markets, sources of inputs and major transport hubs such as ports and airports (Ibid: 24-25).

SEZs encompass a broad range of traditional commercial zones and related concepts (See Box 1 below) including free trade zones, freeports, export processing zones and trade and

Box 1: Common types of special economic zones

Free trade zones (FTZs), also known as **free zones** or **commercial free zones**, are the oldest form of SEZ and the most common. They are located at or near most ports of entry around the world and typically offer trade-related activities such as warehousing, storage, distribution, sales, re-export and exhibitions as well as light processing operations such as packaging, labelling, quality control and sorting. FTZs are relatively small areas that are usually physically segregated from the main area of the port at which they are located as they lie outside the customs territory of their host country and allow for duty- and tax-free imports of certain goods.

Export processing zones (EPZs) first appeared in the late 1950s and early 1960s as a means to promote industrialisation in developing countries. They are fenced-in industrial estates of significant size which, like FTZs, lie outside the host country's customs territory. EPZs offer industrial facilities and other incentives such as duty-free imports and simplified administrative procedures for manufacturing and related activities. Traditionally, investment in EPZs was restricted to foreign capital and manufacturing for export markets was the only activity allowed. EPZs have evolved significantly since the 1990s, however, and many are now open to a much wider range of industries and have somewhat relaxed their investment and export requirements.

Free enterprises, also referred to as **single factory EPZ schemes**, are a variation on FTZs and EPZs whereby individual enterprises are provided with incentives and other benefits without having to locate within a demarcated zone. In some countries, free enterprises coexist with Free Zones (FZs) and EPZs, while in others, FZ or EPZ status is only given to individual enterprises.

Freeports are the largest type of SEZ. They can include entire economic regions and populations and can contain or overlap political and administrative units, including both rural and urban areas. Typically, they incorporate large transport facilities such as ports and airports. Freeports also accommodate all types of economic activity, including tourism and retail sales and allow for on-site residence. They also generally provide a broad set of incentives and benefits.

Other agglomerations which are sometimes referred to as SEZs include **enterprise zones**, which are intended to encourage development in rundown urban or rural areas through the provision of fiscal incentives and grants, and specialised zones such as **science and technology parks**, **petrochemical zones** and **logistics zones**.

Sources: Farole (2011); FIAS (2008); and UNIDO (2009)

economic cooperation zones (UNIDO, 2009: 72). Other agglomerations such as urban enterprise zones, business incubators, industrial clusters, industrial parks, technology parks, science and research parks and petrochemical zones are also sometimes referred to as SEZs, although, strictly speaking, such agglomerations should not be classified as such unless they benefit from dedicated regulatory regimes (Baissac, 2011: 27). This plethora of terms results not only from differences in economic terminology among countries and the desire of zone

promoters to differentiate their offerings from those of their competitors, but also from the fact that the many types of zones used around the world do exhibit real differences in both form and function (Ibid: 24).

Many governments around the world have made use of SEZs as part of their overall economic growth strategies in order to spur economic transformation and improve industrial competitiveness more rapidly and effectively than would be possible without the use of such instruments (Farole, 2011: 62). The most commonly cited goals of SEZs are to alleviate large-scale unemployment; support wider economic reform strategies; promote and diversify exports; attract foreign direct investment (FDI); and allow governments to test out new policies and approaches while maintaining the status quo for the rest of the country (FIAS, 2008: 12).

The benefits provided to firms locating in SEZs, such as import- and export-duty exemptions, simplified customs procedures, liberal foreign exchange policies, tax incentives and purpose-built production facilities and transport infrastructure are intended to boost the competitiveness of firms locating in the zone, reducing their entry and operating costs and enabling them to compete in global markets and overcome the anti-export bias of prevailing domestic trade policies (Ibid: 12). These benefits are meant to attract investment from multinational enterprises (MNEs), which in turn transfer knowledge and technology to the domestic economy (Baissac, 2011: 52). For domestic firms, locating in a SEZ also offers an opportunity to develop their capacity to produce for export markets and to access international distribution and marketing channels (UNIDO, 2009: 72-73).

In developing countries in particular, zone development is also motivated by an attempt to reap the agglomeration benefits that arise from the concentration of industries close to one another, such as the development of supply and subcontracting relationships (FIAS, 2008: 12). It has been argued, for instance, that through the concentration of infrastructure and the provision of an attractive business environment, SEZs can facilitate the development of industrial agglomerations that may enable African industries and firms to leverage economies of scale that would otherwise be very hard to attain (Baissac, 2011; 51).

Despite these potential benefits of SEZs, the use of zones as an instrument of economic development has been much debated in the literature over the last couple of decades. On one side of the debate are those that argue that SEZs offer a gradual 'alternative to neoliberal

shock therapy' (Ibid: 52) and can promote wider economic policy reform by acting as 'demonstration areas' or 'catalysts' (FIAS, 2008: 4). On the other side are those who claim that SEZs actually delay wider policy reform by creating enclaves that allow for the continued protection of inefficient domestic industries (Baissac, 2011: 52) or 'pressure valves for unemployment' which reduce the incentive to seek more far-ranging reforms (Ibid: 4).

Those who advocate the use of SEZs stress that these instruments confer both 'static' and 'dynamic' benefits. Static benefits are those derived in the short term through the use of SEZs as tools of trade and industrial policy. Such benefits include direct employment creation; FDI inflows; government revenue in the form of taxes paid by foreign firms establishing operations in the zone; foreign exchange generated through exports; and the creation of added economic value (Ibid: 26). Dynamic benefits, on the other hand, are 'longer term structural and developmental benefits' that SEZs can potentially generate for the domestic economy (Ibid: 26).

The supposed dynamic benefits of SEZs include indirect employment creation; industrial upgrading (FIAS, 2008: 32); skills upgrading and the transfer of skills to the domestic market through the movement of skilled workers from SEZ firms to firms outside the zone (Farole, 2011: 94); the transfer of knowledge and technology to the local economy through forward and backward linkages (Ibid: 91); the promotion of non-traditional industries, 'domestic entrepreneurialism' and 'economic openness' (Baissac, 2011: 26); regional development (FIAS, 2008: 32); and export growth and diversification (Ibid: 4). In addition, SEZs can provide a focal point for efforts to improve trade-related physical and 'soft' infrastructure and can provide a testing ground for new policies, institutions and approaches to trade promotion and facilitation (UNIDO, 2009: 8, 79). These benefits can serve to boost the overall competitiveness of a particular country or region (Baissac, 2011: 26).

However, critics of SEZs claim that zones represent a 'second best policy instrument' to correct the effects of distortive domestic policies and other factors inhibiting industrialisation or economic growth, and that the 'first best solution' would be for governments to address these distortive policies and other factors directly (Baissac, 2011: 47). In addition, these critics point out that SEZs are often used as a way to avoid tackling the underlying distortions and inefficiencies in the domestic economy (FIAS, 2008: 33). SEZs have also been criticised for hosting import-dependent activities that do not add significant value; perpetuating low-skill assembly operations; attracting FDI in low-skill, low-technology and footloose

industries; suppressing labour rights; allowing poor workplace health and safety conditions; and having weak environmental controls (Ibid: 33). Zones can also be costly to develop and it is not clear whether they always represent good use of limited resources.

Studies examining SEZs – many of which have been produced by the World Bank – provide a somewhat mixed picture of their effectiveness. The general view in the literature is that zones represent 'a second best policy, whose welfare implications are often ambiguous' (Jenkins et al., 1998: 13), but some researchers note that while 'countrywide liberalization should be preferred', 'well-managed' zones can 'play a long-term dynamic role in their country's development process' (Madani, 1999: 7-8). Zones are viewed by many as effective tools for job creation, especially in 'smaller countries with populations of less than 5 million' (FIAS, 2008: 3). In particular, they have been shown to play an important role in 'absorbing surplus labour in the early stages of industrialization' (Baissac, 2011: 52), providing significant employment opportunities for women and contributing to human capital formation (Madani, 1999: 36-43). However, zones have also been criticised for leading to 'immiserizing employment growth; that is, employment growth which is contingent upon wages falling in international purchasing power' (Kaplinsky, 1993: 1861).

For some, the employment impact of zones is moderate and 'their relative effect has been much less on jobs than on trade and investment' (Farole, 2011: 67). Indeed, in countries such as China, Mexico and the Philippines, zones have been shown to be a 'significant contributor' to FDI, while in a number of Latin American, North African and South and East Asian countries zones have been shown to contribute the vast majority of exports (Ibid: 66). Most cost-benefit analyses, however, have concluded that zones 'are of marginal value as export promotion tools' (UNIDO, 2009: 72). These apparently contrasting views on the effectiveness of zones probably reflect the fact that in terms of achieving their intended objective, SEZs have been successful in certain countries, notably in Asia and Latin America, but have been unsuccessful in many others, and particularly in least developed countries (LDCs) (Baissac, 2011: 52).

3. A brief history of special economic zones

Citywide free zones located on major international trade routes have existed for centuries, but modern zones, and, in particular, EPZs can be traced back to the late 1950s and the establishment of the Shannon Free Zone in Shannon, Ireland, which combined the attributes

of an FTZ and an industrial park (Ibid: 31). Initially, EPZs based on the Shannon model were established mostly in the industrialised countries of Western Europe, but from the mid-1960s onwards, developing countries in East and Southeast Asia, Latin America and Sub-Saharan Africa (SSA) began to develop their own EPZ programmes (FIAS, 2008: 23).

In the 1960s and 1970s developing countries such as Brazil, India and Malaysia, used EPZs as a way of responding to the poor performance of their inwardly focused and highly protected domestic economies (Baissac, 2011: 41). EPZs in these countries became export-focused enclaves providing a way of absorbing surplus labour without the need for restructuring the framework of a domestic capital base geared for domestic production (Ibid: 41). In East and Southeast Asia, however, a number of countries adopted EPZ programmes as a way to support their export-oriented growth strategies and to shift from traditional to non-traditional exports (Ibid: 41). This was the case in South Korea and Taiwan, for example. China also became a notable proponent of the use of economic zones (See Box 2 below).

Box 2: Special economic zones in China

China has undoubtedly been one of the most successful users of SEZs. The first Chinese zones were established in 1978 in order to experiment with the introduction of controlled capitalism to a centrally planned economy and, in particular, to introduce a liberal trade and investment regime into an economy that had been largely closed to the outside world since 1949. Initially, four zones were established in the country's coastal areas (three in Guangdong Province and one in Fujian), but the number of zones increased during the 1980s and 1990s to include a large number of towns and regions, some located in the interior of the country. China's SEZ strategy proved very successful as the country became the world's largest exporter of manufactured items and the leading destination for FDI in the developing world. Today, the country has over 200 zones of various types, sizes, and industrial focus. In addition, the country has started expanding its model to other parts of the globe with investments in 'economic cooperation zones' in countries in Africa and other parts of the developing world.

Source: Baissac (2011)

Despite significant changes in the global political economy, the pace of zone development increased during the 1980s. The use of zones also spread to new regions such as South Asia, Eastern and Central Europe and North Africa, and by the mid-1980s, EPZ programmes had been established in all the regions of the world (FIAS, 2008: 23). The 1980s also witnessed the beginnings of a notable trend in zone development. Whereas previously the vast majority of zones had been publicly developed, owned and operated, from the 1980s onwards, private-

sector involvement in the development, ownership and operation of SEZs became increasingly common (Baissac, 2011: 37). A 2008 study found 62% of zones in developing and transition economies to be private-sector developed and operated, compared to less than 25% in the 1980s (FIAS, 2008: 2). Formal public-private partnerships also emerged as a popular option in the 1990s (Baissac, 2011: 39). The key factor behind this trend was the realisation that zones could generate a profit for their operators (FIAS, 2008: 2).

The increased participation of private-sector actors in zone development and operation has led to significant changes in the range of facilities and services on offer within zones and an 'expansion and liberalization of the core set of policies and privileges' associated with the traditional EPZ model (Ibid: 17, 21). Increasingly, the trend is towards the development of 'next generation zones' that offer specialised facilities catering to the specific needs of higher value-added industries and provide a wider range of support services to firms operating in the zone (Ibid: 3). The development of zones is also increasingly being permitted countrywide, rather than being restricted to particular – and sometimes remote – areas or regions (Ibid: 14).

The popularity of SEZs as a mechanism to attract FDI, promote export-oriented growth and generate employment has increased enormously over the last three-and-a-half decades. In 1975 there were 79 recorded zones, operating in 25 countries (Ibid: 23). In 2006, an International Labour Organisation (ILO) database reported 3,500 zones operating in 130 countries (Farole, 2011: 17). A 2008 report, meanwhile, estimated approximately 2,300 zones operating across 119 developing and transition countries, with the majority of these clustered in Asia and the Pacific and in Latin America (FIAS, 2008: 23). Direct employment in SEZs has also increased significantly in recent decades. Altogether, SEZs directly employ between 63 and 68 million people (Baissac, 2011: 42). While Chinese zones dominate global zone employment, employing around 40 million people, SEZ employment in other developing countries has grown rapidly since the mid-1990s (Ibid: 42).

Despite these impressive numbers, many zones around the world struggle to attract firms and, in many cases, offer excessive subsidies to those firms that they do attract (UNIDO, 2009: 73). Furthermore, while zone programmes in countries such as China, Malaysia, Costa Rica, Morocco and Mauritius have played critical roles in facilitating export growth and structural transformation, many more have failed to meet such lofty objectives (Farole, 2011: 18).

4. Special economic zones in Africa

A number of African countries were pioneers in making use of SEZs as tools of economic development. Liberia and Senegal, for example, established EPZs in the early 1970s (FIAS, 2008: 31), while Mauritius established its single factory-based EPZ programme later that decade (Sawkut et al., 2009: 382). While the Mauritian programme became a notable success, most early African zone programmes failed to achieve their desired effects (Zeng, 2012). These failures were due to factors such as poor governance, the lack of adequate institutional frameworks, weak political commitment and implementation capacity and the lack of proper monitoring and evaluation mechanisms (Ibid.). The majority of African countries, however, did not establish zone programmes until the 1990s or 2000s (Farole, 2011: 67). Many of these late-adopters were inspired by the success of zone programmes in Mauritius and other developing countries, such as those in Southeast Asia and Central America, and began to use SEZs as part of their own efforts to shift their economies from import substitution to export-led growth (Ibid: 155).

The increased interest shown in recent years by African countries towards SEZs as a developmental tool has resulted in a proliferation of zone programmes across the continent, and the majority of African countries – and most of the T-FTA countries (see Box 3 below for some examples) – have either established some form of SEZ programme, or are in the process of doing so. A 2008 study identified 114 zones in Sub-Saharan Africa, with about half of these being public zones and half private zones (FIAS, 2008). The same study also identified 53 public zones in Egypt (FIAS, 2008). The figure for SSA implies that the region accounts for approximately 4% of the world's zones, a proportion roughly in line with the region's share of global trade and investment (Farole, 2011: 68). However, roughly half of these zones were found in Kenya, and most of these are in fact single=factory units licensed as EPZ developers and housing only their own operations. This suggests that the real number of SEZs operating in SSA is much lower than 114 (Ibid: 68). Nevertheless, SEZs have been found to contribute a significant share of Africa's manufactured exports, with zones in SSA accounting for just under half of manufactured exports from the region (FIAS, 2008: 35).

Box 3: Special economic zone programmes in select T-FTA countries

Egypt: The first SEZ created under Egypt's Law 83 of 2002 on Special Economic Zones is the Northwest Suez SEZ which stretches over 20 square kilometres and is situated adjacent to the privately managed Sokhna Port, 45 kilometres southeast of Suez City, near the southern entrance of the Suez Canal. The SEZ, which serves as a model for the development of further SEZs in Egypt, offers incentives and guarantees including a 5% flat rate on personal income tax; integrated custom administration, tax administration, dispute settlement, licensing and general investor services for projects incorporated within the zones; a 10% tax rate on all activities within the SEZ; and Egyptian certificates of origin for SEZ-based exporters, allowing them to make use of Egypt's international trade agreements.

Egypt has also established nine FZs – with two more under development – and 13 Investment Zones. In order to operate inside the FZs, some of which are public and some private, enterprises must export more than 50% of their total production. In exchange, firms situated in these zones benefit from permanent exemption from all taxes and customs duties, exemption from import and export regulations, limited exemption from labour provisions and competitive utility prices. Each of the specialised Investment Zones targets a particular industry in order to establish integrated clusters, and activities in these zones are not limited to industrial activities, but also include activities such as education and scientific research.

Kenya: Kenya adopted an EPZ programme in 1990 through the enactment of CAP 517 Laws of Kenya, which also created the Export Processing Zones Authority as the official regulatory body for the programme. With production activities effectively commencing in 1993, Kenya became one of the first African countries to attempt to use economic zones as tools for industrial development. The primary motivation behind the adoption of the country's EPZ programme was to shift the Kenyan economy from import substitution to export-led growth, and the zones have been used to attract new investment, facilitate technology and skills transfer, generate employment and diversify export production.

The benefits offered to enterprises establishing in Kenyan EPZs – which are open to private developers, but which are often government run – include a 10-year corporate income tax holiday followed by a 25% tax rate for the subsequent 10 year-period, exemption from value added tax (VAT) and customs duty on inputs, exemption from payment of stamp duty on legal instruments, freedom from exchange controls, minimal bureaucracy and administrative procedures, exemption from compliance with various domestic laws, assistance from the Export Processing Zones Authority (EPZA) management in matters relating to customs and excise and dedicated physical infrastructure and infrastructural services. To date, 40 zones have been established, employing almost 40,000 workers and contributing around 10% of national exports. Over 70% of EPZ output is exported to the United States (US) under the African Growth and Opportunity Act (AGOA).

The Kenyan Ministry of Trade is in the process of reviewing the EPZ programme and establishing SEZs through the adoption of a SEZ policy and the creation of a Special Economic Zones Authority. The SEZ policy would address various shortcomings of the EPZ programme, such as infrastructural

and business facilitation challenges, limitations on domestic sales and the potential World Trade Organisation's incompatibility of EPZ tax exemptions as export promotion measures. The SEZ policy would also provide regulatory and policy flexibility to allow for activities such as agro-processing, business process outsourcing and tourism services which are currently not permitted in existing EPZs. Furthermore, by allowing the government to declare any area, business or plant a special economic zone, the SEZ policy would remove the requirement for firms to be established within a gazetted region in order to enjoy zone benefits. The SEZ policy has been approved by the Kenyan Cabinet and a draft SEZ Bill is currently being debated by parliament. In addition, the terms of reference for the planning and design of three flagship SEZs have been completed. These are to be established in the strategic locations of Mombasa, Kisumu and Lamu.

South Africa: The South African Government established an Industrial Development Zone (IDZ) Programme in 2000 with the aim of attracting FDI and promoting the export of value-added commodities. IDZs were to be established close to international ports and airports and were meant to provide an investor-friendly environment characterised by good infrastructure and minimal red tape. To date, four IDZs have been designated and licensed – at Coega, East London, Richards Bay and OR Tambo International Airport outside Johannesburg – but only the first three are fully operational. Despite some investment and job creation, the general consensus in South Africa is that the programme has not been a success. One reason given for this is the relative lack of special incentives offered to investors in the zones. Regulations in the IDZs do not deviate from the social, labour and environmental rules in force elsewhere in the country, and, in practice, firms locating in the zones receive roughly the same treatment as those s established outside the zones. This has meant that the IDZs, which are all publicly owned and operated, are, in effect, little more than glorified industrial parks.

Following a 2007 Department of Trade and Industry review of the performance of the IDZ Programme, the South African Government decided to introduce a Special Economic Zones Policy to address the shortcomings of the IDZ Programme. To this end, a Draft SEZ Bill was developed and sent to parliament in 2012. The proposed SEZ Policy seeks among other things to clarify and strengthen governance arrangement for the zones and to expand the range and quality of support measures beyond the provision of basic infrastructure. It is also envisaged that, unlike under the IDZ Programme, new zones will not be limited to designated areas adjacent to international sea ports and airports, and may be developed in any area displaying industrial potential.

Tanzania: Tanzania offers an Export Processing Zone scheme and a Special Economic Zones scheme, both of which are administered by EPZA. The EPZ programme was established in 2002 following the enactment of the Export Processing Zones Act of 2002, and aims to attract export-oriented manufacturing investment in order to promote international competitiveness for export-led economic growth. Following the rollout of the EPZ scheme, the Tanzanian government faced demands for zones in every region of the country. As a result, approximately 17 sites, representing every region of the Tanzanian mainland, have been earmarked for zone development.

Under the EPZ scheme, private actors can act as EPZ developers, EPZ operators or EPZ service providers. In order to benefit from the EPZ scheme, investors can either set up operations in a desig-

nated EPZ industrial park – the seven existing parks are Benjamin William Mkapa SEZ, Hifadhi EPZ Park, Millenium Business Park, Kisongo EPZ Park, Kamal Industrial Park EPZ, Global Industrial Park and Kigomo SEZ – where they share infrastructure and utilities with other investors – or they can establish single factory units at any geographical location in Tanzania and have these declared stand-alone EPZs by the EPZA. The incentives provided to EPZ operators include a 10-year corporate tax holiday, exemption from customs duties and other taxes on raw materials and capital goods, exemption from local government taxes, access to an export credit guarantee scheme, exemption from preshipment inspection requirements, on-site goods inspections, access to competitive and reliable services within the zones, unconditional transferability of profits, dividends and loyalties and lower port charges. EPZ operators are required to export at least 80% of the goods they produce or process.

The SEZ scheme, which was established in 2006 following the enactment of Special Economic Zones Act of 2006, aims to attract investment in industries targeting both domestic and foreign markets. While SEZ operators are not expected to export a specific proportion of their production, they are required to be located within a designated SEZ area in order to benefit from the SEZ incentives, which are essentially the same as those for EPZ operators. A further difference between the two schemes is that the SEZ scheme covers a wider range of eligible activities, including tourism, forestry, banking and financial services, and agricultural activities.

Most firms operating in Tanzania's zones target the regional African market. This is due to the fact that Tanzania is a member of various African trading blocs and the fact that the country is a transport and logistics hub for East Africa. Nonetheless, the performance of Tanzania's zone programmes have been negatively affected by an initial lack of awareness of the programmes, their duty-free arrangements, lack of capacity, and poor performance of the country's main port at Dar es Salaam. Tanzania was also unfortunate that the launch of its zone programmes coincided with the phasing out of the Multi-Fibre Arrangement, as numerous garment manufacturers that had committed to investing in the zones later pulled out or closed down.

Sources: General Authority for Investment (http://www.gafinet.org/English/Pages/default.aspx); Kenya Vision 2030 (http://www.vision2030.go.ke/index.php/pillars/project/Economic/36); Export Processing Zones Authority (http://www.epzakenya.com/); CDE (2012); DTI (2012); The United Republic of Tanzania Export Processing Zones Authority (http://www.epza.co.tz/); Farole (2011)

In terms of employment, ILO data from 2006 suggests that the contribution of SEZ programmes to employment in African countries has been, with a few exceptions, somewhat limited. As of 2006, African zones employed just over a million workers, with around half of this total accounted for by South Africa (Ibid: 69). Aside from South Africa, the only African countries found to generate significant SEZ employment were Mauritius, Lesotho, Kenya, Nigeria and Madagascar (Stein, 2008: 2). Anecdotal evidence, meanwhile, suggests that wages and benefits received by workers in African SEZs are generally equal to, or higher than, those for similar jobs outside these zones (Farole, 2011: 98). In addition, African zones

have been found to make significant use of temporary labour and to be heavily reliant on foreign management (Ibid: 99, 95).

Investment in African zones is dispersed across a relatively broad range of economic activities, with agro-processing and other natural-resource-based production and processing being fairly typical of zone activity in the region (Farole, 2011). African zones also source investment from a wide variety of locations. A particularly notable development in recent years has been the establishment of Chinese economic and trade cooperation zones in Egypt, Ethiopia, Zambia, Nigeria and Mauritius (Brautigam & Xiaoyang, 2011). The development of these SEZs has been undertaken by Chinese enterprises, with support from China's Ministry of Commerce (MOFCOM) (Ibid). In Ethiopia and Mauritius the SEZs are a 100% Chinese owned, but in other countries, national or local governments have partnered with the Chinese enterprises developing the zones (Ibid: 31). Chinese enterprises have also established numerous industrial parks outside the official MOFCOM programme (Ibid: 28), while investors from Turkey, India and the United Arab Emirates have also been involved in zone development in various African countries (Farole, 2011: 196, 255).

Previous research has shown that only a few African countries, such as Mauritius and Kenya, have generated significant positive benefits from the use of economic zones. It has also been shown that, while the performances of zones have varied from country to country, African zones have generally underperformed, especially in relation to zones in Asian countries (Ibid.). Moreover, this underperformance has occurred in the case of both private and public zones (Ibid: 192). African zones have largely failed to generate high levels of investment, exports and employment, and have shown little evidence of promoting the dynamic benefits associated with SEZs, such as diversification, technological upgrading and structural transformation of the economy (Ibid: 239).

African zones appear to have struggled for a variety of reasons. Some of these factors are particular to specific zones or specific countries, but many of them are common to zone programmes across the continent. Factors that have been identified as inhibiting zone performance in Africa include poor quality infrastructure and inadequate provision of water and electricity; poor programme planning and management; insufficient attention to trade facilitation; weak governance; challenges relating to a lack of institutional coordination; a failure to integrate zone programmes into broader trade and industrialisation strategies; remoteness from markets; a reliance on single-end markets; and policy unpredictability

(Ibid.). Many African zone programmes have also followed the EPZ model, which has proved somewhat inflexible in the face of recent trends such as growth in services trade, deeper regional trade integration and the increased importance of industrial clustering (Ibid: 166). The EPZ model used by many African countries has also failed to leverage comprehensive forward and backward linkages between firms inside and those outside the zones (Stein, 2008: 14).

While zone programmes in African countries have generally performed below expectation, many of them are still in relatively early stages of development and some signs of progress are evident (Farole, 2011: 103). Nonetheless, the fact that African zones have performed so poorly despite offering environments that are more business friendly than in the rest of their domestic economies, and despite contributing similar proportions of national investments and exports to zones from other regions, suggests that the poor performance of many African zones relates to wider national competitiveness issues in their domestic economies, especially competitiveness deficiencies in manufacturing sectors (Ibid.).

5. Special economic zones and regional integration in Africa

Like SEZs, regional trade arrangements (RTAs) have proliferated in Africa in recent decades, as African governments have sought ways to circumvent the developmental limitations associated with small domestic markets and to boost domestic industrialisation efforts through increased intraregional trade. Regional economic communities (RECs) such as COMESA, the EAC and SADC have led the way by establishing Free Trade Areas (FTAs) and – in the case of the EAC, a customs union – between their Member States. More recently, an initiative to establish a Tripartite Free Trade Area between the Member States of COMESA, the EAC and SADC has been launched, while the African Union (AU) has recently begun championing the establishment of a Continental Free Trade Area (C-FTA).

As the establishment of RTAs and SEZs have been two of the more prominent trade and development-related trends in Africa in recent years, it is worthwhile examining the interplay between these two mechanisms, both of which are said to play a positive role in promoting industrialisation and economic development on the continent.

At the outset, it is important to note that the relationship between RTAs and SEZs is potentially quite complex, as the establishment of RTAs affects the possibilities for zone creation within RTA Member States and significantly alters the trading environment in which

SEZ enterprises operate, while the existence of SEZs in potential RTA Member States can create both challenges and potential synergies for RTA initiatives. The impact of RTAs on SEZs – and of SEZs on RTAs – can also differ quite substantially between RTAs, involving only developing countries and those involving at least one developed country member. While some commentators have argued that developing countries should avoid adopting economic zone programmes given their 'negative impact on regional integration,' (Baissac, 2011: 49) it is probably fairer to say that the simultaneous use of regional integration and SEZ programmes can create significant challenges for developing countries due to the fact that RTAs and SEZs – particularly in their EPZ form – are typically driven by 'somewhat inconsistent economic rationales' (Sargent & Matthews, 2001: 1739).

For instance, the use of SEZ incentives to attract investment can result in a 'race to the bottom' between neighbouring countries, potentially jeopardising regional integration processes (Farole, 2011: 174). This is considered particularly likely in developing regions such as Sub-Saharan Africa, where attracting foreign investment is generally considered a developmental imperative, and where fiscal and other investment incentives are widely used to compensate for the underlying competitiveness shortcomings of SEZs and domestic economies as a whole (Ibid: 261). In practice, such incentives are hard to remove and 'prone to inflation' as public authorities are pressured to extend and increase the incentives on offer (Ibid: 261).

Furthermore, as Farole (2011), among others, has highlighted, the issue of an 'investment incentive arms race' between neighbouring countries is a classic example of a prisoner's dilemma, whereby these countries would 'be better off by cooperating to eliminate or regulate the provision of tax incentives to foreign investors, but each might benefit most from offering incentives while their neighbour does not' (Ibid: 179). Without the ability to determine each other's actions, countries are likely to act in their own self-interest and offer investment incentives, such as those associated with SEZs. However, if all countries in a region do so, they partially negate the effectiveness of these incentives and, in effect, simply end up transferring rents to foreign investors.

Given that significant fiscal and other incentives are common features of SEZ programmes in Sub-Saharan Africa, the potential for such collective action problems is more than just a theoretical possibility. Countries in the region are unlikely to unilaterally abandon their SEZ incentives given the pressure many of their governments are under to attract investment and

promote domestic employment and economic growth. Similarly, if all their neighbours are offering significant investment incentives as part of their zone packages, it would be illogical for a country in the region to establish its own zone programme without offering at least some similar sort of incentives.

The problem with this is that international investors typically only look at investment incentives once they have decided on a region in which to invest (Ibid: 182). Thus, 'incentive-based bidding wars' at the regional level are unlikely to result in the region as a whole benefiting from significantly higher levels of investment (Ibid: 182). Instead, such bidding wars are a waste of regional resources and have the potential to aggravate economic tensions between regional neighbours, thereby jeopardising regional integration processes. In this way, SEZ programmes in African countries, like other forms of national investment incentives, could serve to undermine regional integration processes that are motivated, at least partly, by a desire to boost foreign investment in the region.

Another important point about SEZs and regional integration is that where SEZs, and, in particular, EPZs, have been established, regional integration processes such as the establishment of Free Trade Agreements or customs unions must take into consideration certain issues. These include customs duty deferrals or drawbacks on inputs offered as part of the incentive packages for manufacturers situated in these SEZs; preferential rules of origin relating to goods produced in the SEZs; and whether or not such goods can be sold in domestic and regional markets. For instance, under the North American Free Trade Agreement (NAFTA), firms operating in Mexico's *maquiladora*[1] EPZs no longer benefit from duty drawbacks on non-regional inputs as they had done prior to Mexico signing the NAFTA (Sargent & Matthews, 2001: 1741). In particular, Article 303 of NAFTA requires that nonregional inputs used by *maquiladora* firms be subject to Mexico's external tariff (Ibid: 1741). Provisions such as these are designed to ensure that the trade-creating benefits of Free Trade Agreements and other integration initiatives accrue to the region's firms and industries and not to nonregional suppliers, but they also have significant implications for the competitiveness of firms operating in SEZs, especially if these firms produce for the regional market.

These issues have been recognised in the African context, and the EAC has developed regional regulations governing the use of EPZs by its Member States. Of the five EAC

[1] The Mexican name for manufacturing operations in a free trade zone.

Member States, Kenya is the most prominent user of SEZs, having enacted EPZ legislation in 1990 to support its Export Development Programme (Hitimana, 2012). Tanzania enacted its EPZ Act in 2002, but its EPZ programme has thus far been somewhat less successful than Kenya's in attracting investment, largely due to poor infrastructure, bureaucracy and corruption (Ibid.). The Ugandan Government, meanwhile, is in the process of developing a number of industrial and business parks, while the Rwandan Government has apparently shifted its focus from developing an EPZ to establishing an SEZ instead (Hitimana, 2012). According to the United Nations Conference on Trade and Development, Burundi's free zone regime is 'not used in practice' (UNCTAD, 2010: 4).

The EAC Customs Union Protocol, which came into effect in July 2009, contains provisions relating to export promotions schemes (Article 25), duty drawback schemes (Article 26), tax remission schemes (Article 27), export processing zones (Article 29), freeports (Article 31) and exemption regimes (Article 33). Annex VII to the Protocol contains the EAC Export Processing Zone Regulations, which aim to ensure that EAC Member States establish EPZs in a uniform fashion and that the processes involved are 'transparent, accountable, fair and predictable'. Under these regulations, existing national legislation on EPZs must be aligned with the provisions of the EAC regulations, and sales by EPZ firms to the EAC market are limited to 20% of annual production. To further promote uniformity, the EAC states are to 'develop an East African Community Model Export Processing Zones Operational Manual'.

The establishment of the East African Customs Union has been used to attempt to impose a necessary level of harmonisation in the region's various SEZ schemes. While it is not yet entirely clear to what degree this approach has been successful in promoting a unified regional approach to economic zones, the EAC experience does at least highlight one way in which regional institutions can play a beneficial role in facilitating institutional convergence and establishing regional frameworks for the provision of incentives in economic zones, thereby addressing the collective action problems associated with the use of national level incentives schemes (Farole, 2011: 17).

While SEZs in general, and EPZs in particular, are often perceived as posing challenges to regional integration processes for the reasons highlighted above, the simultaneous pursuit of regional integration and economic zone-based industrial development strategies also presents potential synergies to be exploited by developing countries. For instance, economic zones can be used as a component of a regional industrial policy to facilitate regional production scale

and to integrate and promote regional value chains (Ibid: 8). Given the difficulties many African countries face in terms of scaling up domestically manufactured production and exports, SEZs have the potential to be used as platforms for production for regional and subregional markets – provided, that is, that domestic and regional regulations allow for SEZ firms to sell to these markets (Ibid: 254). In addition, SEZs could also serve as locations from which to source particular regional inputs for both global and regional value chains (Ibid: 255). Regional trade through economic zones might also provide good indications of regional and subregional comparative advantage, highlighting activities and products on which industrial development initiatives should be focused (Ibid: 255).

Indeed, the United Nations Industrial Development Organisation (UNIDO) has suggested that 'SEZs may be more relevant as spatial tools for industrial development than as tools of trade policy reform' (UNIDO, 2009: 73). This is because SEZs provide a 'clear focus for government investments and institutional reforms', and because firms situated in SEZs, and, in particular, those EPZ-type zones which are focused on producing for export, are subject to the 'efficiency test' of having to be able to export (Ibid: 73). This fairly straightforward performance criterion ensures that firms producing in these zones are relatively efficient and are not merely surviving on the basis of protection rents accruing from industrial policies running counter to market incentives (Ibid: 73).

In theory, the use of SEZs as a tool of spatial industry policy might be as viable at the regional or subregional level as it is at the national level. As in the case of the national level, however, this form of spatial industrial policy is not likely to be successful if zones are used as a mechanism to attempt to attract investment to economically isolated areas within a given region. Instead, zones should be located in urban industrial areas or close to airports, sea ports or other naturally favoured locations, so as to benefit from 'thicker labour markets' and better infrastructure (Ibid: 73). In this way, zones are most likely to facilitate beneficial spillover effects for the region in question.

In the context of the COMESA-EAC-SADC T-FTA, economic zones could be established at or near major ports serving the region (as many already have been), or, alternatively, on or close to one of the designated 'transport corridors' in the region. SEZs established along the North-South Corridor, for instance, would benefit from the various initiatives and infrastructure developments associated with the North-South Corridor Programme of the COMESA-EAC-SADC T-FTA, which aims to facilitate trade along this network of roads and

railroads that passes through eight T-FTA countries. Provided that firms located in these zones were permitted to export to the region, these SEZs could provide excellent platforms for boosting intraregional trade and promoting regional value chains and closer economic ties between the Member States of the T-FTA.

6. Conclusion

While this chapter has not provided an in-depth analysis of the performance of SEZs in Africa, it has, based on evidence surveyed, suggested that their performance has been somewhat below expectations. It does not follow, however, that the concept should be binned entirely, and, indeed, it does not appear that African governments are likely to do so anytime soon. What the chapter has tried to do, though, is to highlight the fact that particular challenges are likely to arise as more and more countries in the region establish and expand their SEZ programmes while simultaneously trying to promote deeper integration with their neighbouring countries under initiatives such as the COMESA-EAC-SADC T-FTA.

These challenges are not insurmountable, however, and, as demonstrated by the EAC Customs Union Protocol and the EAC Export Processing Zones Regulations annexed to the Protocol, there are potentially ways in which regional cooperation and regional institutions can be used to provide a framework to ensure some level of coordination between individual countries in terms of the establishment and administration of economic zones. Furthermore, there may also be potential for economic zones to be more fully placed at the heart of regional integration processes through, for example, the establishment of shared (geographical or administrative) economic zones or stronger regional regulation governing the establishment and administration of zones in the region.

Indeed, in the African context in general, and within the T-FTA in particular, SEZs may prove to be useful tools of regional industrial policy and could serve as important platforms for scaling up regional production and exports, for boosting intraregional trade, for promoting greater competitiveness in regional manufacturing industries and for demonstrating the benefits and viability of various forms of regulatory changes. However, as in the case of using economic zones as tools of spatial industrial policy at the national level, the political challenge of ensuring a relatively equitable sharing of the spillover benefits from such zones remains. In the context of the T-FTA, for instance, it would be politically important to ensure that the benefits of agglomeration provided by well-functioning economic zones are enjoyed

by all member countries. Exactly how this could be achieved is not entirely clear, and more work probably needs to be done in terms of identifying possible solutions, such as the use of regional transport corridors as location anchors for the development of SEZs.

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Chapter 8

Addressing climate change issues in eastern and southern Africa: the EAC, COMESA, SADC and the TFTA

Willemien Viljoen

1. Introduction

Climate change poses a serious challenge to sustainable economic and socioeconomic development in developing and least developed countries. This is especially the case for countries in Africa, due to their reliance on climate-sensitive natural resources, including rain-fed agriculture for economic growth and development, trade and food security. It is projected that by 2020, 75 to 250 million people in Africa will be exposed to increased water stress, and yields from rain-fed agriculture could be decreased by up to 50%, posing a severe challenge for food security in the region.

Production of rain-fed agriculture is highly vulnerable to the impact of climate change due to changes in rainfall patterns and increasing temperatures. This can pose severe challenges to the socioeconomic development of the region due to climate change affecting key social, physical, ecological and economic systems across the African continent, including water resources, agriculture, energy, transport, health, forestry, wildlife, infrastructure and disaster management. Changes in climate can have varied effects on the different geographical and climatic regions in Africa. However, the overall impact of climate change in Africa is expected to include a decrease in crop yield, an increase in food insecurity, melting of snow caps and glaciers, an increase in the frequency and intensity of droughts and floods, a decrease in the supply of fresh water, an increase in pests and diseases in wildlife and crop

production, diminished hydro-power generation potential, loss of biodiversity, ecosystem degradation, destruction of infrastructure and rising sea levels. These effects will mostly be felt by the poor rural and urban communities. The adverse effects associated with climate change can have diverse effects on different social groupings, increasing inequality across the region. This will be a major setback for the Millennium Development Goals (MDGs), halting or reversing any development gains already achieved.

In order to adapt to and mitigate the current and potential future impact of climate change on countries in eastern and southern Africa Member States of the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community (SADC) have committed to addressing the effects of climate change on their natural resources, environment and sustainable development. These commitments not only include the development and implementation of regional and national laws, regulations and strategies, and adaptation and mitigation interventions to address climate change issues in the three Regional Economic Communities (RECs), but also commitments made by all 26 countries participating in the negotiations of the Tripartite Free Trade Area (TFTA) to address climate change issues throughout eastern and southern Africa.

The focus of this paper is to determine the manner in which countries in eastern and southern Africa are addressing climate change issues to ensure economic growth and sustainable development throughout the entire region. Regional and national legal frameworks, regulations, strategies, action plans, and mitigation and adaptation interventions can enable countries in the region to build adaptive capacity and reduce their vulnerability to the effects of climate change that would ensure sustainable current and future economic and socioeconomic development. Firstly, a brief overview of Africa's climate change vulnerabilities on the regional level is provided to establish the need for regional and national adaptation and mitigation interventions. Secondly, the paper focuses on the legal framework and mitigation and adaptation interventions implemented and under development in the Member States of the EAC, COMESA and SADC. The analyses include national and regional legal, strategic and operational instruments developed in the various Member States' priority areas for adaptation and mitigation interventions identified in their National Adaptation Programme of Actions (NAPAs) notified under the United Nations Framework Convention on Climate Change (UNFCCC) and projects that have been registered or are being developed under the Clean Development Mechanism (CDM). Lastly, the TFTA instruments and actions

to address climate change issues throughout the eastern and southern Africa region are evaluated.

2. Background

African countries are faced with a variety of environmental challenges which can hamper the economic and industrial developmental of these economies. Not only are agriculture, tourism and fisheries among the largest sources of employment, economic growth and exports for many countries on the African continent, but they are also the sectors which are the most vulnerable to climate change and other environmental risks. One of the main reasons for Africa's vulnerability to the effects of climate change and climate variability is the low adaptive capacity coupled with developmental challenges in the majority of African countries. The African continent is particularly vulnerable to impacts of climate change affecting key economic drivers such as water resources, agriculture, energy, transport, health, forestry, wildlife, land and infrastructure, and disaster risk management, among others. The impacts include water stress and scarcity, food insecurity, diminished hydropower generation potential, loss of biodiversity and ecosystem degradation, increased incidence of disease burden, destruction of infrastructure, high costs of disaster management as the result of increased frequency and intensity of droughts, floods and landslides associated with the El Niño phenomenon. The impacts are most felt by the poor rural and urban populations in the region. Adaptation in most African countries is hampered by low Gross Domestic Product (GDP) per capita, poverty, weak institutions, low levels of education and limited access to capital, including markets, infrastructure and technology (UNFCCC, 2007).

The projected regional impacts of climate change show that African countries are some of the countries most vulnerable to the impact of climate change (UNEP and WTO, 2009).

- It is expected that temperatures throughout the continent in all seasons will be higher than the global average, with an annual decrease in rainfall in southern Africa and an increase in eastern Africa.
- It is projected that between 75 and 250 million people will be affected by water shortages by 2020, while the yields from rain-fed agriculture are expected to be reduced by up to 50% in some African countries by the same year.

- It is also projected that there will be an increase of between 5% and 8% in arid and semi-arid land in Africa by 2080.
- An increase in the frequency and intensity of extreme weather events is expected.
- Due to higher water temperatures it is expected that there will be a dramatic decrease in fish stocks.
- Higher expected temperatures and increased water stress can contribute to deforestation and degradation of grasslands.
- It is also estimated that the coastal infrastructure in approximately 30% of African countries (including cities in Egypt and South Africa) is at risk due to the rise in sea levels.

In east and southern Africa the impact of climate change is expected to be compounded due to the region's high poverty levels, weak infrastructure, poor management of natural resources and dependence on rain-fed agriculture. Due to climate change it is projected that there will be a net reduction of more than 10% in the production of various staples, including maize, sugar and wheat (IFAD, 2011). In the Nile Basin, countries have experienced an increase of about 0.2°C to 0.3°C per decade, while temperatures in Rwanda increased by 0.7°C to 0.9°C during the second half of the century. Drought-prone areas like Namibia, Botswana, Zimbabwe, Sudan and Ethiopia are expected to be more vulnerable to climate change compared to the more humid areas of Tanzania and Zambia (Eriksen et al., 2008).

The east African region is primary arid and semi-arid land with increasing temperatures, while the frequency, intensity and severity of droughts have been increasing over the last three decades. Future projections show that there will be an increase in the mean temperature in the region, while it is expected that the overall average annual rainfall in the region will increase. The changes in temperatures and rainfall patterns can have various effects on crop yields and productivity, availability of surface water, land degradation and human, plant and animal health.

In the EAC it is expected that climate change will lead to salt water intrusion and the contamination of fresh water wells by salt water along the coast of Tanzania, beach erosion in Kenya, and rampant floods and droughts across the region. The water temperature in lakes Edward, Albert, Kivu, Victoria, Tanganyika and Nyasa has already risen by between 0.2°C

and 0.7°C since the early 1900s. The vulnerability of east Africa to climate change is linked to the fact that the economies of the partner states are dependent on climate-sensitive natural resources including water and land resources. This is compounded by low adaptive capacities due to poverty at household level and low GDP.

The southern African region is semi-arid with high rainfall variability and frequent droughts and floods. Climate change projections show that temperatures are expected to increase by between 0.3°C and 3.6°C by 2060; a decrease in rainfall will be experienced over most of the region and there will be an increase in the mean, minimum and maximum temperatures with an overall increase in the number of hot days and heat waves (Davis, 2011).

3. The East African Community

The EAC has committed to responding to the effects of climate change through adaptation, mitigation, research and addressing technical and financial constraints as well as by developing various policies, strategies and organisation bodies. The Member States of the EAC have been successful in developing a regional climate change policy, in accordance with the EAC Treaty. In 2010 the EAC embarked on formulating the regional climate-change policy with the aim of guiding the EAC Member States and other stakeholders on the implementation of collective measures to address the effects of climate change in the region through mitigation and adaptation measures; this was done to ensure sustainable social and economic development. In order to operationalise this policy a regional strategy and master plan have also been prepared and the EAC Climate Change Fund has been established. Efforts are also made to manage transboundary ecosystems in the region through specialised institutions, including the Lake Victoria Basin Commission (LVBC) and the Lake Victoria Fisheries Organisation (LVFO). A Transboundary Ecosystem Management Bill was also passed by the East African Legislative Assembly in 2010.

3.1 Legal framework in the EAC to address climate change

a) The Treaty for the Establishment of the East African Community

Article 5(c) of the EAC Treaty calls for 'the promotion of sustainable utilisation of the natural resources of the Partner States and the taking of measures that would effectively protect the natural environment of the Partner States'. Chapter 19 of the treaty clarifies Article 5(c) in relation to cooperation in the management of the environment and the utilisation of natural

resources within the EAC. The chapter recognises that certain development activities can lead to the degradation of the environment and deplete natural resources. In order to address these issues Chapter 19 calls for cooperation among Member States for the efficient and sustainable use of natural resources, the undertaking of environmental management strategies to guard against degradation and pollution, the adoption of common policies on the movement of toxic and hazardous waste and the development of capacity-building programmes for the sustainable management of natural resources. Article 111 and 112 of the treaty also calls for the development of a common environmental management policy, the adoption of common environmental control regulations, incentives and standards, and the adoption of community environmental management programmes and common conservation policies in various areas including mineral resource, fauna and flora, forestry and marine resources.

b) The Protocol on the Establishment of the EAC Common Market

According to Article 40 of the protocol, member countries must implement those principles for environmental and natural resource management that will prevent environmental degradation taking place. The protocol also states that member countries must ensure environmental management practices in accordance with:

- The EAC Protocol on Environment and Natural Resource Management
- The EAC Protocol for Sustainable Development of Lake Victoria Basin
- The Lake Victoria Transport Act of 2008
- The Protocol on the Establishment of the EAC Customs Union
- The EAC Customs Management Act of 2004
- Any other relevant protocols and laws of the EAC

c) The Lake Victoria Basin Commission (LVBC)

The EAC Member States have identified Lake Victoria and its basin as an area of common interest and a zone for regional economic development. In order to coordinate the sustainable development of Lake Victoria and its basin, the Lake Victoria Basin Commission was established. The LVBC is a specialised institution established in accordance with the Protocol for Sustainable Development of Lake Victoria Basin (ratified in December 2004). The mandate of the LVBC includes ensuring the sustainable use of the resource and the

management and protection of the Lake Victoria Basin. The objectives and functions of the Commission include the promotion, coordination and facilitation of development initiatives in the basin. The LVBC is also a mechanism for coordinating interventions in the basin and serves as a centre for promoting investment and information sharing among the EAC Member States. The functions of the LVBC is defined in 14 focal areas: sustainable development, management and equitable utilisation of water resources, promotion of sustainable development and management of fisheries resources, promotion of sustainable agriculture and land use practices, promotion of sustainable development and management of forestry resources, promotion of development and management of wetlands, promotion of trade, commerce and industrial development, promotion of development of infrastructure and energy, maintenance of navigational safety and maritime security, improvements of public health with specific reference to sanitation, promotion of research, capacity building and information exchange, promotion of environmental protection and management of the basin, promotion of public participation in planning and decision making, integration of gender concerns in all activities in the basin, and promotion of wildlife conservation and sustainable tourism development.

d) Protocol on Environment and Natural Resource Management

The overall objective of the protocol is to promote and enhance cooperation in conservation and management of environment and natural resources among Member States, adaptation of a common vision to address challenges related to sustainable development and increasing efforts to prevent and control environmental degradation. The main focus areas of the protocol are transboundary natural resource; biological diversity and genetic resources; forestry; wildlife, water, wetland, coastal and marine fishers; minerals; energy; mountainous ecosystems; and tourism. The main aim of the protocol is to address the various challenges associated with climate change, conservation and management of natural resources in these key focal areas. These challenges include desertification and droughts; biosafety and biotechnology; chemical waste and hazardous waste management; pollution; impact assessments and audits; implementing environmental standards; enhancing environmental education and capacity building; public participation and access to information; and environmental disaster preparedness and management.

e) The EAC Climate Change Policy (EACCCP)

The EACCCP has been developed to ensure a more strategic and cooperative approach among Member States to respond to the impact of climate change. However, the policy recognises existing national development policies, strategies and plans implemented by Member States of the EAC. These include NAPAs in various stages of implementation in Burundi, Rwanda, Uganda and Tanzania; the National Climate Change Response Strategy prepared by Kenya; National Communications prepared by all five EAC Member States regarding the status of implementation of the UNFCCC activities concerning mitigation and adaptation actions; and national GHG inventories and CDM projects registered by Rwanda, Tanzania, Kenya and Uganda. The EACCCP also links with various regional and subregional policies, strategies, plans and programmes, including the EAC Treaty, the Protocol on Environment and National Resource Management, the Protocol for Sustainable Development of the Lake Victoria Basin and the fourth EAC Development Strategy.

The main aim of the policy is to contribute to sustainable development benefits in the region through harmonised and coordinated strategies, projects and actions (adaptation and mitigation activities prioritised in the policy) to address the effects of climate change. The overall objective of the policy is to provide a framework for mitigation (climate-resilient livelihoods and economics) and adaptation (low-carbon development) investment in the region by focusing on the development of national climate-change adaptation strategies and nationally appropriate mitigation actions, and the shift to a green economy. The policy is based on the priority areas of climate-change adaptation, mitigation, research and observations supported by capacity-building actions in technology development and transfer, education, training, and information and knowledge management. The policy includes various prioritised adaptation and mitigation strategies.

Table 1: Priority areas for adaptation and mitigation actions

Adaptation actions	Mitigation actions
Improve water conservation, efficiency and sustainability	Increase the availability, accessibility, reliability and affordability of renewable energy sources
Improve agricultural productivity and food security	Decrease Greenhouse Gases (GHGs) associated with the transport sector through promoting public transport systems
Develop, harmonise and adopt common policies, laws and regulations for conservation and sustainability of wildlife	Support the sustainable development needs of Member States in the forest sector
Enhance the adaptive capacity and resilience of coastal and marine ecosystems, communities and infrastructure	Promote sustainable agricultural practices
Create sustainable land use and soil management practices	Promote waste management for improved air and water quality
Promote sustainable management of forestry and wetlands	
Reduce the vulnerability of humans to climate-sensitive diseases and enhance the adaptive capacities of the health sector	
Ensure resilient tourism infrastructure and enhance climate-proofing wildlife habitats	
Develop climate-proof infrastructure	
Develop climate-resilient human settlements	
Employ disaster risk reduction to reduce the vulnerability of socioeconomic systems to climate-related disasters	
Develop and use renewable energy sustainably	

Source: EACCCP (2011)

The policy also identified the various challenges associated with mitigation and adaptation action in the EAC. These include inadequate institutional, legal and regulatory frameworks for adaptation and mitigation actions; limited financial resources; lack of capacity in technology; and high transaction costs of CDM project development. Challenges identified in terms of research and observation the policy aims to address include poor data processing and dissemination, inadequate human capacities and insufficient meteorological infrastructure.

The implementation of the policy is the responsibility of the EAC Secretariat and the EAC Member States. In order to operationalise the policy the Climate Change Strategy and Master Plan has been developed. Member States are also required to develop country-specific policies, strategies, action plans and legislation and to establish institutional arrangements in line with the EACCCP.

f) EAC Climate Strategy

The EAC Climate Change Strategy guides the implementation of the EACCCP over a five-year period, from 2011 until 2015. The strategy provides a short- to medium-term framework for implementing climate-change adaptation and mitigation programmes and projects identified in the EACCCP. The priority of the strategy is the reduction of disaster risks in various sectors due to the importance of disaster risk approaches to climate change adaptation. The strategy is based on six broad strategic objectives:

- Reduce vulnerability through enhanced adaptation
- Enhance sustainable development through mitigation measures
- Strengthen climate-change knowledge generation
- Increase climate-change education and public awareness
- Build climate-change response capacity
- Ensure a sustainable financing mechanism for climate change.

The strategy provides a framework for Member States and stakeholders to address the regional challenges and opportunities that arise from climate change in an integrated and coordinated manner. The strategy proposes various strategic actions for each of the six strategic objectives identified. These strategic actions include improving water conservation, efficiency and sustainable use; improving sustainable land use; reduce GHGs from the transport sector; production of sustainable agricultural practices with agricultural-based emission reduction; strengthening early warning systems for extreme weather and climate events; enhance information and knowledge management systems; integrate climate-change considerations into existing policies and strategies; and building adaptive capacity. The strategy consists of a detailed strategic implementation plan regarding each objective, the planned outcome based on the activities to be taken and the cost and time frame associated with the implementation of each action per strategic objective.

g) EAC Climate Master Plan

The EAC Climate Change Master Plan (EACCCMP) provides a long-term vision for operationalising actions for climate-change adaptation and mitigation in the EAC. The master plan recommends the establishment of a Climate Change Coordination Unit to coordinate and

facilitate the implementation of the EACCCS and the EACCCMP. The EACCCP, EACCCS and the EACCCMP fit together in the following manner:

- The EACCCP is a purposeful statement by the EAC Secretariat recognising the problem of climate change and committing to address the problem through specific actions. The policy looks at the preparation and implementation of collective measures to address climate change in the short and medium term in the region.
- The objective of the EACCCS is the implementation of the EAC Climate Change Policy. The strategy sets out a range of measures, taking into account those already in place in the partner states, to ensure effective implementation of the Climate Change Policy at all levels. The strategy gives the direction and scope of implementation of the policy over a short to medium time period.
- The EACCCMP is a long-term view of challenges, opportunities and priority actions to combat climate change. The master plan provides the overall picture and vision for the region for climate-change response strategies and covers the period 2011 to 2031. The master plan provides the overall picture and vision linking all three documents. This vision is operationalised by means of periodic climate-change strategies developed in consideration with the prevailing circumstances, the first of which is the EAC Climate Change Strategy 2011-2015.

The overall objective of the EAC Climate Master Plan is to strengthen regional cooperation to address climate-change issues that concern regionally shared resources. The master plan's specific objectives are to:

- Provide an effective and integrated approach to regional climate-change adaptation
- Enhance the mitigation potential of Member States in the priority sectors of energy, infrastructure, agriculture and forestry
- Streamline and harmonise existing mitigation and adaptation actions
- Foster international cooperation to address climate-change issues
- Mobilise resources to implement adaptation and mitigation actions.

In order to reach these objectives the EACCCMP focuses on eight key areas for intervention:

- Adaptation interventions

- Mitigation interventions
- Technology development and transfer
- Capacity building
- Education, training and public awareness
- Gender, youth and marginalised groups
- Climate risk management and disaster risk reduction
- Climate finance

The master plan contains a swot analysis in each of these key areas according to the priority areas identified in the EACCCP, including water, agriculture, infrastructure, land use and renewable energy. According to these analyses the master plan identifies short-, medium- and long-term actions and programmes to be implemented in each key area.

h) The fourth EAC Development Strategy (2011/12-2015/2016)

The fourth EAC Development Strategy highlights the achievements and challenges in environmental management in accordance with Article 5, 111 and 112 of the EAC Treaty. According to the strategy the EAC has been successful in developing and harmonising regional and national policies and legislation on the environment, implementing environmental assessment guidelines for minerals and shared ecosystems, and developing a climate change policy and master plan. However, there are still various challenges facing Member States to effectively manage activities that impact the environment and natural resources. These include the lack of compliance with environmental laws, weak environmental regulations, inadequate resources for capacity building and lack of enforcement mechanisms.

In order to address these challenges some of the priority areas for intervention identified in the Development Strategy are sustainable resource management, environmental conservation, and mitigation of the effects of climate change in the region. Some of the strategic interventions which will be focused on over the next four years include:

- Implementing the Protocol on Environment and Natural Resource Management
- Implementing the EAC Climate Change Policy and Master Plan

- Capacity building in the areas of environmental assessment and understanding the relationship between climate change, sea level rise and coastal erosion
- Harmonising standards and regulations and implementing the East African Framework Agreement on Air Pollution of 2008.

3.2 Mitigation and adaptation interventions in the EAC Member States

The five Member States of the EAC have all committed to addressing the effects of climate change within the region. Four Member States, Burundi, Rwanda, Tanzania and Uganda, have developed NAPAs that identify immediate, urgent and priority project activities that are necessary to enhance adaptation capacities that are in various stages of implementation.

Table 2: Interventions in the NAPAs of Burundi, Rwanda, Tanzania and Uganda

Countries	Priority areas
Burundi	Support climate forecasts for early warning
	Rehabilitation of degraded areas
	Safeguarding the most vulnerable natural environments, including the mountain rain forests and thickets of the Rusizi floodplains
	Rainwater valorisation
	Erosion control in Mumirwa
	Protection of the buffer zone in the Lake Tanganyika floodplain and around the lakes of Bugasera
	Popularisation of short-cycle and dryness-resistant food crops, including sweet potatoes, corn and sorghum
	Zero-grazing cattle breeding
	Capacity building to promote energy-saving techniques
	Stabilisation of river dynamics of river courses in Mumirwa and Imbo
	Education for climate change adaptation
	Promotion of hydro-power micro stations
Rwanda	Conservation and protection of lands against erosion and floods at district level in vulnerable regions
	Installations and rehabilitation of hydrological and meteorological stations
	Monitoring round irrigation perimeters from water flows in vulnerable regions
	Assistance to districts of vulnerable regions to plan and implement conservation measures and water storage
	Increasing climate-change adaptation capacity of villages by improving drinking water, sanitation and alternative energy services
	Increasing modes of food distribution and health support to face extreme climatic events
	Preparing and implementing a national strategy to combat deforestation and address erosion

Tanzania	Promoting drought-tolerant crops including sorghum and millets
	Improving the availability of water for drought-stricken communities in central Tanzania
	Adaptation through participatory reforestation in the Kilimanjaro mountains
	Promoting community-based mini-hydro projects
Uganda	Initiating community tree-growing projects for reforestation
	Implementing land degradation management projects to reverse land degradation
	Strengthening meteorological services
	Improving community water and sanitation projects to increase access to safe water and improved sanitation services
	Implementing a drought adaptation project
	Developing climate-change and development planning projects to integrate climate-change issues into development of planning and implementation

Source: UNFCCC (2013a)

Kenya has prepared a national climate strategy which focuses on adaptation and mitigation activities in various priority areas. This climate strategy focuses on low-carbon climate-resilient development (including geothermal power, reforestation and climate-smart agriculture), enabling policy and regulatory frameworks, adaptation and mitigation.

The EAC members have also identified various potential mitigation projects in the region, including geothermal power along the Rift Valley and wind, hydro- and solar power generation. Various projects under the CDM have been registered or are being developed in Tanzania, Kenya and Uganda. The CDM allows for emission reduction projects in developing countries to earn certified emission reduction (CER) credits which can be traded or sold and used by industrialised economies to meet their emission reduction targets under the Kyoto Protocol.

Table 3: Example of CDM projects implemented and under development in Kenya, Tanzania and Uganda

Countries	CDM projects
Kenya	Olkaria geothermal power generation project
	Lake Turkana wind power generation project
	Redevelopment of Tana hydro-power station
	Nairobi river basin biogas project
	Aberdare Range/Mount Kenya small-scale reforestation project
Tanzania	Mtoni landfill gas capture and energy generation
	Power production from sisal waste biogas
	Same and Mwanga forest project
Uganda	Nyagak mini-hydro project
	Nile basin reforestation
	Solar PV-based rural electrification
	Kigali hydro-power project

Source: UNFCCC (2013b)

4. Common Market for Eastern and Southern Africa

To address the issues pertaining to climate change in the COMESA region, various provisions in the COMESA Treaty are focused on cooperation, development and the management of natural resources, the environment and wildlife in the region. In accordance with Chapter 16 of the COMESA Treaty, which deals specifically with coordination among Member States on these issues, the COMESA Climate Initiative was developed and implemented. This initiative is also aligned with the Environmental Action Plan (EAP) and the Comprehensive Africa Agricultural Development Plan (CAADP); and multilateral and regional climate change action plans that were adopted by the COMESA Member States. Due to the importance of forestry products and energy in the region COMESA is also in the process of developing a regional forestry strategy and biomass and bio-energy policies for sustainable development.

4.1 Legal framework in COMESA to address climate change

a) COMESA Treaty

According to Article 4(6)(h) of the COMESA Treaty, Member States are required to cooperate in the development and management of natural resources, energy and the environment to enable COMESA Member States to attain their various economic and social

development objectives. This requirement is elaborated in Chapter 16 and requires Member States to cooperate in the areas of natural resources, the environment and wildlife by fostering joint and efficient management and sustainable utilisation of natural resources. Article 123 also recognises that economic development can be accompanied by environmental degradation, excessive depletion of resources and damage to natural heritage all of which require cooperated and coordinated strategies among members to protect and preserve the environment and eliminate all forms of pollution.

The article also places an obligation on the Member States to take all necessary measures to ensure that natural resources, forests, fresh fish and marine resources and wildlife within the COMESA region will be preserved. In terms of the management of the environment the Member States have undertaken to develop common environmental management policies, develop special environmental management strategies and take measures to control transboundary air and water pollution.

b) COMESA Climate Initiative

COMESA has put into place a comprehensive climate-change initiative. The goal of this initiative is to achieve economic prosperity and protect the region against the effects of climate change. Benefits associated with the Initiative include the promotion of sustainable agriculture and land-use practices, biodiversity conservation, maintenance of environmental services, successful adaptation to climate change, and improvements in rural livelihoods; added to these is the delivery of cost-effective and verifiable reductions in greenhouse gas emissions. The initiative aims to address the impact of climate change in such a way that will ensure economic and social resilience for all generations. The specific objectives of the initiative include:

- Building a shared vision on climate change for Africa
- Enhancing regional and national cooperation to address the effects of climate change
- Providing for the integration of climate-change considerations into policies at regional, national and sectoral level
- Capacity building and improving the knowledge base to effectively address climate change impacts

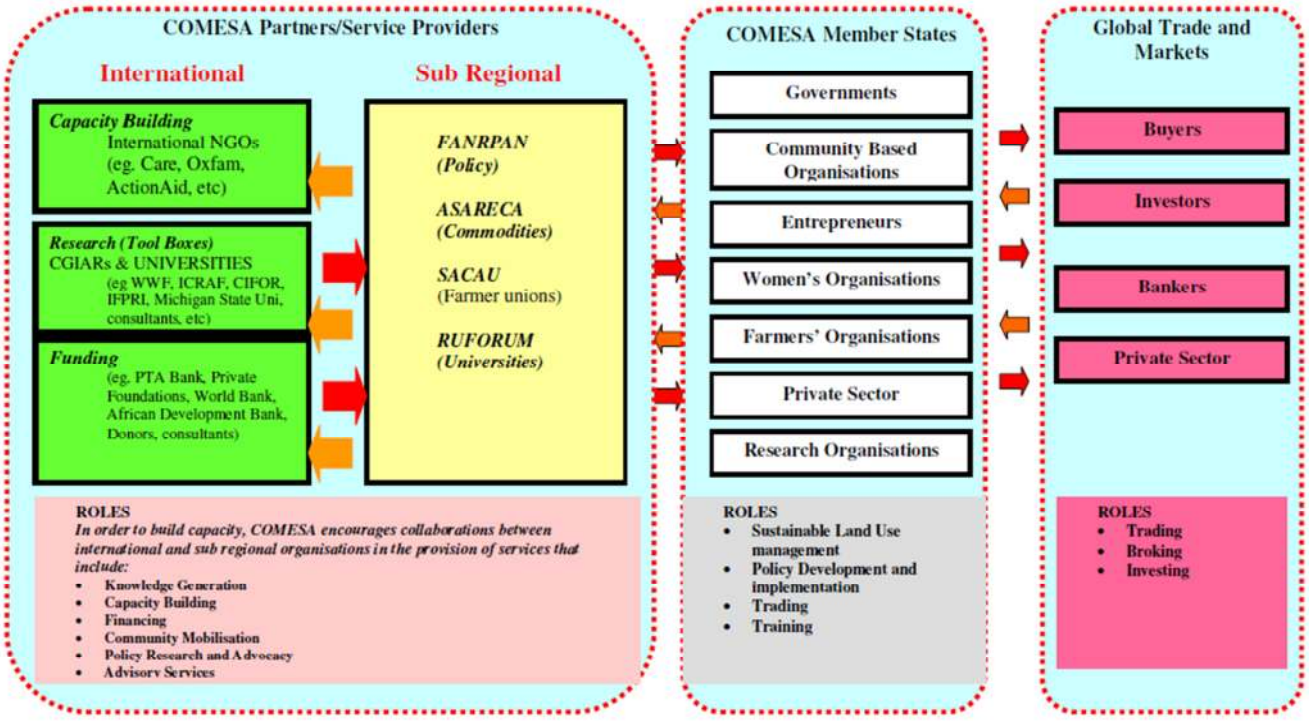
- Improving collaboration between stakeholders in climate-change matters
- Developing a framework to establish an African Bio-Carbon Facility.

The focus of COMESA's Climate Change Initiative is on supporting Africa and its peoples to adapt to climate change and safeguarding natural ecosystems, including the conservation and sustainable use of ecosystems that play an important role as CO_2 sinks. In this regard, COMESA is spearheading the inclusion of agriculture, forestry and other land use (AFOLU) in the international climate-change regime. In doing so, the initiative focuses on eight thematic priority areas:

- Post-Kyoto climate-change regime and beyond
- Enabling policy and institutional framework
- African bio-carbon facility
- Research, information management and communication
- Technology development and transfer
- Capacity building
- Enhancing partnerships
- Early action flagship programmes

COMESA has also developed a model for coordinating climate-change initiatives among various stakeholders. The model shows the required interaction among international and subregional organisations; governments, organisations and the private sector in Member States; and trade and markets to effective address the impact of climate change through mitigation and adaption actions.

Figure 1: COMESA model for coordination in climate change initiatives



Source: COMESA (2008)

4.2 Mitigation and adaptation interventions in the COMESA Member States

The majority of the COMESA Member States are actively developing and implementing national legal frameworks, policies and strategies to address the impacts of climate change. This includes Mozambique that is developing the National Programme for strengthening disaster risk preparedness and the National Policy on Environment implemented in Zambia. The majority of the COMESA Member States have also notified various priority areas for action under the NAPAs to the UNFCCC. The table below shows those priority areas for the COMESA Member States which are not members of the EAC and SADC.

Table 4: Interventions according to NAPAs in Ethiopia, Eritrea, Comoros and Sudan

Countries	Priority areas in the NAPAs
Ethiopia	Promoting drought/crop insurance programs
	Enhancing drought and flood early warning systems
	Developing small-scale irrigation and water-harvesting schemes
	Improving rangeland resource-management practices in the pastoral areas
	Implementing community-based sustainable utilisation and management of wetlands
	Developing capacity building for adaptation
	Promoting the community-based carbon sequestration project in the Rift Valley

	Instituting a national research and development centre for climate change
	Promoting farm and homestead forestry and agro-forestry
Eritrea	Introducing community-based pilot rangeland improvement and management in selected areas in the north western lowlands rangeland
	Introducing community-based pilot projects to intensify existing production models, area and species specific to eastern lowlands, selecting suitable sheep and goat breeds
	Encourage afforestation and agroforestry through the Community Forestry Initiative
	Promoting groundwater recharging for irrigation wells
	Introducing and expanding irrigated agriculture, especially spate-irrigated agriculture
Comoros	Promoting varieties that are more adapted to drought
	Defending and restoring degraded soils
	Reconstituting basin slopes
	Increasing water supply
	Improving water quality
	Promoting early warning
Sudan	Enhancing resilience to increasing rainfall variability through rangeland rehabilitation and water harvesting in the Butana area
	Reducing the vulnerability of communities in drought-prone areas of southern Darfur through improved water harvesting
	Improving sustainable agricultural practices under increasing heat-stress in the River Nile
	Promoting environmental conservation and biodiversity restoration in northern Kordofan
	Improving strategies to adapt to drought-induced water shortages in highly vulnerable areas in central Sudan

Source: UNFCCC (2013a)

The Member States have also notified various CDM projects for consideration to the UNFCCC. These include wind and thermal power plants, reforestation and gas capturing. The table below provides an extracted list from those notified to the UNFCCC by the COMESA Member States not party to the EAC and SADC.

Table 5: CDM projects notified to the UNFCCC

Countries	CDM projects
Egypt	220 MW wind farm at Gulf of El-Zayt
	Landfill gas capturing and flaring in El-Kattamia landfill
Ethiopia	Thermal energy from renewable sources at African Bamboo PLC
	Aysha II wind power park project
	Reforestation of degraded land in Dangur and Guba districts
Libya	CFL project

Source: UNFCCC (2013b)

5. The Southern African Development Community

The SADC Member States have committed to sustainable development and the protection of the environment which are reflected in the SADC Treaty and various other SADC legal instruments, including a number of protocols and the Regional Indicative Strategic Development Plan (RISDP). The commitment of the Member States is also reflected in their participation in the negotiations and ratification of various multilateral environmental agreements, including the UNFCCC, the United Nations Convention to Combat Desertification (UNCCD) and the United Nations Convention on Biological Diversity (UNCBD).

In order to promote sustainable development SADC has also established three main environmental policy goals: (a) protect and improve the health, environment and livelihoods of the people of southern Africa; (b) reserve the natural heritage, biodiversity and life-supporting ecosystems in southern Africa; and (c) support regional economic development on an equitable and sustainable basis for the benefit of present and future generations. The Environment and Sustainable Development Programme under the Food, Agriculture and Natural Resource Directorate has also been established to ensure the sustainable use of the environment and natural resources in the region. The two main interventions in SADC to address the impact of climate change are the Climate Change Adaptation Strategy in the Water Sector (adaptation) and the SADC REDD+ Programme (mitigation).

5.1 Legal framework in SADC to address climate change

a) The SADC Treaty

According to Article 5(1)(g) of the SADC Treaty one of the key objectives of the regional economic community is to 'achieve sustainable utilisation of natural resources and effective protection of the environment'. The area of natural resources and the environment is also one of the key areas, identified in Article 21(3)(f) of the treaty, for cooperation among the SADC Member States.

b) SADC protocols

There are numerous SADC protocols applicable to achieve the SADC objective of sustainable resource utilisation and the protection of the environment. These protocols encompasses a

number of key areas including energy utilisation and development, cooperation to optimise sustainable use of aquatic resources, commonly conserving SADC forests and woodlands, water resource development and management, and the utilisation of natural resources for tourism activities in an environmentally sustainable manner. The applicable protocols are listed below.

- *Protocol on Energy*: Environmentally sound energy development and utilisation in the region should be achieved through cooperation and the development of renewable energy sources, energy efficiency and energy conservation. The protocol also aims to promote the production of renewable energy sources, including windmills, solar thermal and biogas.

- *Protocol on Fisheries*: The protocol aims to promote the responsible and sustainable utilisation of aquatic resources and ecosystems by protecting resources against overexploitation, the transfer of skills and technology, and the exchange of information regarding the state of shared resources among Member States.

- *Protocol on Forestry*: The protocol requires Member States to integrate and cooperate on the challenges facing the conservation and management of trans-boundary forests and woodlands. One of the key objectives of the protocol is the protection of the environment by harmonising sustainable forest management approaches, forest policy, legislation and enforcement. Under the protocol the SADC Support Programme on Reducing Emissions from Deforestation and Forest Degradation (REDD) was developed by the SADC Member States in 2009 with the aim of contributing to the reduction of global GHGs and the sustainable management of SADC forests, reducing poverty, and fostering sustainable development. The priority components of the programme are: (a) intersector and intrasector coordination and policy harmonisation for national REDD programmes; (b) international engagement on REDD and climate change processes; (c) capacity development to manage regional and national REDD programmes; (d) development of systems to monitor forests and carbon; (e) establishment of reference emission and reference levels for REDD; (f) knowledge management for REDD; and (g) implementing sustainable funding mechanisms for REDD.

- *Protocol on Health*: According to Article 23 of this protocol the Member States undertake to cooperate on regional environmental health issues and other concerns,

including toxic waste, waste management, air, land and water pollution, and the degradation of natural resources.

- *Protocol on Mining*: Article 8 of the protocol requires Member States to ensure that balance exists between mineral development and the protection of the environment by conducting environmental impact assessments and sharing information on environmental protection and rehabilitation initiatives.

- *Revised Protocol on Shared Watercourses*: The Revised Protocol repeals and replaces the Protocol on Shared Watercourse Systems (1995) and aims to enhance cooperation among Member States on the issues of sustainable and coordinated management, protection and utilisation of shared watercourses within SADC. The Revised Protocol seeks to facilitate the establishment of agreements and institutions that relate to shared watercourses; advance the sustainable utilisation of shared watercourses; promote coordinated, integrated and environmentally-friendly development of watercourses, and promote the harmonisation of legislation and policies on the development, conservation and protection of shared watercourses. The Revised Protocol also establishes various SADC Institutions on the matter, including the Committee of Water Ministers, the Committee of Water Senior Officials, the Water Sector Coordinating Unit and the Water Resources Technical Committee and Subcommittees.

- *Protocol on Tourism*: The main aim of the protocol is to increase regional tourism trade and the utilisation of natural and cultural resources to achieve sustainable development. However, in order to achieve this objective Member States are required to utilise their resources in an optimal and environmentally sustainable manner.

- *Protocol on Trade*: Although the main focus of the protocol is on the liberalisation of intraregional trade in goods and services, environmental conservation is also incorporated into the protocol through Article 9(h). This article allows Member States, as general exceptions, to implement measures to ensure the conservation of exhaustible natural resources and the environment.

- *Protocol on Transport, Communications and Meteorology*: The protocol aims to promote sustainable development with an emphasis on climate change and the protection of the environment by obliging Member States to strengthen their weather

and climate monitoring systems and meteorology research capacity and improve public and specialised weather services.

- *Protocol on Wildlife Conservation and Law Enforcement*: The protocol aims to develop common approaches to the conservation and sustainable utilisation of wildlife (excluding forestry and fishery resources) resources and ensure the effective enforcement of those national laws governing these resources. The protocol promotes the sustainable use of wildlife resources, harmonisation of legal instruments governing wildlife use and conservation, the enforcement of wildlife laws, facilitation of information exchange, and building national and regional capacity for wildlife management and conservation.

c) The Regional Indicative Strategic Development Plan

The RISDP is a 15-year strategic roadmap to provide direction for the long-term social and economic goals of SADC. The plan was approved in 2003 and effective implementation began in 2005. The RISDP focuses on 12 priority areas for intervention which includes poverty eradication, science and technology, the environment and sustainable development, statistics and human and social development.

The goal of the interventions identified under the priority area of the environment and sustainable development is to develop mechanisms for the implementation of the Multilateral Environmental Agreements the SADC Member States have ratified and to ensure environmental sustainability in accordance with the Millennium Development Goals (MDGs). The areas the RISDP focuses on to ensure the equitable and sustainable use of the environment and natural resources in the region are harmonised policy environments and legal and regulatory frameworks; promoting environmental mainstreaming; regular assessment, monitoring and reporting on environmental conditions and trends in the region; capacity building, information sharing and creating awareness; and ensuring a coordinated regional position in the negotiations and implementation of Multilateral Environmental Agreements.

In 2011 a Desk Assessment of the RISDP was completed to review the progress made in the implementation of the interventions identified within the key priority areas in the RISDP for the period 2005 to 2010. According to the Desk Assessment progress in the area of the

environment and sustainable development in the SADC region since implementation of the RISDP has been made in the following:

- An Environmental Protocol has been drafted, but Mauritius is the only Member State which commented on the draft as of March 2011.
- The Environmental Mainstreaming Manual to facilitate mainstreaming environmental issues into socioeconomic development activities in the region was approved at the end of 2010.
- The first series of full Southern Africa Environment Outlook (SAEO) reports was published in 2008. The reports highlights the challenges associated with SADC's environment and development goals and proposes interventions necessary to achieve the goals identified.
- The SADC Secretariat has facilitated various capacity-building initiatives on biodiversity, wildlife and Multilateral Environmental Agreements in the region.

However, the Desk Assessment also identifies various challenges SADC members have faced in evolving and implementing the environmental and sustainable development interventions in the RISDP. These include the lack of comments by Member States on the Draft Environmental Protocol, the cost of production of the SAEO Reports, lack of financial resources and human capacity and the lack of manpower in the Environmental Programme Unit.

d) The Regional Biodiversity Strategy

The purpose of the strategy is to provide a framework for regional cooperation in transboundary biodiversity issues and to combine national efforts to conserve and sustainably use biodiversity in the region. According to the strategy, biodiversity, in the context of SADC, can be defined as 'the variation between ecosystems and habitats; the variation between different species; and the genetic variation within individual species. It is a system of interactions between genes, species, and the ecosystems they form, influencing and influenced by ecological and evolutionary processes. The processes help to sustain biological systems and to ensure their productivity. Biodiversity forms the foundation of the vast array of eco-system products and services that contribute to human well-being and drives the economies of

SADC Member States' (SADC Regional Biodiversity Strategy vision, goal and objectives, 2008:2).

The strategy is built around the value and constraints of biodiversity conservation in the region. The main constraints the strategy aims to address include inadequate biodiversity monitoring and inventory systems, inadequate incentives for biodiversity conservation, weak institutional and legal frameworks, and limited and unsustainable funding for programme implementation. In order to address these constraints various strategies have been formulated. These include the development of comprehensive inventory and monitoring systems for key species, including fauna and flora; enhancing the economic value of biological resources; strengthening institutional and legal implementation frameworks for biodiversity initiatives; and the development of appropriate research and development approaches for initiatives and programmes.

e) SADC Climate Change Adaptation Strategy for Water

The SADC Climate Change Adaptation Strategy for Water aims to improve climate change resilience in the SADC region through integrated and adapted water management at the regional, national and river basin level. The objective of the strategy is to reduce climate vulnerability and to ensure water resource management systems adapt to climate variability through the implementation of various adaptation measures over the next 20 years. The SADC strategy promotes the adoption of a comprehensive and multidimensional approach to climate change adaptation aligned with an integrated water resource management system.

The adaptation measures are based on three areas of intervention, namely water governance, water management and infrastructure development. Water governance refers to the political, social, economic and administrative systems needed to develop and manage water resources. Infrastructure development is the process of developing, financing, implementing and operating structures for irrigation, drainage, water supply and sanitation, hydro-power and flood management. Water management incorporates planning, management and distribution of water resources for different uses according to water policies and regulations.

The SADC Secretariat is primarily responsible for implementing and coordinating the various objectives and actions under the strategy through the coordination and facilitation of resources under the SADC Regional Strategic Action Plan. Member States are also responsible for implementing the tactical principles of the strategy at national level.

5.2 Mitigation and adaptation interventions in SADC Member States

SADC Member States are actively developing and implementing national legal frameworks, policies and strategies to address the effects of climate change through various mitigation and adaptation actions. These include countries like South Africa, Malawi, Mozambique, Mauritius and Zambia. South Africa is currently implementing renewable energy feed-in tariffs as well as a National Climate Change Response Strategy; Mauritius has two approved CDM projects (waste to energy project/biogas and a coal-fired electric power plant); Malawi is implementing the National Framework on Climate Change on Adaptation and Zambia is implementing the National Disaster Management Policy and Wildlife Policy. The table below also shows the priority areas of the SADC Member States as notified in their NAPAs to the UNFCCC.

Table 6: Priority areas in the NAPAs of SADC Member States

Countries	Priority areas according to NAPAs
Angola	Promoting Alternative renewable energies for avoided deforestation
	Promoting *sustainable land management* (SLM) for increased agricultural yields
	Ensuring Basic access to health services and health monitoring
	Studying the vulnerability of fishing activities
	Extending electricity grid to rural areas
	Revising sectoral laws for proactive adaptation
	Creating an early warning system for flooding and storms
	National institutional mechanism for adaptation planning and mainstreaming
	Soil erosion control through organic methods
	Diversifying crops to less climate sensitive cultures
	Technology needs assessment
	Locally available adapted seed varieties
	Climate monitoring and data management system
	Studying the implication of climate change on disease patterns
	Increasing water availability through village-level wells and boreholes
Malawi	Improving community resilience to climate change through sustainable rural livelihoods
	Restoring forests in the Shire River Basin to reduce siltation
	Improving agricultural production under erratic rains
	Improving community storage for food and seed reserves
	Improving preparedness to cope with drought and floods
	Improving climatic monitoring to enhance early warning capabilities

Lesotho	Improving the resilience of livestock production systems
	Promoting sustainable crop-based livelihood systems in the foothills, lowlands and Senqu River Valley
	Capacity building and policy reform to integrate climate change in sectoral development plans
	Improvement of an early warning system
	Securing village water supply for communities in the southern lowlands
	Management and reclamation of degraded and eroded land in the flood-prone areas
	Conservation and rehabilitation of degraded wetlands in the mountain areas
	Improvement of community food security
	Strengthening and stabilising eco-tourism
	Promote wind, solar and biogas energy use
	Improvement of small-scale industries
Mozambique	Strengthening of an early warning system
	Strengthening capacities of agricultural producers to cope with climate change
	Reduction of climate-change impact on coastal zones
	Management of water resources under climate change
Zambia	Adaptation of the effects of drought in the context of climate change in Agro-Ecological Region I of Zambia
	Strengthening of early warning systems to improve services to preparedness and adaptation to climate change
	Promotion of alternatives sources of livelihoods to reduce vulnerability to climate change/variability to communities living around greater metropolitan areas
	Management of critical habitats
	Promotion of natural regeneration of indigenous forests
	Adaptation of land use practices
	Maintenance and provision of water infrastructure to communities to reduce human-wildlife conflict
	Eradication of invasive alien species
	Capacity building for improved environmental health in rural areas
	Climate proofing sanitation in urban areas

Source: UNFCCC (2013a)

A significant number of SADC Member States have submitted projects to the UNFCCC under the CDM mechanism. These projects range from hydro-power plants, waste heat recovery, solar PV projects and wind-power projects. The table below provides an example of the projects which have been notified to the UNFCCC by SADC Member States.

Table 7: CDM projects notified to the UNFCCC

Countries	CDM projects
Angola	Liapeca hydro-power plant
	Neuerth Angola lead recycling project
	Waste heat recovery at Nova Cimongola Cement Plant
Botswana	Solar thermal power plan
Lesotho	Lesotho Highlands power projects
Madagascar	Forahantsana hydro-power plant
Malawi	Kayeleka mine steam turbine project
Mozambique	Gas-fired power plant at Ressano Garcia
Namibia	60 MW wind power energy project at Walvis Bay
South Africa	Lasedi solar PV
Swaziland	Energy from wood waste
Zimbabwe	Great Zimbabwe hydro

Source: UNFCCC (2013b)

6. COMESA-EAC-SADC TFTA

In order to address the issues of climate change in the region the EAC, COMESA and SADC Member States signed the Tripartite Agreement for the Implementation of the Programme on Climate Change Adaptation and Mitigation in Eastern and Southern Africa at the 19th African Union Summit of Heads of State and Government in Ethiopia on 15 July 2012. The signing of this agreement allows for the inclusion of climate-change issues as one of the areas of cooperation under the Tripartite Negotiations Framework. The secretariats of the three RECs are responsible for implementing the joint programme which is funded by the European Union Commission, Ministry of Foreign Affairs of Norway and the United Kingdom Department for International Development (DFID).

6.1 Legal framework in the TFTA to address climate change

a) Tripartite Agreement for the Implementation of the Programme on Climate Change Adaptation and Mitigation in Eastern and Southern Africa

The three RECs jointly developed the five-year programme (2010-2016) focused on climate-change adaptation and mitigation in the COMESA-EAC-SADC region with the key objective of addressing the impacts of climate change through adaptation and mitigation aimed at socioeconomic resilience through Climate-Smart Agriculture (CSA). CSA is defined as

'agriculture that sustainably increases productivity, resilience (adaptation), reduces or removes GHGs (mitigation), and enhances achievement of national food security and development goals' (FAO, 2010).

The goal of the programme is to attract new and increase current investment in climate-resilient and carbon-efficient agriculture, with its linkages to forestry, land-use and energy practices by 2016. To reach this goal the RECs have identified seven specific objectives to attain through the programme: (a) mitigation with carbon trading benefits; (b) inclusion of climate-change issues in nation planning; (c) increasing access to adaptation funds and other climate-change financing sources and mechanisms; (d) enhancing the adoption of CSA in the region; (e) strengthening research and training capacity; (f) implementation of climate vulnerability assessments and analysis; and (g) establishment of a regional facility to support national investment in CSA programmes. Some of the expected outcomes associated with the successful implementation of the programme include the following:

- Enhanced human and institutional capacity in the secretariats of the three RECs
- Development of CSA on a national and regional level
- Creation of supporting infrastructure and services needed for conservation agriculture
- Implementing at least 14 investment projects in conservation agriculture
- Competitive research on climate-change-related issues
- Developing knowledge centres and the international transfer of knowledge
- Widely adopted mitigation solutions and technologies
- Implementing carbon trading benefiting the COMESA-EAC-SADC region
- Adopting new and increased current investments in mitigation and adaptation programmes.

The responsibility of the programme is in the hands of the Council of Ministers through existing Tripartite reporting structures, while the Climate Change Unit of COMESA and Programme Coordination Units in the EAC and SADC are responsible for the management of the programme. One of the key components of the programme is the monitoring and evaluation of all its activities and actions. The COMESA Climate Change Unit (Monitoring and Evaluation Division and Department) is the body responsible for monitoring and evaluating all aspects of the implementation and functioning of the programme.

6.2 Mitigation and adaption interventions in the Tripartite region

The Tripartite Climate Change Programme identifies a number of activities under each specific objective to be implemented over the next five years. However, the majority of the interventions are focused on capacity-building initiatives throughout the 26 member countries and include:

- Facilitating the design of climate-smart agriculture investment frameworks
- Supporting technical centres for climate-smart agriculture
- Supporting research activities in bio-carbon and other mitigation monitoring methodologies
- Demand-and-supply analysis of crop and agro-forestry seeds
- Supporting Member States to develop regional and national climate mitigation strategies
- Supporting Member States in developing their NAPAs
- Establishing a regional carbon fund.

To date, the following has been achieved within the Tripartite Programme (EAFF, 2013):

- Support has been provided to Member State to participate on negotiations on the Africa Position on Climate Change.
- Support of the participating delegates to the UNFCCC Conference of the Parties (COP).
- Sub-grantee agreements have been signed with participating partners to upscale the climate-smart agriculture initiatives.
- Capacity building on climate finance mobilisation has taken place in 22 of the 26 tripartite countries.

7. Conclusion

Climate change can result in a variety of environmental challenges faced by African countries which can hamper the economic growth and socioeconomic and industrial development in developing and least developed countries in the region. Not only are agriculture, tourism and

fisheries among the largest sources of employment, economic growth and exports for many countries on the African continent, but they are also the sectors which are the most vulnerable to climate change and other environmental risks.

One of the main reasons for Africa's vulnerability to the effects of climate change and climate variability is its low adaptive capacity coupled with developmental challenges in the majority of African countries. However, most of the countries in eastern and southern Africa are currently aiming to address the issue of low adaptive capacity by actively pursuing the development and implementation of regional and national policy frameworks, regulations, strategies and adaptation interventions to address the current and potential impact of climate change on their economies. These interventions include a regional policy, strategy and master plan on climate change in the EAC, a regional initiative to address climate change issues in COMESA, and regional strategies on biodiversity preservation and water management in SADC.

The majority of the Member States of the three RECs have also committed to address climate-change impacts through developing and implementing national climate-change policies and strategies, recognising priority areas for national mitigation and adaptation interventions, and identifying domestic emission reduction projects under the Clean Development Mechanism. The three RECs have also reaffirmed their commitment to address the challenges of climate change through the inclusion of climate-change issues as one of the areas for cooperation under the Tripartite Negotiations Framework.

Although these national and regional measures are a step in the right direction to address the current and future effects of climate change on the economies of the countries in eastern and southern Africa, various practical challenges are hampering the full utilisation of these interventions for countries to effectively adapt to and mitigate the impact of climate change. These include the lack of institutional, technical and financial capacity; bureaucratic delays in adopting and implementing policies and strategies; and the lack of awareness of the implications of climate change for future economic growth and development. To ensure the success of adaptation and mitigation actions and interventions to effectively limit the impact of climate change on the economies of countries in eastern and southern Africa these practical challenges need to be addressed on the national, regional and multilateral level.

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Legal texts

East African Community (EAC)

EAC Treaty

EAC Climate Change Policy

EAC Climate Change Strategy

EAC Climate Change Master Plan (2011-2031)

Protocol for Sustainable Development of Lake Victoria Basin

Protocol on Environment and Natural Resource Management

Protocol on the Establishment of the EAC Common Market

Fourth+ EAC Development Strategy (2011/2012-2015/2016)

Common Market for Eastern and Southern Africa (COMESA)

COMESA Treaty

COMESA Climate Initiative

Southern African Development Community (SADC)

SADC Treaty

Protocol on Energy

Protocol on Fisheries

Protocol on Forestry

Protocol on Health

Protocol on Mining

Protocol on Tourism

Protocol on Trade

Protocol on Transport, Communication and Meteorology

Protocol on Wildlife Conservation and Law Enforcement

Revised Protocol on Shared Watercourses

Regional Indicative Strategic Development Plan (RISDP)

SADC Support Programme on Reducing Emissions from Deforestation and Forest Degradation (REDD)

Regional Biodiversity Strategy

Climate Change Adaptation in SADC: A strategy for the Water Sector

Tripartite Free Trade Area (TFTA)

Implementation Agreement between COMESA, the EAC and SADC for implementation of the Programme on Climate Change Adaptation and Mitigation in the COMESA-EAC-SADC Region

Programme on Climate Change Adaptation and Mitigation in the Eastern and Southern Africa (COMESA-EAC-SADC) Region

Chapter 9

Power markets in the Tripartite Free Trade Area and prospects for energy services negotiations

JB Cronje

1. Introduction

All countries in the Tripartite Free Trade Area (TFTA) face the challenge of supplying sufficient electricity for the growing demand of residential and commercial customers. The region has large reserves of unexploited energy resources[1] to generate electricity. The existing electricity generation capacity in the region is underdeveloped and inadequate as illustrated by the low levels of electricity consumption per capita and low power generation growth rates. Electricity supply is often unreliable and causes great financial losses to business through loss of sales and damages. In addition, electricity prices are generally high in relation to other developing countries. Consequently, access to electricity remains low.

After decades of maintaining uneconomic tariff structures and inefficient commercial practices, power utilities are in a poor financial position to expand generation capacity to meet suppressed demand, increase access and rehabilitate systems. In an effort to improve the performance of power utilities countries started to introduce power-sector reforms. Structural reforms include improving the efficiency of state-owned utilities by introducing corporate disciplines and commercial practices as well as the unbundling of the state-owned monopoly into separate generation, transmission and distribution segments. Reforms also include the

[1] Energy can take a wide variety of forms such as thermal, radiant, mechanical, electric, chemical and nuclear energy, which can be transformed between these different forms with more or less conversion efficiency. All forms of energy are stored in different ways in two groups of energy sources, namely renewable and non-renewable sources. Most energy comes from non-renewable sources such as oil, natural gas, coal and uranium. Renewable energy sources include solar, wind, geothermal, hydro and biomass. All energy sources can be used to generate electricity.

introduction of competition in the market, the introduction of private investment including foreign investors in generation, and regulation to stimulate competition. However, the creation of competitive wholesale and resale power markets has not been realised. The introduction of limited reforms created its own unique challenges relating to the management of power markets and the facilitation of entry of independent power producers into the market. This requires clear regulatory actions in order to attract new investment in generation capacity. Apart from addressing these domestic regulatory and reform challenges, countries should also improve the performance of state-owned utilities, increase electricity tariffs to cost-recovery levels and pursuit the integration of power markets in the region. Many countries in the region do not have independent regulatory bodies.

Many countries in the region have insufficient electricity demand to justify large power plants to exploit economies of scale. The rationale for the interconnection of physical infrastructure is to attract investment to countries with a comparative advantage in power generation and to develop economies of scale. Two regional power pools, the Southern African Power Pool and the Eastern Africa Power Pool have been established in the TFTA region to promote cross-border electricity trade and ultimately to create a regional competitive power market. In addition, regional regulatory bodies were established in each of the three regional economic communities encompassing the TFTA to harmonise policy, legislation and regulation for cross-border power trading. According to the objectives of the TFTA Member States, all of these regional institutions will be required to cooperate and harmonise their existing programmes and implement them jointly.

The Declaration Launching the Negotiations for the Establishment of the Tripartite Free Trade Area among the Member States of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), and the Southern African Development Community (SADC) provides for a 'developmental integration approach built on three pillars of industrial development, infrastructure development and market integration'.

The Draft Agreement Establishing the COMESA, EAC and SADC Tripartite Free Trade Area provides in Article 28(1) and (2) that:

1. Tripartite Member States undertake to cooperate and develop infrastructure programmes to support interconnectivity in the region and promote competitiveness.

2. Tripartite Member States agree that priority areas of regional infrastructure include energy, information and communications technologies and corridor development.

According to the Communiqué of the Second COMESA-EAC-SADC Tripartite Summit, the purpose for the inclusion of the infrastructure development pillar in the TFTA negotiations is to enhance interconnectivity and reduce the costs of doing business in the region.

The Declaration Launching the Negotiations for the Establishment of the Tripartite Free Trade Area also provides for negotiations to be concluded in two phases and for trade in services including energy services to be covered in the second phase. One of the main challenges facing TFTA negotiators on energy services will relate to the definition and classification of energy services. Many countries have introduced domestic regulatory reforms over the past few decades which resulted in the reorganisation of the energy sector. As a result, many economic activities involved in the energy supply chain could now be separated and supplied by different suppliers under conditions of competition. Consequently, some members of the World Trade Organisation (WTO) have submitted proposals for an improved classification of energy services. Another major challenge relating to the negotiation of energy services is ensuring that liberalisation is accompanied by the establishment of appropriate competition and a regulatory framework that would ensure competitive energy services markets.

This chapter attempts to discuss all of these issues and goes beyond traditional WTO General Agreement on Trade in Services (GATS) issues of market access and national treatment. It aims to highlight some of the challenges involving power-sector reform and the potential benefits of regional integration and cooperation. Ultimately, the efficiency of an infrastructure services sector depends on the manner in which the infrastructure is managed and its uses are regulated.

2. Underdeveloped energy resources

Countries in east and southern Africa are rich in primary energy resources. It is estimated that only 7% of the continent's hydropower potential has been exploited. For example, the Democratic Republic of the Congo (DRC) and Ethiopia have hydropower potential of 100 gigawatt (GW) and 30 GW respectively (Kapika, 2013). Countries such as the DRC, Mozambique and Zambia operate large hydropower plants. Others such as Burundi, Lesotho,

Rwanda, Malawi and Uganda are also heavily dependent on hydropower generation (World Bank, 2011).

The continent has abundant other renewable energy resources, particularly solar and wind. However, the relatively high capital costs associated with the development of renewable energy sources make investment less attractive, but renewable energy technologies provide less costly off-the-grid power-generation alternatives to expensive diesel generators. Tanzania, Malawi and Mozambique, for example, have geothermal power potential in the Rift Valley (World Bank, 2011).

Apart from renewable energy sources, many countries generate electricity from fossil fuels. South Africa, for example, has the world's ninth largest proven coal reserves. Other countries such as Botswana have much smaller reserves. Proven oil reserves are mainly concentrated in Nigeria (36 billion barrels), Angola (9 billion barrels) and Sudan (6.4 billion barrels) but smaller quantities of oil reserves have been discovered in some west and central African states. Furthermore, although proven natural gas reserves are concentrated in Nigeria (5.2 trillion cubic feet), commercially significant discoveries of natural gas have been made in recent years in Mozambique (4.5 Tcf[2]), Namibia (2.2 Tcf) and Angola (2.0 Tcf). Namibia and South Africa hold some of the world's largest natural uranium reserves required for nuclear power generation but South Africa operates the continent's only nuclear power plant (World Bank, 2011).

3. Inadequate generation capacity

The total installed electricity generation capacity of 48 Sub-Saharan African states is about equal to the total generation capacity of Spain.

Table 1 below shows that South Africa has by far the largest installed electricity generation capacity in the TFTA region. A few countries including the DRC (2 475 megawatt (MW)), Sudan (2 475 MW), Zimbabwe (2 005 MW), Kenya (1 706 MW) and Zambia (1 679 MW) have intermediate generation capacity. Other countries such as Seychelles (95 MW), Rwanda (56 MW) and Comoros (6 MW) have much lower generation capacities.

South Africa generates 90% of its total electricity supply from fossils fuels, mainly through 13 coal-fired power plants. A few other countries such as Botswana and Zimbabwe are also

[2] A trillion cubic feet (1,000,000,000,000 cubic feet).

heavily dependent on coal for electricity generation. Other countries, especially island states, generate their electricity from oil or gas. However, power generation outside South Africa is mainly dominated by hydropower. Countries such as Lesotho, Malawi, DRC, Zambia and Burundi generate electricity almost exclusively from hydropower.

Table 1: Installed generation capacity in TFTA by country and by source in 2009

Country	Highest to lowest estimated installed electricity generation capacity (MW)	Percentage electricity from fossil fuels of total installed capacity	Percentage electricity from hydropower of total installed capacity	Percentage electricity from other renewable sources of total installed capacity
South Africa	44 260	90.8	1.5	5
Egypt	24 670	86.9	11.4	1.7
Libya	6 766	100	0	0
DRC	2 475	1.3	98.7	0
Sudan	2 338	30.7	66.3	3
Mozambique (2012)	2 280	10.3	89.7	0
Zimbabwe	2 005	66.1	33.9	0
Kenya	1 706	43.3	43.8	12.9
Zambia	1 679	0.4	99.6	0
Ethiopia	1 180	17.2	82.1	0.6
Angola	1 155	56.9	43.1	0
Tanzania	957	39.5	60.5	0
Mauritius	885	75.2	6.7	0
Uganda	529	37.8	59.5	2.6
Madagascar	406	69.5	30.5	0
Namibia	393	36.6	63.4	0
Malawi	299	5.7	94.3	0
Eritrea	139	99.3	0	0.7
Botswana	132	100	0	0
Djibouti	130	100	0	0
Swaziland	130	67.7	32.3	0
Seychelles	95	100	0	0
Lesotho	76	0	100	0
Rwanda	56	53.3	46.2	0.4
Burundi	52	1.9	98.1	0
Comoros	6	83.3	16.7	0

Source: CIA: The World Fact Book (2009)

The lack of adequate generation capacity is exacerbated by the unavailability of a large percentage of generated electricity. Table 2 below shows that in a large percentage of generation activities output is lost to inefficiencies in the transmission and distribution of electricity. For example, in 2011 the transmission and distribution losses contributed 28% of the total output in Namibia and a staggering 56% in Botswana.

The underdeveloped nature of electricity generation capacity could be illustrated by the low levels of electricity consumption in the region. Table 2 indicates that in 2011 the average electricity consumption per capita in Sub-Saharan Africa was 45 kilowatt-hour (kWh).

Table 2: The average electricity consumption per capita and percentage transmission and distribution losses in TFTA by country in 2011

Country*	Consumption per capita (kWh)	Transmission and distribution losses (percentage of output)
Angola	248	11
Botswana	1603	56
DRC	105	13
Egypt	1743	11
Eritrea	49	14
Ethiopia	52	10
Kenya	155	17
Libya	3926	13
Mozambique	447	15
Namibia	1549	28
South Africa	4694	8
Sudan	143	22
Tanzania	92	19
Zambia	599	24
Zimbabwe	757	8
Sub-Saharan Africa	**536**	**11**
Low- and middle income countries	**1646**	**10**
High-income countries	**8901**	**6**

Source: World Bank: World Development Indicators (2011)

* Data not available for the following Tripartite FTA Member States: Burundi, Comoros, Djibouti, Lesotho, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Swaziland and Uganda

month compared to an average of 137 kWh per month in low- and middle-income countries and 742 kWh per month in high-income countries. Electricity consumption varies considerably between countries in the TFTA region. For example, in 2011 South Africa had an average electricity consumption of 4 694 kWh per capita compared to an average of 49 kWh per capita in Eritrea.

Addressing the generation capacity constraints of the region requires a substantial increase in the generation growth rate over an extended period of time. However, since the 1980s capacity growth has been largely stagnant with growth rates of only half of those achieved in other developing regions (Eberhard, 2012). In order to reverse this situation, Kapika (2013) estimates that 7 000 MW new generation capacity per annum between 2005 and 2015 would be required to meet suppressed demand, keep up with projected economic growth, provide additional capacity to increase electrification rates, and rehabilitate existing generation and transmission assets. Unfortunately, the expansion of generation capacity between 1995 and 2005 was a mere 1 000 MW per annum.

4. Unreliable electricity supply

Power supply is often unreliable and power outages are frequent in many countries in the region. Data from the World Bank's Enterprise Surveys in Table 3 below indicates that most businesses in the TFTA region experience frequent power outages. The average number of electrical power outages in a typical month for Sub-Saharan Africa countries is 8.8 compared to 2.6 for East Asian and Pacific, 2.5 for Latin American and Caribbean countries and 26.8 for South Asian countries. Firms experiencing frequent power outages are more likely to have their own generation facilities (backup generators). Own generation constitutes a substantial proportion of total generation capacity in countries such as Burundi, Ethiopia, Kenya and Rwanda. Power generated from backup generators is, however, much more expensive than grid power which increases the weighted average cost of power to consumers. Moreover, frequent power outages result in significant losses for businesses through forgone sales and damages. Power outages can cause losses equivalent to 5% of annual turnover on average for firms in the TFTA region and as much as 19.3% for firms in the DRC. Poor power supplies constrain economic growth, especially through its detrimental effect on firm productivity. However, if access to reliable electricity could be improved it will lower the cost of doing business, increase investment and drive economic growth.

Table 3: Unreliability of electricity supply in TFTA by country

Country	Number of electrical outages in typical month	Duration of a typical electrical outage (hours)	Losses due to electrical outages (% of annual sales)	Percentage of firms owning or sharing a generator	Proportion of electricity from a generator (%)
Angola (2010)	4.7	11.8	8.8	79.0	17.3
Botswana (2010)	4.1	2.5	2.9	34.5	0.6
Burundi (2006)	10.7	9.1	9.4	10.7	41.9
Comoros	-	-	-	-	-
Djibouti	-	-	-	-	-
DRC (2010)	20.0	6.7	19.3	49.3	4.2
Egypt (2008)	-	2.1	-	3.2	23.9
Eritrea (2009)	0.5	0.5	0	0.2	37.2
Ethiopia (2011)	5.6	7.8	2.6	4.3	42.2
Kenya (2007)	5.8	3.8	5.2	6.3	65.7
Lesotho (2009)	4.1	3.1	3.3	30.9	0
Libya	-	-	-	-	-
Madagascar (2009)	11.9	1.9	5.7	29.3	5.2
Malawi (2009)	0.8	2.4	8.0	25.3	2.0
Mauritius (2009)	1.2	1.2	0.5	24.5	0.8
Mozambique (2007)	1.6	2.2	1.2	12.6	1.3
Namibia (2006)	0.4	0.7	0.2	12.8	0.6
Rwanda (2011)	4	2.7	1	2.6	55.5
Seychelles	-	-	-	-	-
South Africa (2007)	0.9	2.0	0.7	18.4	1.9
Sudan	-	-	-	-	-
Swaziland (2006)	1.8	1.5	1.6	36.8	3.7
Tanzania (2006)	9.1	6.0	7.3	45.7	16.8
Uganda (2006)	10.7	9.7	9.4	10.2	28.9
Zambia (2007)	2.5	2.0	2.5	13.7	2.5
Zimbabwe (2011)	6.7	5.0	6.9	53.0	3.1

Source: World Bank Enterprise Surveys

- = data not available

5. High electricity prices

Electricity prices are generally high by international standards. The average electricity tariff in the region is about double that of other developing countries and almost as high as in high-

income countries. However, countries in southern Africa have maintained relatively low tariff prices that are well below generation costs. However, tariffs in these countries are beginning to rise to recover cost of delivery. Kapika (2013) argues that utilities hardly ever manage to recover costs due to underpricing and poor revenue collection. 'Poor cost recovery prevents such utilities from making the necessary investments in increasing generation capacity, expanding and reinforcing networks and thus improving quality and reliability' (Kapika, 2013).

High electricity tariffs could also be attributed to low economies of scale and the use of inefficient generation technologies (Eberhard, 2012). A total of 12 out of 26 TFTA countries have installed generation capacities of less than 500 MW and five of these countries have installed capacity of less than 100 MW. These small generation systems produce sub-optimal supply systems. Regional electricity integration could produce larger economies of scale and encourage the use of more efficient forms of production (World Bank, 2011).

6. Low electrification rates

Given decades of insufficient investment in generation capacity, unreliable supply and high electricity prices, access to electricity in most countries in the region remains low. Access to electricity varies across the different countries in the region. For example, according to the data in Table 4 below more than 99% of the population in Mauritius have access to electricity compared to only 9% in Malawi. There are also significant disparities between urban and rural areas within countries. For example, in Namibia 75% of the urban population have access to electricity compared to 10% in rural areas (Kapika, 2013).

Securing access to reliable electricity is a major concern not only for households but also for businesses. According to the World Bank's *Doing Business 2013* Report, lack of access to reliable electricity supply has a detrimental effect on businesses' productivity and competitiveness and on many countries' overall developmental goals. The report measures and compares (among other things) the procedures, time and costs involved for a small to medium-sized business to obtain a new electricity connection to supply a standardised warehouse in 185 countries.

The *Doing Business 2013* Report argues that the indicators (procedures, time and cost) presented in Table 4 below can serve as a good proxy for the overall performance of the electricity sector in a country. Lower electrification rates are typically associated with greater

cost and time in getting an electricity connection. For example, in Madagascar with an electrification rate of 17% a business would wait 450 days to get a new electricity connection costing 9 056.7% of income per capita. Similarly, in Malawi with a low electrification rate of 9% a business would wait 222 days for the installation of a new electricity connection costing 8 854.9% of income per capita. The *Doing Business 2013* Report also argues that electricity supply is likely to be more reliable (measured by the total hours of power outages per customer per year) if the connection process is cheap and efficient. For example, in Mauritius the total hours of power outages per year are 17.3. A business in Mauritius needs to follow just 4 procedures to get a new electricity connection costing only 295.1% of income per capita. By comparison, in the DRC the total hours of power outages per year are 1608. A business in the DRC needs to follow six procedures to get a new electricity connection costing 27 211.6% of income per capita.

Table 4: Access to electricity and the ease of getting electricity in the TFTA by country

Country	Electrification rate (%) in 2010	Population without electricity (millions) in 2010	Ease of Doing Business rank (out of 185) on getting electricity in 2012	Procedures (number) to get a new electricity connection	Time (days) to get a new electricity connection	Cost (% of income per capita) to get a new electricity connection
Angola	40	11	113	7	55	754.9
Botswana	45	1.1	90	5	121	353.8
Burundi	-	-	164	5	188	21 481.7
Comoros	-	-	104	3	120	2477.2
Djibouti	-	-	142	4	180	7776.4
DR Congo	15	58	140	6	58	27 211.6
Egypt	99.6	0.3	99	7	54	396
Eritrea	32	4	93	5	59	3508
Ethiopia	23	65	94	4	95	2544.3
Kenya	18	34	162	6	146	1208.2
Lesotho	17	1.7	133	5	125	2 275.9
Libya	99.8	0	-	-	-	-
Madagascar	17	17	183	6	450	9 056.7
Malawi	9	13	179	6	222	8 854.9
Mauritius	99	0.01	44	4	84	295.1
Mozambique	15	20	174	9	117	2 394.7
Namibia	44	1.2	87	7	38	482.2
Rwanda	-	-	49	4	30	3948.1

Seychelles	-	-	144	6	147	429.8
South Africa	76	12	150	5	226	1 505.8
Sudan	36	28	108	5	70	2527.3
Swaziland	-	-	155	6	137	1 071.8
Tanzania	15	38	94	4	109	1 944.1
Uganda	9	29	127	5	91	4622.9
Zambia	19	11	151	6	117	1 109.5
Zimbabwe	37	8	157	6	106	3 917.2

Source: International Energy Agency: World Energy Outlook (2012) and Doing Business Report (2013)

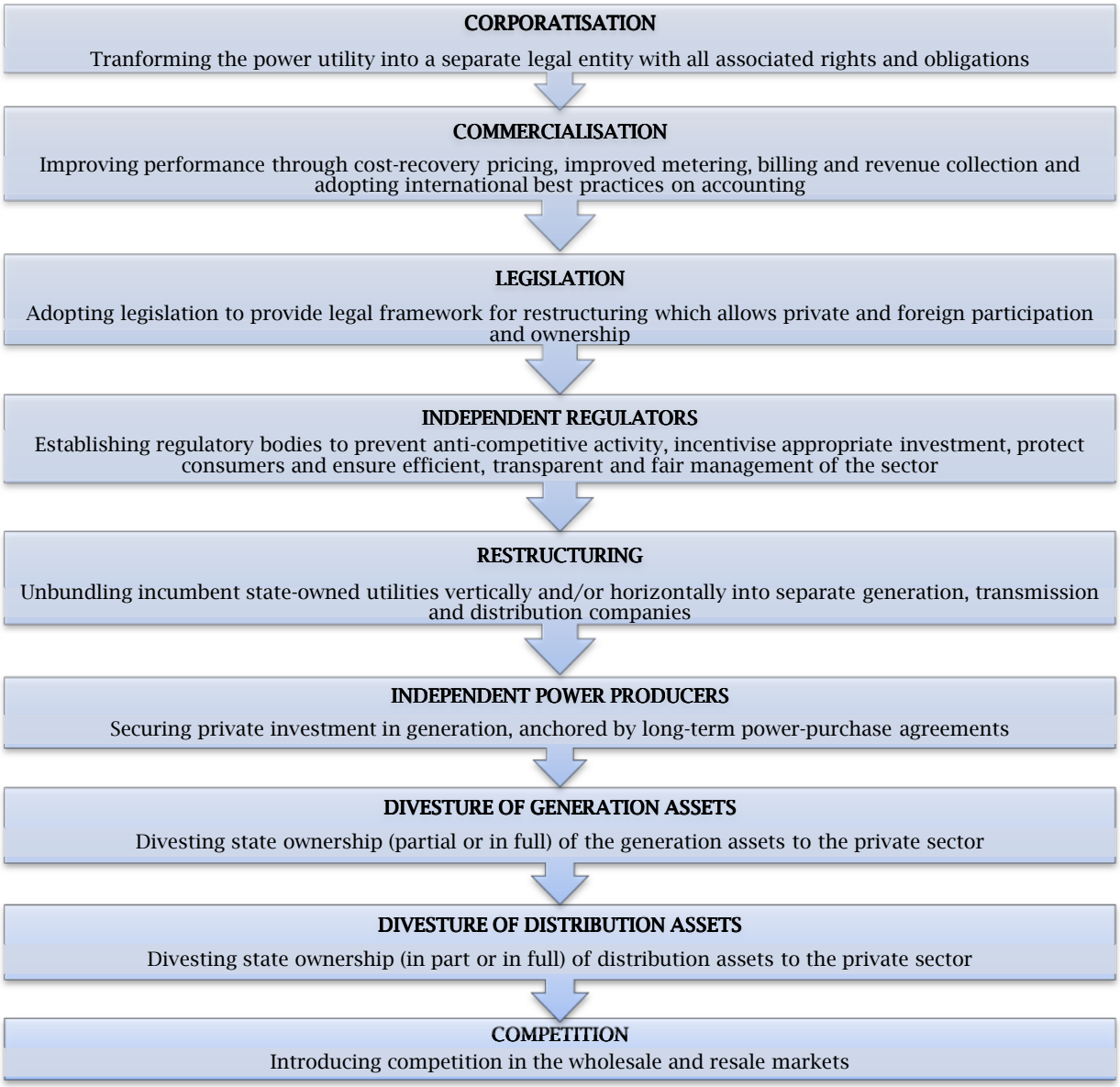
- = data not available

7. Power sector reforms and challenges

By the 1990s power utilities were generally in a poor financial position to meet increased demand and to improve access to electricity. This situation forced policy makers to consider options to reform the power sector. The poor financial state of utilities was broadly as a result of factors such as uneconomic tariff structures and weak commercial practices including meter reading, billing and revenue collection. In an effort to improve the performance of utilities, the World Bank revised its lending policies in 1993, including restructuring requirements. Some of these requirements included the establishment of legal and regulatory frameworks, the contracting out of certain services such as billing, maintenance and revenue collection, the commercialisation and corporatisation of state-owned utilities and the pursuit of private sector participation (Kapika, 2013).

By the turn of the millennium reforms gained momentum and a set of measures, outlined in Table 5 below, were widely considered as the 'standard model' for power sector restructuring (Kapika, 2011).

Table 5: Standard model of power sector reform



Source: Kapika (2013)

However, the standard model has not been fully implemented in any African country in which reforms have been undertaken. Corporatisation and commercialisation of state-owned utilities and the establishment of independent regulatory agencies have featured most prominently in the adopted reforms. In most cases the state-owned utility continues to generate electricity and is simultaneously also authorised to source power from independent producers. Wholesale and resale competition have not been realised on the continent (World Bank, 2011). Some argue that the power markets in Africa are not suited for these types of reforms. Power sector reforms to promote competition should be limited to countries with large power markets that are able to support more than one generator operating at efficient economies of scale. The

power markets of most countries in the region are too small to support meaningful competition. Only South Africa and Nigeria have power markets that are large enough to support unbundling (World Bank, 2011).

According to Gratwick and Eberhard (2008), the standard model of introducing competitive power markets in Africa will not be fully realised in the foreseeable future. They have described the current power market structure in African countries that have undergone partial reforms as 'hybrid power markets'. In such markets the dominant state-owned power utility operates side by side with independent power producers (IPPs) with virtually no competition between them. This model essentially constitutes two separate markets. However, in order for IPPs to succeed a number of factors need to be in place including a competent regulator, timely and competitive bidding and procurement processes, a financially viable off-taker, power purchase agreement, appropriate credit and security agreements and the availability of competitively priced fuel (World Bank, 2011).

The incomplete implementation of the standard model of reform created its own challenges in these hybrid power markets. The key challenge relates to the management of hybrid power markets including generation planning, procurement and contracting responsibilities. These functions were traditionally performed by the monopoly state-owned utility. The introduction of hybrid power markets created confusion over whether the planning function needs to be performed by the responsible government department, regulator, state-owned utility or even an independent planning body. The institutional allocation of planning responsibilities is important especially where new generation capacity must be installed by both the state-owned utility and independent power producers. In such cases criteria must be developed to determine which new building opportunities will be undertaken by the state-owned utility and which projects will be bid out to the private sector. Clear processes are therefore required to link planning processes with the procurement of private investment.

New generation planning must be kept up to date and flexible to ensure security of supply and the most cost effective mix of electricity generation, which could include the importation of electricity. Failure to transfer resources and institutional capacity from the state-owned utility to a different institution could lead to a collapse of generation planning resulting in the implementation of outdated generation plans that do not take changing circumstances and new technologies into account.

Procurement of new generation capacity must be governed by clear rules and procedures. This is essential to ensure that the tendering, bidding and awarding of contracts are timely, cost effective and transparent (Malgas, 2011). Clarity is also needed on IPP off-take arrangements because the cost of power generation by IPPs is for various reasons normally much higher than the average tariffs charged to customers by the state-owned utility. As a result, IPPs are in most cases forced to conclude off-take agreements with the state-owned utility which is able to aggregate demand and average prices for customers (World Bank, 2011). However, exceptions may exist. Large industrial or mining consumers may be willing to pay a premium for security of supply. These consumers should be permitted to negotiate supply agreements directly with domestic and cross-border IPPs. Equally, IPPs should be allowed to conclude agreements, both domestically and across borders. Countries should therefore avoid extending exclusive or single-buyer rights to state-owned utilities (Malgas, 2011).

Malgas (2011) is of the opinion that hybrid power markets are the result of power-sector reform in Africa. The standard model of reform is no longer an appropriate option or even an end goal. Further reforms should be directed to respond to the specific challenges of these power markets. In particular, attention should be given to the functions previously performed by state-owned utilities that are now neglected or poorly performed by other institutions; this is in order to attract investment and private participation in new generation capacity (Malgas, 2011). Apart from improving the management of power markets, Eberhard (2012) argues that the performance of state-owned utilities, correct pricing, smarter electrification rollouts and expanded regional trade are all necessary to ensure the successful operation of power markets in the region.

8. Regional integration of energy markets in the TFTA

The southern and eastern African region consists of a number of small economies. The rationale for integrating the physical infrastructure of these countries is to attract investment to countries with a comparative advantage in electricity generation and enabling power markets to develop economies of scale. Countries with high production costs would benefit from cheaper imports whereas those with low production costs would benefit from export earnings.

Cross-border transmission infrastructure allows the transportation of electricity to markets where it is needed. A well-developed regional transmission network would lead to trade

creation enabling many small economies that lack hydropower resources to substitute more expensive thermal power with less expensive hydropower and reducing their operating costs. For some southern African countries, the cost savings generated by power system expansion would fund the necessary investments in cross-border transmission capacity in less than a year, provided the neighbouring countries generate the required surplus electricity to export (World Bank, 2011).

According to the World Bank (2011), few countries have sufficient demand to justify large enough power plants to exploit economies of scale. For example, 12 out of the 26 TFTA countries produce and consume less than 500 MW and five of these countries have national power systems of less than 100 MW. The small market size of these countries contributes to inflated generation costs. The operating costs for countries with small national power systems with less than 200 MW installed capacity are much higher than in countries with large national power systems with more than 500 MW installed capacity (World Bank 2011). However, the region's hydropower potential is not evenly distributed among the TFTA members. The vast majority of the region's least expensive sources of power generation potential is located in just two countries, namely Ethiopia and the DRC. These countries are geographically distant from the major centres of demand and are too poor to develop their hydropower potential without massive foreign capital investments. In addition, as a result of decades of political instability and poor governance the DRC is not a very attractive destination for investments of this scale (Ranganathan, 2011).

Water resource management for hydropower is an additional concern because many rivers with hydropower potential flow through several countries. Water for hydropower generation must also compete with other sources of demand such as household consumption, irrigation, and flood and drought management. In order to unlock the hydropower potential of the region, multinational cooperation on water resource management and development and joint decision making within a regional legal and regulatory framework is needed (World Bank, 2011).

8.1 Regional power pools

8.1.1 Southern African Power Pool

Regional power pools have been established to promote cross-border electricity trade. The four regional power pools that have been established in west, east, central and southern Africa are at various stages of maturity.

The Southern African Power Pool (SAPP) was the first regional power pool established in Africa. Its membership consists of the power utilities of Angola, Botswana, DRC, Lesotho, Namibia, Malawi, Mozambique, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. In addition, two independent power producers and two independent transmission companies from Zambia and Mozambique are also members. The power utilities of Angola, Tanzania and Malawi are not operating members because they are currently not connected to the SAPP grid.

In 1995, SADC Member States, excluding the island Member States, created the SAPP with the signing of a memorandum of understanding for the establishment of a regional power pool in southern Africa. The SAPP is the most advanced regional power pool in Africa. The main objectives of SAPP are to provide a forum for a reliable and secure interconnected power system in southern Africa, to enforce common regional standards, to increase access for rural communities, and to implement sustainable development strategies.

Although SAPP was formed in the 1990s regional cooperation in the electricity sector in southern Africa stretches as far back as 1906 with the establishment of the Victoria Falls Company in Southern Rhodesia. The objective of the company was to supply electricity to South Africa's mining industry. That vision was never realised due to the lack of technologies at the time to transmit electricity over such a long distance. The first cross-border transmission of electricity from the Zambezi to South Africa took place in the 1970s with the completion of the Cahora Bassa Dam. In fact, most of the generation and transmission infrastructure comprising today's SAPP predates the formation of the power pool. Historically, Botswana, Lesotho, Namibia and Swaziland were all net importers of electricity from South Africa. Interconnectors between Zambia, Zimbabwe and Botswana were built to reduce their dependence on imports from South Africa. These interconnections have become part of the backbone of the SAPP grid. Notwithstanding South Africa's political isolation at

the time, its power utility actively participated in the building of interconnections in the region (ECA, 2009).

Before the establishment of SAPP all interconnection projects or power purchase agreements in the region were concluded within the framework of intergovernmental memoranda of understanding that authorised and guaranteed inter-utility contractual rights and obligations. Since the establishment of SAPP in 1995, power trading continued to operate mostly on the same bilateral and multilateral contractual arrangements (ECA, 2009). Most trade takes place between Mozambique and South Africa. The first step towards the creation of a regional competitive market was the start of the short-term energy market (STEM) in 2001 to complement the long-term bilateral agreements between the various utilities. STEM provides for hourly, day-ahead and longer-term contracts as well as secondary trading of contracts. There has been limited trading on STEM due to a lack of excess supply in the region and bottlenecks in transmission lines. In 2009, SAPP replaced STEM and introduced a more competitive market for electricity trade in the form of a Day-Ahead Market (DAM). Unfortunately, the opening of the day-ahead market for live trading came at a time when the region was already generally in a generation supply deficit. Despite numerous successes in promoting regional trade, trading has been largely limited to long-term bilateral arrangements.

At the time of SAPP's establishment the region had excess electricity supply. However, it was recognised from the outset that the region could gain major benefits from coordinated generation and transmission capacity development. The SAPP Plan was developed to identify possible regional generation and transmission projects for investment promotion. This list of possible projects was not binding on members. In fact, they struggled to agree on priorities because each utility wanted its own projects on the list in an attempt to protect and maintain its market dominance. This situation changed in 2007 when electricity demand surpassed supply in South Africa which resulted in an overall supply shortage in the region. This brought considerable more urgency to project implementation.

In 2012, the SADC heads of state and governments adopted the Energy Sector Plan as part of the SADC Regional Infrastructure Development Master Plan. The Energy Sector Plan provides for the expansion of the region's generation capacity by more than 70% requiring investment of more than $170 billion over the next 15 years. This will require major private-sector investments. Unfortunately the policy environment in many countries does not encourage private-sector involvement. This is the case despite the obligation on Member

States in terms of Article 2 of the SADC Protocol on Energy which provides for the establishment of an environment conducive to private-sector involvement in the development of the energy sector in the region. A number of incentives are being considered to improve the attractiveness of the region as an investment destination. Proposed incentives include tax exemptions, subsidies and the creation of a Demand Side Management Fund to compensate utilities for revenue losses resulting from energy usage reduction initiatives (SADC, 2013a).

Demand-side management measures are necessary to increase security of supply. Some of the demand-side management measures implemented include the replacement of traditional incandescent bulbs with compact fluorescent lamps, solar water heaters and the installation of hot water load-control switches that automatically turn off power during peak demand periods (SADC, 2013a).

The existing transmission network in the SADC region is operating under severe constraints due to underinvestment and poor maintenance. The development of transmission corridors is needed to remove constraints and to connect mainland countries that are not yet connected to the regional grid. Currently, three SADC members, namely Angola, Malawi and Tanzania are not connected to the SAPP grid. The SAPP has identified six priority cross-border transmission projects, estimated to cost $5.6 billion, to improve connectivity and electricity trading in the region by 2017. These transmission projects are aimed either at alleviating congestion or interconnecting non-operating members (Angola, Malawi and Tanzania) or linked to new generation projects in Mozambique and South Africa (SAPP, 2012).

8.1.2 Eastern Africa Power Pool

In 2005, the DRC, Burundi, Egypt, Ethiopia, Kenya, Rwanda, Uganda and Sudan signed an Inter-Governmental Memorandum of Understanding to establish the Eastern Africa Power Pool (EAPP). Tanzania and Libya joined in 2010 and Djibouti and Eritrea are considering joining. The EAPP has 15 member institutions and includes Independent Power Producers. The main objective of EAPP is to facilitate secure power supply in eastern Africa through the pooling of resources and the facilitation and coordination of power exchange among member utilities and ultimately developing a competitive electricity market in the EAPP region. In 2006, the COMESA Council of Ministers adopted EAPP as a COMESA-specialised institution and in 2010 it was incorporated as a specialised agency under Article 182 of the COMESA Treaty. Given the fact that members of EAC overlap with those of EAPP, the EAC

Secretariat and EAPP signed a memorandum of understanding in 2009 whereby they agreed to jointly develop a Regional Power Market Plan and Interconnection Code for the EAC. The EAPP will act as the implementing agency. Few countries in the EAPP are interconnected and the amount of electricity trade currently taking place is negligible.

8.2 Regional regulatory bodies

Sixteen TFTA members have established national electricity or energy regulatory bodies (ECA, 2012). Three regional regulatory bodies have been established within the regional economic communities, namely the Regional Electricity Regulators' Association for Southern Africa (RERA) in SADC, the Regional Association of Energy Regulators' Association for Eastern and Southern Africa (RAERESA) in COMESA, and the Energy Regulators' Association for East Africa (EREA) in EAC.

RERA was established in 2002 under the SADC Protocol on Energy. Membership is restricted to one electricity supply regulator per SADC Member State and includes the regulators of Lesotho, Mozambique, Namibia, Zambia, Tanzania, Angola, Malawi, South Africa and Zimbabwe. The national regulator of Swaziland has not yet joined. The other SADC members on the mainland namely Botswana and DRC have not yet established independent electricity regulators (ECA, 2012). The main objectives of RERA are to facilitate harmonised policy, legislation and regulation for cross-border trading and regional regulatory cooperation on issues that affect the efficiency of electricity interconnections and electricity trade. In 2010, RERA developed common *Guidelines for regulating cross-border power trading in southern Africa* in an effort to harmonise national regulatory systems on cross-border trade. These guidelines were adopted by the SADC energy ministers. To date, seven RERA Member States have adopted the guidelines for domestic implementation, namely the regulatory bodies of Lesotho, Malawi, Mozambique, South Africa, Namibia, Tanzania and Zambia (SADC, 2013b). The guidelines address all the typical regulatory issues national regulatory bodies need to deal with in relation to cross-border electricity transactions including the issuing of licenses to cross-border traders; approving power purchase agreements and transmission services agreements in import, export and transit countries; ensuring access to transmission and distribution facilities; and taking care of transmission charges. In taking any regulatory decision with regard to cross-border transactions, national regulators retain the right to consider national policies relating to 'power sector market structure, security of supply, desirable levels of imports and exports, generation mix, open

non-discriminatory transmission access, climate change mitigation strategies, competition requirements, private sector participation, cost reflective tariffs and economic empowerment mandates' (RERA, 2010).

The guidelines apply to long-term cross-border electricity import, export and transit transactions and do not apply to trading on the SAPP DAM. It focuses on long-term transactions because such transactions are likely to have a direct positive impact on generation and transmission investment decisions. RERA actively collaborates with SAPP to ensure consistency between the roles and responsibilities of national regulators and those of the regional bodies. The guidelines require national regulators to give substantial weight to SAPP recommendations. For example, SAPP is developing a transmission pricing model for the calculation of transmission charges. Ultimately, the goal of RERA is to create regulations that encourage national utilities and private investors to undertake cross-border transactions that improve security of supply in the region.

The RERA Guidelines can be considered as a best practice in utility regulation at regional level and could serve as a reference for the two other regional regulators that are still in the process of being operationalised. This is especially important given the fact that the different power pools will to be interconnected soon.

RAERESA was launched by COMESA in 2009 and has objectives similar to those of RERA. Its members include the regulatory bodies of Egypt, Ethiopia, Kenya, Madagascar, Malawi, Rwanda and Sudan. Uganda has applied to join. COMESA members without independent energy regulators such as DRC, Burundi, Comoros, Djibouti, Eritrea, Libya, Seychelles and Mauritius are associate members. The national regulators of Swaziland, Zimbabwe and Zambia are not members of RAERESA but enjoy observer status. In 2009, the energy regulators of Kenya, Uganda, Rwanda and Tanzania signed a memorandum of understanding establishing EREA. According to the Memorandum of Understanding establishing EREA the objectives of the EAC regulator are similar to those of the two other regional regulators.

9. The WTO experience on energy negotiations

9.1 Definition and classification

Energy services are not covered as a separate comprehensive entry in the WTO Sectoral Classification List (WTO, 1991) for scheduling specific commitments under GATS. At the

time of the Uruguay Round of negotiations energy services were, unlike financial or communication services, not negotiated as a separate sector. Energy services such as distribution, construction, transport, consulting and engineering are covered by other sectors and subsectors of the WTO sectoral classification. WTO members undertook commitments in various energy-related services covered under diverse headings of the WTO sectoral classification such as 'pipeline transportation', 'services incidental to mining', and 'services incidental to energy distribution'. Equally, the United Nations Provisional Central Product Classification (CPC Prov.) also does not include a separate section on energy services. Energy-related products and services are listed under various headings in the CPC Prov., for example:

- Retail sale of motor fuels (61300);
- Sales on a fee or contract basis of fuels, metals ores, timber, building materials and industrial and technical chemicals (62113);
- Wholesale trade services of solid, liquid and gaseous fuels and related products (62271);
- Retail sales of fuel oil, bottled gas, coal and wood (63297);
- Transportation of petroleum and natural gas (71310);
- Services incidental to mining (88300);
- Manufacture of coke, refined petroleum products and nuclear fuel, on a fee or contract basis (88450);
- Services incidental to energy distribution (88700);
- Administrative fuel and energy-related services (91132);
- Administrative mining and mineral resources, manufacturing and construction-related services (91133).

The revised CPC (Ver.2) represents an improvement on CPC Prov. and includes important energy services entries such as 'electrical energy' (Division 17), 'electricity wholesale and retail' (Division 61 and 62), electricity and gas distribution and transmission (Division 69), and 'support services to electricity and gas distribution and transmission' (Division 86).

Previous trade negotiations resulted in limited commitments being undertaken because most industries in the energy sector were dominated by state-owned vertically integrated entities operating mostly in home markets with monopoly positions. Most services were performed by these integrated or monopoly entities that controlled production, transmission and distribution of energy products – leaving little room for trade and competition. However, since the conclusion of the Uruguay Round, many countries introduced domestic regulatory reforms in the energy services sector resulting in the reorganisation of the sector. The trend toward privatisation and liberalisation in the sector over the past few decades has made the sector more dynamic and competitive creating a new paradigm for energy services in trade negotiations. As a result, several economic activities involved in the energy supply chain could be separated and supplied by different suppliers under competitive conditions.

Given the importance of this sector in advancing economic growth and development, some WTO members have called for an improved classification of energy services and submitted proposals to bring energy more fully under the GATS disciplines. Other members proposed the development of an index for the classification of energy services which could be used as an *aide mémoire* to negotiate the broadest possible liberalisation commitments. Many members were of the view that all services involved in the energy supply chain such as exploration, extraction, production, generation, transportation, transmission, distribution, marketing and consumption should be included. Others proposed that off-shore activities such as highly specialised equipment and services for off-shore resources identification, exploration, extraction, production and transportation should also be included (WTO, 2005). One member state, Venezuela, proposed a new classification based on the source of energy, the phases of the energy process, and a distinction between 'core' and 'non-core' energy services. This proposal was later formally withdrawn (WTO, 2006).

9.2 Goods v services

Another major challenge in classifying energy services relates to the question whether electricity should be considered a good or a service. Electricity has the characteristics of a service because it is intangible, non-storable and must be produced as it is consumed. The drafters of the General Agreement on Tariffs and Trade (GATT) considered these factors as decisive in determining that electricity should not be classified as a commodity. However, a number of countries regard it as a commodity. In addition, the World Customs Organisation (WCO) classified electricity as a commodity in its Harmonised Commodity Description and

Coding System (HS) for tariff purposes. However, WCO members are not required to classify electricity as a commodity. The fact that electrical energy is classified as an optional heading in the WCO HS shows that some WCO members consider electricity as a service and not as a commodity (WTO, 2000).

Despite these definitional uncertainties, there seems to be general acceptance that the production of energy is a manufacturing activity. The transformation of various fuels into electrical energy is a characteristic of the manufacturing process and relates to goods trade. However, a distinction should be drawn between production and production-related services. WTO members have divergent views on the matter. For example, should the refining of oil, or liquefaction and gasification be considered production activities or are they only related to production (WTO, 2005)? Generally, production of energy goods is subject to GATT rules whereas transmission, distribution and energy-related services are within the scope of GATS.

9.3 Scheduling issues

The most important GATS modes of supply for international trade in energy services are mode1 (cross-border supply), mode 3 (supply through a commercial presence), and mode 4 (supply through the temporary movement of natural persons). The separation of economic activities in the energy supply chain through the privatisation, liberalisation and unbundling of national energy markets creates opportunities for foreign suppliers to establish a commercial presence and compete in important services such as production, transport and distribution of electricity and gas. Cross-border trade in gas and electricity becomes viable only where national networks are interconnected through transmission lines or pipelines. Electricity and gas are mostly traded over interconnected networks on a regional basis. The exception is liquefied natural gas. Coal and oil can also easily be stored and transported to geographically distant destinations (WTO, 2000).

Trade in energy services is subject to the unconditional Most-Favoured-Nation (MFN) principle of GATS Article II whereas the removal of market access and national treatment barriers are subject to negotiation and governed by GATS Articles XVI and XVII respectively. Other domestic regulatory barriers are subject to GATS Article VI, and restrictive business practices and monopolies, both common in energy markets, are dealt with under GATS Articles IX and VIII respectively.

Typical market access or national treatment barriers, whose removal is subject to negotiation, include monopolies or exclusive rights, discriminatory treatment of foreign suppliers, restrictions on legal forms, restrictions on the movement of electronic information and transactions, and residency requirements. Other related restrictions include high import tariffs and local procurement requirements on the importation of energy-related goods (equipment and tools) necessary for the supply of energy services and restrictions on the use of certain technologies (WTO, 2005).

GATS does not require a member to privatise existing monopolies. In fact, members are permitted to grant new monopoly rights in uncommitted sectors. However, GATS Article VIII does require members to ensure that any monopoly supplier does not act inconsistent with the MFN obligation or any specific commitments. If a monopoly supplier competes against other suppliers outside the scope of its monopoly rights and specific commitments, a member is obliged to ensure that such supplier does not abuse its monopoly position. For example, transmission services are often regarded as natural monopolies whereas generation and distribution services are not. In previously vertically integrated electricity markets, the incumbent natural monopolist in the transmission sector can easily abuse this position to compete against other suppliers in the generation and distribution markets (WTO, 2000).

The scheduling of market access commitments in sectors with existing monopolies could include the removal of foreign investment limitations in existing monopolies, the elimination of investment restrictions in monopolies at a specified future date, the removal of market-access restrictions in certain market segments, and the regulation of access to and use of essential facilities such as transmission or distribution services through additional commitments (WTO, 2005).

9.4 Regulatory issues

The liberalisation of the energy sector to promote competition should be accompanied by the establishment of appropriate competition and regulatory frameworks that would ensure an open, competitive energy services market and achieve public interest goals.

Important competition-related issues in the electricity and gas sectors must be addressed to restrict incumbents from abusing their market power in the noncompetitive segments of the industry. Remedies must therefore be designed to deal with the right of access to infrastructure (i.e. gas pipelines and electricity grids); the unbundling of certain segments of

the industry through the separation of production, transmission and distribution; and consumer choice of supplier. Unbundling entails the separation of the various components of the electricity or gas supply chain. It is necessary to ensure that vertically integrated incumbents do not discriminate against competitors in favour of their own supply businesses. Unbundling can be undertaken in a variety of forms which can range from full ownership separation to operational separation, functional separation and internal accounting separation. Other key regulatory elements that should be addressed relate to market access barriers; non-discriminatory access to and information on prices, transmission capacity and congestion, technical standards, and the establishment of an independent regulatory authority to ensure non-discriminatory competition and dispute resolution (UNCTAD, 2003).

In order to address these issues, some WTO members proposed a similar approach adopted in basic telecommunications. The Reference Paper deals with anticompetitive practices in the telecommunications sector. The two sectors are both characterised by highly regulated markets with large incumbent firms that are undergoing major reforms. Market access and national treatment commitments in these sectors may not be sufficient to ensure contestability because the bound commitments could easily be undermined if they are not supplemented by complementary commitments outside the GATS framework. As a result, some members proposed the adoption of specific additional commitments that are modelled on the Reference Paper for the telecommunications sector. The Reference Paper for energy services could address transparency, non-discriminatory third-party access to and interconnection with energy networks and grids, an independent regulator that is separate from and not accountable to any supplier, non-discriminatory objective and timely procedures for transmission and distribution of energy and requirements preventing certain anticompetitive practices (WTO, 2005).

Third-party access to essential facilities is of particular importance in network industries. An essential facility possesses monopoly characteristics that make an alternative to the facility unfeasible. A right to interconnect to electric power transmission and gas pipelines could also apply to other essential facilities such as oil and gas storage facilities, oil pipelines and liquefied gas terminals. A set of principles is needed that would determine under which circumstances access could be denied. Principles are also needed to ensure that access to essential facilities is granted timely and at cost-reflecting charges. Equally important is the establishment of independent regulators especially in cases where weaker forms of

unbundling have been adopted and where structural remedies such as segment separation are not taken (UNCTAD, 2003)

Other relevant regulatory issues include transparency, ownership of natural resources and public service obligations. GATS provisions on transparency require members to publish all measures of general application affecting trade in services (GATS Article VI). It also requires members to establish national enquiry points to respond to other members' information requests and to inform the WTO of any new or changes to existing measures which significantly affect trade in services covered by specific commitments (GATS Article III).

In many countries the state retains ownership and control over natural energy resources or parts of the energy supply chain. Many WTO members are of the opinion that ownership of natural resources is outside the scope of GATS (WTO, 2005).

WTO members are guaranteed the right to regulate the supply of services inside their territories in order to meet national policy objectives including those to achieve universal service goals, energy security and reliability and a diversified energy mix. Unless forced to do so, private companies are not willing to deliver services that place a burden on their profit margins. Government policies are therefore needed to ensure equity in fees charged across all geographical areas regardless of costs and that services are provided to remote rural areas even when they are unprofitable (UNCTAD, 2003).

10. Conclusion

The main energy challenge for the countries in the TFTA region is to increase generation and transmission capacity. The complex nature of the energy sector calls for a more coherent regional approach to sector development that considers all the interconnected issues beyond infrastructure development and GATS. Many issues are involved in developing and expanding the energy sector. Market access and national treatment are only two of these issues. A coherent regional sector development strategy is needed to stress the importance of considering the interaction between market access and national treatment; between the different energy and energy-related services activities; between different modes of supply; and in some cases even between goods and services. It is also important to consider other issues such as the participation of the private sector, domestic regulation and the design of a competition policy.

At the national level, countries must recommit to power-sector reforms to address inefficiencies in the performance of state-owned utilities, underpricing and in facilitating the entry of IPPs into the market. Meeting the regional infrastructure challenges will require major investments by utilities but also by the private sector. The development of transmission corridors should be prioritised to overcome congestion challenges and to connect countries that are not yet connected to the regional grid. Pooling energy resources through regional trade would significantly reduce electricity costs. The establishment of power pools created a larger market which enhances investment interest from the private sector, but IPPs must be allowed access to and trade on the regional system. Allowing IPPs to conclude power purchase agreements with large customers, also across borders, would assist in securing a predictable revenue stream and overcoming initial financing obstacles. In addition, tariffs will have to be increased to cost-reflective levels to make regional projects bankable.

Other regional priorities include the harmonisation of policies, laws and regulation, and the further development of a competitive electricity market. The successful creation of a competitive regional power market requires a harmonised legal and regulatory framework including coordinated power pricing, third party access and effective cross-border trading contracts. In addition, it requires regional coordination of systems planning and operation and a commercial framework for energy exchanges. Addressing these matters is necessary to improve the attractiveness of the region as an investment destination.

Finally, TFTA negotiations on energy services should go beyond market access and national treatment commitments because they would not be sufficient to ensure contestability in power markets. Important commitments that could be negotiated include the removal of foreign investment limitations in existing monopolies or the elimination of investment limitations at a specified future date and the removal of market entry restrictions in certain market segments. TFTA members should seriously consider the adoption of complementary regulatory principles, modelled on the WTO Reference Paper for telecommunication services, to deal with anticompetitive practices in the energy market. Such regional regulatory principles could enhance transparency, ensure third party access to and interconnection with energy networks and grids, require the establishment of independent regulators, provide for nondiscriminatory, objective, and timely procedures for transmission and distribution of energy, and recognise the right of each country to set public access goals.

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Chapter 10

Prospects for Malawi in the Tripartite Free Trade Area tariff liberalisation negotiations

William N. Mwanza

1. Introduction

Negotiations towards consolidation of the Tripartite Free Trade Area (TFTA) were launched by member countries of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), and the Southern African Development Community (SADC) in June, 2011 (COMESA, EAC, and SADC, 2011). Under the market integration pillar, which is of interest to this chapter, negotiations are currently ongoing in the areas of technical barriers to trade, sanitary and phytosanitary measures, non-tariff barriers, rules of origin (RoO), and customs cooperation, documentation and procedures among others. A crucial stage in the consolidation of the TFTA is the negotiation towards reduction of tariffs among members. As preparations for this stage in the negotiations continue, it is an opportune time to reflect on what the tariff liberalisation process potentially holds for different countries in the region.

This chapter presents a case study on the prospects for Malawi in the TFTA tariff liberalisation negotiation process. Malawi is among the considerable number of least developed countries (LDCs) in the Tripartite region,[1] and with a gross domestic product (GDP) of US$4.264 billion in 2012 (World Bank, 2013), has a relatively small economy. Further, the country is also one of the ten landlocked developing countries (LLDCs) within

[1] According to the United Nations list of LDCs, LLDCs and SIDs, there are 17 LDCs in the tripartite region. See http://www.un.org/special-rep/ohrlls/ohrlls/allcountries-regions.pdf.

the region[2]. Malawi has experienced mixed economic fortunes over the past few years. After going through a decade of low growth averaging 1.6% between 1994 and 2003 (Booth et al. 2006), the country's economy grew at average rates of 7% per annum between 2005 and 2009 (Vandemoortele and Bird, 2011). This strong performance was, however, short-lived. The country's growth in GDP slowed from 6.3% in 2010 to 4.3% in 2011, and to about 2% in 2012, mainly due to shortages in foreign exchange and fuel, which negatively impacted on different activities in the economy such as agriculture, manufacturing and trade (African Economic Outlook 2013: Malawi). These shortages were mainly brought about by continued low earnings from the country's traditional main export, tobacco, and a suspension in donor support in 2011 (Ibid.).[3] The current government is led by President Joyce Banda, who assumed office following the death of President Bingu wa Mutharika in April, 2012. Policy efforts under the current government are being pursued within the framework of an Economic Recovery Plan (ERP) which seeks to put the country on the path of economic recovery through various macroeconomic reforms, and prioritising public expenditure towards sectors that can boost growth and foreign exchange earnings (Malawi Government, 2012). It can be seen from the foregoing that apart from donor funds, limited exports have been an important factor in the country's fragile balance of payments (BOP) position and hence its dismal economic performance over the years, with the effect being particularly evident in the country's recent challenges. Increased exports have rightly been identified as crucial to the attainment of a sustainable BOP position for the country, which would facilitate effective performance in different sectors of the economy[4]. The tariff liberalisation process in the TFTA, and the market access opportunities that it presents can therefore be seen as an opportunity for the country in its efforts to increase its exports to partner countries in east and southern Africa. The extent to which the TFTA process provides such prospects is what this chapter sets out to explore.

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[2] Ibid.

[3] The suspension of donor support was mainly on account of policy slippages and increased governance concerns during the reign of then President late Bingu wa Mutharika.

[4] Malawi's economy has (particularly since 2009) shown signs of being seasonal, with foreign exchange shortages setting in a few months after the close of the tobacco buying/selling season. Due to the impacts felt where donor support has been withheld, however, this support has been seen to be arguably the more determinant factor in the country's BOP position. In the short, medium to long term, therefore, increased foreign exchange earnings from exports are imperative for a more sustainable BOP position. Increasing the country's exports sustainably into the long term is no easy task, however, given recent challenges and more so current ones. At the time of writing, the country was in the midst of yet another crisis, after revelations of massive fraud and looting of public resources in various government ministries. Budgetary support had again been withheld, making the country's economic prospects in the short term again look increasingly uncertain. See 'Donors withhold budget support to Malawi over cash-gate' (2013).

The chapter will start by profiling Malawi's global and regional trade, and will then look at how the country has been trading vis-à-vis other tripartite countries. This will set the scene for a trade-chilling exercise, which is conducted so as to identify products that Malawi exports to other countries, but does not currently export to its prospective negotiating partners in the TFTA process. These are products that could potentially benefit from the increased market access that would be brought about by tariff reductions in forming the TFTA. The paper's main focus is on opportunities that would result from tariff liberalisation – therefore non-tariff issues are not discussed in detail. However, the pertinent issue of rules of origin is highlighted.

2. Malawi in global trade

2.1 Imports

Malawi's top five imports in 2012 were fuels (13.9%); fertilizers (11.4%); machinery (9.2%); pharmaceutical products (8.6%); and vehicles (8.3%). These products, which accounted for about 51% of total imports in this year, have been consistently the top five imports over the past five years, from 2008 to 2012[5].

The top five sources of Malawi's global imports in 2012 were South Africa (24%), China (10.8%), India (8%), Mozambique (7.1%), and the United Arab Emirates (4.9%). The following table (Table 1) presents these five sources plus the next five to show the top ten 2012 import sources with their corresponding data of shares in total imports from 2008 to 2012 inclusive. Note that EU countries are listed in their own right rather than as the combined EU-27 import value.

From the table, it can be seen that the main countries from which Malawi has been importing over the past five years have remained relatively stable, albeit with some changes in prominence among the countries. Over the period, these top ten import sources accounted for between 70% and 80% of Malawi's total imports. South Africa has remained Malawi's top import source across the period, although its share in Malawi's total imports has been decreasing. Imports from China and India have been increasing over the period and assumed second and third position in 2012, respectively. Imports from Europe were mainly sourced from the United Kingdom, with other sources in certain years also including Switzerland,

[5] Author's calculations from International Trade Centre (ITC) data.

France, the Netherlands and Portugal.[6] The United States of America has increased its import share from ninth in 2009 and 2010, to fourth in 2011, and seventh in 2012. Of Malawi's neighbouring countries, only imports from Zambia have been increasing relative to other top ten import sources. Mozambique has gone from Malawi's second highest import source in 2008 to fourth in 2012. Tanzania was the third highest import source in 2008, seventh in 2009, and eighth in 2011, but did not feature as a top ten import source in 2010 or 2012. Kenya remained on the fringes as the tenth import source in 2008, 2010, and 2011 but did not feature in 2009 or 2012.

Table 1: Malawi's top 10 import sources 2008-2012

2008	Share	2009	Share	2010	Share	2011	Share	2012	Share
RSA	26.6%	RSA	34.2%	RSA	30.1%	RSA	25%	RSA	24%
Mozambique	20.3%	Mozambique	12.8%	China	9.1%	India	11.5%	China	10.8%
Tanzania	5.8%	China	5.9%	India	7.6%	China	9.3%	India	8%
Switzerland	5.3%	India	4.7%	Zambia	5.6%	US	5.3%	Mozambique	7.1%
UAE	5%	UK	4.2%	UAE	5%	UAE	4.7%	UAE	4.9%
India	4.9%	UAE	4%	UK	3.8%	Zambia	4.6%	Zambia	3.9%
UK	3.4%	Tanzania	3.9%	France	2.9%	UK	3.4%	US	3.6%
China	3.3%	Zambia	3.6%	Japan	2.9%	Tanzania	3.1%	UK	2.8%
Zambia	3.1%	US	2.6%	US	2.9%	Netherlands	2.5%	Portugal	2.7%
Kenya	2.5%	France	2.6%	Kenya	2.3%	Kenya	2.5%	Netherlands	2.7%
Total share	80.2%		78.6%		72.1%		71.7%		70.4%

Source: ITC Trade Map (author's calculations)

2.2 Exports

Malawi's top five exports to the world in 2012 were tobacco (54.36%), uranium (11.55%)[7], tea (6.04%), sugar (3.55%), and ground nuts (3.19%).[8] These products accounted for 78.7% of the country's exports.

[6] It is important to get further insights into trade with such EU-27 countries especially with respect to how Malawi's regional trade efforts tie in with its considerations under the Economic Partnership Agreements (EPAs). This is not examined in the current chapter.

[7] The need for increased exports was discussed at footnote 4. It is not clear-cut that increases in exports will increase the BOP position however, particularly when mineral exports are considered. Uranium entered Malawi's export basket in 2009 and by 2012 accounted for 11.55% of exports. However, this does not seem to be accompanied by an improvement in the country's BOP position. This aspect is also not explored in this chapter but does deserve further close scrutiny.

[8] According to data from the ITC database (author's calculations).

Malawi's five main export destinations in 2012 were Canada (11.1%), Belgium (7.5%), South Africa (7.1%), Switzerland (6.7%), and Zimbabwe (5.2%). This is highlighted in Table 2 which shows the top ten export destinations between 2008 and 2011 and their associated shares in Malawi's total exports:

Table 2: Malawi's top 10 export destinations 2008-2012

2008	Share	2009	Share	2010	Share	2011	Share	2012	Share
Belgium	13.1%	Belgium	17.5%	Belgium	12.4%	Canada	8.8%	Canada	11.1%
RSA	10.1%	RSA	10.2%	Canada	11%	Zimbabwe	8.6%	Belgium	7.5%
UK	8.9%	Egypt	6.2%	Egypt	9.2%	RSA	8.2%	RSA	7.1%
Netherlands	5.9%	Mozambique	5.4%	Germany	6.2%	UK	7.7%	Switzerland	6.7%
US	5.7%	Switzerland	4.4%	US	6%	Belgium	6.5%	Zimbabwe	5.2%
Germany	4.2%	Netherlands	4.4%	RSA	5.8%	US	5.4%	Egypt	5%
Switzerland	4.1%	UK	4.2%	Zimbabwe	5.4%	Kenya	5.2%	China	4.9%
Portugal	3.9%	US	4.1%	Netherlands	4.7%	Egypt	4.4%	US	4.3%
Poland	3.5%	Germany	3.2%	UK	4.6%	China	4%	Netherlands	3.8%
S. Korea	3.2%	Russia	3%	Mozambique	3.4%	Spain	3.7%	Russia	3.7%
Total share	62.5%		62.8%		68.9%		62.6%		59.3%

Source: ITC Trade Map (author's calculations)

From the table above, it is clear that there are no real outliers in terms of share of exports to each destination, and on the whole, the top ten export destinations have accounted for between 59% and 68% of total exports over the five-year period. Belgium was Malawi's main export destination between 2008 and 2010, but has been replaced by Canada, which first registered as a top ten export destination in 2010 at third position becoming Malawi's main export destination in 2011 and 2012. This emergence of Canada has been due to the introduction of uranium in the country's export basket, almost all of which has been destined for that country. South Africa has consistently been one of Malawi's most important export destinations, registering at second in 2008 and 2009 (i.e. about 10% share of total exports); and third in 2011 and 2012 at 8.2% and 7.1% respectively. Egypt was the third export destination in 2009 and 2010, before dropping to eighth in 2011 and registering at sixth in 2012. Most of Malawi's exports between 2008 and 2012 have been destined for the European market. Apart from Belgium, as mentioned earlier, some of the other countries to which exports were destined were the United Kingdom, Netherlands, Switzerland, Germany,

Portugal, Poland, Russia, and Spain[9]. The share that these countries have taken in total exports has, however, been decreasing, registering 43.5% in 2008, 36.9% in 2009, 27.9% in 2010, 17.9% in 2011, and 21.8% in 2012. Exports to the US have declined in their shares, registering at fifth (5.7%) in 2008 to eighth (4.3%) in 2012.

3. Malawi in regional trade

As is the case with some countries within the TFTA framework, Malawi is a member of more than one of the Regional Economic Communities (RECs) involved in the process. It holds overlapping membership to both COMESA and SADC.[10] As we try to analyse Malawi's opportunities in the Tripartite framework it is imperative that we first get a clear sense of its present position in regional trade, particularly after noting in the previous section how significant its levels of trade is with other regions of the world, namely Asia, Europe and the United States of America.[11]

3.1 Malawi's trade with SADC

It was noted in section 2 above that South Africa, a member of SADC, is arguably Malawi's main trading partner with respect to both imports and exports. This section now looks at the profile of Malawi's trade with the wider SADC region.

3.1.1 Imports

The following table (Table 3) shows how Malawi has imported from SADC countries over the period 2008-2012.

From the table, it can be seen that as Malawi's top most import source globally, South Africa accounted for about 61% of Malawi's imports from the SADC region in 2012. Its neighbours Mozambique and Zambia are also significant sources of imports when viewed globally. The share of imports from SADC in Malawi's imports from the world has been declining, from 58.26% in 2008 to 39.25% in 2012. Along with the three aforementioned countries, Tanzania and Zimbabwe also form part of Malawi's top five import sources in the SADC region, and these countries in total accounted for almost all of its imports from the region between 2008 and 2012.

[9] Supra n 6.
[10] See full membership of COMESA and SADC online at www.comesa.int and www.sadc.int
[11] All tables that follow in this section are ranked according to the 2012 figure.

Table 3: Malawi's imports (US$ thousands) from SADC 2008-2012

World rank	Import sources	2008	2009	2010	2011	2012
	World	2 203 688	2 021 672	2 173 038	2 427 696	2 460 946
1	South Africa	585 211	691 452	654 225	606 049	590 013
4	Mozambique	447 149	259 527	31 336	45 164	174 567
6	Zambia	68 543	72 680	120 506	110 406	94 774
16	Tanzania	128 649	79 353	36 948	75 195	42 477
19	Zimbabwe	38 477	38 182	32 935	34 107	30 497
26	Mauritius	3 827	6 445	5 628	4 572	12 472
31	Swaziland	6 406	1 684	15 704	13 934	10 001
32	Botswana	3 599	4 310	7 476	45 199	8 474
53	Namibia	573	921	19 338	2 115	2 440
83	Seychelles	1 390	0	442	113	120
84	Lesotho	10	17	102	77	109
85	DRC	37	60	42	70	85
127	Angola	5	0	3	52	1
131	Madagascar	60	11	0	27	1
	Total imports from SADC	1 283 936	1 154 642	924 685	937 080	966 031
	Total imports from SADC as share of imports from world	58.26%	57.11%	42.55%	38.60%	39.25%
	Top 5 import sources as share of SADC					
	South Africa	45.58%	59.88%	70.75%	64.67%	61.08%
	Mozambique	34.83%	22.48%	3.39%	4.82%	18.07%
	Zambia	5.34%	6.29%	13.03%	11.78%	9.81%
	Tanzania	10.02%	6.87%	4.00%	8.02%	4.40%
	Zimbabwe	3.00%	3.31%	3.56%	3.64%	3.16%
	Total share of Top 5 import sources in SADC imports	98.76%	98.84%	94.73%	92.94%	96.51%

Source: ITC Trade Map (author's calculations)

3.1.2 Exports

The following table (Table 4) shows how Malawi has exported to SADC countries over the period 2008-2012.

From the table below, it can be seen that Malawi's exports to SADC have been about a quarter (or less) of its exports to the world. The top five export destinations of South Africa, Zimbabwe, Mozambique, Zambia, and Tanzania are also highlighted as important import sources in Table 3 above. In spite of their geographical proximity the rest of the SADC countries have been relatively insignificant destinations of Malawi's exports. In 2012, Swaziland was ranked as Malawi's 29th export destination, while Madagascar was ranked at a distant 141st. The top five SADC countries, however, have remained at their respective levels of significance over the period 2008-2012, and have accounted for over 90% of Malawi's exports to SADC. Where Malawi has mentioned SADC over this period, it has primarily meant these five countries. What is crucial to note, however, is that there exists a bilateral trade agreement with South Africa, which provides that 'subject to the provisions of [the] Agreement, the Government of the Republic of South Africa shall allow all goods, grown, produced or manufactured in Malawi to be imported into South Africa free of

customs duty' (Malawi-South Africa Bilateral Trade Agreement, Article 2). This means that of the exports from Malawi to South Africa in the different years, not all products were exported under the SADC regime, but may have also been exported under the bilateral agreement. It is compelling to assume that most of these exports fell under the bilateral agreement, particularly due to their easier regime of rules of origin. This point will be discussed in more detail in Section 5.1. When this fact is taken into consideration, exports to the other top four SADC countries (and to the SADC region as a whole) can be seen to have been of some importance in the first case and quite minimal in the latter case.

Table 4: Malawi's exports (US$ thousands) to SADC 2008-2012

World rank	Export destinations	2008	2009	2010	2011	2012
	World	878 999	1 187 917	1 066 204	1 425 289	1 218 033
3	South Africa	88 709	121 560	61 570	117 453	86 676
5	Zimbabwe	22 555	35 753	57 870	122 265	63 325
13	Mozambique	23 895	64 068	36 233	45 267	31 520
18	Zambia	15 431	23 025	35 533	34 135	23 891
20	Tanzania	26 111	12 894	7 852	29 775	19 768
29	Swaziland	3 554	10 415	4 258	4 406	7 587
42	Botswana	2 527	4 612	2 270	3 313	2 949
58	Mauritius	133	133	50	3 316	1 306
75	DRC	7 020	4 439	897	2 811	358
83	Seychelles	0	123	67	66	131
91	Angola	1	106	0	21	61
99	Namibia	67	11	110	1	26
109	Lesotho	1 849	0	331	1 883	7
141	Madagascar	2	0	676	7	0
	Total exports to SADC	191 854	277 139	207 717	364 719	237 605
	Total exports to SADC as share of exports to world	21.83%	23.33%	19.48%	25.59%	19.51%
	Top 5 export destinations as share of SADC					
	South Africa	46.24%	43.86%	29.64%	32.20%	36.48%
	Zimbabwe	11.76%	12.90%	27.86%	33.52%	26.65%
	Mozambique	12.45%	23.12%	17.44%	12.41%	13.27%
	Zambia	8.04%	8.31%	17.11%	9.36%	10.05%
	Tanzania	13.61%	4.65%	3.78%	8.16%	8.32%
	Total share of Top 5 export destinations in SADC exports	92.10%	92.84%	95.83%	95.66%	94.77%

Source: ITC Trade Map (author's calculations)

3.2 Malawi's trade with COMESA

Having looked at Malawi's trade profile with the SADC region above, this section now looks at Malawi's trade with the COMESA region. Note that the full COMESA membership is discussed in this section, and given the overlaps between SADC and COMESA there are consequently several overlapping countries between this COMESA section and the previous SADC section. Also note that Kenya, Uganda, Rwanda and Burundi, four members of the East African Community (EAC), are also members of COMESA, while Tanzania, the fifth member, is a member of SADC.

3.2.1 Imports

The following table shows Malawi's imports from COMESA countries over the period 2008-2012:

Table 5: Malawi's imports from COMESA (US$ thousands) 2008-2012

World rank	Import sources	2008	2009	2010	2011	2012
	World	2 203 688	2 021 672	2 173 038	2 427 696	2 460 946
6	Zambia	68 543	72 680	120 506	110 406	94 774
13	Kenya	54 915	39 838	49 398	60 271	54 877
19	Zimbabwe	38 477	38 182	32 935	34 107	30 497
26	Mauritius	3 827	6 445	5 628	4 572	12 472
31	Swaziland	6 406	1 684	15 704	13 934	10 001
43	Egypt	11 439	16 653	11 141	3 265	5 027
73	Uganda	164	382	135	204	265
83	Seychelles	1 390	0	442	113	120
85	DRC	37	60	42	70	85
86	Ethiopia	12	18	42	123	79
95	Sudan	155	390	152	56	42
113	Rwanda	6	0	11	35	6
114	Eritrea	0	0	5	0	6
118	Libya	36	0	0	0	3
131	Madagascar	60	11	0	27	1
135	Djibouti	62	3	1	0	0
153	Burundi	11	15	0	24	0
183	Comoros	0	0	0	0	0
	Total imports from COMESA	185 540	176 361	236 142	227 207	208 255
	Total imports from COMESA as share of imports from world	8.42%	8.72%	10.87%	9.36%	8.46%
	Top 5 import sources as share of COMESA					
	Zambia	36.94%	41.21%	51.03%	48.59%	45.51%
	Kenya	29.60%	22.59%	20.92%	26.53%	26.35%
	Zimbabwe	20.74%	21.65%	13.95%	15.01%	14.64%
	Mauritius	2.06%	3.65%	2.38%	2.01%	5.99%
	Swaziland	3.45%	0.95%	6.65%	6.13%	4.80%
	Total share of Top 5 import sources in COMESA imports	92.79%	90.06%	94.93%	98.28%	97.29%

Source: ITC Trade Map (author's calculations)

3.2.2 Exports

The following table (Table 6) shows Malawi's exports to COMESA countries over the period 2008-2012.

From the table below, it can be seen that, overall, Malawi's exports to the COMESA region have been significantly low relative to its exports to the world, registering between 9.72% and 15.22% in the years 2008, 2009, and 2012, having only risen to about 20% of global exports between 2010 and 2011. As in the case of SADC, Malawi's exports to COMESA have been mostly destined for five countries namely Zimbabwe, Egypt, Kenya, Zambia and Swaziland. These countries have accounted for between 86.3% and 98% of Malawi's exports

to the COMESA region. Of these, Zimbabwe and Zambia were also noted to be main export destinations in the SADC region. It is not clear at this point how much trade is conducted with these countries under SADC and COMESA, respectively. However, when the two regions are taken together, it can be seen that Malawi's exports to the Tripartite region mainly reach eighth countries. Consideration of the remaining COMESA countries also shows how other Tripartite countries have remained 'near yet distant' export destinations for Malawi, with Sudan ranking as Malawi's 55th export destination in 2012, and Comoros ranking as 168th.

Table 6: Malawi's exports to COMESA (US$ thousands) 2008-2012

World rank	Export destinations	2008	2009	2010	2011	2012
	World	878999	1187917	1066204	1425289	1218033
5	Zimbabwe	22555	35753	57870	122265	63325
6	Egypt	25273	73187	98267	62901	60880
16	Kenya	6910	13711	19320	73720	25951
18	Zambia	15431	23025	35533	34135	23891
29	Swaziland	3554	10415	4258	4406	7587
55	Sudan	0	1	1	4414	1543
58	Mauritius	133	133	50	3316	1306
75	DRC	7020	4439	897	2811	358
77	Uganda	2022	2862	977	4742	293
83	Seychelles	0	123	67	66	131
89	Burundi	424	4492	480	0	64
97	Rwanda	2044	2018	1419	1394	30
106	Ethiopia	0	67	42	29	10
127	Libya	74	1232	0	0	0
141	Madagascar	2	0	676	7	0
158	Djibouti	0	0	0	379	0
159	Eritrea	0	0	0	254	0
168	Comoros	0	0	0	0	0
	Total exports to COMESA	85442	171458	219857	314839	185369
	Total exports to COMESA as share of exports to world	9.72%	14.43%	20.62%	22.09%	15.22%
	Top 5 export destinations as share of COMESA					
	Zimbabwe	26.40%	20.85%	26.32%	38.83%	34.16%
	Egypt	29.58%	42.69%	44.70%	19.98%	32.84%
	Kenya	8.09%	8.00%	8.79%	23.42%	14.00%
	Zambia	18.06%	13.43%	16.16%	10.84%	12.89%
	Swaziland	4.16%	6.07%	1.94%	1.40%	4.09%
	Total share of Top 5 export destinations in COMESA exports	86.28%	91.04%	97.90%	94.47%	97.99%

Source: ITC Trade Map (author's calculations)

4. Malawi in the tripartite region

The previous section discussed Malawi's trade with the SADC and COMESA regions. The main countries with which Malawi trades were identified, and each was viewed relative to other members in each REC. Due to its overlapping membership, it was noted that figures relating to certain countries that are also members of both groupings were double-counted.

Hence, though some countries like Zambia were seen as more important when viewed in terms of COMESA, it was not clear how much of the respective reported figures were actually traded under SADC or COMESA. This section now brings these two regions together as it looks at intra-Tripartite trade, and reviews how Malawi has been performing vis-à-vis the entire Tripartite region taken together. This will provide an important picture of Malawi's standing in the region as it approaches tariff liberalisation negotiations with some of these countries. As the focus of this section, and indeed of the chapter, is on identifying what export opportunities may exist for Malawi, the emphasis of the discussion that will now ensue is based on exports. Imports are equally important, but as they require detailed analyses to determine the different effects of the tariff liberalisation process on a country like Malawi, they do not fall within the scope of this present chapter. They will, however, be alluded to in Section 4.3.4.

4.1 Overall Tripartite exports and Malawi's position in the region

Tripartite exports over the period 2008 to 2010 were valued at between US$32.6 billion and US$38.4 billion, increasing to US$43.4 billion in 2011, before reducing to US$29.9 billion in 2012.[12] Intra TFTA exports as a share of TFTA countries exports to the world were at 13% in 2008, 17.2% in 2009, 15.7% in 2010, 15.5% in 2011, and 10% in 2012.[13] These total TFTA exports when viewed as a share of global exports were also very low, averaging 1.6% of global exports over the same period. The level of intra TFTA shares reflects the situation of low intra-regional exports at the continental level, where it is reported that developing Africa registered an average of 9.7% over the period 1996 to 2000; 9.8% over 2001 to 2006; and 10.9% over 2007 to 2011 (UNCTAD 2013). These are low figures especially when compared with those of other regions of the world. For example, over these same periods, Developing America registered intra-regional exports of 19.1%, 17.6%, and 20.6% respectively. Developing Asia reported 41.5%, 45.1% and 50.1% respectively; whereas Europe reported 67.3%, 71.4% and 70% respectively (Ibid.). The need for increasing intra-regional trade in Africa has been well recognised and is rightly the impetus behind consolidation of the TFTA as well.

One aspect of the regional integration process in Africa has been that of the varying levels of development of the countries involved. There are a significant number of least developed

[12] Figures based on author's calculations of International Trade Centre (Trade Map) data.
[13] Ibid.

countries with small populations and economies in Sub-Saharan Africa, numbering about 47 as per the United Nations Conference for Trade and Development (UNCTAD) definition in 2007.[14] As alluded to at the outset, the TFTA area does indeed include such countries, including landlocked ones, of which Malawi is one. However, it also includes bigger middle-income economies like South Africa, Kenya, Egypt and Mauritius. In this situation it is recognised that not all countries may benefit equally from the regional integration process, tariff liberalisation in particular. It is expected that the more industrialised countries are more likely to reap immediate benefits from tariff liberalisation (Mbekeani 2013). This is not the case, however, with the small, least-developed countries. Due to their dependence on revenue from import tariffs they are likely to lose such revenue. Furthermore, their increased imports could replace goods produced domestically, resulting to losses in employment and closing of manufacturing industries (Ibid.).

Such unbalanced prospects from the regional integration process have led to a tentative implementation of tariff liberalisation commitments on the part of some of the smaller countries. For example, in the SADC Free Trade Area (FTA) liberalisation process, most countries were seen to delay reduction of tariffs on sensitive products to the end of the period provided for elimination of tariffs (Kalenga 2011). In this regard, Malawi and Zimbabwe are cited to have experienced some problems due to the fast pace of liberalisation towards the end of the SADC FTA's tariff phase-down period (2009-2012), as reductions on tariffs on their sensitive products, coupled with a significant increase in these imports, led to more revenue losses towards the end of the transitional period.

Based on this scenario, it is important, before looking at Malawi's prospects in the TFTA tariff liberalisation negotiations, to view Malawi's position in the region vis-à-vis other regional players.

The matrix that will follow shows each Tripartite country's exports to the rest of the Tripartite countries, total exports to the TFTA, and respective share in total TFTA exports during the year 2012.

A note must be made on the data at the outset. The figures presented in the matrix are export figures as reported on the International Trade Centre (ITC) database by the exporting country itself. There are, however, some countries that did not provide figures to the ITC for the

[14] See Hartzenberg (2011).

entire period 2008-2012, whereas some countries provided figures for only some of these years. Hence, some of the figures in the matrix are mirror data (i.e. imports from the respective country as reported by respective partner countries). It is acknowledged that this difference has some consistency implications on the overall dataset, particularly because export figures are mostly reported on free-on-board (fob) basis and import figures on cost-insurance-freight (cif) basis (Sandrey 2006). That said, however, it would be expected that this merged matrix would provide a fair overall reflection of the respective countries exports:

Table 7: Matrix of total Tripartite member countries exports to partner countries (US$ thousands) in 2012[15]

	Angola	Botswana	Burundi	Comoros	Djibouti	DRC	Egypt	Eritrea	Ethiopia	Kenya	Lesotho	Libya	Madagascar	Malawi	Mauritius
Angola		0	0				2		1				6,574	1	70
Botswana	790		9	0	0	10,051	1,464	0	25	408	1,325	311	10	1,692	25
Burundi	0	0		0	0	6,746	0	0	0	16,299	0	0	0	4	0
Comoros		0	0				144		18				127	0	1,106
Djibouti		0	310				12,273		196				19	0	0
DRC		56	5,148				70,758		0				68	85	0
Egypt	25,383	172	11,422	253	35,265	25,173		57,770	41,229	282,752	0	1,439,304	0	3,026	30,739
Eritrea		0	0				4,390		0				0	6	0
Ethiopia	3,673	131	19	192	171,890	0	79,427	0		13,679	12	23,591	165	90	97
Kenya		1,224	47,804				320,558		41,743				5,655	54,877	55,753
Lesotho		12,128	0				582		138				5	109	2,382
Libya		0	0				141,833		0				44	3	13
Madagascar	2	363	270	12,119	215	122	4,265	0	13	2,819	14	23		165	21,366
Malawi	61	2,949	64	0	0	358	60,880	0	10	25,951	7	0	0		1,306
Mauritius	217	253	1,807	5,386	45	0	1,522	3	195	9,123	1,064	0	155,653	3,156	
Mozambique	24,064	3,197	3	0	0	704	0	0	29	8,468	381	1	595	26,136	6,808
Namibia		373,122	0				0		67				2	2,440	1,057
Rwanda	4	1	13,336	0	2	109,125	6	0	2,198	94,760	0	0	2	5	1
South Africa	1,151,963	54,750	5,991	5,596	36,777	1,491,357	89,845	26,325	71,388	718,912	4,339	6,946	174,469	442,076	321,344
Seychelles		1	159				219		11				11,243	120	15,952
Sudan		0	10				23,096		70,605				80	42	0
Swaziland		5,195	147				60		20,921				8,162	10,001	9,475
Tanzania		381	53,560				6,320		1,781				7,755	42,477	7,876
Uganda	343	546	46,082	0	45	240,881	780	232	12,175	254,061	3	280	6	607	959
Zambia	24,994	64,361	27,697	0	0	0	8,737	0	15	56,938	2,331	0	64	189,638	48,596
Zimbabwe		43,246	128				660		237				25	30,497	7,938
Imports (as mirror)															
Total															
29,866,081	1,231,494	562,076	213,966	23,546	244,239	1,884,517	827,821	84,330	262,995	1,484,170	9,476	1,470,456	370,723	807,253	532,863
	4.12%	1.88%	0.72%	0.08%	0.82%	6.31%	2.77%	0.28%	0.88%	4.97%	0.03%	4.92%	1.24%	2.70%	1.78%

Source: ITC Trade Map

[15] Note that the exports for each country to its TFTA partner are captured in the rows, and when seen as mirror data, the figures are viewed as imports by each TFTA member in the columns and totalled leftwards at the bottom of the table. This also applies to the matrices for 2008-2011 provided in Annex 1. Figures in red are mirror data.

Table 7 cont.

	Mozambique	Namibia	Rwanda	South Africa	Seychelles	Sudan	Swaziland	Tanzania	Uganda	Zambia	Zimbabwe	Total T-FTA exports	Share of total
Angola	3,489		0	2,804,583					167	2,936		2,817,823	9.43%
Botswana	5,231	111,669	0	781,195	0	63	1,462	8,992	83	47,805	114,201	1,086,811	3.64%
Burundi	0	0	4,200	98	0	22	0	948	3,798	33	0	32,148	0.11%
Comoros	1		0	275					0	0		1,671	0.01%
Djibouti	0		0	735					0	3		13,536	0.05%
DRC	62		8,496	9,085					12,223			105,981	0.35%
Egypt	3,111	0	16,974	526,310	2,514	452,166	1,161	52,854	41,510	42,305	11,441	3,102,834	10.39%
Eritrea	6		2	24					202	91		4,721	0.02%
Ethiopia	142	90	75	17,053	0	189,067	1,258	157	1,462	333	480	503,083	1.68%
Kenya	2,898	433	134,252	29,275					590,165	287,525		1,572,162	5.26%
Lesotho	83		0	40					118	42		15,627	0.05%
Libya	0		0	100					264	2,376		144,633	0.48%
Madagascar	294	0	105	48,762	6,232	704	17	2,373	0	75	286	100,604	0.34%
Malawi	31,520	26	30	86,676	131	1,543	7,587	19,768	293	23,891	63,325	326,376	1.09%
Mauritius	789	435	4,065	220,798	29,713	191	3	7,573	1,313	1,268	3,172	447,744	1.50%
Mozambique		0	0	666,862	0	6	14,410	1,770	110	7,730	82,958	844,232	2.83%
Namibia	28,546		60	25,197					170	25,356		456,017	1.53%
Rwanda	0	3		700	0	17,073	48	164,773	68,354	10	3	470,404	1.58%
South Africa	2,401,029	197,730	28,208		47,074	34,564	6,586	692,764	167,944	2,685,810	2,439,596	13,303,383	44.54%
Seychelles	149		0	741					1	19		28,615	0.10%
Sudan	1,350		110	274					2,116	2,340		100,023	0.33%
Swaziland	26,449		1,427	75					23,242	20,210		125,364	0.42%
Tanzania	18,111		74,546	58,839					49,970	72,267		393,883	1.32%
Uganda	615	59	226,104	9,475	86	424,333	260	54,023		2,036	7,452	1,281,443	4.29%
Zambia	20,587	154,808	7,109	859,550	1	4,021	8,335	101,406	1,320		437,382	2,017,890	6.76%
Zimbabwe	9,975		75	380,986					833	94,473		569,073	1.91%
											Total	29,866,081	
	2,554,437	465,253	505,838	6,527,708	85,751	1,123,753	41,127	1,107,401	965,658	3,318,934	3,160,296		
	8.55%	1.56%	1.69%	21.86%	0.29%	3.76%	0.14%	3.71%	3.23%	11.11%	10.58%		

One can see from the matrix how each TFTA member exported to the region in the selected year. Derived from this matrix and those of the respective year[i], the table below shows the shares in total T-FTA exports of each country over the period 2008 to 2012[ii], ranked according to 2012 shares, and depicts more clearly how each country has fared within the region over this period.

As would be expected, South Africa is seen to have exported the largest share of TFTA exports in 2012 at 44.54%. Also, Egypt and Kenya were among the top five exporters in the region at 10.3% and 5.26% respectively, the others being Angola at 9.43%, and Zambia at 6.76%. Registering between 0.67% and 1.09% of total TFTA exports, Malawi's export share over the period has been quite low, seeing that it ranked at 15th in 2012. Does this scenario of exports to the Tripartite region necessarily mean that there are limited export opportunities for Malawi in the process even if the TFTA is concluded? A more detailed analysis of Malawi's prospects vis-à-vis the countries it will negotiate with in the TFTA process is required to answer this question.

[i] Matrices compiled and calculations done by author. Matrices for 2008-2011 are provided in Annex 1.
[ii] The countries are ranked in this table according to their 2012 share. Data for South Sudan is not available.

Table 8: Tripartite countries ranked from largest to smallest exporter

Rank	Country	2008	2009	2010	2011	2012
1	South Africa	50.80%	50.63%	48.82%	50.31%	44.54%
2	Egypt	4.95%	6.13%	7.11%	6.35%	10.39%
3	Angola	7.89%	4.24%	5.23%	3.71%	9.43%
4	Zambia	4.21%	3.34%	3.73%	5.10%	6.76%
5	Kenya	6.18%	5.86%	5.68%	4.19%	5.26%
6	Uganda	2.26%	2.37%	2.19%	2.42%	4.29%
7	Botswana	3.68%	2.32%	2.30%	2.56%	3.64%
8	Mozambique	1.24%	1.86%	1.52%	1.91%	2.83%
9	Zimbabwe	3.22%	4.61%	5.37%	6.22%	1.91%
10	Ethiopia	0.47%	0.48%	0.91%	0.77%	1.68%
11	Rwanda	0.67%	0.53%	0.05%	0.33%	1.58%
12	Namibia	6.01%	9.16%	6.40%	5.61%	1.53%
13	Mauritius	0.75%	0.75%	0.61%	0.87%	1.50%
14	Tanzania	2.82%	2.15%	3.50%	3.81%	1.32%
15	**Malawi**	**0.67%**	**1.15%**	**0.85%**	**1.18%**	**1.09%**
16	Libya	0.75%	0.64%	0.79%	0.18%	0.48%
17	Swaziland	0.84%	0.69%	0.55%	0.42%	0.42%
18	DRC	1.72%	1.66%	3.42%	3.20%	0.35%
19	Madagascar	0.19%	0.15%	0.21%	0.20%	0.34%
20	Sudan	0.40%	0.58%	0.42%	0.42%	0.33%
21	Burundi	0.08%	0.11%	0.07%	0.07%	0.11%
22	Seychelles	0.01%	0.12%	0.12%	0.06%	0.10%
23	Lesotho	0.04%	0.03%	0.01%	0.03%	0.05%
24	Djibouti	0.17%	0.42%	0.12%	0.07%	0.05%
25	Eritrea	0.01%	0.03%	0.01%	0.00%	0.02%
26	Comoros	0.00%	0.00%	0.01%	0.00%	0.01%
27	South Sudan	**	**	**	**	**

Source: ITC Trade Map (author's calculations)

4.2 Prospective negotiating partners in the T-FTA tariff liberalisation negotiations

The Tripartite framework has set out guidelines for negotiating the TFTA among the Member States of COMESA, EAC, and SADC.[iii] These negotiating principles have undergone various changes since they were first concluded in 2010 (Erasmus, 2013). In their present form, they

[iii] See COMESA, EAC, SADC (2011).

provide that tariff negotiations and the exchange of concessions will be among those Member States that do not presently have in place preferential trade agreements between themselves (Ibid.: 6). Hence, as Malawi approaches the negotiations, it will not negotiate with those Member States with which it is currently operating either under the COMESA or the SADC Free Trade Areas, respectively. These are 21 in total, namely the countries of the EAC Customs Union and the Southern African Customs Union (SACU), Comoros, Djibouti, Egypt, Libya, Madagascar, Mauritius, Mozambique, Seychelles, Sudan, Zambia and Zimbabwe (TradeMark SA, 2013).

In line with the negotiating principles, therefore, in efforts towards consolidation of the TFTA, Malawi would have to negotiate with Angola, the Democratic Republic of Congo (DRC), Eritrea, Ethiopia (Ibid.) and South Sudan. These countries are not among the traditionally significant economies in the Tripartite region. The DRC was selected for the trade-chilling exercise in this paper and will be discussed in the next section. As for the other countries, Table 8 above indicates that Angola was the third largest exporter to the Tripartite region in 2012. A look at the country's export profile indicates that this was largely on account of oil exports, mostly to South Africa (ITC Trade Map). Angola's economy is seen to have rebounded in 2013 after a few years of slow growth, caused mainly by the recent oil and financial crises (African Economic Outlook 2013: Angola). However, it is projected to perform strongly in the short to medium term mostly on account of expansions in oil and gas and an economic diversification drive being pursued by its government (Ibid.). Ethiopia was the tenth largest exporter in 2012.[iv] It was one of Africa's best performing economies in 2012, registering a high gross domestic product (GDP) figure of 6.9% (African Economic Outlook 2013: Ethiopia). This was the ninth year in a row that it registered such high growth rates (Ibid.). In the period under review, Malawi's trade with these countries was significantly low. Based on their current economic performance, however, they may be viewed as having some potential as new trading partners in the TFTA.

From Table 8, it can be seen that Eritrea's share in TFTA exports was extremely low. The country's economic performance has remained weak since 1993, but has been reinforced recently by production of gold, copper and cement (African Economic Outlook 2013: Eritrea). After gaining independence in 2011, South Sudan still has a fragile economy, highly dependent on oil and characterised by shortages of skilled human capacity in all the key

[iv] See Table 8.

sectors of its economy (African Economic Outlook 2013: South Sudan). It will probably be some time before these two countries can be viewed as potentially important trading partners.

4.3 Trade-chilling between Malawi and the DRC

Trade-chilling is defined as a situation where a country has potential to export certain products to a partner country and where the conclusion of an FTA could facilitate the export of such products (Sandrey, 2006).

As alluded to in the previous section, the DRC was chosen for the trade-chilling exercise in this paper. The country has not been seen to be a very prominent player in the regional integration efforts in east and southern Africa. At first mention, it normally brings to people's minds thoughts of war and strife, as this has characterised parts of the country over the years. However, indications are that the country's economy has been performing well in recent years, and its growth increased from 6.9% in 2011 to 7.2% in 2012 mainly due to mining, trade, agriculture and construction, in spite of challenges of political instability the country has been facing over the years (African Economic Outlook 2013: DRC). Political stability in the country is necessary for the regional integration process in the Tripartite region to fully thrive, and there are sustained efforts by the DRC Government and the region towards its attainment.[v]

Another reason that made the DRC an interesting case to conduct the trade-chilling exercise on was the potential it has shown as one of the main export destinations in the TFTA area. Indeed, in the years from 2008 to 2012, it has been in and around the top five importers in the Tripartite area, registering shares of 5.78% of total TFTA imports in 2008, 4.29% in 2009, 4.80% in 2010, 5.11% in 2011, and 6.31% in 2012[vi]. This fact may not be too clear at the outset as that country's import and export statistics are not reported on most international databases including that of the ITC, from which this study exclusively sourced data.[vii] Further, it is an interesting country among Malawi's potential negotiating partners due to the fact that it is an important export destination in spite of its not yet joining the COMESA and SADC Free Trade Areas.

[v] At the time of writing media reports were that insurgents had been defeated by the DRC Government, which was pushing for a final end to the conflict. See http://www.bbc.co.uk/news/world-africa-24816223. African leaders were also in a sustained push for an end to the conflict. See SADC and ICGLR (2013).

[vi] See matrices in Table 7 and Annex 1. Note this is when the export figures reported are viewed as mirror import figures.

[vii] All data for the DRC (2008-2012) was mirror data.

The trade-chilling exercise thus conducted was mainly aimed at identifying some products that the DRC currently imports from different countries but does not currently import from Malawi, so as to determine if it serves as a potential market for some of these products. This was done using trade and tariff data from the ITC Trade Map and MAcMap, respectively[viii]. In discussions that follow the respective tables, the threshold of US$1 million (wherever possible for both DRC imports and Malawi exports) was chosen to represent a significant level indicating some potential for Malawi's exports. Before looking at the products that Malawi does not currently export to DRC, the products that it already does export are analysed first.

4.3.1 Products that Malawi already exports to the DRC

As will have been noted from the matrix in Table 7 above, exports from Malawi to the DRC amounted to only US$358 000 in the year 2012. These are shown in more detail in the following table:

Table 9: DRC imports from World and Malawi (US$ thousands) in 2012 and associated tariffs

HS6 code	Product description	DRC imports from World	DRC imports from Malawi	MFN Tariff	Share in DRC World imports	Rank in exports to World
071310	Peas dried, shelled, whether or not skinned or split	2 357	138	10%	3.69%	9
220720	Ethyl alcohol and other spirits, denatured, of any strength	341	87	10%	8.50%	89
170199	Refined sugar, in solid form, nes	18 808	29	20%	0.14%	54
852560	Transmission apparatus for radio-broadcasting or television	3 325	27	5%	0.63%	278
721250	Flat rolled prod, i/nas, <600mm wide, plated or coated, nes	154	21	10%	11.69%	319
090240	Black tea (fermented)	61	18	20%	18.03%	4
722090	Flat rolled prod, stainless steel, cr <600mm wide, nes	1 380	11	10%	0.80%	405
730799	Fittings, pipe or tube, iron or steel, nes	10 677	11	20%	0.07%	232
870421	Diesel powered trucks with a GVW not exceeding five tonnes	39 581	2	5%	0.01%	102
730120	Angles, shapes and sections, welded, iron or steel	361	7	10%	0.55%	135
870322	Automobiles	2 908	2	15%*	0.07%	279
721590	Bars & rods, i/nas, nes	1 125	2	10%	0.18%	535
392490	Household and toilet articles nes, of plastics	814	2	15%*	0.12%	22

Source: ITC Trade Map and MAcMap

From the table it can be seen that Malawi exported only a few products in very minimal amounts, even where the DRC's imports from the world were not very high in the same products in that year. Dried peas are seen to be the most significant product imported by the DRC from Malawi in 2012, with the product accounting for 3.69% of DRC's total imports from the world. They also happened to be an important export for Malawi, ranking as the

[viii] For all tables that follow, DRC MFN tariffs are 2008 (latest). Tariffs denoted * are simple averages across the respective HS8 lines of the product. N/S = not specified. Tariff rates are not provided for the respective tariff lines where Malawi's exports are zero.

ninth most exported product to the world in the year. Refined sugar was a significant import for the DRC, registering about US$18.8 million from the world, but only US$29 000 from Malawi. At this detailed level of specification, it did not seem to be an important export for the country in the year. However, it is worth noting that raw sugar (HS code 170111) was Malawi's fifth-ranked exported product that year, and in spite of the differences in classification, the DRC could represent a potential market. The third product that is at least significant is black tea, which was Malawi's fourth most exported product. It accounted for 18.03% of the DRC's imports from the world, though these were low at only US$61 000. Overall, it would seem that although its exports to the DRC were quite low, there are a few products that Malawi could regard as having some further potential in the DRC if such markets were well explored. The tariffs associated with the different products range between 10% and 20%, thereby indicating the extent of tariff reductions that Malawi would need to negotiate if it were to secure increased market access for such products in the DRC market.

4.3.2 Products that the DRC imports from the world but not from Malawi

The following table shows the top 20 products that the DRC imported from the world but not from Malawi in 2012, but which Malawi exported to the world:

Table 10: DRC imports from World and Malawi, and Malawi exports to World (US$ thousands) in 2012 and associated tariffs

HS6 code	Product description	DRC imports from World	DRC imports from Malawi	Malaw exports to World	MFN tariff
	All products	4 807 536		1 218 033	
300490	Medicaments nes, in dosage	125 964	0	180	18.3%*
730890	Structures & parts of structures	121 774	0	48	10%
630900	Worn clothing and other worn articles	58 764	0	1 508	10%
847490	Pts of sortg/screeng/mixg/crushg/grinding/washing/agglomeratg mach etc	56 783	0	18	5%
851762	Machines for the reception, conversion and transmission or regeneratio	54 657	0	116	N/S
870410	Dump trucks designed for off-highway use	51 971	0	556	5%
843149	Parts of cranes,work-trucks,shovels,and other construction machinery	50 345	0	681	5%
841381	Pumps nes	45 572	0	42	10%
870423	Diesel powered trucks with a GVW exceeding twenty tonnes	45 050	0	13	5%
252329	Portland cement nes	44 085	0	165	20%
020714	Fowls (gallus domesticus), cuts & offal, frozen	43 612	0	49	N/S
871120	Motorcycles with reciprocatg piston engine displacg > 50 cc to 250 cc	41 310	0	3	20%
870323	Automobiles w reciprocatg piston engine displacg > 1500 cc to 3000 cc	39 307	0	5 694	13.3%*
110100	Wheat or meslin flour	37 933	0	3 398	10%
870899	Motor vehicle parts nes	37 870	0	511	10%
850440	Static converters, nes	36 589	0	1	5%
190190	Malt extract & food prep of Ch 19	33 635	0	99	5%
848180	Taps, cocks, valves and similar appliances, nes	32 077	0	8	10%
870422	Diesel powerd trucks w a GVW exc five tonnes but not exc twenty tonnes	31 646	0	401	5%
040221	Milk and cream powder unsweetened exceeding 1.5% fat	30595	0	21	5%

Source: ITC Trade Map and MAcMap

Of the top 20 products that the DRC imports from the world but not from Malawi, it is worn clothing, motor vehicles,[ix] and wheat or meslin flour that Malawi also exports to the world in significant values of more than US$1 million. The products face tariffs that are not too high at between 10% and 13.3%. The other products are not seen to be exported by Malawi to the world in significant amounts.

4.3.3 Products that the DRC imports from Tripartite countries but not from Malawi

Looking at intra-Tripartite trade more closely could give a fairer picture of products that other countries within the region are exporting to the DRC, products which Malawi is not currently exporting, but which it could well export as it already does export these products to the world.

The top three countries that the DRC imported from within the Tripartite region in 2012 were identified and Malawi's exports benchmarked against these. From the matrix in Table 7, these were South Africa, Uganda, and Rwanda, which reported exports of US$1.5 billion, US$240 million and US$109 million to the DRC respectively. For each country, the trade-chilling exercise was conducted from two angles. Firstly, the top 20 products that each country exports to the DRC were analysed to see if pointers on which products Malawi could also export could be identified. Secondly, the top 20 products that Malawi exported to the world in 2012, which it did not export to the DRC, but which the DRC imported from the three Tripartite members were analysed. This was to ascertain whether there are any other pointers on products that Malawi exports to the world in larger amounts.

4.3.3.1 Products that the DRC imports from South Africa but not from Malawi

Table 11a lists the top 20 products that the DRC imported from South Africa but not from Malawi in 2012, but which Malawi exported to the world:

[ix] Malawi does not produce its own motor vehicles and so these may again be goods that are transiting through the country or being re-exported.

Table 11a: DRC imports from South Africa and Malawi, and Malawi exports to World (US$ thousands) in 2012 and associated tariffs

HS6 code	Product description	DRC imports from RSA	DRC imports from Malawi	Malawi exports to the World	MFN Tariff
	All products	1 491 357		1 218 033	
730890	Structures and parts of structures, of iron or steel, n.e.s.	97 337	0	48	10%
847490	Parts of machinery for working mineral substances, n.e.s.	42 289	0	18	5%
841381	Pumps for liquids, power-driven	39 581	0	42	10%
870410	Dump trucks for off-highway use	34 757	0	556	5%
843149	Parts of cranes,work-trucks,shovels,and other construction machinery	26 309	0	681	5%
730900	Reservoirs, tanks, vats and similar containers, of iron or stee	23 807	0	7	15%*
848180	Taps, cocks, valves and similar appliances, nes	19 116	0	8	10%
841391	Parts of pumps for liquids, n.e.s.	16 840	0	4	10%
252210	Quicklime	14 849	0	10	10%
390210	Polypropylene	13 753	0	92	10%
730840	Equipment for scaffolding, shuttering, propping or pit-propping	11 740	0	168	10%
731815	Threaded screws and bolts, of iron or steel	10 260	0	37	20%
732690	Articles, iron or steel, nes	9 979	0	25	8.3%*
940600	Prefabricated buildings	9 933	0	1	20%
842959	Self-propelled excavating machinery nes	9 183	0	65	5%
854449	Electric conductors n.e.s.	9 167	0	248	10%
848340	Gears and gearing for machinery	8 378	0	17	10%
870899	Motor vehicle parts nes	8 376	0	511	10%
847420	Crushing or grinding machines for solid mineral substances	7 794	0	37	5%
392330	Carboys, bottles, flasks and similar articles of plastics	7 666	0	681	12.5%*

Source: ITC Trade Map and MAcMap

From the table above, it can be seen that most of the products that the DRC imported from South Africa in 2012 were machinery, motor vehicles and parts, and chemicals, all of which Malawi did not export to the DRC. Most of these are products that are not produced in Malawi, and so even though some exports in these products are seen to go from Malawi to the world, these could well represent products that are only transiting through Malawi or being re-exported, thereby highlighting the importance of rules of origin in a prospective FTA. As could have been expected, there are not many products that can be seen as potential exports by Malawi based on South Africa's top exports to the DRC.

As mentioned at the outset, a second approach that was taken to further explore opportunities that could exist was to look at products that the DRC imports from South Africa that it does not import from Malawi, but which Malawi exports to the world in significant amounts. The following table shows the top 20 of these products:

Table 11b: DRC's imports from South Africa and Malawi, and Malawi's exports to the World (US$ thousands) and associated tariffs

HS6 code	Product description	DRC imports from RSA	DRC imports from Malawi	Malawi exports to the World	Share of Malawi exports to World	MFN Tariff
	All products	1 491 357		1 218 033		
392321	Sacks and bags (including cones) of polymers of ethylene	367	0	6 238	0.51%	20%
440799	Wood, sawn or chipped length	183	0	6 043	0.50%	20%
870323	Automobiles w reciprocatg piston engine displacg > 1500 cc to 3000 cc	63	0	5 694	0.47%	13%*
490199	Books, brochures, leaflets and similar printed matter, nes	2 091	0	3 861	0.32%	15%*
842920	Graders and levellers, self-propelled	1 070	0	2 854	0.23%	5%
392390	Articles for the conveyance or packing of goods nes, of plastics	800	0	2 033	0.17%	15%*
940360	Furniture, wooden, nes	1 074	0	1 747	0.14%	20%
391723	Tubes, pipes and hoses, rigid; of polyvinyl chloride	1 550	0	1 632	0.13%	20%
392119	Film and sheet etc, cellular of plastics nes	368	0	1 241	0.10%	10%
730810	Bridges and bridge sections, iron or steel	736	0	1 094	0.09%	10%
940370	Furniture, plastic, nes	188	0	1 019	0.08%	20%
481910	Cartons, boxes and cases, of corrugated paper or paperboard	686	0	989	0.08%	20%
871639	Trailers nes for the transport of goods	1 849	0	901	0.07%	5%
880390	Parts of balloons, dirigibles, and spacecraft nes	25	0	847	0.07%	5%
340111	Toilet soap&prep,shaped;papers&nonwovens impreg with soap toilet use	1 543	0	820	0.07%	18.9%*
843149	Parts of cranes,work-trucks,shovels,and other construction machinery	26 309	0	681	0.06%	5%
392330	Carboys, bottles, flasks and similar articles of plastics	7 666	0	681	0.06%	12.5%*
100630	Rice, semi-milled or wholly milled, whether or not polished or glazed	4 005	0	663	0.05%	10%
380891	Insecticides	755	0	589	0.05%	N/S
392350	Stoppers, lids, caps and other closures of plastics	740	0	574	0.05%	7.5%*

Source: ITC Trade Map and MAcMap

All of the top products that Malawi exports to the world but not to the DRC, are also exported to the DRC by South Africa in varying amounts. Of these products, those that are exported in significant amounts (both above US$1 million by South Africa to the DRC and Malawi to the world) that could be potentially exported by Malawi to the DRC included books, brochures and leaflets, wooden furniture, and polyvinyl chloride tubes. Others that Malawi exports to the world in significant amounts (though South Africa does not export to the DRC in similar significant amounts) and so can still be seen to have some potential were sacks and bags, wood, articles, films and sheets of plastic, iron and steel bridges and sections, and plastic furniture. Again, the tariffs for the products that Malawi exports to the world but not to the DRC are between 5% and 20%.

4.3.3.2 Products that the DRC imports from Uganda but not from Malawi

Just as was the case with the South Africa exercise above, the table below presents the top 20 products that the DRC imported from Uganda but not from Malawi, but which Malawi exported to the world:

Table 12a: DRC's imports from Uganda and Malawi and Malawi's exports to World (US$ thousands) in 2012 and associated tariffs

HS6 code	Product description	DRC imports from Uganda	DRC imports from Malawi	Malawi exports to World	MFN Tariff
	All products	240 881		1 218 033	
252329	Portland cement nes	24 299	0	165	20%
721041	Flat-rolled products of iron or non-alloy steel	13 586	0	36	20%
100630	Rice, semi-milled or wholly milled, whether or not polished or glazed	10 407	0	663	10%
870323	Motor cars and other motor vehicles principally designed for the transport of persons	9 070	0	5 694	13.3%*
220300	Beer made from malt	8 878	0	953	20%
190531	Sweet biscuits	8 214	0	3 782	20%
630533	Sacks, bags, packing, of strip plastic material	6 526	0	1	20%
340120	Soap nes	2 666	0	153	20%*
250100	Salt (includg table salt&denaturd salt) pure sodium chloride&sea water	2 503	0	5	15%*
210690	Food preparations nes	2 376	0	100	10%*
870422	Diesel powerd trucks w a GVW exc five tonnes but not exc twenty tonnes	2 182	0	401	5%
731700	Nails, tacks, drawing pins, corrugated nails, staples and similar articles of iron or steel	2 117	0	10	18%*
841319	Pumps fitted or designed to be fitted with a measuring device nes	2 093	0	6	10%
871120	Motor-cycles, incl. mopeds	2 031	0	3	20%
110100	Wheat or meslin flour	1 824	0	3 398	10%
220210	Waters, incl. mineral and aerated	1 767	0	2	20%
870421	Diesel powered trucks with a GVW not exceeding five tonnes	1 411	2	282	5%
340119	Soap and organic surface-active products and preparation: Household or Industrial	1 371	0	1	16.7%*
392330	Carboys, bottles, flasks and similar articles of plastics	1 153	0	681	12.5%*
870423	Diesel powered trucks with a GVW exceeding twenty tonnes	1 019	0	13	5%

Source: ITC Trade Map and MAcMap

Of the top 20 products identified above, motor vehicles,[x] sweet biscuits, and wheat or meslin flour were exported in significant amounts of US$5.6 million, US$3.8 million, and US$3.4 million respectively. The tariffs for the 30 listed products again range between 5% and 20%.

The following table presents the top 20 products that were exported by Malawi to the world but not to the DRC, but which were also exported to the DRC by Uganda.

From the table below, it can be seen that the 20 products that Malawi exported to the world but not to the DRC were also all imported by the DRC from Uganda. Sweet biscuits and wheat or meslin flour were imported by the DRC in significant amounts as also identified in the previous table. Other products that Malawi exported in 2012 in significant amounts were reported to have also been imported by the DRC from Uganda, albeit only in small amounts. Some further analysis would have to be conducted, which would look at tariff lines close to these HS6 codes or indeed at a higher level of aggregation so as to see whether some of the other products such as kidney beans and coffee do indeed have potential in the DRC market.

[x] Supra n 25.

Table 12b: DRC's imports from Uganda and Malawi, and Malawi's exports to the World (US$ thousands) in 2012 and associated tariffs

HS6 code	Product description	DRC imports from Uganda	DRC imports from Malawi	Malawi exports to World	MFN Tariff
	All products	240 881		1 218 033	
240120	Tobacco, unmanufactured, partly or wholly stemmed or stripped	120	0	451 680	5%
441299	Panels and similar laminated wood not containing particle board	127	0	9 097	20%
071333	Kidney beans&white pea beans drid shelld,whether o not skinnd o split	8	0	6 343	10%
392321	Sacks and bags (including cones) of polymers of ethylene	67	0	6 238	20%
870323	Motor cars and other motor vehicles principally designed for the transport of persons	9 070	0	5 694	13.3%*
490199	Books, brochures, leaflets and similar printed matter, nes	2	0	3 861	15%*
190531	Sweet biscuits	8 214	0	3 782	20%
110100	Wheat or meslin flour	1 824	0	3 398	10%
441114	Medium density fibreboard MDF of wood	113	0	3 025	N/S
842920	Graders and levellers, self-propelled	35	0	2 854	5%
090111	Coffee, not roasted, not decaffeinated	13	0	2 216	10%
392390	Articles for the conveyance or packing of goods nes, of plastics	158	0	2 033	15%*
220850	Gin and geneva	23	0	1 892	20%*
090190	Coffee husks and skins, coffee substitutes	1	0	1 830	20%
940360	Furniture, wooden, nes	7	0	1 747	20%
391723	Tubes, pipes and hoses, rigid; of polyvinyl chloride	652	0	1 632	20%
630900	Worn clothing and other worn articles	339	0	1 508	10%*
392119	Film and sheet etc, cellular of plastics nes	3	0	1 241	10%
070810	Peas, shelled or unshelled, fresh or chilled	110	0	1 139	10%
220710	Undenaturd ethyl alcohol of an alcohol strgth by vol of 80% vol/higher	8	0	1 073	10%

Source: ITC Trade Map and MAcMap

4.3.3.3 Products that the DRC imports from Rwanda but not from Malawi

As with the previous two sections, the following table presents the top 20 products that the DRC imported from Rwanda but not from Malawi in 2012, but which Malawi exported to the world:

Table 13a: DRC's imports from Rwanda and Malawi, and Malawi's exports to the World (US$ thousands) in 2012 and associated tariffs

HS6 code	Product description	DRC imports from Rwanda	DRC imports from Malawi	Malawi exports to World	MFN Tariff
	All products	109 125		1 218 033	
110100	Wheat or meslin flour	16 797	0	3 398	10%
220300	Beer made from malt	7 767	0	953	20%
271019	Medium oils and preparations, of petroleum or bituminous minerals	6 575	0	3	10%
640590	Footwear, nes	6 167	0	13	20%
220290	Non-alcoholic beverages (excl. water, fruit or vegetable juices and milk)	2 941	0	383	20%
190531	Sweet biscuits	2 275	0	3 782	20%
252329	Portland cement nes	2 202	0	165	20%
870510	Mobile cranes	1 758	0	175	5%
870323	Automobiles w reciprocatg piston engine displacg > 1500 cc to 3000 cc	1 453	0	5 694	13.3%*
721049	Flat-rolled products of iron or non-alloy steel	1 256	0	1	20%
870490	Trucks nes	1 239	0	1	5%
870333	Motor cars and other motor vehicles principally designed for the transport of persons	1 186	0	228	13.3%*
392310	Boxes, cases, crates & similar articles of plastic	1 059	0	433	20%
170111	Raw sugar, cane	661	0	41 952	20%
100610	Rice in the husk (paddy or rough)	623	0	42	5%
940429	Mattresses, fitted with springs or stuffed or internally filled with any material	594	0	210	20%
330499	Beauty or make-up preparations nes; sunscreen or sun tan preparations	587	0	28	20%
870332	Automobiles with diesel engine displacing more than 1500 cc to 2500 cc	526	0	108	13.3%*
070820	Beans, shelled or unshelled, fresh or chilled	497	0	41	10%
220210	Waters, incl. mineral and aerated	463	0	2	20%

Source: ITC Trade Map and MAcMap

From the table above, it can be seen that there are again a few products that the DRC imports from Rwanda but not from Malawi, and these mirror the three identified in the case of Uganda, namely wheat or meslin flour, sweet biscuits and motor vehicles. Of the other products that Malawi does export to the world, raw sugar (as highlighted earlier in the discussion on Malawi's current exports) is seen as a significant export by Malawi which was imported from Rwanda albeit in the slightly low figure of US$661 000.

The following table presents the top 20 products that were exported by Malawi to the world but not to the DRC, but which were also exported to the DRC by Rwanda:

Table 13b: DRC's imports from Rwanda and Malawi and Malawi's exports to the World (US$ thousands) and associated tariffs

HS6 code	Product description	DRC imports from Rwanda	DRC imports from Malawi	Malawi exports to World	MFN Tariff
	All products	109 125		1 218 033	
170111	Raw sugar, cane	661	0	41 952	20%
120220	Shelled ground-nuts, whether or not broken	48	0	38 248	10%
010519	Live domestic ducks, geese and guinea fowls	1	0	19 538	5%
071333	Kidney beans&white pea beans drid shelld,whether o not skinnd o split	326	0	6 343	10%
870323	Automobiles w reciprocatg piston engine displacg > 1500 cc to 3000 cc	1 453	0	5 694	13.3%*
490199	Books, brochures, leaflets and similar printed matter, nes	1	0	3 861	15%*
190531	Sweet biscuits	2 275	0	3 782	20%
110100	Wheat or meslin flour	16 797	0	3 398	10%
080290	Nuts edible, fresh or dried, whether or not shelled or peeled, nes	1	0	2 403	20%
392390	Articles for the conveyance or packing of goods nes, of plastics	25	0	2 033	15%*
940360	Furniture, wooden, nes	14	0	1 747	20%
630900	Worn clothing and other worn articles	72	0	1 508	10%*
090411	Pepper of the genus Piper	1	0	1 491	20%
071339	Dried, shelled beans	14	0	1 045	10%
392410	Tableware and kitchenware of plastics	1	0	989	20%
220300	Beer made from malt	7 767	0	953	20%
040110	Milk not concentrated and unsweetened	10	0	924	5%
340111	Soap and organic surface-active products and preparations	151	0	820	18.9%*
071331	Dried, shelled beans	1	0	816	10%
100510	Maize (corn) seed	222	0	804	5%
392330	Carboys, bottles, flasks and similar articles of plastics	2	0	681	12.5%*

Source: ITC Trade Map and MAcMap

From the table above, apart from the other products highlighted in the previous table, beer was seen to have been imported by the DRC from Rwanda, and also exported by Malawi at just under US$1 million. Some of the other products such as kidney beans, books and brochures, articles of plastic, wooden furniture and worn clothing were imported in small amounts, but were also seen to have been imported from Uganda. The fact that they are sourced from the two countries can be seen as an indication of some potential.

4.3.4 Summary of findings

4.3.4.1 Exports

The foregoing exercise has shown that by looking at products at a detailed level, a country like Malawi would be able to identify some products for which a potential negotiating partner like the DRC could serve as a potential market. The analysis has been done at quite a static level, mostly only focusing on top 20 products that are exported at more than US$1 million. On the whole, it should be noted that there is a range of products that is identified as, at least at the outset, having some potential in the DRC market. Although some products were not imported from the DRC from the respective countries in significant amounts in 2012, and also some products were not exported by Malawi to the world in significant amounts, it is not to say there is no potential for such products. A more detailed study of the sort carried out would have to be conducted covering a longer time period. This study would also include analysis of other factors and trends such as other main DRC global import sources and the products that it imports from these countries; products that Malawi exports to its main export destinations in the Tripartite region[xi] and others; products that are currently not being exported but which are policy priorities such as those identified in the country's National Export Strategy; current sectoral performance and prospects of the DRC economy; as well as its growth and development policies and trends that would indicate potential for increased trade with a country like Malawi, among others.

4.3.4.2 Imports

From the cross-section of the DRC's import tariffs listed in the various tables in Section 4.3 as they relate to Malawi's exports, it is clear that in approaching the TFTA negotiations, Malawi would have to seek tariff reductions of between 5% and 20% on almost all products with the DRC.

In terms of Malawi's own tariff concessions, some modelling work would need to be conducted on Malawi's trade with the tripartite region (with particular focus on the five prospective negotiating partners) as it would give a picture of the revenue and welfare effects

[xi] From the matrix in Table 7, for example, Malawi's top three export destinations in 2012 were South Africa, Egypt and Kenya.

of Malawi's tariff liberalisation within the TFTA. This is an area of further study[xii]. To cite products of potential in the Malawi market, a trade-chilling exercise would also have to be conducted for DRC exports. This is also not done in the present chapter. However, by quickly benchmarking against Tripartite countries that reported significant imports from the DRC in 2012, one can get a sense of the levels of tariffs that Malawi currently imposes on products exported by the DRC to these countries, which it could seek to diversify to Malawi.

The DRC's top three export destinations in the Tripartite area were identified (using mirror data of these countries) as seen in the matrix in Table 7 and these were Egypt, South Africa, and Uganda. The respective tables showing only the products exported in significant levels of more than US$1 million are as follows:

(a) Egypt

Table 14: Egypt imports from DRC (US$ thousands) in 2012 and Malawi MFN tariffs

HS6 code	Product description	Egypt imports from DRC	Malawi MFN tariff
	All products	70758	
740311	Copper cathodes and sections of cathodes unwrought	37024	10
740319	Refined copper products, unwrought, nes	33386	10
440727	Sapelli, sawn or chipped lengthwise, sliced or peeled, whether or not	235	10

Source: ITC Trade Map and MAcMap

(b) South Africa

Table 15: South Africa imports from DRC (US$ thousands) in 2012 and Malawi MFN Tariffs

HS6 code	Product description	South Africa imports from DRC	Malawi MFN tariff
	All products	9085	
740311	Copper cathodes and sections of cathodes unwrought	3343	10
261590	Niobium, tantalum and vanadium ores and concentrates	1512	10
710231	Diamonds non-industrial unworked or simply sawn, cleaved or bruted	516	25
261690	Precious metal ores and concentrates nes	443	10
870190	Wheeled tractors nes	409	0
400122	Technically specified natural rubber (TSNR)	356	10
740200	Copper unrefined, copper anodes for electrolytic refining	240	0
847410	Mineral substance machinery	192	0
843149	Parts of cranes,work-trucks,shovels,and other construction machinery	161	0
842641	Ships' derricks; cable cranes; mobile lifting frames nes	110	0
842959	Self-propelled excavating machinery nes	107	0
740400	Waste and scrap, copper or copper alloy	102	0
870410	Dump trucks designed for off-highway use	100	10

Source: ITC Trade Map and MAcMap

[xii] It should be noted at the outset however that both the strength and weakness of any general or partial equilibrium computer model that could be used is that it works on the basis of marginal changes, and without an initial base of trade in any given line it is not able to simulate any marginal change.

(c) Uganda

Table 16: Uganda's imports from DRC (US$ thousands) and Malawi MFN tariffs

HS6 code	Product description	Uganda imports from DRC	Malawi MFN tariff
	All products	12223	
843049	Boring or sinking machinery nes, not self-propelled	4978	0
720421	Waste and scrap, stainless steel	1775	10
330499	Beauty or make-up preparations nes; sunscreen or sun tan preparations	1763	25
720410	Waste and scrap, cast iron	914	10
440729	Lumber, tropical hardwood nes	497	10
293999	Vegetable alkaloids, natural or reproduced by synthesis	239	0
440721	Mahogany Swietenia spp., sawn or chipped lengthwise, sliced or peeled,	227	10
720429	Waste and scrap, of alloy steel, other than stainless	196	10
293920	Alkaloids of cinchons and their derivatives; salts thereof	147	0
630900	Worn clothing and other worn articles	145	25
847490	Mineral substance machinery	131	0
902680	Measuring instruments and apparatus for liquids or gases	123	12.5*
854420	Co-axial cable and other co-axial electric conductors	115	10
850212	Generatg sets,diesel/semi-diesel exceedg 75 KVA but not exced 375 KVA	112	0
880330	Aircraft parts nes	101	0

Source: ITC Trade Map and MAcMap

Depending on some of these and other products that may be of interest to the DRC in the Malawi market, Malawi would already have zero tariffs on some of these, and would look at reductions in tariffs of between 10% and 25%.

Of importance to note overall is that the ease with which Malawi and the DRC would negotiate would not only be based on products of interest between the two countries.

As noted earlier, a continuing consideration for many countries such as Malawi is their dependence on import tariffs as a source of revenue. As mentioned in Section 4.1, this has led to some challenges in the full implementation of the SADC FTA. Furthermore, the DRC is not currently participating in an FTA with any of the other 26 countries of the Tripartite region. Hence it would not only engage with Malawi in the negotiations, but also with all the other 26 remaining countries. This is admittedly a huge challenge. It is not clear at this point whether the DRC would be able to effectively undertake this task, or indeed lower its tariffs significantly within the planned timeframes, given especially that it imports significantly from the region. The foregoing discussion therefore shows that although there may be some potential for certain products in the DRC market as highlighted, Malawi could potentially

face some constraints in its ability to strike an effective balance in tariff concessions between itself and the DRC.[xiii]

5. Non-tariff issues

The discussion on Malawi's regional trade with the SADC and COMESA regions in Section 3 clearly shows that Malawi's exports into the region are low, and that that is particularly true in the case of those partners that Malawi is directly negotiating with. The trade-chilling exercise then conducted has shown that there could be potential for some products to be exported to new markets that the Tripartite process presents, such as the DRC. Although this is the case, Malawi would have to increase its exports to countries with which it is already trading on duty-free terms, if it is to fully benefit from the TFTA. It is important to note, however, that there has been a tendency in trade liberalisation endeavours whereby as tariff barriers have been reduced, they have been replaced by non-tariff barriers (Viljoen 2011). This is no different in the TFTA framework, where the most significant non-tariff barriers have been found to include customs procedures and administrative requirements, technical standards, participation by governments in trade, and ubiquitous deficiencies in physical infrastructure (Ibid.). Of particular importance to highlight in view of the foregoing discussion are customs procedures and administrative requirements, particularly rules of origin.

5.1 Rules of origin

Preferential rules of origin are an important feature of regional trade arrangements. They are rules that stipulate how much transformation must occur before a good can be seen as originating in an exporting country (Naumann, 2011). In line with this definition, goods that are wholly produced in an exporting country are, by default, seen as originating from that country (Ibid.). Because goods are not always wholly produced in one specific country, however, these rules then also serve to specify the mix required between local and imported materials before a good can be seen as having originated from an exporting country (Ibid.). Their primary purpose in preferential trading arrangements, therefore, is to avoid the problem of transhipment of products from third countries conducted in a manner that seeks to benefit

[xiii] From the analysis that has been done in this paper this seems to be the case with the DRC. Studies would have to be done on the other negotiating partners to determine Malawi's overall position in the T-FTA negotiations given its sub-set of negotiating partners.

from preferential access that is available to the country through which the products are being transhipped (Ibid.).

The rules of origin regime that will underpin the TFTA is of particular importance to a country like Malawi. The trade-chilling exercise showed that there may be some opportunities for increased exports of some products into new export markets that the TFTA market opens, such as that of the DRC. Some of the products identified, such as wheat or meslin flour and sweet biscuits are manufactured products that require some processing before being exported, and rules of origin will be imperative in showing that such products were produced in Malawi, which itself is not a producer of wheat, but is involved in production further along the value chain and has exported such products in amounts that show that they could have some potential in the DRC. Further, from Malawi's regional trade picture presented earlier, it was seen that although Malawi participates in the COMESA and SADC FTAs, its exports are really only destined for a few countries within these. As alluded to earlier, therefore, optimising its benefits from the whole tripartite process entails also increasing its exports to other countries in the COMESA and SADC FTAs to which it is not currently exporting in any significant amounts as well.

This brings to the fore the issue of rules of origin. As has been reported, there is a lack of uniformity in the rules of origins regimes of COMESA, EAC, and SADC (Ibid.). The most pertinent divergence between these rules is in the level at which origin is determined. On the one hand, the COMESA and EAC rules provide for an across-the-board determination of rules of origin. More specifically, they provide the following thresholds for ***all products*** (Ibid.):

- The cost-insurance-freight value of non-originating materials must not be more than 60% of the total cost of inputs; or
- The value added in the production process must be at least 35% of the ex-factory cost of the product; or
- A good undergoes substantial transformation such that it exhibits a change in tariff classification.

On the other hand, the SADC rules of origin provide that origin is determined product by product, rather than by an across-the-board rule for all the products (Ibid.).

From debates within SADC, it has been found that the SADC rules of origin regime is complex, and that 'the product-specific rules pose challenges in particular to intra-regional trade in clothing and textiles and agro-processed products … [and that these rules] are used effectively to protect national industries' (SADC, 2012).

At the outset of deliberations on the TFTA rules of origin, the initial understanding was that there would be one set of rules of origin covering the entire TFTA area. Hence a proposed annex to the draft TFTA agreement was initially prepared. Due to the changes in the negotiating principles whereby negotiations will now build on the existing acquis of the respective RECs, it would mean that the TFTA rules of origin will now only apply to countries with which each member country will prospectively negotiate[xiv]. In Malawi's case, this means that the TFTA rules of origin will only apply to its trade with Angola, DRC, Ethiopia, Eritrea and South Sudan, once negotiations with these are concluded.

This is particularly important for Malawi. It shows that the problem of multiple membership, at least as it relates to the different rules of origin regimes of COMESA and SADC, will not necessarily be resolved by the TFTA rules of origin. The country will continue trading with COMESA countries based on COMESA rules of origin, and with SADC countries based on SADC rules of origin, respectively.

The situation with SADC rules of origin, therefore, becomes pertinent for Malawi. As highlighted before, most of its regional trade is with the SADC region and with South Africa in particular. The rules of origin in Malawi's bilateral agreement with South Africa are less problematic than the SADC rules of origin, which provide that goods will be seen to have originated in Malawi if '… at least twenty-five percent, or such lower percentage as may from time to time be agreed upon between the Parties in respect of specified goods manufactured in Malawi, of the production cost of those goods shall be represented by materials produced and labour performed in Malawi and the last process in the production or manufacture of such goods shall have taken place in Malawi'[xv]. This provision applies to all products and hence it is a much easier rule than the product-line specific regime under SADC. One would expect that in this scenario, most of Malawi's exports to South Africa would fall under the bilateral trade agreement. This does not, however, address the challenge that the complex SADC rules will continue to pose in other countries also participating in the

[xiv] See Erasmus (2013).
[xv] See Malawi-South Africa Bilateral Trade Agreement, Article 6(ii).

SADC FTA. These rules have been seen to pose the most challenges particularly in the clothing and textiles and agro-processing sectors[xvi]. While negotiating towards consolidation of the TFTA, therefore, Malawi would equally need to ensure that it contributes to the design of SADC rules of origin, during the SADC Regional Indicative Strategic Development Plan (RISDP) review process so as to ensure that they are more flexible[xvii].

6. Conclusion

This chapter has explored the potential export opportunities that the TFTA presents for Malawi. The challenges that the country faces which make increased trade with the Tripartite region imperative were discussed. In analysing the country's prospects in this regard, the chapter began by first outlining Malawi's trade at the global level and at the regional levels of COMESA and SADC, before analysing Malawi's position specifically in relation to other Tripartite countries. It then conducted a trade-chilling exercise involving Malawi and its prospective negotiating partner, the DRC. On the whole, it became clear that the TFTA tariff liberalisation negotiations hold some benefits for Malawi as a few products were identified that would seem to have some potential in the DRC market. The chapter made note of a cross-section of tariff lines that would require concessions by the DRC, and also presented a cross-section of Malawi's own tariff lines that may be of interest to the DRC; this was done so as to give an indication of the spread in the tariffs that would require concessions between the two countries. It was found that the relative differences in tariffs between the two countries, and also the fact that the DRC would negotiate with all other countries of the Tripartite region, would act as constraints for Malawi in the negotiations. Finally, the chapter finds that though there are initial indications of potential for the identified and other products, optimal benefits from the TFTA would accrue to Malawi if it increases its exports to the SADC and COMESA FTAs, as these are currently significantly low. A challenge in this process is seen to be that of rules of origin, particularly in the context of SADC. It is suggested that as efforts towards conclusion of the TFTA continue, the country would also have to ensure that it provides input into the SADC RISDP review process so as to ensure that SADC's rules of origin regime is made less complex, thereby facilitating increased exports to that part of the Tripartite region.

[xvi] See SADC (2012).
[xvii] See tralac (2013).

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Annex 1: Intra-Tripartite exports 2008-2011

Table 1: Intra-Tripartite exports in 2011 (US$ thousands)[xviii]

	Angola	Botswana	Burundi	Comoros	Djibouti	DRC	Egypt	Eritrea	Ethiopia	Kenya	Lesotho	Libya	Madagascar	Malawi	Mauritius
Angola		56	0				9		7				42	52	5
Botswana	1,465		48	0	0	17,489	77	61	106	277	986	13	0	2,419	346
Burundi	0	0		0	0	4,979	0	0	0	15,219	0	0	0	5	0
Comoros		0	0				172		0				113	0	21
Djibouti		0	109				29,738		307				0	0	0
DRC		1,368	5,504				10,679		98				32	70	0
Egypt	24,558	0	14,030	111	44,683	17,450		62,378	49,573	230,710	0	556,746	320	2,357	32,758
Eritrea		0	51				1,357		0				8	0	0
Ethiopia	4,084	65	174	323	75,644	4	46,128	0		16,577	19	144	0	35	10
Kenya		1,632	47,394				336,759		35,050				5,915	60,271	45,069
Lesotho		8,437	0				79		0				160	77	2,294
Libya		10	0				60,676		17,189				5	0	51
Madagascar	189	47	4	11,525	76	69	1,279	0	76	12,731	0	0		385	17,850
Malawi	21	3,313	0	0	379	2,811	62,901	254	29	73,720	1,883	0	7		3,316
Mauritius	897	69	1,697	3,969	27	0	660	1	46	9,757	1,425	0	140,037	185	
Mozambique	6,838	3,624	0	4	0	2,389	0	0	0	31,822	5,820	55	3,064	46,469	2,538
Namibia	492,014	39,758	22	3	21	92,656	5	929	9	247	1,315	190	60	2,499	1,685
Rwanda	40	1	7,981	0	1	58,488	54	0	517	57,969	0	0	8	44	0
South Africa	897,732	4,778,689	5,592	7,421	28,072	1,106,904	81,849	12,992	38,333	853,863	0	12,587	164,750	401,029	325,913
Seychelles		1	104				19		0				19,159	113	6,139
Sudan		1	0				26,711		145,633				72	56	0
Swaziland		2,143	776				129		9,057				7,394	13,934	9,159
Tanzania	28,965	910	39,848	826	916	128,102	1,685	250	1,129	221,313	8	0	10,696	63,351	2,480
Uganda	775	8	41,451	0	0	182,441	5,815	375	6,174	226,582	0	0	34	63	2,745
Zambia	2,457	28,330	28,029	0	0	584,111	6,766	0	46	81,633	1,219	0	365	119,550	65,003
Zimbabwe	8,866	39,423	65	0	0	18,658	745	57	130	4,095	3,732	3	0	19,631	4,808
Imports (mirror)															
Total															
43,372,554	1,468,901	4,907,885	192,879	24,182	149,819	2,216,551	674,292	77,297	303,509	1,836,515	16,407	569,738	352,241	732,595	522,190
	3.39%	11.32%	0.44%	0.06%	0.35%	5.11%	1.55%	0.18%	0.70%	4.23%	0.04%	1.31%	0.81%	1.69%	1.20%

Source: ITC Trade Map

[xviii] All figures in red are mirror data.

Table 1 cont.

	Mozambique	Namibia	Rwanda	South Africa	Seychelles	Sudan	Swaziland	Tanzania	Uganda	Zambia	Zimbabwe	Total T-FTA exports	Share in total
Angola	12,598	9,274	0	1,584,841				446	335	23	1	1,607,689	3.71%
Botswana	2,274	31,183	3	794,033	34	18	4,376	4,085	111	76,828	173,137	1,109,369	2.56%
Burundi	0	0	4,741	60	0	0	0	332	3,826	4	0	29,166	0.07%
Comoros	222	0	0	841				22	0	0	0	1,391	0.00%
Djibouti	6	0	0	119				1,233	37	0	1	31,550	0.07%
DRC	107	1,192	13,614	14,897				403	6,354	1,330,355	2,479	1,387,152	3.20%
Egypt	4,774	0	16,512	1,008,471	2,116	536,999	704	44,664	61,044	33,722	11,603	2,756,283	6.35%
Eritrea	25	0	19	21				39	58	30	1	1,609	0.00%
Ethiopia	310	41	297	6,509	0	178,370	1,801	125	1,079	222	680	332,641	0.77%
Kenya	2,817		118,126	24,336				339,343	644,575	130,336	25,873	1,817,496	4.19%
Lesotho	0	100	0	6				247	12	32	899	12,343	0.03%
Libya	1	0	0	9				0	13	28	0	77,982	0.18%
Madagascar	123	0	38	34,228	4,523	101	1,404	1,946	89	547	216	87,446	0.20%
Malawi	45,267	1	1,394	117,453	66	4,414	4,406	29,775	4,742	34,135	122,265	512,552	1.18%
Mauritius	1,298	96	4,862	174,111	30,287	0	227	2,488	868	1,086	2,677	376,770	0.87%
Mozambique		302	0	583,952	4	880	4,220	3,215	2,145	2,171	127,273	826,785	1.91%
Namibia	31,654		1	1,717,817	815	0	1,398	1,248	213	34,929	12,455	2,431,943	5.61%
Rwanda	68	11		1,064	0	10,213	156	1,213	6,831	34	12	144,705	0.33%
South Africa	2,435,290	4,892,555	26,051		51,244	74,789	0	577,071	217,917	2,382,926	2,448,067	21,821,636	50.31%
Seychelles	496	116	2	678				2	709	0	249	27,787	0.06%
Sudan	21	2	3,555	268				164	3,306	349	13	180,151	0.42%
Swaziland	17,536	20,195	1,036	85				48,457	18,652	11,793	23,194	183,540	0.42%
Tanzania	65,733	385	95,160	857,601	104	1,817	14,049		52,634	60,594	4,824	1,653,380	3.81%
Uganda	703	9	193,500	8,098	233	329,170	586	42,210		582	7,227	1,048,781	2.42%
Zambia	78,429	36,537	11,623	838,359	0	18	9,461	75,314	2,705		242,530	2,212,485	5.10%
Zimbabwe	130,590	5,185	6	2,359,528	181	2,250	13,108	3,078	194	85,589		2,699,922	6.22%
												43,372,554	
Imports (mirror)													
	2,830,342	4,997,184	490,540	10,127,385	89,607	1,139,039	55,896	1,177,120	1,028,449	4,186,315	3,205,676		
	6.53%	11.52%	1.13%	23.35%	0.21%	2.63%	0.13%	2.71%	2.37%	9.65%	7.39%		

Table 2: Intra-Tripartite exports in 2010 (US$ thousands)

	Angola	Botswana	Burundi	Comoros	Djibouti	DRC	Egypt	Eritrea	Ethiopia	Kenya	Lesotho	Libya	Madagascar	Malawi	Mauritius
Angola		155	0				0		1	16		0	4	3	1,977
Botswana	365		88	0	0	18,949	3	0	57	399	695	0	2	2,667	65
Burundi	0	0		1	0	7,269	5	0	12	10,285	0	0	10	0	0
Comoros		0	0				134		16	1,434		0	951	0	27
Djibouti		0	277				43,575		13	41		0	709	1	1
DRC		358	701				188		0	16,770		0	258	42	0
Egypt	17,855	13	15,728	225	28,771	20,434		55,562	46,215	234,220	0	1,220,406	1,104	2,676	26,209
Eritrea		0	1				1,979		0	25		0	107	5	1
Ethiopia	1,108	53	31	822	67,059	0	46,324	0		4,732	44	131	236	162	22
Kenya	3,177	527	68,849	5,891	11,681	161,352	228,515	4,890	55,310		11	225	4,322	53,802	18,686
Lesotho		83	0				17		9	262		0	250	102	2,038
Libya	0	0	0	0	0	0	304,715	0	0	0	0		0	0	0
Madagascar	46	1,225	10	6,305	489	1,295	4,697	105	860	6,422	3	0		0	22,551
Malawi	0	2,270	480	0	0	897	98,267	0	42	19,320	331	0	676		50
Mauritius	2,083	110	1,513	2,405	6	0	590	21	108	12,220	1,604	80	101,051	225	
Mozambique	2,522	50	0	4	23	0	35	24	12	3,579	0	0	245	26,970	2,000
Namibia	558,965	39,160	0	0	0	68,846	36	1	1	1,002	1,367	649	11	22,180	794
Rwanda		3	2,549				1,617		0	5,422		0	0	11	0
South Africa	700,087	4,118,179	9,119	12,355	14,404	865,847	136,942	27,831	38,200	785,279	0	29,479	180,846	442,241	345,338
Seychelles		1	0				24		6	1,335		0	20,908	442	13,910
Sudan		35	402				41,465		109,302	2,114		3,486	142	152	0
Swaziland		5,754	44				632		15,233	49,258		0	1,866	15,704	8,487
Tanzania	3,239	273	56,132	42,782	272	156,081	1,207	554	1,641	324,888	0	7	11,056	46,306	1,639
Uganda	1,392	2	51,333	6	856	183,992	935	165	2,177	190,301	0	45	242	59	1,144
Zambia	3,037	16,915	27,888	0	0	333,526	49,170	0	45	33,878	253	38	489	102,671	18,446
Zimbabwe	4,187	27,969	112	0	0	25,007	819	4	869	18,456	7,394	345	12	34,616	5,837
Imports (mirror)															
Total															
38,402,022	1,298,063	4,213,135	235,257	70,796	123,561	1,843,495	961,891	89,157	270,129	1,721,658	10,098	1,254,891	325,497	751,037	469,222
	3.38%	10.97%	0.61%	0.18%	0.32%	4.80%	2.50%	0.23%	0.70%	4.48%	0.03%	3.27%	0.85%	1.96%	1.22%

Source: ITC Trade Map

Table 2 cont.

	Mozambique	Namibia	Rwanda	South Africa	Seychelles	Sudan	Swaziland	Tanzania	Uganda	Zambia	Zimbabwe	Total T-FTA exports	Share in total
Angola	231	6,184		1,998,215				3,317	21	30	4	2,010,158	5.23%
Botswana	2,575	16,732	33	606,252	0	304	1,185	3,255	189	53,612	176,018	883,445	2.30%
Burundi	0	1	3,021	163	0	114	1,317	1,755	2,879	3	46	26,881	0.07%
Comoros	5	0		253				44	0	0	0	2,864	0.01%
Djibouti	8	28		4				19	20	0	0	44,696	0.12%
DRC	0	1,312		14,194				1,134	7,278	1,268,675	594	1,311,504	3.42%
Egypt	10,345	425	14,226	395,604	1,062	559,247	1,394	27,461	24,274	11,822	13,524	2,728,802	7.11%
Eritrea	0	0		143				153	178	8	0	2,600	0.01%
Ethiopia	40	67	119	73,696	0	151,313	360	729	1,932	217	248	349,445	0.91%
Kenya	9,762	1,779	132,892	30,824	3,463	237,488	145	420,205	657,286	59,136	9,362	2,179,580	5.68%
Lesotho	36	88		884				154	21	65	1,521	5,530	0.01%
Libya	0	0	0	0	0	0	0	0	0	0	0	304,715	0.79%
Madagascar	316	41	11	26,179	7,158	62	90	3,549	147	63	51	81,675	0.21%
Malawi	36,233	110	1,419	61,570	67	1	4,258	7,852	977	35,533	57,870	328,223	0.85%
Mauritius	1,503	137	1,368	83,743	20,284	14	129	2,627	1,521	837	1,969	234,544	0.61%
Mozambique		147	11	467,224	7	49	1,961	3,043	424	1,877	72,069	582,276	1.52%
Namibia	14,940		8	1,693,902	5,369	97	4,559	1,507	140	32,867	13,093	2,459,494	6.40%
Rwanda	0	14		504				1,416	7,389	508	22	19,455	0.05%
South Africa	1,893,892	4,331,183	24,180		56,384	63,059	0	558,880	208,420	1,750,864	2,156,050	18,749,059	48.82%
Seychelles	77	20		1,067				6,341	0	982	1,141	46,254	0.12%
Sudan	65	5		259				284	3,828	0	2	161,541	0.42%
Swaziland	18,034	16,163		117				32,809	20,714	12,272	13,387	210,474	0.55%
Tanzania	18,512	607	116,802	433,689	3,439	1,551	1,256		60,205	60,340	1,641	1,344,119	3.50%
Uganda	2,455	14	149,345	10,269	63	208,567	42	37,612		606	1,213	842,835	2.19%
Zambia	5,200	19,638	3,039	657,834	10	527	5,067	31,835	536		120,589	1,430,631	3.73%
Zimbabwe	91,916	5,683	571	1,734,521	173	9,158	16,574	1,687	1,073	74,239		2,061,222	5.37%
												38,402,022	
Imports (mirror)													
	2,106,145	4,400,378	447,045	8,291,110	97,479	1,231,551	38,337	1,147,668	999,452	3,364,556	2,640,414		
	5.48%	11.46%	1.16%	21.59%	0.25%	3.21%	0.10%	2.99%	2.60%	8.76%	6.88%		

Table 3: Intra-Tripartite exports in 2009 (US$ thousands)

	Angola	Botswana	Burundi	Comoros	Djibouti	DRC	Egypt	Eritrea	Ethiopia	Kenya	Lesotho	Libya	Madagascar	Malawi	Mauritius
Angola		478	0		0		52		0	88		0	1	0	18
Botswana	856		0	0	0	11 706	11	13	261	323	433	73	22	2 360	134
Burundi	0	0		27	0	7 039	1	0	0	7 268	0	0	9	10	0
Comoros		47	0		0		202		0	0		0	534	0	7
Djibouti	0	0	0	0		0	0	0	128 555	7 154	0	0	0	3	0
DRC		278	652		0		163		0	11 390		0	1 656	60	0
Egypt	43 027	141	12 902	98	28 166	21 981		36 329	41 960	116 239	10	1 008 281	901	1 125	22 351
Eritrea		0	0		0		472		0	304		0	47	0	0
Ethiopia	79	31	49	0	51 576	0	15 656	0		4 335	9	223	43	7	90
Kenya	1 593	203	59 485	5 664	9 209	146 521	153 785	7 289	55 882		214	985	9 128	40 698	14 924
Lesotho		35	0		0		0		0	1 731		0	5 100	17	405
Libya	0	0	0	0	7 310	0	201 745	0	0	0	0		0	0	0
Madagascar	132	0	11	3 805	13	77	491	0	23	4 025	0	160		35	19 232
Malawi	106	4 612	4 492	0	0	4 439	73 187	0	67	13 711	0	1 232	0		133
Mauritius	2 319	122	52	3 249	29	0	284	10	663	6 971	611	0	112 774	103	
Mozambique	8 961	275	0	77	0	0	9	0	6	10 130	84	0	530	46 709	280
Namibia	663 748	50 525	0	0	6	65 395	11	0	70	124 766	1 520	1 380	22	3 145	1 125
Rwanda	3 622	0	5 384	0	0	12 686	2	0	43	83 099	0	0	7	0	0
South Africa	681 987	3 596 039	9 118	6 159	18 662	573 817	143 640	17 897	37 166	872 405	0	13 289	122 372	429 297	299 816
Seychelles		0	0		0		0		1	4 009		1 413	17 726	0	4 532
Sudan	1	0	0	0	3 630	0	93 534	22 088	67 625	1 633	0	1 948	27	0	0
Swaziland		3 740	149		0		50		12 590	65 310		0	2 178	1 684	9 671
Tanzania	669	3 481	24 632	2 270	185	85 459	1 387	236	606	192 904	0	621	2 658	25 637	1 486
Uganda	3 027	43	55 760	0	36	156 606	2 079	223	2 435	173 974	22	63	0	341	447
Zambia	1 978	10 090	7 033	0	0	300 853	106 472	7	10	23 843	406	6	2 736	73 177	28 568
Zimbabwe	3 212	36 910	90	0	0	14 748	82	15	198	2 678	25 618	0	40	29 924	1 824
Imports (mirror)															
Total															
32 662 567	1 415 317	3 707 050	179 809	21 349	118 822	1 401 327	793 315	84 107	348 161	1 728 290	28 927	1 029 674	278 511	654 332	405 043
	4.33%	11.35%	0.55%	0.07%	0.36%	4.29%	2.43%	0.26%	1.07%	5.29%	0.09%	3.15%	0.85%	2.00%	1.24%

Source: ITC Trade Map

Table 3 cont.

	Mozambique	Namibia	Rwanda	South Africa	Seychelles	Sudan	Swaziland	Tanzania	Uganda	Zambia	Zimbabwe	Total T-FTA exports	Share in total
Angola	92	**12 048**	22	1 370 601		463		227	1 846	121	1	1 386 058	4.24%
Botswana	6 607	**18 413**	11	506 981	36	38	1 652	940	231	51 883	154 254	757 238	2.32%
Burundi	0	**0**	4 732	105	0	0	1 365	9 478	6 439	23	0	36 496	0.11%
Comoros	1	**0**	0	196		48		11	0	0	0	1 046	0.00%
Djibouti	0	**0**	0	5	0	628	0	3	9	15	0	136 372	0.42%
DRC	0	**4 320**	5 995	10 196		565		1 244	4 346	486 732	14 872	542 469	1.66%
Egypt	20 427	**260**	11 471	29 016	229	560 351	0	17 484	18 751	8 157	3 095	2 002 752	6.13%
Eritrea	636	**0**	0	77		6 343		33	544	1	4	8 461	0.03%
Ethiopia	42	**287**	125	4 211	0	76 914	732	343	1 408	108	74	156 342	0.48%
Kenya	14 572	**995**	123 390	46 317	3 216	165 143	37	389 302	598 316	62 493	4 610	1 913 971	5.86%
Lesotho	78	**155**	0	14		447		44	14	6	586	8 632	0.03%
Libya	0	**0**	0	0	0	0	0	0	0	0	0	209 055	0.64%
Madagascar	693	**0**	24	15 696	4 131	171	8	101	695	498	96	50 117	0.15%
Malawi	64 068	**11**	2 018	121 560	123	1	10 415	12 894	2 862	23 025	35 753	374 709	1.15%
Mauritius	2 544	**83**	208	80 257	28 949	0	5	1 154	791	616	1 624	243 418	0.75%
Mozambique		**18**	0	460 309	0	0	1 298	317	39	5 682	73 798	608 522	1.86%
Namibia	15 735		16	1 985 659	404	16	4 836	2 013	77	61 590	10 956	2 993 015	9.16%
Rwanda	1	**0**		5 547	0	28 076	23 590	4 054	5 579	16	8	171 714	0.53%
South Africa	1 606 650	**4 336 353**	23 520		58 440	76 025	1	443 076	147 484	1 415 962	1 607 999	16 537 174	50.63%
Seychelles	100	**0**	0	1 454		840		6 657	70	752	537	38 091	0.12%
Sudan	1	**0**	0	2	0		4	3	44	0	43	190 583	0.58%
Swaziland	18 638	**16 345**	1 087	162		34 291		26 847	18 403	6 751	7 177	225 073	0.69%
Tanzania	22 081	**2 267**	15 805	187 859	130	5 064	21 285		51 651	46 642	5 850	700 865	2.15%
Uganda	115	**1**	135 295	23 023	0	184 650	729	33 763		56	425	773 113	2.37%
Zambia	3 300	**5 856**	5 071	394 726	0	1 680	4 622	34 509	1 438		84 306	1 090 687	3.34%
Zimbabwe	98 204	**3 647**	0	1 192 175	108	312	13 357	664	129	82 659		1 506 594	4.61%
												32 662 567	
Imports (mirror)													
	1 874 585	**4 401 059**	328 790	6 436 148	95 766	1 142 066	83 936	985 161	861 166	2 253 788	2 006 068		
	5.74%	**13.47%**	1.01%	19.70%	0.29%	3.50%	0.26%	3.02%	2.64%	6.90%	6.14%		

Table 4: Intra-Tripartite exports in 2008 (US$ thousands)

	Angola	Botswana	Burundi	Comoros	Djibouti	DRC	Egypt	Eritrea	Ethiopia	Kenya	Lesotho	Libya	Madagascar	Malawi	Mauritius
Angola		713	0				27		11	4		0	0	5	12
Botswana	3 259		129	0	0	11 803	9	71	27	193	986	9	69	2 041	2 063
Burundi	9	0		0	3	5 921	0	0	0	7 559	0	0	0	0	0
Comoros		0	0				0		3	0		0	23	0	24
Djibouti							13 933		5 784	22 026		0	20	62	
DRC		568	305				953		0	14 251		0	126	37	0
Egypt	25 368	25	3 229	51	21 271	6 926		14 604	64 836	113 611	0	773 583	580	1 917	16 866
Eritrea		0	290				193		0	2 528		0	8	0	0
Ethiopia	459	11	38	0	57 280	0	13 074	0		4 444	3	14	281	22	199
Kenya	2 286	1 083	50 546	5 678	11 740	143 575	224 729	3 772	63 915		19	475	6 154	58 246	12 043
Lesotho		34	0				416		1	3 641		0	6 974	10	494
Libya	0	0	0	0	0	0	203 352	0	13 357	0	0		0	0	0
Madagascar	14	0	15	4 271	64	1	413	0	120	1 144	15	0		4	18 107
Malawi	1	2 527	424	0	0	7 020	25 273	0	0	6 910	1 849	74	2		133
Mauritius	590	236	357	5 957	2	0	217	4	2 964	8 623	987	0	123 388	866	
Mozambique	9 314	9 212	181	360	0	0	226	0	0	1 700	26	0	495	46 768	416
Namibia	405 617	24 599	0	0	1	51 196	34	0	117	221	776	435	15	769	2 487
Rwanda	4	0	6 225	68	413	50 728	0	0	527	127 040	0	0	153	7	0
South Africa	897 845	4 028 607	6 586	6 615	15 231	1 125 162	133 410	6 726	46 263	709 892	0	14 093	228 902	465 993	402 111
Seychelles	0	0	0	0	0	0	0	0	0	95	0	0	676	0	1 247
Sudan	861	0	91	0	726	0	130 801	0	108	1 474	0	1 060	27	0	0
Swaziland		1 982	0				1 098		13 871	72 290		0	17 566	6 406	10 522
Tanzania	1 260	211	20 646	50 790	324	144 637	958	571	1 924	252 740	0	0	3 909	49 609	925
Uganda	2 635	77	45 383	0	102	124 990	2 504	201	252	164 631	1	76	0	114	149
Zambia	1 309	8 770	3 100	0	0	287 067	384 771	0	4	27 190	849	4	20	62 975	19 745
Zimbabwe	2 274	157 027	38	0	0	14 832	492	0	21	5 093	1 175	69	486	72 695	2 299
Imports (mirror)															
Total															
34 151 242	1 353 105	4 235 682	137 583	73 790	107 157	1 973 858	1 136 883	25 949	214 105	1 547 300	6 686	789 892	389 874	768 546	489 842
	3.96%	12.40%	0.40%	0.22%	0.31%	5.78%	3.33%	0.08%	0.63%	4.53%	0.02%	2.31%	1.14%	2.25%	1.43%

Source: ITC Trade Map

Table 4 cont.

	Mozambique	Namibia	Rwanda	South Africa	Seychelles	Sudan	Swaziland	Tanzania	Uganda	Zambia	Zimbabwe	Total T-FTA exports	Share in total
Angola	2 988	4 745	0	2 686 473	3	130		107	98	66	21	2 695 403	7.89%
Botswana	2 407	56 920	39	906 107	19	13	1 138	2 437	132	46 974	219 431	1 256 276	3.68%
Burundi	181	0	4 462	145	0	1 141	2 183	2 152	3 049	188	0	26 993	0.08%
Comoros	0	0	0	236	0	4		15	0	0	0	305	0.00%
Djibouti	0	4	27	224	2	13 385		1	3 777	0	0	59 245	0.17%
DRC	0	12 370	11 280	6 133	0	114		4 230	1 510	534 743	86	586 706	1.72%
Egypt	4 769	335	7 684	54 444	1 450	530 912	42	20 224	19 157	7 570	1 205	1 690 659	4.95%
Eritrea	0	0	11	176	6	607		11	71	22	4	3 927	0.01%
Ethiopia	31	39	83	5 866	4	74 095	2 076	337	601	211	65	159 233	0.47%
Kenya	12 606	1 543	130 394	52 887	3 465	204 586	25	424 869	614 711	79 898	2 596	2 111 841	6.18%
Lesotho	0	9	0	93	0	362		2	0	0	0	12 036	0.04%
Libya	0	0	0	0	0	40 784	0	0	0	0	0	257 493	0.75%
Madagascar	1 756	34	155	24 851	10 987	256	27	1 001	319	57	70	63 681	0.19%
Malawi	23 895	67	2 044	88 709	0	0	3 554	26 111	2 022	15 431	22 555	228 601	0.67%
Mauritius	1 803	91	1 376	75 536	26 999	0	7	1 814	1 748	1 430	740	255 735	0.75%
Mozambique		379	0	265 541	59	0	354	1 142	49	5 942	81 347	423 511	1.24%
Namibia	19 299		0	1 505 024	9	0	3 729	1 787	16	28 739	6 376	2 051 246	6.01%
Rwanda	31	0		12 371	0	1 962	20 319	1 082	6 970	111	23	228 034	0.67%
South Africa	1 608 979	3 179 798	31 121		57 401	57 893	0	505 129	165 762	1 965 425	1 688 951	17 347 895	50.80%
Seychelles	5	11	0	807		0	141	97	0	0	0	3 079	0.01%
Sudan	0	0	0	47	0		120	0	1	0	0	135 316	0.40%
Swaziland	17 249	9 760	594	17	869	19 863		76 481	24 436	9 778	2 786	285 568	0.84%
Tanzania	33 978	322	22 478	265 526	163	2 594	658		59 832	47 063	1 278	962 396	2.82%
Uganda	22	17	136 895	14 868	2	245 873	1 236	30 528		73	75	770 704	2.26%
Zambia	760	9 480	1 663	528 425	0	129	3 181	31 942	1 294		64 090	1 436 768	4.21%
Zimbabwe	41 056	10 110	1 451	711 267	1	1 408	5 335	1 250	77	70 135		1 098 591	3.22%
												34 151 242	
Imports (mirror)													
	1 771 815	3 286 034	351 757	7 205 773	101 439	1 196 111	44 125	1 132 749	905 632	2 813 856	2 091 699		
	5.19%	9.62%	1.03%	21.10%	0.30%	3.50%	0.13%	3.32%	2.65%	8.24%	6.12%		

Chapter 11

Rwanda's negotiation of the Tripartite Free Trade Area – creating a tool for EAC integration

Nick Charalambides, Armin Lalui, Mirabel Bausinger and Jonas Munyurangab[1]

1. Background

The 26 Member States of COMESA, EAC and SADC have entered negotiations for the establishment of a Tripartite FTA with the aim to harmonise trade agreements between the three RECs, reduce barriers to trade and establish one single economic trading space.

This first phase of negotiations, to last until 2014, focuses on tariff liberalisation in trade in goods. Additional complementary areas will also be covered in these negotiations, such as simplification of RoO, trade facilitation and customs cooperation, sanitary and phytosanitary measures and non-tariff barriers (NTBs). Free movement of business persons will be part of this first phase but in a separate process. The second phase of negotiations (post-2014) will deal with trade in services, competition policies and laws, and intellectual property rights.

The Tripartite FTA will build on the RECs existing acquis and all Member States are involved in negotiations, either as individual countries or as RECs. The EAC is entering negotiations as a single bloc. But Rwanda needs to assess its own interests in TFTA trade in goods negotiations.

[1] This work was supported by TradeMark East Africa (TMEA).

2. Methodology

2.1 Country selection

The countries which form part of the analysis are those to which Rwanda will gain enhanced market access through the TFTA. These countries are members of SADC but not of COMESA or the EAC. We also asses the fiscal impact on Rwanda from these countries' enhanced market access to Rwanda. These New Preferential Trade Partners (NPTP) are the member countries of SACU (Botswana, Lesotho, Namibia, South Africa and Swaziland), as well as Mozambique and Angola. Angola does not form part of the analysis due to its insignificance as a trade partner (it accounts for less than 0.1% of trade) and the difficulties of trading and doing business there.

2.2 Product selection

Our analysis covers both current and potential exports to the NPTPs.

2.2.1 Current exports

We look at existing exports from Rwanda to SACU and Mozambique to assess which products currently carry a tariff and which products would therefore benefit from tariff liberalisation.

2.2.2 Potential exports

Rwanda is an emerging economy. Interests in the TFTA extend beyond current exports to products it has the potential to export in the future. We have identified three groups of products for analysis:

1. Strategy and policy identified export priority products: products for which Rwanda has a stated strategy of developing productive capacity, investment and in several cases exports, or products that have been identified in export development studies (TMEA/Imani Development 2012);

2. Formal, non-traditional exports (Gathani and Stoelinga 2012), which are not currently exported to NPTP;

3. Hausmann's proximity products (Hausmann 2012).

2.3 Deepening EAC integration: towards a common trade policy for the EAC

The Tripartite provides an opportunity for partner states to develop a common trade policy. Currently EAC countries have different preferential trade arrangements with different countries. The lack of a common trade policy requires RoO to be imposed within the EAC. Although no study has been undertaken regarding the costs of the RoO within the EAC, analysis from other regions suggests they are costly and present a barrier to the free movement of goods.

In the analysis we provide a preliminary identification of the goods that would need to be liberalised by Rwanda to ensure:

1. equal access to SADC as offered to Tanzania
2. equal access to EAC for SADC as offered by Tanzania. We use South Africa as the proxy for this analysis.

Note that Tanzania would also need to offer the same access to COMESA members as offered by the rest of the EAC. This is, however, an assessment to be undertaken for Tanzania rather than for Rwanda.

This assessment is in large part a subset of the product analysis outlined above. However, we consider it as distinct in terms of the framework of analysis, and so identify these products in a separate section of the paper.

2.4 Potential fiscal impact of offering equal access to SADC (non-COMESA) countries

This section will look at Rwanda's main imports from NPTP and the current Common External Tariff (CET) applied to these products to assess the potential tariff revenue loss under the TFTA.

3. Product analysis

In the first section we examine Rwanda's current exports to existing markets and will ascertain which products would gain from tariff preferences under the TFTA. We then analyse potentially new export products and markets for Rwanda and identify the preferential market access they might gain through the TFTA.

3.1 Current exports

An analysis of Rwanda's current exports to SACU and Mozambique gives an indication of the immediate commercial value that Rwanda might realise through tariff liberalisation under the TFTA. Table 1 provides the average value of exports to SACU countries and Mozambique over a ten-year period for the highest value goods exported using trade map data. We have crosschecked the figures in Table 1 against Rwanda Revenue Authority (RRA) data over a five-year period (2007-2011) and found the only recorded exports to be tents and textile materials to Swaziland, and instruments for chemical analysis, gold, tubes and pipes to South Africa. Only two products (tents and textiles and tube and piping) would benefit from a tariff reduction (Table 1).

Table 1: Rwanda's exports to SACU and Mozambique

Country	Products (HS 8)	Average annual exports 2001-2011 (US$)	Most Favoured Nation (MFN) tariff rate	SADC tariff rate
Botswana	Motor cars and other motor vehicles (87033390)	1100	**25%**	0%
	Worn clothing and clothing accessories (63090013)	100	60% or $3000/ton	60% or $3000/ton
Lesotho	*No trade recorded*			
Namibia	Parts of machines (84799000)	24900	0%	0%
	Elevators, conveyors (84283900)	5100	0%	0%
	Leather further prepared after tanning or crusting (41120000)	2500	**10%**	0%
	Worn clothing and other worn articles (63090013)	1000	60%	60%
	Travel sets (96050000)	100	**20%**	0%
Swaziland*	Ores and concentrates (26090000/26159000/26110000 /26179000/26169000)	2238700	0%	0%
	Other vegetable saps and extracts, nes** (13021900)	9800	**0-25%**	0%
	Worn clothing and clothing accessories (63090000)	6300	60%	60%
	Other locks of base metal (83014000)	4200	**20%**	0%
	Fixed electrical resistors (85332900)	2100	0%	0%
	Travel sets (95050000)	1900	**20%**	0%
	Tents of textile material (63062900)	1300 38,773	**20%**	0%

South Africa	Ores and concentrates (260900/261790/261590/261510/261400/261690/261900)	2689800	0%	0%
	Printing machinery (844311/844319); other machinery (843069)	194200 48,251	0%	0%
	Instruments/appliances for medical, surgical and vet science (901890)	67500	0%	0%
	Aircraft parts nes (880330)	59200	0%	0%
	Petroleum oils (271000)	39900	0%	0%
	Worn clothing and clothing accessories (630900)	31800	60%	60%
	Instruments and apparatus for physical and chemical analysis (9027)	27400 77,581	0%	0%
	Parts for transmission/reception apparatus (852990)	13200	0%	0%
	Gold (710811)	12400 23,551	0%	0%
	Tube or pipe fittings (730799)	11400 21,600	**10%**	0%
	Transmission apparatus (852510)	11300	n/a	
Mozambique	Tin ores and concentrates (260900)	87900	**2.5%**	0%
	Worn clothing and clothing accessories (630900)	7500	**20%**	10%
	Travel sets (960500)	1600	**20%**	0%
	Machinery (self-propelled, excavating) (842959)	1400	**5%**	0%

Source: ITC Trade Map, ITC Market Access Map

* Exports of coffee to Swaziland have been excluded; there is uncertainty regarding whether this has been correctly recorded. Furthermore, the tariff on coffee in Swaziland is 0%, so the TFTA would not offer preferential access in any case.

** not elsewhere specified.

It needs to be noted that at very low levels of export (as with some products and countries, e.g. Botswana), data is subject to potential inaccuracy or false reporting. But assuming accuracy of data recorded, the following is observed:

Exports to Botswana averaged an annual US$1,100 between 2001 and 2011. Most of these exports were accounted for by the export of diesel cars in 2004 (US$11,000). Exports to Namibia were an annual average of US$67,000, mainly consisting of machinery and machinery parts with the greatest volume (US$300,000) recorded in just one year, 2004.

There is no recorded trade with Lesotho. Out of the four BLNS countries[2], Swaziland has had the highest volume of trade recorded with Rwanda.

Exports over the period of 2001-2011 to all the BLNS countries account for under 1% of Rwanda's total exports. In addition, the top products identified for Namibia (parts of machines and elevators and conveyors) and Swaziland (ores and concentrates) do not pay tariffs with the result that there would be no additional gain under proposed TFTA. Some products would benefit from tariff preferences, such as travel sets, other locks and base metals, tents of textile material (all carry 20% tariff) and vegetable saps (25%).

With regard to South Africa, the biggest market among the NPTP to Rwanda, there is only one product line which would benefit from a preferential tariff agreement under SADC, namely tube or pipe fittings (HS730799) with a current Most Favoured Nation (MFN) tariff of 10% and a SADC tariff rate of 0%.

Worn clothes, a main export to all markets, carries a 60% tariff, even under SADC. It is only tariff free within SACU.

Average annual exports to Mozambique were US$100,000. Total exports to Mozambique in the period 2001-2011 amounted to US$ 998,000, 88% of which are exports of tin ore and concentrates (HS260900) with a current MFN of 2.5%. All identified export products to Mozambique would benefit from tariff liberalisation.

In summary, there is limited immediate commercial interest in the SACU and Mozambique markets – an estimated total gain of $31,200 p.a.

3.2 Potential exports

Different product groups have been identified as being of interest to Rwanda as potential export products. The following sections will look at what type of export market exists for these products and how much they would benefit from any tariff liberalisation under the TFTA.

[2] Botswana, Lesotho, Namibia and Swaziland.

3.2.1 Strategy and policy identified export priority products

A list of priority products has been identified for which production capacity is set to increase to allow for potential exports (TMEA/Imani Development 2012). These are products for which Rwanda has a stated strategy of developing productive capacity, investment and, in several cases, exports, or that have been identified in export development studies

South Africa is the biggest potential market for Rwanda in these products. Matching South Africa's current imports with Rwanda's export priority products, 17 tariff lines can be identified where Rwanda would gain tariff preferences through the TFTA.

Nevertheless, it is important to ascertain which other countries are competing in these sectors to be able to assess Rwanda's likely chances of gaining market share. Most imports are from low-cost producers such as China, suggesting keen price competition, or high income countries, suggesting that customer expectations in terms of brand recognition or product specification may be high. Beans, maize and bovine[3] exports are products in which Rwanda would be competing directly with other African producers, and growth rates in these products have been negative. Table 2 lists all the priority products which would gain from tariff preferences under the TFTA.

Table 2: South Africa's imports from the world of Rwanda's priority export products

	Average annual imports 2007-2011 (from world), US$'000	2011 South Africa world imports (US$'000)	Annual growth 2007-2011 (from world)	Top 5 exporters to South Africa (sorted by 2011)	MFN	SADC
Footwear, gaiters and the like, parts thereof	682620	922808	9.76%	China, Vietnam, Indonesia, Italy, India	0-30%	0%
Other furniture and parts thereof	195681	231400	3.23%	China, Malaysia, Italy, Indonesia, Germany	20%	0%
Organic surface-active agents, washing & clean preparations, nes	106699	147377	14.33%	Germany, US, Singapore, China, UK	20%	0%
Beer made from malt	74978	25935	-26.85%	Netherlands, Italy, Ireland, Germany, Belgium	5%	0%
Fruit & vegetable juices, unfermented	65326	93304	9.61%	China, Argentina, Spain, Italy, Brazil	0-25%	0%

[3] Bovine carries 0% MFN.

Maize (corn)	59929	32425	-37.14%	**Zambia**, Romania, US, Argentina, Italy	0-10%	0%
Non-aqueous solution of paint & varnish	52073	54818	0.53%	Germany, Italy, France, UK, Belgium	10%	0%
Non-alcoholic beverages (excl. water, fruit or vegetable juices and milk)	48015	47416	-2.69%	Austria, US, Germany, UK, Netherlands	21%	0%
Mattress supports; mattresses, quilts, etc.	35919	39565	4.99%	China, Pakistan, Denmark, India, Malaysia	20%	0%
Soap; organic surface-active preparations for soap use	31849	52169	21.79%	Germany, China, Chinese Taipei, US, Spain	20%	0%
Aqueous solution of paint & varnish	25216	35344	11.60%	Germany, Japan, UK, Netherlands, Iran	10%	0%
Aluminium structure nes & part of structures	15849	17016	4.98%	China, US, Germany, Netherlands, France	10%	0%
Paints & varnishes nes	5189	5472	1.04%	US, Italy, Malaysia, Germany, Netherlands	0-10%	0%
Tomato ketchup and other tomato sauces	1466	1718	2.92%	Italy, China, US, Greece, Argentina	5%	0%
Beans, shelled or unshelled, fresh or chilled	1258	945	-8.33%	**Zambia, Kenya, Mozambique,** China, **Zimbabwe**	0% - 4.8% inside quota/10 % outside quota	0%
Reservoirs, tanks, vats etc. of a capacity exceeding 300 l, of plastics	554	1612	62.71%	Luxembourg, UK, Australia, Netherlands, China	20%	0%
Toilet paper	309	541	28.57%	China, US, Germany, Portugal, South Africa	20%	0%

Source: ITC Trade Map, ITC Market Access Map

Looking at Mozambique's imports, potentially even more products are of relevance. The same identified products as in the case of South Africa's imports would give Rwanda tariff preferences under the TFTA. Added to these are six additional products: cements, milk/cream, live bovine animals, live sheep and goats, and beans. Table 3 shows Mozambique's imports of Rwanda's priority products by value.

Table 3: Mozambique's imports from the world of Rwanda's priority export products[4]

	Average annual imports 2006-2010 (from world), US$'000	2010 Mozambique world imports, US$'000	Annual growth 2006-2010 (imports from world)	Top 5 exporters to Mozambique (2010)	MFN	SADC	RSA
Cements, Portland, aluminous, slag, supersulfate & similar hydraulic cement	51360	55193	5.08%	**South Africa**, Pakistan, Thailand, China, India	2.5-7.5%	0%-7.5%	0-7.5%
Flat-rolled prod of iron or non-al/s wd>/=600mm, clad, plated or coated	22016	19100	-9.45%	**South Africa**, India, China, US, Belgium	7.50%	0%	0%
Maize (corn)	17010	10596	-14.73%	**South Africa**, Brazil, area nes, China, Portugal	2.5-20%	0%	0%
Other furniture and parts thereof	16407	16826	5.51%	**South Africa**, Portugal, China, Malaysia, US	20%	0%	15%
Organic surface-active agents, washing & clean preparations, nes	15077	19954	19.93%	**South Africa**, Indonesia, Singapore, China, Portugal	7.5-20%	0%	0%
Footwear, gaiters and the like, parts thereof	10106	11198	8.04%	China, **South Africa**, Portugal, Brazil, Netherlands	7.5-20%	0%	0%
Fruit & vegetable juices, unfermented	6368	7713	24.63%	**South Africa**, Portugal, Brazil, Turkey, US	7.5-20%	0%	0%
Soap; organic surface-active preparations for soap use	4863	4283	0.90%	**South Africa**, Turkey, China, Singapore, India	20%	10%	15%
Aqueous solution of paint & varnish	3936	4469	21.73%	**South Africa**, United Arab Emirates, Portugal, China, area nes	20%	0%	0%
Aluminium structure nes & part of structures	3597	5412	22.12%	**South Africa**, Portugal, China, Germany, United Arab Emirates	7.50%	0.00%	0.00%
Non-aqueous solution of paint & varnish	3203	4260	18.26%	**South Africa**, Portugal, United Arab Emirates, China, Egypt	20%	0-10%	0-15%
Milk and cream, neither concentrated nor sweetened	2859	2963	9.09%	**South Africa**, Portugal, Argentina, UK, Chile	2.5-20%	0-10%	0-15%
Mattress supports; mattresses, quilts, etc.	2216	1815	5.00%	**South Africa**, Portugal, China, United Arab Emirates, Hong Kong China	20%	0%	0%

[4] Excluding fish

Non-alcoholic beverages (excl. water, fruit or vegetable juices and milk)	2036	2610	26.69%	Austria, **South Africa**, Zambia, Portugal, Germany	20%	0-10%	0-15%
Beer made from malt	1543	1566	4.03%	Netherlands, Namibia, **South Africa**, Portugal, Swaziland	20%	0%	15%
Live poultry	1297	896	-11.28%	**South Africa**, Swaziland, Zambia, Zimbabwe, Malawi	2.5-20%	0%	0%
Clay nes	821	496	8.34%	**South Africa**, US, India, United Arab Emirates, Hong Kong China	3%	0%	0%
Toilet paper	556	693	15.53%	**South Africa**, China, Portugal, United Arab Emirates, Albania	20%	0%	0%
Live bovine animals	556	529	10.33%	**South Africa**, Swaziland, China, Japan, India	2.5-20%	0%	0%
Roofing tiles, chimney pots, cowl, etc. & other ceramic constructional good	386	509	6.61%	**South Africa**, China, Turkey, Hong Kong China, Portugal	7.50%	0.00%	0.00%
Beans, shelled or unshelled, fresh or chilled	361	128	155.58%	India, Portugal, **South Africa**, Italy, Zimbabwe	2.5-20%	0-10%	0-15%
Reservoirs, tanks, vats etc. of a capacity exceeding 300 l, of plastics	310	277	-7.48%	**South Africa**, China, France, United Arab Emirates, Portugal	20%	0%	0%
Tomato ketchup and other tomato sauces	215	139	0.55%	**South Africa**, Portugal, United Arab Emirates, China, area nes	20%	0%	0%
Paints & varnishes nes	144	180	16.12%	Portugal, United Arab Emirates, **South Africa**, China, Italy	20.00%	0-10%	0-15%
Live swine	22	19	-30.41%	Chinese Taipei, **South Africa**, Portugal, India, United Arab Emirates	2.5-20%	0%	0%
Live sheep and goats	1	0	*growth from zero	**South Africa**	2.5-20%	0%	0%

Source: ITC Trade Map, ITC Market Access Map

Twenty-three identified priority export products would benefit from tariff preferences. However, it should be noted that one of the main, if not the main, exporter to Mozambique is South Africa. The question must be asked to what extent Rwanda could compete against South Africa in countries that are on the latter's doorstep.

3.2.2 Formal, non-traditional exports

Formal, non-traditional exports were identified for Rwanda.[5] As with the priority products above, our analysis looks at which of the identified products would provide Rwanda with tariff preferences through the TFTA. Table 4 shows these products sorted by total value of South African imports.

Table 4: South African imports from the world of formal, non-traditional export products

Product segment	Product descriptions	Average annual imports 2001-2011 (from world), US$'000	Main exporters to South Africa include (2011)[6]	MFN	SADC
Shoes (incl. plastic shoes)	Footwear	86446	China, Vietnam, Indonesia, Italy, Thailand	30%	0%
	Outer soles and heels	4661.5	China, Italy Chinese Taipei, Portugal	20%	0%
Furniture (incl. mattresses)	Mattresses various, wooden furniture	67488.2	China, India, Indonesia, Malaysia, Italy, Denmark	20%	0%
Paints	Paints and varnishes (except for HS6 320890)	43798.9	Germany, UK, France, Netherlands, Italy, Japan, US	10%	0%
Beer	Beer made from malt	41958.2	Netherlands, Italy, Ireland, Germany, Belgium	5%	0%
Juices	Fruit and vegetable juices, unfermented	41214.4	China, Argentina, Spain, Italy, Brazil, US	0-25%	0%
Soap	Soap nes; surface-active preparations	29793.6	Germany, China, US, Vietnam	20%	0%
Roofing sheets	Structures and parts	8200.6	China, US, Germany, Netherlands, France	10%	0%
Sodas	Non-alcoholic beverages	3861	Germany, Netherlands, Denmark, Austria, UK	21%	0%

[5] Understanding Rwanda's Agribusiness and Manufacturing Sectors by Sachin Gathani and Dimitri Stoelinga, IGC 2012

[6] As there are several products within each segment, the main export countries of the main products are listed: they might not be primary exporters of all the products in the segment.

Beans	Frozen or dried	3826.2	China, Belgium, Poland, Tanzania, Turkey	4.8% inside quota/10% outside	0%
Maize	Maize (corn) groats and meal; hulled, pearled, sliced and kibbled; maize starch	976.4	Italy, Spain, US, Argentina, India	5%	0%
	Maize starch	1302.8	India, Italy Germany, Israel, China	0-10%	0%
Tomato paste	Tomato ketchup, other tomato sauces	1363.5	Italy, China, US, Greece, Argentina	5%	0%
Plastic water tanks	Reservoirs, tanks, vats >300l, plastic	333	Luxemburg, UK, Australia, Netherlands, China	20%	0%
Paper products	Toilet paper in rolls of a width of <=36 cm	285	China, US, Germany, Portugal	20%	0%
Average annual total market value, 2001-2011, '000 US$		**335509.3**			

Source: ITC Trade Map, ITC Market Access Map

In summary, 34 formal non-traditional export products (HS6) across 13 segments would benefit from tariff liberalisation. Average annual imports of these products over the period 2001-2011 are valued at US$335 million.

3.2.3 Hausmann's proximity products

Using the concept of 'product space' potential products for export have been identified for Rwanda (Hausmann 2012). The products identified in the analysis are called 'proximity products', see Box 1.

Box 1: 'Product space' and 'proximity products'

Firms will develop new products using similar capabilities to the products they are already producing. The more varied a country's capabilities, the more products it can produce, the more complex the products can become, and the faster it can grow. A country's ability to grow and diversify also depends on where it is placed in the product space.

The concept of product space (Hildago et al. 2007) captures the degree to which two products are connected according to the probability that they are co-exported, indicating that they tend to require similar capabilities. As a country develops, it will evolve through the product space, reaching more and more complex products as it develops. This concept has been applied to Rwanda in Hausmann (2012).

Table 5 lists Rwanda's proximity products and looks at the potential export market for those products by assessing South Africa's imports of identified proximity products.

Table 5: South Africa's imports of Rwanda's proximity products from the world

Sector (HS2 Level)	**Products (HS6 level)**	**Average annual imports 2007-2011 (from world), US$'000**	**Main exporters to South Africa (as per 2011) include**	**MFN range (across all identified products in sector)**
Apparel	Various garments, including trousers, T-shirts, etc.	1080137	China, India, **Mauritius, Madagascar,** Bangladesh	21.5%-45%
Sugar and confectionary	Raw sugar cane, refined sugar and molasses	153329	Brazil, US, China, **Mozambique**, Thailand	0%-37%
Footwear	Waterproof and plastic shoes	119711	China, Vietnam, Thailand, Indonesia, Spain	30%
Edible vegetables and certain roots and tubers	Legumes, peas, chickpeas, aubergines, arrow roots, dried leguminous vegetables, manioc, cassava, capers, broad beans, sweet potatoes	104165	Belgium, Canada, China, India, Kenya	0%-24%
Raw hides and skins and leather	Various skins and leathers	98302	Brazil, India, China, Pakistan, Uruguay	0%-10%
Fruit and nuts	Cashew nuts, bananas, plantain, citrus fruit, guavas, mangoes, avocadoes, papaya, other dried fruits and nuts	25840	**Mozambique**, Vietnam, Spain, Israel	0%-35%
Oil seeds and various grain seeds	Sesamum seeds, ground nuts, oil seeds, seeds fruits and spores for sowing, flour or meal of oil seeds	13385	Romania, Netherlands, US, **Malawi**, France	0%-20%
Spices	Capsicums, bay leaves, thyme, ginger	9329	India, China, **Zimbabwe, Nigeria**	15%-25%
Flowers	Cut flowers	2326	**Kenya, Zimbabwe, Zambia**, India, **Ethiopia**	20%
	Foliage	230	India, China, Philippines, Turkey, Spain	20%
Vegetables textile fibres	Jute and bast fibres, vegetable fibres, sisal	255	Bangladesh, China, UK, Brazil, Canada	0%
Vegetable fats	Maize oil	36	US, Singapore, Germany, Netherlands, UK	10%

Source: IGC, ITC Trade Map, ITC Trade Access Map

With regard to imports of the above products from the world to South Africa, the highest volume of trade is in apparel, with significant MFN rates varying from 21.5% to 45%.[7]

Looking at the main exporting countries, Rwanda is likely to face strong competition in most product segments, such as apparel, footwear, sugar, hides and leather. Mauritius and Madagascar are top exporters of apparel; Mozambique is a very low-cost producer of some fruit and nuts, as well as sugar. African countries lead in the export of cut flowers to South Africa. Zimbabwe and Nigeria are important exporters of spices.

4. Deepening EAC integration: realising a common trade policy through the TFTA

Due to overlapping membership the EAC cannot achieve a common trade policy. Tanzania is party to SADC FTA, while Burundi, Kenya, Rwanda and Uganda are not. Burundi, Kenya, Rwanda and Uganda are party to COMESA while Tanzania is not.

EAC Member States' membership in the other two RECs

	Rwanda	Burundi	Kenya	Uganda	Tanzania
SADC	No	No	No	No	Yes
COMESA	Yes	Yes	Yes	Yes	No

Rules of origin apply to imports from both SADC and COMESA into the EAC and exports to SADC and COMESA from the EAC. The TFTA would allow the harmonisation of trade policy to third parties and hence prevent costly RoO within the EAC. Though we have not been in a position to estimate the cost of RoO in the EAC, the experience of customs and the private sector in other regions suggests that they are significant barriers to trade (see Box 2).

[7] For a more detailed breakdown of these products at HS8 level, see Tripartite Free Trade Area: Rapid Analysis, MINICOM 2012.

Box 2: The cost of rules of origin to customs and the private sector

Several studies have suggested that RoO impose a cost on both customs authorities and the private sector.

A survey of customs directorates by the *World Customs Organisation* (WCO) and World Bank (Brenton, 2005) assessed the impact of RoO on customs administration and confirmed that they were a significant burden for most administrations and that this burden increased significantly with overlapping RoO.

Case studies of the private sector (Gillson and Charalambides, 2011 and Charalambides, 2010) suggest that the cost of compliance is high. The value of SADC preferences to Shoprite (a leading retail chain operating throughout SADC) was US$13.6 million in 2009 on US$550 million of exports to the region (implying an average margin of preference of 2.4%) but the cost of proving eligibility for preferences on this trade was US$5.8 million in the same year. Another leading South African retail chain operating in SADC, Woolworths, found compliance with RoO requirements to be so costly that they do not claim tariff preferences in SADC.

In order to achieve a common EAC trade policy, equal access to all EAC members to third markets and equal access of third countries to any EAC Member State is required. This can be achieved through the establishment of the TFTA.

4.1 Equal market access to SADC

In this section, we will determine what access to SADC Rwanda would like to obtain, based on the market access currently enjoyed by Tanzania (as a SADC member). The question of which Tanzanian export products benefit from preferential tariffs in the SADC will also be asked. Of secondary concern is the question of whether these products are of commercial value to Rwanda.

Tanzania's five main export products (gold, precious/semi-precious stones, light petroleum distillates and tea) make up 91.7% of total exports to South Africa and carry 0% MFN duty. Various clothing items carry 0% SADC tariff rate and would hence have a 30-45% preference gain compared to the existing MFN rate. The main Tanzanian export products to South Africa which benefit most from tariff preferences under SADC are listed in the table below (Table 6), the actual percentage share of total exports, except for tobacco, is minimal in those products.

Table 6: Top Tanzanian exports to South Africa by tariff preference

Product description (HS8)	MFN	SADC	Preference	Average annual exports (2001-2011), US$'000	% of total exports
Tobacco, unmanufactured, partly or wholly stemmed or stripped (2401200)	100.00%	0.00%	100.00%	1766.5	0.65%
T-shirts, singlets and other vests, of cotton, knitted (61091000)	45.00%	0.00%	45.00%	686.1	0.25%
Tobacco extracts and essences (24039930/40/90)	45.00%	0.00%	45.00%	56	0.02%
T-shirts, singlets and other vests of other textile materials, knitted (61099000)	45.00%	0.00%	45.00%	52.7	0.02%
Men's/boys' shirts, of cotton, knitted (61051000)	45.00%	0.00%	45.00%	50.3	0.02%
Men's/boys' shirts, of man-made fibres, knitted (61052000)	45.00%	0.00%	45.00%	23.4	0.01%
Women's/girls' blouses and shirts, of cotton, knitted	45.00%	0.00%	45.00%	19.5	0.01%
Men's/boys' jackets and blazers, of other textile materials, knitted (61033900)	45.00%	0.00%	45.00%	17.2	0.01%
Tobacco extracts and essences (24039910)	40.00%	0.00%	40.00%	56	0.02%
Bedspreads of textile materials, nes, not knitted or crocheted (63041900)	30.00%	0.00%	30.00%	51.3	0.02%
Furnishing articles nes, of textile materials, knitted or crocheted (63049110/90)	30.00%	0.00%	30.00%	36.4	0.02%
Bed linen, of cotton, printed, not knitted (63022100)	30.00%	0.00%	30.00%	30.6	0.01%
Peas (7131025)	30.00%	0.00%	30.00%	14.8	0.01%

Source: ITC Market Access Map, ITC Trade Map

Of Tanzania's current exports, SADC offers preferential tariff access to South Africa for an estimated 108 tariff lines.[8] Few tariff lines are of interest. Products with some potential benefits include peas, fruits (proximity product), cut flowers (proximity product) and leather of bovine (proximity product).

4.2 Equal access of SADC (non-COMESA) to the EAC

In order to achieve a common trade policy in terms of imports, Rwanda and the other EAC Member States (bar Tanzania) would have to offer the same access to SADC (non-

[8] A detailed breakdown of all of Tanzania's exports by tariff preference can be found in Table 19 of the Tripartite Free Trade Area: Rapid Analysis, MINICOM 2012.

COMESA). Given the size and diversity of South Africa's exports, we take it as a proxy for SADC (non-COMESA). Table 7 lists South Africa's export products with a tariff preference of 25% or more.

Table 7: South African export products with a preference gain of 25% or more

Product Description	HS-6 Code	MFN	RSA	SADC	Preference (MFN-RSA/SADC)
Raw sugar, cane	170111	35-100%	0%	0%	35-100%
Refined sugar, in solid form, nes	170199	100%	0%	0%	100%
Maize (corn) nes	100590	50%	5%	5%	45%
Apples, fresh	080810	25%	0%	0%	25%
Paints & varnish based on polymers dissolved in non-aqueous solvents nes	320890	25%	0%	0%	25%
Beauty or make-up preparations nes; sunscreen or suntan preparations	330499	25%	0%	0%	25%
Hair waving or straightening preparations/hair preparations, nes	330520/590	25%	0%	0%	25%
Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes	480255/256/269	25%	0%	0%	25%
Paper, Kraftliner, in rolls, unbleached, uncoated	480411	25%	0%	0%	25%
Semi-chemical fluting paper, uncoated, in rolls of a width > 36 cm	480511	25%	0%	0%	25%
Paper, in rolls or sheets, clay coated, nes	481099	25%	0%	0%	25%
Carboys, bottles, flasks, jars, pots, phials and other containers, or glass	701090	25%	0%	0%	25%
Articles of aluminium, nes	761699	25%	0%	0%	25%
Aerials & aerial reflectors of all kinds; parts suitable for use therewith/parts suitable for use solely/principally with the app of headings 85.25 to 85.28	852910/90	25%	0%	0%	25%
Insulated (including enamelled or anodised) winding wire of copper/electric conductors	854411/20/49/59/60	25%	0%	0%	25%
Bedroom furniture and furniture, wooden, nes	940350/60	25%	0%	0%	25%

Source: SADC Tariff Book

The most significant product with tariff preference gains of between 35%-100% is sugar. Over 15% of imports from South Africa benefit from a preference of 25% or more and a further 15% (just under) of Tanzanian imports from South Africa benefit from a preference of 10%.

5. The potential fiscal impact on Rwanda of offering equal access to SADC (non-COMESA) – initial estimate

This section provides an initial analysis of the impact of liberalising trade with SADC (non-COMESA) countries to match Tanzania's offer under the SADC FTA. A static analysis is presented looking at the impact on import revenue from SADC (non-COMESA) countries from a reduction in tariffs.

The primary impact of Rwanda's liberalising to SADC (non-COMESA) countries (to match Tanzania's access arrangements) on government revenue is from changes in tariff rates on imports from those countries. Our focus is therefore on tariff revenue. However, there will also be a secondary impact as other import taxes are also affected by changes in the tariff rates. This is because a reduction in the tariff reduces the base on which other import taxes are calculated. We therefore include the knock-on effect of tariff changes on Value Added Tax (VAT), excise duty and withholding tax (WHT).

The reduction in tariffs will lead to a loss in import revenue from SADC (non-COMESA) countries of RWF1.3 billion. There is a knock-on effect on VAT, Excise Duty and WHT, as all are calculated on the basis of Cost, Insurance, and Freight (CIF) plus tariff value. At an HS6 level for all imports from SADC (non-COMESA) countries in 2011, VAT is now calculated on imports at the CIF value plus a new tariff of RWF40.7 billion as opposed to the CIF plus existing tariff value of RWF42.05 billion. The value of VAT receipts will be reduced by RWF226 million to RWF2.1 billion, a fall of 10% (see Table 8). Excise Duty which is calculated on the basis of CIF, Tariff Duty, and VAT drops by 1% to RWF9.1 billion, a reduction of RWF116 million. WHT which is calculated on the basis of CIF, Tariff, VAT, and Excise Duty, will see a drop in revenue of RWF7.3 million per annum.

Table 8: Impact on import revenue from SADC (non-COMESA) countries under a static analysis

	2011 (RWF)	Static Analysis (RWF)	Difference (RWF)	Difference (%)
CIF value	**40 704 207 506**	**40 704 207 506**	**0**	**0%**
Import Duty	*1 341 692 141*	*39 696 444*	*-1 301995697*	*-97%*
Excise Duty	*9 218 634 875*	*9 102 504 754*	*-116 130120*	*-1%*
VAT	*2 336 046 531*	*2 109 614 995*	*-226 431 536*	*-10%*
Withholding Tax	*102 849 325*	*95 477 609*	*-7 371 716*	*-7%*
Import Revenue	**12 999 222 872**	**11 347 293 803**	**-1 651 929 068**	**-13%**

Import revenue from SADC (non-COMESA) countries will be reduced from RWF12.99 billion to RWF11.347 billion. The total loss from the static analysis for 2011 is RWF1.651 billion. This amounts to a 13% reduction in government import revenue from SADC (non-COMESA) countries or a 1% reduction in total import revenue collected.

The TFTA Rapid Analysis (MINICOM, 2012) identified key products for further fiscal analysis on the basis of where South Africa is currently exporting to the EAC and where it has a tariff preference in its market access to Tanzania relative to the rest of the EAC. As noted above, these products are important for achieving a common trade policy. But they are also important because these are products which South Africa is most likely to include in its request.

Table 9 indicates the products that were identified as fiscally sensitive from SADC (non-COMESA) states. The shaded products in the table indicate those products that account for 1% or more of Rwanda's imports from SADC (non-COMESA) countries. At the HS 6 level, five categories account for 50% of total tariff revenue from SADC (non-COMESA) countries. The largest category is automobiles with diesel engines displacing 1500cc to 2500 cc – which account for 20% of tariff revenue. Other products of note include paper, light petroleum distillates, filament lamps, discharge lamps, reception apparatus for televisions, and diesel-powered trucks. Rwanda does not apply the CET of 100% to refined sugar, which is currently granted duty-free access. The value of import duty collected on the key products in 2011 amounted to RWF1.11 billion or 83% of import duty from SADC (non-COMESA) countries.

Table 9: Main import products required to have a common import policy in the EAC (static analysis)

HS (6)	Description	CIF RWF (2011)	Tariff revenue RWF (2011)	EAC CET	Import revenue loss (RWF)
‘870332	Automobiles with diesel engines displacing more than 1500 cc to 2500 cc	1805131163	274376848	15%	356456993
‘870333	Automobiles with diesel engines displacing more than 2500 cc	497265877	121112743	25%	162210568
‘481620	Paper, self-copy, nes	451884749	112971189	25%	133719521
‘271019	Light petroleum distillates nes	13651552289	111365512	25%	180197103
‘853929	Filament lamps, excluding ultraviolet or infra-red lamps, nes	250088528	62522133	25%	62795498
‘852872	Reception apparatus for television, colour, whether or not incorporate	222554623	55523674	25%	65514120
‘853939	Discharge lamps, other than ultra-violet lamps, nes	193630292	48407572	25%	57126811
‘870421	Diesel-powered trucks with a GVW not exceeding five tonnes	210151489	42036435	20%	49612966
‘220429	Grape wines nes, including fortified & grape must, unfermented by add alcohol, in ctnr > 2l	113668038	28416998	25%	46221810
‘481690	Paper, copying/transfer, nes	99580700	24895176	25%	30172028
‘080810	Apples, fresh	97377810	24344453	25%	25268093
‘180620	Chocolate & other food preparations containing cocoa weighing more than 2 kg	90191710	22547928	25%	26620304
‘841583	Air conditioning machines nes, not incorporating refrigerating unit	88014203	22003551	25%	25967949
‘731439	Grill, netting, welded junctions, nes	60442328	15110582	25%	17846898
‘220421	Grape wines nes, including fortified & grape must, unfermented by adding alcohol in ctnr	55786197	13946551	25%	22862194
‘401110	Pneumatic tyre new of rubber for motor car including station wagons & racing cars	53837836	13459459	25%	14723356
‘330499	Beauty or make-up preparations nes; sunscreen or suntan preparations	52501334	13125334	25%	15607169
‘200980	Fruit &veg juice nes (exc mx) unfermented unspirited, whether/not sug/sweet	45984139	11496036	25%	11468214
‘330590	Hair preparations, nes	45724127	11431032	25%	13497173

‘721041	Flat rolled products, i/nas,pltd or ctd w zinc, corrugated,>/=600m wide, nes	45308338	11327084	25%	12406947
‘841821	Refrigerators, household type, compression type	41447943	10274752	25%	12116176
‘340290	Surface-active preparations, washing and cleaning preparations, nes	37707119	9426780	25%	10931744
‘841829	Refrigerators, household type, nes	37232516	9308129	25%	10986627
‘392310	Boxes, cases, crates & similar articles of plastic	34902346	8725586	25%	8239102
‘721310	Bars & rods,i/nas, hr, in irreg wound coils, cntg indent, ribs, etc prod d rp	85498961	8549896	10%	8098668
‘853810	Boards, panels, etc. for goods of heading no. 85.37,not equipped with their app	118497039	8280920	10%	9352157
‘392690	Articles of plastic or of other materials of Nos 39.01 to 39.14 nes	48387620	7139962	15%	8027313
‘852910	Aerials & aerial reflectors of all kinds; parts suitable for use therewith	19727359	4732642	25%	5586060
‘480100	Newsprint, in rolls or sheets	68656610	4297939	5%-25%	4900070
‘732690	Articles, iron or steel, nes	13212368	3303092	25%	4032243
‘940360	Furniture, wooden, nes	48787192	2006780	25%	2108941
‘480256	Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes	7530141	1882535	25%	2303519
‘730890	Structures & parts of structures, i/s (ex prefab bldgs of headg no.9406)	100226050	573354	25%	579053
‘210690	Food preparations nes	6037682	462145	10%-25%	395248
‘854449	Electric conductors, for a voltage not exceeding 80 V, nes	744851	186213	25%	193662
‘851770	Parts of telephone sets, telephones for cellular networks or for other	89015758	166193	10%	166348
‘940350	Bedroom furniture, wooden, nes	515914	79469	15%	91449
‘853690	Electrical app for switchg/protec elec circuits,not exceeding 1,000 V, nes	5878874	16954	10%	17075
‘170199	Refined sugar, in solid form, nes	237120367	0	100%	0

As a conclusion to the fiscal impact assessment, when evaluating the impact of free trade with the TFTA area, we only examine the impact with regard to SADC (non-COMESA) countries (South Africa, Botswana, Lesotho, Namibia, Swaziland, Mozambique and Angola). This is because trade with all other members of the TFTA is being liberalised either under COMESA or through the EAC.

In 2011, the Rwandan Government collected RWF175.21 billion from taxes on imports; this constitutes 35% of total tax revenue in 2011. Government revenue on imports from SADC (non-COMESA) countries amounted to RWF12.99 billion or 7% of total import revenue. For the Rwandan Government, the most important source of import tax from SADC (non-COMESA) countries is revenue generated through Excise Duty and, to a lesser extent, VAT. Combined, these revenue streams account for 89% of import revenue generated from SADC (non-COMESA) countries. Tariff revenue is the next most important source accounting for 10%.

6. Conclusion

What does the Tripartite Free Trade Area mean for Rwanda?

With regard to greater exports, an analysis was made of existing and also potential export products. Levels of current exports to SACU and Mozambique are relatively low and with only few products gaining from preferential tariffs under the TFTA. The direct and immediate commercial benefit of the TFTA is limited: an estimated total gain of $31,200 p.a.; this amount might not even justify time and travel expenses for Rwanda to enter negotiations.

There is potential to support export growth, through gaining preferential market access, in products where supply capacity is set to increase as a result of direct strategic support or new investments. Three groups of potential export products were analysed: (1) strategy and policy identified priority products (2) formal, non-traditional exports and (3) Hausmann's proximity products.

From this initial analysis, the most likely products in which Rwanda could grow its exports are beans, cut flowers, ground nuts, maize and some fresh fruits. Other identified product segments which have a potentially larger market (as identified by the size of South Africa's total imports from the world), such as footwear, furniture, paints, and juices will compete with either high-end, low-cost products (from e.g. China) or with high-end, high-design content

products from high-income countries (from e.g. Germany and the US), which will present a challenge for Rwanda in gaining market share.

We also reviewed those products where Tanzania has preferential access to SADC (non-COMESA) markets to assess potential export growth. Few of these tariff lines are of significance to Rwanda. Those which are include cut flowers and some fruit.

Our conclusion is that the main, at present intangible, gain from the TFTA for Rwanda and the EAC is realising a common EAC trade policy, allowing for free intra-EAC trade, and eliminating EAC rules of origin for trade policy purposes.

In order to achieve a common EAC trade policy for imports, Rwanda, Burundi, Kenya and Uganda will have to allow South Africa the same market access as Tanzania provides. Just under 30% of South Africa's exports have preferential access to Tanzania under SADC, the most significant products of which are refined sugar and maize (corn).

Our initial static analysis of the fiscal impact of offering equal access to SADC (non-COMESA) countries suggests import revenue from these countries will be reduced from RWF12.99 billion to RWF11.347 billion. The total loss as concluded from the static analysis for 2011 is RWF1.651 billion. This amounts to a 13% reduction in government import revenue from SADC (non-COMESA) countries or a 1% reduction in total import revenue collected.[9]

[9] Note that we have not assessed what Tanzania's offer would have to be to offer the same access to COMESA as currently granted by other EAC partner states. Nor should we be interpreted as suggesting that Rwanda and the rest of the EAC must offer the same access as Tanzania offers to SADC. Rather, this analysis provides a baseline for deliberations on ongoing negotiations.

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