

General information about the trade protocol of the Southern African Development Community (SADC)

I. General procedures of international harmonization

Each member state shall simplify and harmonize trade documents and customs laws and procedures by cooperation of common measures, e.g. harmonization of customs formalities, transits and outright exportation. Besides this, the member states shall provide themselves with all necessary trade information and answer immediately to inquiries of any member state. Import and export trade statistics shall also be made available for each SADC member. The number of necessary trade procedures and documents shall be reduced to a minimum. The reconciliation of all these procedures shall effect in accordance with internationally accepted standards.

The aim is to ensure an adequate coordination between trade and transport facilitation. A Sub-Committee appointed by CMT shall be responsible for implementation of trade facilitation, e.g. licensing, insurance, transit operations. It is also planned to harmonize the sanitary measures for agriculture and livestock production and base them on international standards.

Besides this, data of processing techniques shall be facilitated in order to support customs operation. Practicable computer applications as an alternative to paper based documentary shall be implemented and should use internationally accepted standards. Further a common adopting customs application system shall develop for all SADC members.

Nevertheless member states are allowed to establish their own customs tariff or statistical nomenclatures.

II. Protection, Subsidy and safeguard measures of industries

Subsidies, which distort competition, are forbidden but it is allowed to pay subsidies in accordance with WTO provisions. Besides it is possible to exempt new industries or those that need protection from this agreement for a special period. A request of derogation must be made at CMT. Besides member states have the chance to communicate a list of sensitive products which shall be protected.

Safeguard measures are only allowed if the import of goods threatens to cause serious injury to a domestic industry as determined in accordance with WTO agreement of safeguards. The member states can only apply for safeguard measures for such period of time necessary to prevent or remedy serious injury. This period shall not exceed eight years.

Anti-dumping measures, which are in conformity with WTO provisions, are allowed. In fact anti-dumping duties are becoming one of the main instruments for controlling trade and origin considerations. Besides this, the member states agreed to cooperate in prevention, investigation and suppression of customs offense and decided to protect intellectual rights in accordance with the WTO agreement.

III. The achievements of SADC?

Significant progress has been made in the areas of transport, energy and agriculture. The transport and communications sector is SADC's highest priority where SADC rehabilitated railways and roads, modernized port facilities and major airports and improved its communication links. SADC's agricultural program of action has initiated several projects, which should attain sustainable food production. Besides this, SADC improved the environment for Foreign Direct Investment (FDI) and undertakes projects to enhance intra-regional trade flows and exports to regional and international potential markets.

IV. South Africa's trade liberalisation offer to SADC (1998)

South Africa offered SADC a liberalisation in trade because they want to engage strategically with the region that is their potential area of economic growth and development. This offer covers five categories:

- 1.) Tariffs at zero rate that account for about 55% of SADC trade and 43.8% tariff lines.
- 2.) The immediate liberalisation list that contains all products with tariff rates from 1–17% so that about 19.2% of all SADC import and 19.2% of tariff lines are covered.
- 3.) A three year linear phase down that includes products between 18-25% tariffs and covers about 6.3% of SADC trade and 26.4% of tariff lines.
- 4.) A five years phase down that contains about 6.6% of SADC trade and 3.9% of tariff lines and includes all products with tariffs above 25%.
- 5.) The sensitive products that account for about 11% of current imports and covers 10.9% of tariff lines. RSA considered the following products to be sensitive: dairy products, wheat and meslin, sugar and sugar confectionery, textiles, footwear and vehicles.

The offer of South Africa is under pinned by the following principles: The non-SACU and / or SADC countries should open their markets, Tariffs should be only an industrial policy instrument and not a source of revenue, customs control should be upgraded and smuggling should be fought. Besides South Africa will establish a clearly defined offensive list, where developing and least developed SADC countries are distinguished. It wonders that South Africa did not include meat into its sensitive list as it has been identified as a sensitive product for Namibia. On the other hand South Africa has identified textiles, footwear and vehicles as sensitive products; goods which are not on the Namibian sensitive list. This offer implicates that South Africa as a developed country has to pay on the SACU common revenue pool. South Africa will avoid that industrial development polarises in South Africa. However this offer does not guarantee that this will not happen. Besides the South African offers implicates a bilateral consultation with individual SADC countries on specific products but the idea of SADC is a multilateral agreement.

Problems of realization of the SADC Trade Protocol

A major weakness of SADC is its heavy reliance on external funding, mainly from the EU and Scandinavian countries. Donor funding accounts for as much as 90% of total project funding. Despite the significant progress made in the area of transport and communication the trade among members is still poor, their production structures are uncompetitive and their economies are underdeveloped. That's why most of SADC governments depend on tariff revenue and are hardly able to reduce their tariffs.

I. Which way will SADC go: The role of the rules of origin

The goal of the rules of origin is to ensure that only goods originating in territories of SADC member states enjoys preferences. Actually the SADC members have different tariffs for different trading partners and that's why they need rules of origin. These rules are required to avoid importers taking advantage of the lower tariff of a partner in the free trade area. A study on the streamlining of rules of origin has found out that about 71% of the products surveyed qualified under the rules of origin while about 24% did not match the criteria. Therefore there may be a need to relax the qualifying criteria for originating status in order to facilitate trade. Besides the study noticed that most of the manufacturers utilise imported materials and the average calculated percentage value added for the manufactured products is about 57% of the ex-factory cost. As the actual level is only 35% it seems to be necessary to rise a percentage level to 50% in order to achieve the same level for processing under percentage value added on the ex-factory cost basis.

In fact, the rules are no longer required when the internal barriers within the community are eliminated but that can take a long time as the example of the EU shows. Nobody knows whether SADC is a temporary alliance of countries with common economic interests that have the goal of greater multilateral liberalisation or if they want a fuller integration. As the member states differ in size and – most of all - in economic development they have also different interests. The SADC countries fall into three major groups. The first are the low-income countries with low average tariffs and high SADC imports and low exports, namely Angola, Malawi, Mozambique and Tanzania. The second group, which contains Mauritius and SACU members, has low SADC imports and high exports. This high-income group offers both, high and low tariffs. Finally, Zambia and Zimbabwe have high imports from and low exports into SADC combined with high tariffs.

Because of these economic differences it will be difficult to form common commitments, e.g. if external barriers are expected to remain or not. If SADC should be a permanent organisation it is necessary to specify concrete agreements concerning regional security and possibilities of regional economic and politic power. If SADC will not only become a Free Trade Area (FTA) but a Customs Union a political cohesion and organisational strength of the association is required. In any case the role of interventionist government policies must be clarified. Should the design of industrial policies be like in the EU where the aim is to overcome the market imperfections or should there be a "laissez-faire" politics like in the USA? How much economic coordination and protection through the Governments do the SADC members need? For sure is that reciprocal concessions

between the countries are necessary, e.g. paying compensation for members whose cost of joining the SADC exceed its benefits.

II. Overlapping of SADC with other trade agreements Namibia joins

As the SADC Protocol does not exclude cumulation with other agreements the trading actors have to check if an existing bilateral agreement give them more favorable treatment. How effective the rules will work depends on the efficiency of trading firms and custom authorities of each country. Only if the amount of enforcement at SADC tariffs is lower than at other tariffs, companies will take advantage of such provisions. All SADC members, excepts South Africa and Botswana, are also belong to COMESA and some SADC members join also other trade agreements. This situation is very complicated as all trade agreements have similar objectives, but different means and schedules for implementing agreed decisions.

Besides this, the relations of SADC members with the EU and the USA will contribute to the complexity of internal SADC arrangements, as they will be discussed in more detail in another session. The USA signed agreements with SADC in order to standardize and improve customs procedures and support SADC members for infrastructural measures