FINAL STUDY

IMPLICATIONS FOR NAMIBIA IN THE TRIPARTITE FREE TRADE AGREEMENT

Presented to:

Ms. Ndiitah Nghipondoka-Robiati, NTF - Namibian Trade Forum

21 February 2013

GFA Consulting Group

Implications for Namibia in the Tripartite Free Trade Agreement

NAMIBIA

Prepared by:

Dr. Mareike Meyn
Ms Anna-Luisa Peruzzo
Ms Jane Kennan

Your contact person within GFA Consulting Group is:

Dr. Mareike Meyn
GFA Consulting Group GmbH / Eulenkrugstraße 82
D-22359 Hamburg / Germany
Phone +49 (040) 60306-155 / Fax +49 (040) 60306-159
Mail: mareike.meyn@gfa-group.de

TABLE OF CONTENTS

LIST OF TABLES

ACRONYMS

ACP	African, Caribbean Pacific (States)
AfT	Aid for Trade
AGOA	African Growth and Opportunity Act
AU	African Union
BLNS	Botswana, Lesotho, Namibia, Swaziland
CCI	Cross Cutting Issues
CET	Common External Tariff
COMESA	Common Market of Eastern and Southern Africa
CRP	Common Revenue Pool
COMTRADE	United Nation's Commodity Trade Statistics
CU	Customs Union
DFQF	Duty Free Quota Free
DRC	Democratic Republic of Congo
DSM	Dispute Settlement Mechanism
EAC	Eastern African Community
EACCU	East African Customs Union
EC	European Commission
EFTA	European Free Trade Area
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa
EU	European Union
EUD	European Union Delegation
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
HACCP	Hazard Analysis and Critical Control Points
HS	Harmonized System
ICT	Information and Communication Technology
IIP	Infant Industry Protection
IPR	Intellectual Property Rights
ISO	International Standards Organization
ITAC	International Trade Administration Commission (of South Africa)
ITC	International Trade Centre
LDC	Least Developed Country
M&A	Merger & Acquisition
MFN	Most Favoured Nation
MoAWF	Ministry of Agriculture, Water and Forestry
MoU	Memorandum of Understanding
MS	Member State
MTI	Ministry of Trade and Industry of the Republic of Namibia
NACC	Namibia Competition Commission
NSA	Namibia Statistics Agency

NSI	Namibia Standards Institution
NT	National Treatment
NTB	Non-Tariff Barrier
NTF	Namibia Trade Forum
OIE	World Organization for Animal Health
PTA	Preferential Trade Agreement
R&D	Research and Development
REC	Regional Economic Community
RoO	Rules of Origin
RTA	Regional Trade Agreement
SA	South Africa
SACU	Southern African Customs Union
SACUA	SACU Agreement
SADC	Southern African Development Community
SADCAS	SADC Accreditation Service
SADCMEL	SADC Cooperation in Legal Metrology
SADCMET	SADC Cooperation in Measurement Traceability
SADCSTAN	SADC Cooperation in Standardisation
SC	Steering Committee
SDT	Special and Differential Treatment
SMCA	Standardisation, Metrology Conformity Assessment and Accreditation
SME	Small and Medium Enterprise
SoE	State Owned Enterprise
SQA	Standardization and Quality Assurance
SQAM	Standardization, Quality Assurance, Accreditation, and Metrology
SQAMEG	SADC SQAM Expert Group
SPS	Sanitary and Phytosanitary Standards
TBT	Technical Barriers to Trade
TCC	Trans-Caprivi Corridor
TDCA	Trade Development and Cooperation Agreement
TFTA	Tripartite Free Trade Agreement
TIDCA	Trade, Investment and Development Cooperation Agreement
TIS	Trade in Services
TKC	Trans-Kalahari Corridor
TLC	(SACU) Technical Liaison Committee
TMCM	Trade Monitoring and Compliance Mechanism
ToR	Terms of Reference
TP	(SADC) Trade Protocol
TPR	Trade Policy Review (of the WTO)
TRIPS	Trade Related Intellectual Property Rights
TTF	Tripartite Task Force
TTNF	Tripartite Trade Negotiation Forum
TCuC	Trans-Cunene-Corridor
WBCG	Walvis Bay Corridor Group
WCO	World Customs Organization
WTO	World Trade Organization

0 EXECUTIVE SUMMARY

Namibia is in the process of negotiating the Tripartite Free Trade Agreement (TFTA) combining the 26 countries of the Common Market of Eastern and Southern Africa (COMESA), the Eastern African Community (EAC) and the Southern African Development Community (SADC). The TFTA is anchored on three pillars, namely market integration, industrial development and infrastructure development. It forms part of the African Union's (AU) overall objective to establish an African Common Market. The **TFTA is an ambitious undertaking**, targeting the liberalisation of goods and services in compliance with WTO provisions and aiming to establish joint rules and regulations for trade-related areas, such as customs cooperation, trade facilitation, competition policy and intellectual property rights. Moreover, it is foreseen to create a comprehensive cooperation framework including industrial cooperation, R&D and infrastructure development.

This study, commissioned by the Namibian Trade Forum (NTF) and funded by the British Foreign and Commonwealth Office, follows the objective to **enhance the overall knowledge of Namibian stakeholders on the implications of the TFTA for Namibia**. The study assesses Namibia's export potential in the TFTA, what products and sectors are likely to face import competition, what are the revenue implications, and, most importantly, what are the implications for trade policy and Namibia's trade-related institutional framework. The study applies a methodological combination of literature review, trade data and tariff analyses, and personnel interviews with public and private sector representatives.

Objectives of the TFTA and status quo and challenges of negotiations

The 2010 *Draft Agreement Establishing the COMESA, EAC and SADC Tripartite Free Trade Area* (in the following called 'Draft TFTA') aims "*to create a large single market with free movement of goods and services and business persons, and eventually to establish a customs union.*" For this purpose, the Draft TFTA foresees among others to (a) eliminate all tariff and non-tariff barriers to trade in goods; (b) liberalise trade in services and facilitate cross-border investment and movement of business persons; (c) harmonise customs procedures and apply trade facilitation measures; (d) establish and maintain a TFTA institutional framework; and (e) adopt and implement joint policies (Art. 4, Draft TFTA).

Negotiations of the TFTA are foreseen in two phases:

- **Phase 1: Negotiations on Trade in Goods**
  - Covers tariff liberalisation, Rules of Origin (RoO), customs cooperation, non-tariff barriers (NTBs), trade remedies, Sanitary and Phytosanitary (SPS) measures, Technical Barriers to Trade (TBT) and Dispute Settlement Mechanism (DSM).
  - Negotiations of the movement of business persons (negotiated separately by the Tripartite Sectoral Ministerial Committee on Trade).
- **Phase 2: Trade-related aspects**
  - Covers trade in services, Intellectual Property Rights (IPR), competition policy, trade promotion, and competitiveness.

Negotiations for Phase 1 started in June 2011 and are scheduled to be completed within three years. Negotiations for Phase 2 will only start after Phase 1 has been successfully completed.

It was agreed that the **legal texts of the Draft TFTA** and its 14 Annexes drafted by the three regional secretariats serve as **"starting point"** for the negotiations.

To date (January 2013), the **progress of negotiations has been rather limited**.

The TFTA countries could not yet agree on the modalities for trade liberalisation so that no tariff offer has yet been prepared. The Technical Working Groups (TWGs) on (1) TBT, SPS and NTBs; (2) Trade and customs procedures; and (3) Rules of origin (RoO) have undertaken “technical situation analyses”. These assessments look at the regional level but have not yet undertaken country-specific assessments. However, **country-specific analyses would be necessary** to assess the status quo and level of cooperation with respect to customs procedures, TBT, SPS, and NTBs. Moreover, such country assessments would offer the chance to fully comprehend what needs to be achieved in order to implement the provisions of the Draft TFTA and, subsequently, to prioritize activities in the light of available capacities.

The limited negotiation progress to date reflects the **gap between political rhetoric and economic interests**. Though all countries agreed to establish the TFTA, following the agenda of the AU integration plan, many countries appear to have difficulties in defining their interests in the TFTA negotiations. This is also mirrored in the ‘guiding principles” of the TFTA, which are to some extent inconsistent; trying to bridge the political objective of having a functioning TFTA by 2017 (‘Substantial Liberalization’, ‘Building on the acquis of existing RECs’, ‘National Treatment’) with countries’ defensive interests (‘Special and Differential Treatment’, ‘Variable Geometry’, ‘Decisions to be taken by consensus’).

To date there is **no regional leader** who pushes for the TFTA to become an effective tool for regional trade liberalization. South Africa, by far the strongest economy in the TFTA and the one that would gain most (having a trade surplus of US$ 7.1 billion with the region), appears to be acting defensively. This in turn makes it difficult for small economies that have only little to gain (because of both limited production capacity and lack of regional competitiveness) to compromise with respect to their defensive interests.

Another major challenge of the TFTA negotiation process is its extremely **ambitious agenda** that **risks overextending both national capacities and regional integration efforts**. This becomes most apparent with respect to trade-related areas such as competition policy, Standardisation, Metrology, Conformity Assessment and Accreditation (SMCA) or intellectual property right (IPR). Most TFTA countries, including Namibia, do not yet have functional national institutions for *all* trade-related areas and lack capacities and technical expertise to fully participate in existing regional cooperation commitments (e.g. in the field of standardisation).

Namibia’s Trade and Trade Policy Regime

Namibia enjoys duty and quota free access (DFQF) for the majority of its exports, most of which go to the EU and the South African market. While Namibia’s exports to the EU are dominated by minerals, exports to the region are mainly agricultural and agro-processed exports. South Africa is the major export destination for Namibian agricultural and agro-processed exports such as beer, live animals, fish, and frozen bovine meat. High value fish (hake and monk fish) and premium cut beef go primarily to the EU market, which pays the best price. **By trend Namibia’s exports to the non-SACU TFTA region are rather low value products**, which are often not demanded in other markets, such as horse mackerel, meat offal, or hides and skins.

Namibia's exports to the non-SACU TFTA region account for 13.2% of its total exports. **Almost 90% of Namibia's Tripartite exports go to Angola and DRC**, two neighbouring SADC countries that have not yet acceded to the SADC Trade Protocol. Namibia's exports to the **non-SADC TFTA** region accounted for only **0.06% of its total export** in the period 2009-11.

Namibia sources the majority of its imports (on average 73% in the period 2009-11) from South Africa. Further relevant import markets are the EU (11%), China, India, Zambia and the USA. Major import products include mineral products, motor vehicles and machinery. However, **agricultural products also account for a significant share of Namibia's imports**. About 17% of Namibia's total imports from South Africa are agricultural products, such as meat and dairy products, grains, vegetables, fruits and prepared foodstuff (sugar, cigarettes, beer and spirits). Namibia also sources agricultural imports from the EU (fish products, malt, wheat, coffee, vegetable products and foodstuff) and China, India and the US (meat, wheat, millet, fats and foodstuff).

However, though Namibia imports a significant amount and range of agricultural and agro-processed products, these do not come from non-SACU SADC countries. Thus, Namibia's **imports from non-SACU SADC** countries accounted only for **2.4% of its total imports with more than 80% being copper and uranium.** Namibia's **imports from non-SADC TFTA countries are** de facto **non-existent**, accounting for 0.09% of its total imports in the period 2009-11.

Namibia is already an open economy. Being in a customs union with South Africa, and having de facto implemented the EU-South Africa FTA (TDCA) and the SADC Trade Protocol, **Namibia liberalised its import regime for about 87% of total imports in the period 2009-11.** The only remaining "protectionist shields" are NTBs, such as quantitative restrictions and non-automatic licenses, that protect in particular Namibia's agriculture and agro-processed industries. **Namibia applies trade restrictions to a number of imports that stand in direct competition with its local production,** such as maize, wheat and products thereof, horticulture products, meat products, flour and pasta. It is argued that Namibia, as a small developing country with a limited production base, which is in a custom union with the 'economic giant' South Africa, needs such protection to develop a certain industrial base. While this might be correct, it still implies limiting **the options for Namibia's intra-regional trade**. First, because Namibia's trade restrictions apply to all imports (i.e. also to those of lesser developed SACU and SADC countries) and second, because Namibia's major export markets in the region (BLS, Angola, Zambia) have put forward similar arguments to restrict their markets for Namibian exports.

NTBs remain a problem in all Tripartite countries and have, according to observations of the Namibian private sector, even increased in recent years. Since COMESA, EAC and SADC have no mechanism to compensate weaker member states from trade diversion and trade creation[1] (unlike SACU or the EU); their weaker members face a double dilemma: they lose revenue by tariff liberalization while at the same time facing increased competition in their markets, with their production being substituted by more competitive neighbouring countries.

[1] *Trade creation* occurs if domestic products are replaced by more competitive regional products. This results in the increased consumption of cheaper substitutes, at the expense of local production. Thus, trade creation has detrimental effects for non-competitive domestic producers that will be displaced by their regional competitors. *Trade diversion* means the directional change of trade: products which were formerly imported from the rest of the world are now imported from regional producers as their production costs are lower than those of the rest of the world plus customs duty. Thus, the producer surplus of the regional supplier increases.

Subsequently, member states have – with decreasing tariff protection - started to erect NTBs to protect their domestic producers against regional competition.

The NTB Monitoring Mechanism is therefore insufficient to eliminate NTBs in the Tripartite region. Thus, it will be difficult to enforce rules on regional trade facilitation as long as no mechanism has been found to assist countries to cope with the negative effects of regional integration and to equalize regional economic development.

Namibia's Trade Infrastructure

Namibia's regional **transport and trade logistics** capacities are judged to be competitive in the regional context. However, the comprehensive study undertaken by the World Bank Group (2012) also named a number of necessary reforms for Namibia to become a regional transit hub (WBG, 2012). With respect to **customs procedure**, the World Customs Organization (WCO) concludes that Namibia needs to enforce its customs procedures, in particular with respect to customs valuation, rules of origin and product inspection.

The latest WTO Trade Policy Review (2009) attests Namibia having difficulties in fully meeting the **standards, technical regulations and SPS** requirements of its major export markets. Improved infrastructure development, strengthened institutions, and training for enhanced service delivery (e.g. with respect to product inspection) would be required. This assessment is also confirmed by Namibia's Aid for Trade (AfT) Strategy (MTI/UNDP, 2011).

Namibia has **not yet established institutions dealing with trade remedies or trade-related intellectual property rights**; both areas for which cooperation is foreseen in the TFTA context. The Namibia Competition Commission, established in 2009, is in the process of developing and implementing a National Competition Policy. Establishing and **strengthening its national trade-related institutions**, it is **challenging** for Namibia **to meet also its institutional obligations on a regional level.** Thus, institutions foreseen by the 2002 SACUA have not yet been established and Namibia's engagement to SADC's trade facilitation and quality infrastructure framework is constrained by limited technical capacities.

Namibia and the TFTA

Export potential

The vast majority of Namibia's non-SACU exports (13.2% of total exports) go to SADC countries (mainly Angola and DRC) and only **0.06%** of Namibia's **total exports to non-SADC TFTA** countries with a total value of about US$ 3.5 Mio

Among Namibia's **top 10 export products to the TFTA region** (i.e. incl. SADC) are frozen fish (mainly mackerel to DRC and Angola), wooden furniture (Angola), cigarettes (Angola), cider (Angola), and sugar confectionary (Angola). Further relevant export products are beer (Angola, Zambia, Malawi, EAC), meat offal (Zimbabwe), salt (Zimbabwe, EAC, other COMESA countries) and live animals and raw hides and skins (other COMESA countries).

Exports to the **non-SADC TFTA** region are not only **extremely small** but also **limited to very few products**: *One product* with exports worth less than US$ 550,000 accounted for more than 70% of Namibia's total exports to Eritrea (live animals), Libya (frozen fish) and Uganda (beer). Trade with Burundi, Comoros, Egypt, Ethiopia, Rwanda, Djibouti, Madagascar and Sudan is close to non-existent with total exports accounting for less than US$ 40,000 p.a. in the period 2009-11.

According to **Namibian exporters** tariffs are not a prohibiting factor when exporting to the region. Though lower tariffs in non-SADC TP countries would be desirable, exporters identified in particular the following constraining factors for regional exports:

- *Protectionist tendencies in the form of manifold NTBs*, e.g. for beer, dairy and milling products, and cement – all of which are products that are also produced in many other TFTA countries;
- *Cumbersome customs procedures*, including delays and intransparent, unpredictable and changing processes (particularly a problem in Angola, Namibia's major non-SACU export market);
- *High transport costs* due to poor road and infrastructure network;
- *Namibia's limited production capacities* and non-competitive products (particularly for food products that the region imports from the RoW).

While the TFTA may be able to address some of the existing trade barriers, such as tariffs or cumbersome customs procedures, it cannot target Namibia's supply-side constraints, namely the limited production capacities of single industries. Another factor that cannot be addressed by a trade agreement is the region's general lack of industrial development resulting in missing trade complementarities. These are long-term development issues, which would need to be addressed in order to allow countries to take full advantage of regional FTAs.

Import Competition

Imports from non-SACU TFTA countries accounted for only 2.4% of Namibia's total imports (with about half being copper from Zambia and one third uranium from Malawi). **Namibia's imports sourced from non-SADC TFTA** had a total value of US$ 5.34 Mio, which equals **0.09%** of its total imports. Among Namibia's top 10 import products from the TFTA region (i.e. incl. SADC) are copper (Zambia), uranium (Malawi), fish flour (Angola), light oils (Angola), and tea and sugar from Zimbabwe. Private sector representatives named poor product quality, high transport costs, lack of trade finance, low production capacities, non-existing business relations and non-tariff barriers (such as lengthy and cumbersome customs procedures) as **major reasons for Namibia's low imports from the TFTA region.**

To assess whether and to what extent Namibia is likely to face import competition as a result of the TFTA, we looked at four issues:

1. *Tariff and non-tariff regimes for Namibia's major non-SADC TFTA imports* – assessing the current protection of Namibia's direct imports from those TFTA countries that have not yet joined the SADC Trade Protocol and therefore enter the Namibian market at MFN tariff (i.e. non-SADC TFTA countries plus Angola and DRC);
2. *SACU's tariff regime for South Africa's major imports from non-SADC TFTA countries* – assessing products and tariff protection of South Africa's major imports from TFTA countries since these products could be re-exported to Namibia;
3. *Current MFN tariffs for Namibia's and South Africa's major import products from SADC countries* – since these products could be potentially replaced or increased by non-SADC TFTA exports;
4. *Egypt's and Kenya's top 10 export products and protection level of these products in SACU* – assessing whether Namibia or South Africa sources any of Egypt's and Kenya's major exports and, if not, whether high tariffs are the reason.

The findings reveal that the implications **for import competition in the Namibian market**, when extending the SADC Trade Protocol to all TFTA countries, **are most**

likely to be nil. Thus, most of Namibia's direct imports from non-SADC Trade Protocol countries enter its market already duty free.

South Africa sources only 4.2% of its total imports from the Tripartite region – of which 99% come from SADC. There are very few products South Africa sources from the Tripartite region (i.e. incl. SADC) for which non-SADC Tripartite countries would still face a medium to high tariff. These products include light oils, tea, tobacco, cotton, textiles and clothing. Of these, only textiles and clothing appear to be sensitive in the SACU market. However, **textiles and clothing are only of minor relevance in intra-Tripartite trade** (accounting for a product share of 0.1-1.8%) and Egypt, the only TFTA country that has, apart from South Africa and Mauritius an established textile sector, is not an internationally competitive producer.

Revenue Implications

The 'hypothetical revenue loss' is obtained by applying the base applied tariff (where known) to the average value of imports in the past three years (2009-11). The concept of "hypothetical revenue" assumes 100% collection efficiency and no rebates – both assumptions that are unrealistic. However, both "errors" work in opposite directions: while the 100% collection efficiency overstates the revenue loss, the fact that no rebates are taken into consideration understates revenue collection.

Namibia's **hypothetical revenue from TFTA imports**, when extending the SADC Trade Protocol to all TFTA countries, was on average **US$ 1.12 Mio p.a.** in the period 2009-11,[2] which is **less than 0.1% Namibia's revenue from the CRP** in 2011/12.[3]

South Africa's hypothetical revenue from TFTA countries was on average US$6.47 Mio p.a. in the period 2009-11; **less than 0.1% of the total value of the CRP**.[4]

The "top 10 TFTA revenue earners" accounted for more than 82% of total hypothetical revenue from TFTA and include light oils and preparations of petroleum but also sensitive products like worn clothing, motor vehicles and sugar confectionary. Excluding some of these sensitive tariff lines from Tripartite trade would further minimize the revenue implications of the TFTA.

Implications for Namibia's Trade Policies

Namibia has entered into several trade agreements that already constrain its freedom of manoeuvre with respect to trade policies. These include the 2002 SACUA, the WTO Agreement, the SADC Trade Protocol and also the EFTA Agreement. Moreover, Namibia has de facto implemented the TDCA between South Africa and the EU, liberalising its market for the majority of its EU imports. The requirements of these treaties differ considerably with respect to what trade policies are allowed. Generally, **Government's policy space on any trade policy issue is set by the terms of the most restrictive agreement that it has signed.**

The 2002 SACUA provides several exemptions from its standard provisions of free movement of goods and explicitly allows Namibia to apply import and export restrictions for external SACU trade. Additionally, Namibia applies bans for certain intra-SACU imports, which may not be permitted by the SACUA but has not yet been challenged by any SACU member.

---

[2] This includes Namibia's hypothetical revenue collection from those SADC countries that have not yet implemented the SADC Trade Protocol, namely Angola and DRC.

[3] Namibia's revenue share was ZAR 9.567 billion (about U$ 1.127 bn), which equals 17.3% of the total CRP, in 2011/12 (SACU Secretariat, 2012).

[4] The total CRP was ZAR 55.2 billion (about US$ 6,5 bn) in 2011/12 (SACU Secretariat, 2012).

A **comparative analysis of the** 2002 SACU, the SADC Trade Protocol and the 2010 Draft TFTA give an overview of the implications single provisions and institutional settings will have for Namibia's trade policy and trade-related institutions. The detailed assessment in section 4.3.4 reveals that the **Draft TFTA has stricter rules than the 2002 SACUA**, with many provisions being identical to the WTO, such as trade remedies, border charges and infant industry protection. However, in a number of cases, the SADC TP also provides stricter rules than the 2002 SACUA (e.g. with respect to border charges). The **major issue with respect to border duties and other NTBs is therefore whether the provisions of the TFTA (or the SADC TP) can and will be enforced**. In other words: Namibia has already committed itself to abolish extra duties and phase out quantitative restrictions for intra-regional trade under the SADC TP. However, to date these obligations have not been imposed within SADC.

The **institutional set-up of the Draft TFTA follows largely the SADC TP** and its Annexes, foreseeing the creation of Tripartite institutions in the fields of competition, standardization/metrology, SPS, R&D etc. The **relation and cooperation between the trade-related institutions in the RECs and the TFTA are not yet clear.** Significant coordination would be required to avoid duplication of cooperation, which risks putting further constraint on countries' limited capacities.

Opportunities and challenges of the TFTA for Namibia

Both opportunities and challenges of the TFTA appear to be very limited for Namibia, which is due to its very limited trade relations with non-SADC TFTA countries accounting for 0.06% of exports and 0.09% of imports. While non-SACU SADC countries are a medium relevant export destination for Namibia (particularly for some agriculture, agro-processed and simple manufactured products), Namibia hardly exports to the non-SADC TFTA region. Limited production capacities and high transport costs make it unviable to export to the wider region. **Reducing tariffs and NTBs would therefore mainly benefit Namibian exports to neighbouring SADC markets**, such as Angola, DRC, Zambia or Zimbabwe. The full implementation of the SADC TP is therefore regarded as a priority by the Namibian private sector.

Namibia's access to the non-SACU SADC market appears to offer the **opportunity to expand value added exports** of agro-processed and simple manufactured goods. Neighbouring SADC countries (Angola, DRC, Zambia and Zimbabwe) have already become **medium-relevant export markets for selected products**, such as horse mackerel, beer, dairy and milling products. There are, however, a number of **limitations** to this positive scenario of Namibia's expanded value added regional exports, such as costly customs procedures and high transport costs but also (subsidised) world-wide competition for selected products (such as dairy and milling products).

The **major challenge** for Namibia when implementing the TFTA would not be import competition or revenue losses but the creation of and participation in the comprehensive institutional framework. A number of trade-related institutions foreseen in the Draft TFTA have only recently been established in Namibia (NACC, NSI, TBT Focal Point), or are not yet operational (Trade Board, IPR Office/Tribunal). Moreover, **trade-related institutions are very weak or non-existent on the SACU and SADC level**.

Consolidating the operation of existing national and regional institutions so that they become effective in supervising the proper implementation of existing trade commitments appears to be a top priority. Spreading already limited technical resources further on the Tripartite level on the other hand, bears the risk that regional integration efforts are diluted and no feasible progress is reached.

1 INTRODUCTION

Namibia is in the process of negotiating the Tripartite Free Trade Agreement (TFTA) combining the 26 countries of the Common Market of Eastern and Southern Africa (COMESA), the Eastern African Community (EAC) and the Southern African Development Community (SADC). The TFTA is anchored on three pillars, namely market integration, industrial development and infrastructure development. It forms part of the African Union's (AU) overall objective to establish an African Common Market as outlined in the 2007 adopted *Protocol on Relations between the African Union and the Regional Economic Communities.*

Namibia negotiates the TFTA in the framework of the Southern African Customs Union (SACU), whose five members are going to submit joint liberalisation offer(s) to the non-SADC TFTA countries. The TFTA is an ambitious undertaking targeting the liberalisation of goods and services in compliance with WTO provisions and aiming to establish joint rules and regulations for trade-related areas, such as customs cooperation, trade facilitation, competition policy and intellectual property rights. Moreover, it is foreseen to create a comprehensive cooperation framework including industrial cooperation, R&D and infrastructure development.

Namibia has implemented the SADC FTA, offering 11 SADC countries duty and quota free market access for 99.2% of tariff lines and committing itself to a wide-ranging trade-related cooperation framework. The SADC FTA is "work in progress" and some countries have not yet fully implemented their commitments (USAID, 2011). Further challenges with respect to the full implementation of the SADC Trade Protocol relate to rules and administrative procedures as well as to the establishment and equipment of regional trade-related institutions.

Seven SADC countries are also members of COMESA,[5] with overlapping membership causing problems due to conflicting liberalisation commitments and limited institutional and human capacities. The TFTA is supposed to overcome the problem of overlapping memberships in regional economic communities (RECs) by merging them into a larger integration area. The integration process shall build on the acquis of the RECs by expanding countries' respective liberalisation offer accordingly. While this process is in line with the AU's objective of accelerating economic integration in Africa and moving towards a common market, its feasibility depends to a large extent on the willingness of the single countries to move towards closer economic integration and to compromise; possibly at the expense of immediate national interests. Whether countries are willing to do so depends on their subjective view of whether they are likely to gain from the TFTA – politically and/or economically. Thus, trade does not necessarily have to be the main driver of economic integration; it could also be overall welfare gains on a regional level. However, examples of regional economic integration schemes demonstrate that a strong regional leader and political will of major regional players are needed to make regional integration successful. Moreover, it is imperative that in each country the majority of people hold the opinion that the advantages of being part of the REC outweigh its costs.

[5] DRC, Madagascar, Malawi, Mauritius, Seychelles, Zambia and Zimbabwe. However, DRC is no signatory to the SADC Trade Protocol and Madagascar's membership to SADC has been suspended since 2009.

The following study elaborates on what Namibia is likely to gain when joining the TFTA and what would be potential costs and areas for compromise. The **following questions guide this assessment**:

- ✓ ***Export potential*:**
  - What does Namibia currently export to TFTA countries in terms of value and products?
  - What tariff barriers do Namibian exporters face for their major exports to the TFTA region?
  - What are the main non-tariff barriers Namibia faces in main TFTA markets?
  - How do Namibian exporters judge the opportunities of expanding their exports to the region and what are the limiting factors?
- ✓ ***Import competition***
  - What do Namibia and South Africa currently import from TFTA countries in terms of value and products?
  - What tariffs apply for Namibia's and South Africa's major imports from TFTA countries?
  - What non-tariff barriers apply for Namibia's major imports from TFTA countries?
  - What are major export products of the strongest non-SADC TFTA economies, Egypt and Kenya? What protection level do these products face in the SACU market?
- ✓ ***Revenue implication***
  - What would be Namibia's "hypothetical revenue loss"[6] when extending the SADC TP to all TFTA countries?
  - What would be South Africa's "hypothetical revenue loss" when extending the SADC TP to all TFTA countries
  - What would be the implications for the SACU Revenue Pool (CRP) and Namibia's revenue from it?
- ✓ ***Trade policy implications***
  - What are Namibia's current trade policies in the SACU and SADC framework?
  - To what extent are Namibia's trade policies fully compliant with the provisions of the SACU and the SADC TP Agreements?
  - What would be the implications for Namibia's trade policy framework if the provisions of the Draft TFTA[7] were enforced?
- ✓ ***Trade infrastructure and institutional setting***
  - What institutions are foreseen by the Draft TFTA, to what extend do they exist in Namibia, SACU and/or SADC and what are the challenges of implementing the provisions?
  - What is the status of Namibia's trade infrastructure and would any upgrading be required to implement the Draft TFTA?

---

6 The concept and its limitations are explained in section 4.3.3.

7 The 2010 draft legal texts of the FTA are taken as benchmark for the analysis as explained in section 4.3.4.

1.1 Study Objectives

The study was commissioned by the **Namibian Trade Forum** (NTF)[8] and funded by the Foreign and Commonwealth Office with the objective to *"enhance the overall knowledge of the Namibia Ministry of Trade and Industry, the private sector and the overall Namibian public of implications of the Tripartite FTA for Namibia, thereby enhancing the negotiation position for the Namibia Ministry of Trade and Industry".*
To measure the successful achievement of the study NTF developed success indicators as follows:

1. **Success Indicator 1**: MTI through NTF will be pro-actively engaged in TFTA negotiation process;
2. **Success Indicator 2**: Improve knowledge on Namibia's trade flow, and potential trade gains and losses within the TFTA process;
3. **Success Indicator 3**: Foster the private sector's participation in intra-regional trade beyond SACU;
4. **Success Indicator 4**: Ensure that the TFTA will positively contribute to Namibia's trade balance and overall socio-economic development.

The study's terms of reference (ToR) can be found in **Annex 1**. As already outlined in the Inception Report, the full achievement of the a.m. success indicators was not only in the hands of the Consultants but required the active participation of Namibian stakeholders in the debate. To facilitate such debate, NTF arranged a public-private round table discussion round to present and discuss the study's preliminary results and established a Steering Committee to provide guidance to the Consultants activities. Moreover, the **draft final results** of the Study were presented and **discussed with the TFTA negotiation team of MTI.**

As discussed and agreed at the first **Steering Committee** Meeting on 15 November, 2012, the Consultants are requested to **focus** on the **major implications of the TFTA for Namibia**", namely defining Namibia's offensive and defensive interests in TFTA negotiations as well as highlighting the implications for revenue and institutional and infrastructure framework (see minutes of first SC Meeting in **Annex 2)**.

The comments received at the second Steering Committee Meeting on 31 January, 2013 (see **Annex 7**) as well as those received during the public-private dialogue meeting (**Annex 8**) and the meeting with MTI (**Annex 9**) were incorporated in the study. The presentation of the draft final study can be found in **Annex 10**.

1.2 Methodology, Activities and Results

To assess how the TFTA would impact Namibia and what are the country's offensive and defensive interests in TFTA negotiations, the study foresees to conduct a total of **18 activities linked to three major results**:

R1 (I): Recommendations on improved trade infrastructure and institutional strengthening for Namibia in the TFTA;

R1 (II): Cost-benefit analysis of the TFTA including economic and regional implications for Namibia;

R2: Enhance Trade policy-makers understanding of offensive and defensive trade interests of the private sector in Namibia;

R3: Namibian's policy makers understand the significance of trade policy reforms applied in both SACU and the envisaged TFTA.

[8] The NTF is a non-profit making organisation that aims to strengthen collaboration between the Namibian government and the private sector on matters related to international trade and investment.

The Consultants applied a combination of methodological approaches to achieve these three results and fully address the 18 activities foreseen by the ToR as follows:[9]

Literature review

The research reports, publications and internal documents reviewed for this study are summarised in the **list of references**. Additionally, the Consultants reviewed the Protocols and Reports of the Tripartite Committees of Senior Officials and Experts, Tripartite Task Force (TTF), Tripartite Trade Negotiation Forum (TTNF) and Tripartite Technical Working Groups (TWG) that were made available to them.

Data analysis

For Namibian trade data, the United Nations (UN) Commodity Trade Statistics (Comtrade) database was used. The Namibia Statistics Agency (NSA) reported its exports and imports on a 6-digit level for the period 2009-11 to Comtrade; thus, we were able to use Namibian trade data for the analysis.

Some **potential data errors were identified**, which are highlighted in the analysis. For instance, Namibia reports its major exports to Angola being motor vehicles (HS 87). However, since no motor vehicles are produced in Namibia these goods are most likely in transit coming through Walvis Bay on their way to Angola.[10]

For South Africa's trade with the Tripartite countries, the ITC Trade Map, which receives its data from South African Revenue Services (SARS) was the source of information. Kenya's and Egypt's major exports to South Africa and the World were obtained from Comtrade to which both countries reported for the last three years (2009-11).

For the tariff analysis and potential revenue implications of the TFTA,[11] SACU's applied MFN and SADC tariffs were taken from the UNCTAD TRAINS database.

Stakeholder interviews

Key informant meetings were used to complement and expand the documentary and data analysis by adding rigour to results and providing additional relevant information. Face-to-face interviews were conducted *inter alia* with representatives of the Ministry of Trade and Industry, the SACU Secretariat, the Competition Commission, the Standardisation Institute and major Namibian companies exporting to the region (see **Annex 4** for a full list of interviewees). All interviews were concluded with the management of the respective organizations and/or with experts involved in TFTA negotiations.

The **issues addressed in the interviews** included:

- Analysis of required trade policy reforms (Activity 1.3 of ToR);
- Determine markets and products for Namibia which could be traded under the TFTA (A1.7);
- Identify potential social costs and benefits accruing to the nation at large as a result of TFTA (A1.9);
- Indicate the measures to be deployed to facilitate the movement of business persons across the three Regional Economic Communities (RECs) (A1.11);
- Identify key important sectors that may require protection from intense competition from developed TFTA countries (A2.2);

[9] The methodological approach to answer each of the 18 activities was presented in the Inception Report and can be found in **Annex 3**.

[10] This thesis is also supported by the study of the World Bank Group (2012), which identifies vehicles to be a major product in Namibian-Angola transit trade.

[11] Static analysis; limitations are highlighted in the text.

- Cross-Cutting Issues (CCI): Assess the potential impact of the trade policy reform under the TFTA on gender equality, inclusion of socially and spatially disadvantaged groups, and on environmental and social cohesion.

All interviews were transcribed and sent to the interviewees for check/corrections. In total, the empirical data collected comprises **30 personally conducted interviews** from Namibia and South Africa plus one Skype interview.

1.3 Organisation of the Study

The study is structured in five main sections plus the executive summary. After this introduction, **section 2** provides an overview of the objectives and approach to TFTA negotiations, the actors and procedures of the Tripartite Coordination Mechanism, and the contents and structure of the Draft TFTA text. Thereafter, an overview of intra-regional trade performance and remaining barriers in the three RECs (COMESA, EAC, and SADC) is presented before analysing the status quo and challenges of TFTA negotiations.

Section 3 analyses Namibia's trade and trade policy regimes. It starts with a detailed export and import profile, not only for Namibia's major trading products and partners but also for Namibia's trade with non-SACU Tripartite countries. This is followed by an analysis of Namibia's trade policy framework, assessing to what extent applied trade policy measures are in line with the provisions of the 2002 SACU Agreement. A summary of Namibia's further external trade relations is provided in section 3.1.4, before giving an overview of the country's trade infrastructure.

In **section 4**, the two previous sections are combined, looking in detail at Namibia's exports to and imports from TFTA countries and the current tariff regimes in order to assess the potential implications of extending the SADC Trade Protocol offer to TFTA countries. This analysis also relates to the implications for Namibia's trade policies; i.e. to what extent implementing the rules and regulations of the Draft TFTA would limit Namibia's freedom of manoeuvre compared to existing trade obligations. For this purpose, the Consultants compare trade and trade-related commitments of the SACU, SADC and Draft TFTA treaties. While the requirements of the different treaties differ with respect to what trade policies are allowed, Government's policy space is set by the terms of the most restrictive trade agreement it has signed.

The final **section 5** summarises Namibia's offensive and defensive interests in TFTA negotiations and outlines the necessary trade policy reforms Namibia would have to undertake and what institutions would have to be set-up in order to comply with the provisions of the Draft TFTA. A SWOT (strength-weakness-opportunity-threat) analysis on Namibia's opportunities and challenges in the TFTA complete the study.

2 OBJECTIVES AND APPROACH OF THE TFTA

In October 2008, the first Tripartite Summit was held by the Governments of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC). It was agreed to enhance regional economic cooperation and harmonisation in line with the African Union (AU) objective to accelerate the continent's economic integration. An according Memorandum of Understanding (MoU) on regional cooperation and integration was signed by the Chairpersons of the three regional bodies in January 2010. The areas of cooperation are anchored on three major pillars:

1. **Market Integration**
    - Trade liberalisation and customs cooperation, eventually leading to a Free Trade Area (FTA) and with the ultimate objective of establishing a single Customs Union (CU);
    - Harmonised trade and investment regimes, enabling intra-regional investment and promoting industrialisation;
    - Enhanced movement of services and business persons;
    - Formulation of joint positions and strategies in international trade fora.
2. **Infrastructure Development**
    - Development of joint regional infrastructure programmes
3. **Industrial Development**
    - Strengthened coordination of trade-related policies, such as industrial, competition, and financial policies.
    - Reduction of supply-side constraints;
    - Building of regional value chains;
    - Development of cross-border agricultural development and food security programmes.

In May 2011, the Tripartite Task Force of the COMESA, EAC and SADC Secretariats was assigned to develop work programmes for the pillars 2 and 3, the Tripartite infrastructure and industrial development cooperation programmes.

The **centrepiece** of the Tripartite Agreement, and also the focus of this study, is the Market Integration pillar, in particular the planned **Tripartite Free Trade Agreement** (TFTA). The TFTA foresees to harmonise trade arrangements among COMESA, EAC and SADC, thus helping to overcome problems of existing (and contradictory) REC memberships of single countries. It further aims to enable economic actors to benefit from a larger market and to reach enhanced social economic performance in the 26 countries covering region.

The Tripartite Trade and Customs Committee prepared the Roadmap as well as the Draft TFTA Agreement including Annexes.[12] The first version was submitted to the Member States in late 2009 and revised one year later. The **2010 Draft Agreement Establishing the COMESA, EAC and SADC Tripartite Free Trade Area** aims "to create a large single market with free movement of goods and services and business persons, and eventually to establish a customs union."

[12] It is reported that TradeMark Southern Africa was leading the legal drafting of the 2010 Draft Agreement.

TFTA negotiations were launched at the Second Tripartite Summit on 12 June 2011 in Johannesburg where the parties adopted the **Guidelines for Negotiations**, fixing the following overarching principles:[13]

(1) Member state driven;
(2) Variable geometry;
(3) Flexibility and Special and Differential Treatment (SDT);
(4) Transparency including the disclosure of information with respect to the application of the tariff arrangements in each Regional Economic Community (REC);
(5) Building on the acquis of the existing REC FTAs in terms of consolidating tariff liberalisation in each REC FTA;
(6) A single undertaking covering phase I on trade in goods;
(7) Substantial liberalisation;
(8) MFN Treatment;
(9) National Treatment;
(10) Reciprocity;
(11) Decision shall be taken by consensus.

Thus, though tariff liberalisation shall build on the existing external tariff structure of COMESA, EAC and SADC, it is ultimately upon the 26 Member States (MS) to negotiate and agree on their TFTA tariff offer. The three **RECs do not have the mandate to negotiate on behalf of their members.**

Negotiations of the TFTA are foreseen in two phases:

- **Phase 1: Negotiations on Trade in Goods**
  - Covers tariff liberalisation, Rules of Origin (RoO), customs cooperation, non-tariff barriers (NTBs), trade remedies, Sanitary and Phytosanitary (SPS) measures, Technical Barriers to Trade (TBT) and Dispute Settlement Mechanism (DSM).
  - Negotiations of the movement of business persons shall be negotiated by the Tripartite Sectoral Ministerial Committee on Trade.
  - Indicative timing for Phase 1: 24 – 60 months
- **Phase 2: Trade-related aspects**
  - Covers trade in services, Intellectual Property Rights (IPR), competition policy, trade promotion, and competitiveness.

Phase 2 will only start after Phase 1 has been successfully completed. Before starting with the negotiations of trade in goods in June 2011, a 6-12 months preparatory phase took place during which MS were supposed to prepare for negotiations.

2.1 Institutions and Procedures of TFTA negotiations

The institutional framework that leads the TFTA negotiation process was agreed during the 2nd Tripartite Summit in June 2011 as follows: [14]

- **Tripartite Summit**: Heads of State/Governments of Member States. Highest organs, meets at least every two years.
- **Tripartite Council of Ministers**: meets at least once a year.[15]

[13] Guidelines for Negotiating the Tripartite Free Trade Area among the Member/Partner States of COMESA, EAC and SADC, 11 May 2011. The principles have been agreed at the fourth TTNF Meeting, 5.-7.09.12.

[14] Rules and Procedures for the Tripartite Summit of the Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC) and Southern African Development Community (SADC). Revised version, 05.06.12, TP/TMS/RP/Rev2.

[15] Rules and procedures of the Tripartite Council of Ministers were agreed on 23 September 2011.

- **Tripartite Sectoral Ministerial Committees** on **(1) Trade and Customs** (2) Infrastructure; and (3) Legal Affairs that meets annually. The Sectoral Ministerial Committees makes recommendations in their respective sectors, which are submitted to the Council of Ministers and finally approved by the Summit. The Ministerial Committee on Trade and Customs is in charge of the overall monitoring of the TFTA negotiation process and ensures that the Senior Officials and Experts adhere to the negotiation time frames.
- **Tripartite Committee of Senior Officials and Experts** which meets annually and reports to the Ministerial Committees.
- **Tripartite Task Force (TTF)** of the regional Secretariats which meets at least bi-annually and prepares the rules of procedure for the Tripartite Trade Negotiation Forum (TTNF). It holds responsible for developing the operational procedures of the Tripartite Coordination Mechanism as well as for developing work programmes for the three pillars of cooperation.
- **Tripartite Trade Negotiation Forum (TTNF)**: Monitors the progress of the TFTA negotiation process on a quarterly basis and reports to the Ministerial Committee on Trade and Customs.

It is foreseen that **each regional Secretariat** coordinates the negotiations of its members and provides technical and administrative support. For this purpose, **a TFTA Coordination Unit** has been established in each Secretariat **and each member state has elected a Chairperson to be in charge of TFTA negotiations**. The final rules and procedures were agreed in June 2012.

To ensure that "*a credible and development oriented Agreement is concluded*"[16], the Tripartite Summit assigned the **Sectoral Ministerial Committee to supervise and monitor the negotiations.**

2.2 Structure and Content of the Draft Tripartite Free Trade Agreement

The revised "Draft Agreement Establishing the COMESA, EAC and SADC Tripartite Free Trade Area" (Draft TFTA) was presented by the three Secretariats in December 2010. It was agreed that the **Draft TFTA shall serve as "starting point" for negotiations** and will be adapted as negotiations continue.[17] The Draft TFTA is a comprehensive free trade agreement that does not only foresee to the elimination of tariff and non-tariff barriers but also outlines rules and regulations for internal market policies that affect international trade, such as competition policy or the protection of intellectual property. **Section 4.3.4 analyses the single provisions of the Draft TFTA in detail and compares them to the provisions in the SACU and SADC Agreements** so as to check the potential implications for Namibian trade policy. This is considered to be useful for the Namibian negotiation team when providing comments to the Draft TFTA and re-phrasing single provisions.

The **specific objectives of the TFTA** according to Art. 4 of the Draft TFTA are:

- Eliminate all tariff and non-tariff barriers to trade in goods;
- Liberalise trade in services and facilitate cross-border investment and movement of businesspersons;
- Harmonise customs procedures and trade facilitation measures;
- Enhance co-operation in infrastructure development;
- Establish and promote cooperation in all trade-related areas among Tripartite Member States;

[16] It is envisaged to monitor progress through quarterly reports by the TTNF and six-monthly formal reviews by the Ministerial Committee. See: Guidelines for Negotiating the Tripartite Free Trade Area among the Member/Partner States of COMESA, EAC and SADC, 11 May 2011.

[17] Report of 3rd TTNF Meeting, 1.-3.06.12.

- Establish and maintain an institutional framework for implementation and administration of the Tripartite Free Trade Area and eventually a Customs Union;
- Build competitiveness at the regional, industry and enterprise level in order to promote beneficial utilisation of regional and global market and investment opportunities and beneficial participation in globalisation;
- Adopt and implement policies in all sectors of economic and social life that promote and consolidate an equitable society and social justice; and
- Undertake cooperation in other areas to advance the objectives of this Agreement.

These specific objectives shall be implemented by the 11 guiding principles agreed by the Summit in June 2011. They are outlined in detail in the legal texts and 14 Annexes of the Draft TFTA, which can be summarized as follows:

1. **Elimination of import duties** as outlined in Annex 1, Draft TFTA (which has yet to be developed). The Draft TFTA foresees three schedules of liberalization: first, for members of regional FTAs which shall extend their offers to all other TFTA countries participating in another regional FTA; second, a schedule for Tripartite countries not yet participating in a regional FTA; and third, an offer of regional FTA countries to non-regional FTA countries.
   According to this proposal, SACU would have to submit two offers: first, the extension of its offer under the SADC Trade Protocol to all non-SADC EAC and COMESA countries, and second an offer to the non-participants of regional FTAs, namely Angola, DRC, Ethiopia and Eritrea.[18]
2. **Simplification and harmonisation of trade and customs** legislation and procedures as stipulated in Annex 2, Draft TFTA.
3. **Standardisation of trade and customs documentation** and information following Annex 3, Draft TFTA.
4. **Implementation of TFTA Rules of Origin (RoO)** as proposed in Annex 4, Draft TFTA.
5. **Facilitation of transit trade** and transit facilities according to Annex 5, Draft TFTA.
6. **Application of safeguard measures and trade remedies** in line with Annex 6, Draft TFTA.
7. Provisions on **competition policy and consumer protection** as outlined in Annex 7, Draft TFTA.
8. **Harmonization of standards** and conformity assessments, as well as harmonized practices with respect to testing, metrology, and accreditation, with the objective of achieving full international recognition of regional quality infrastructure systems (Annex 8, Draft TFTA).
9. **Protection of Intellectual Property Rights (IPR)** in accordance with international agreements and joint cooperation as outlined in Annex 9, Draft TFTA.
10. **Free movement of business persons** as provided for in Annex 10, Draft TFTA.
11. **Liberalization of trade in services** in priority sectors with rules being confirmed and commitments to be developed in Annex 11, Draft TFTA.
12. Adoption of joint programmes to enhance productive capacities and competitiveness at the regional level (Annex 12, Draft TFTA)
13. Creation of a **Dispute Settlement Body** to provide binding rules in case of any disputes of the interpretation of the Agreement.
14. **Elimination of NTBs** and monitoring and reporting of according endeavours as outlined in Annex 14, Draft TFTA.

[18] Seychelles is a member of both, SADC and COMESA. It has not signed the SADC Trade Protocol but is implementing the COMESA Trade Agreement.

15. Compliance with the WTO Agreement on **Sanitary and Phytosanitary (SPS) measures** and harmonization of regional SPS measures (Annex 15).

The **trade-related aspects** of the Agreement (Draft TFTA, Part VI, Annexes 7-9, 11-12, 15) will be **negotiated in Phase 2**; i.e. only after Phase 1 of the negotiation has been successfully completed. An exception is made for the **movement of business persons** (Draft TFTA, Art. 29, Annex 10), which will be **negotiated in Phase 1**, albeit separately from the liberalization of trade in goods (Part III) and customs cooperation and trade facilitation (Draft TFTA, Part IV).

The Tripartite **Committee on Trade and Customs shall be in charge of overseeing the implementation of the TFTA**. It will be assisted by a Sub-Committee of Senior Officials and Technical Experts who assess and monitor the progress of TFTA implementation of the single member states and report to the Ministerial Committee accordingly (Draft TFTA, Art. 37).

2.3 Status Quo and Challenges of TFTA Negotiations

The first phase of TFTA negotiations started in June 2011 and is scheduled to be completed within 36 months, by May 2014. Until January 2013 a total of five meetings of the Tripartite Trade Negotiation Forum (TTNF) had taken place. Issues discussed included rules and procedures of negotiations, negotiation roadmap and principles, tariff modalities and monitoring and evaluation (see **Annex 5**).

It was agreed that the 2010 Draft TFTA serves as “starting point” for negotiations and will be adapted according to the negotiation outcome. To date (January 2013), the progress of negotiations has been rather limited. The countries could not yet agree on the modalities for trade liberalization so that no tariff offer has yet been prepared. Also, no progress has been reported with respect to the design of the TFTA rules of origin (RoO). Similarly, the Technical Working Groups on (1) TBT, SPS and NTBs and (2) Trade and customs procedures are still in the infant stage of assessing the modus operandi in the single countries. The TWG on TBT, SPS and NTB faces the particular challenge of dealing with broad and technically complex issues covering trade in food and non-food products, which requires different technical expertise.

Elimination of import duties (Annex 1, Draft TFTA)

The Tripartite tariff negotiation modalities were discussed at a number of TTNF meetings but have not yet been agreed upon. The Tripartite Task Force (TTF) developed a draft paper on tariff negotiation modalities together with a tariff template to be completed by MS, which was presented at the 4th Meeting (September 2012). The proposal foresees three groups of countries within the TFTA area as follows:

(1) Countries that participate already in regional FTAs with each other (as Namibia with the other 11 signatories of the SADC Trade Protocol);
(2) Countries that will have to negotiate tariff liberalization offers with other RECs (as Namibia with non-SADC EAC and COMESA countries). Here the TTF proposal foresees that member states extend their “highest level of tariff liberalization achieved to all TFTA members”. In case of SADC, this would imply extending SACU’s offer currently applied to the seven signatories of the SADC Trade Protocol to the members of EAC and COMESA.[19]
(3) Countries that do not yet participate in regional FTAs and will have to submit tariff offers to all TFTA states (like Angola, DRC, Ethiopia, and Eritrea).

---

[19] EAC (Burundi, Kenya, Rwanda, Uganda) plus COMESA (Comoros, Djibouti, Egypt, Libya, Madagascar, Seychelles, Sudan). The other EAC/COMESA countries participating in the FTA are also signatories of the SADC Trade Protocol.

Contention exists, however, with respect to the extension of the "highest level of tariff liberalization achieved to all TFTA members". Thus, it is reported that South Africa is not ready to extend SACU's offer under the SADC Trade Protocol, which covers 99.2% of all tariff lines, to all TFTA countries but seeks a lower liberalization level vis-à-vis Egypt and EAC (Kenya). To date, countries could not agree on the threshold of liberalization (90, 95, 100% of tariff line) or on the time frame of liberalization (3, 5, 8 years).[20]

SACU will negotiate as a block within the SADC framework. Subsequently, **Namibia will have to agree its tariff offer within SACU**. The SACU countries aim further to develop consolidated positions on the TFTA texts and annexes (incl. RoO) and drafting text amendments jointly.

At its second meeting held in March 2012, the TTNF agreed to establish two Technical Working Groups (TWG) covering Technical Barriers to Trade, SPS Measures and NTBs as well as Customs Cooperation, Documentation, Procedures and Transit Instruments. In June 2012, it was further agreed to establish an additional TWG on Rules of Origin. **All three Technical Working Groups (TWGs) have become operational and aim to provide technical guidance to the TTNF** in the negotiation process:

Harmonisation of trade and customs legislation and procedures (Annex 2, Draft TFTA)

Standardisation of trade and customs documentation and information (Annex 3, Draft TFTA)

Transit trade and transit facilities (Annex 5, Draft TFTA)

The Technical Working Group on Customs Cooperation, Documentation, Procedures and Transit Instruments is in charge of developing the texts of the a.m. Annexes. It presented a situation analysis on customs procedure, documentation and trade facilitation in COMESA, EAC and SADC in August 2012. The **analysis identified cumbersome customs procedures with multiplicity of instruments and actors as a major problem** in the region. It is noted that countries' overlapping memberships in RECs contribute to the inefficiency of systems. Within the TFTA it is therefore foreseen to design customs reform programmes in a coordinated manner and to combine them with according capacity building initiatives:[21] The TWG named trade facilitation and customs harmonization measures in each of the three RECs but did not provide any information to what extent these programmes have been successfully implemented in the single member states. Thus, the **technical situation analysis on customs procedures and trade facilitation still lacks factual country-specific assessments**.

In addition to the technical situation analysis, the TWG is expected to develop joint proposals that help to enhance Tripartite customs cooperation, documentation, procedures and transit instruments and to identify needs for regional capacity building. Furthermore, it shall coordinate projects leading to harmonized customs legislation and procedures, to support member states in adopting the Harmonized System (HS) for their trade statistics and tariff nomenclature, to harmonize regional bond guarantee schemes, to work on the interface of customs data, and to identify trade facilitation measures.

---

[20] Draft Report of the Fifth Meeting of the Tripartite Trade Negotiation Forum, Cairo, Egypt; 10-12 December 2012.

[21] COMESA-EAC-SADC: Situational Analysis on Customs Procedures, Documentation, Transit Instruments and Trade Facilitation. TP/TWG-Customs/1/2012/5, vers.13 August 2012.

Standardisation, Metrology, Conformity Assessment and Accreditation (SMCA) (Annex 8, Draft TFTA)

Elimination of NTBs (Annex 14, Draft TFTA)

The provisions on Standardisation, Metrology, Conformity Assessment and Accreditation (SMCA; Annex 8, Draft TFTA) form part of the trade-related areas of the TFTA Draft. They do, however, form part of the ongoing negotiations under Phase 1. The TWG on Technical Barriers to Trade, SPS Measures and NTBs presented a technical situation analysis in each of the RECs in September 2012.[22] The analysis provides a general overview of the Standardization and Quality Assurance (SQA) Programmes as well as the SPS programmes in COMESA, EAC and SADC. However, the technical analysis **lacks an assessment on the functionality of regional quality infrastructure institutions and Sub-Committees**. Moreover, it does not elaborate on the question to what extent regional cooperation activities have contributed to reduced TBT and whether joint approaches have been successfully developed.

The Namibian Standards Institution emphasizes that the discussion about "harmonized regional standards", as proposed under the TFTA,[23] is somehow misleading: "***If standards are compliant with internationally accepted standards*** *such as ISO or Codex Alimentarius* ***they are standards – if not, they are no standards*.**" Thus, TFTA products will have to comply with internationally accepted standards to facilitate intra-regional trade, which implies that most countries will have to upgrade their products in order to make them compliant with international standards. Since many countries lack the institutional and technical capacities as well as the financial means to establish a comprehensive national quality infrastructure framework, the RECs have started to develop regional institutions, such as SADCAS, the accreditation body for SADC countries (with a similar body existing in EAC and COMESA), that aims to enhance regional cooperation with respect to accreditation services. **Bundling the scarce resources** of standardization, certification and accreditation services **more effectively on the Tripartite Level might help to improve the accessibility of quality infrastructure services**.

All three RECs have a **NTB Monitoring Mechanism** and most member states have established national NTB contact points. EAC is in the process of developing a legally binding enforcement mechanism for the elimination of NTBs.[24] The abolition of NTBs is also prominently featured in the TFTA with an online Tripartite NTB Monitoring Mechanism being operational (www.tradebarriers.org).

Rules of Origin (Annex 4, Draft TFTA)

The TWG on RoO shall identify areas of convergence and divergence of RoO in the three RECs and make proposals for harmonization towards a "simpler solution", drawing lessons from other regional and international trade agreements. Moreover, when drafting the texts for the Annex on RoO, the TWG shall incorporate the decisions taken by the TTNF on this issue. [25]

---

22 Situational Analysis on Technical Barriers toTrade, Sanitary and Phytosanitary Measures and Non-Tariff Barriers.TP/TWG-tbt-sps-ntb/1/2012/5, 13 August 2012.

23 The planned work programme for TBT covers cooperation activities on the harmonization of technical standards and regulations (including mutual recognition for "few key products".

24 Situational Analysis on TBT, SPS and NTBs. TP/TWG-tbt-sps-ntb/1/2012/5, p. 11.

25 Terms of Reference for the Tripartite Technical Working Group on Rules of Origin, TP/TTNF/III/2012/5.

Proposals discussed in the TTNF appear to focus on the political dimension of the RoO, serving rather "industrial" interests of some member states than the purpose of identifying a "simple solutions."[26]

In its status quo analysis of how RoO are applied in the three RECs,[27] the TWG highlighted that **consensus exists on the interpretation of the "wholly obtained" criteria**. With respect to the "substantial transformation rule" there are, however, different ways in calculation among the RECs. While the rules of COMESA and EAC are largely similar, allowing the manufacturer to choose among three rules to prove the origin of his product,[28] the SADC RoO are based on a line-by-line approach closely aligned to the RoO contained in the EU-South Africa Trade and Development Cooperation Agreement. The TWG compared the RoO for "substantial transformation" among the three RECs and found commonality on 44 Chapters covering 491 tariff lines. **Differences between the working and processes rules remain in 53 HS Chapters.** It is upon the TWG on RoO to develop proposal how these RoO could be harmonized.

Safeguard measures and trade remedies (Annex 6, Draft TFTA)

No progress has been reported with respect to this area of negotiations.

Free movement of business persons (Annex 10, Draft TFTA=

The first Tripartite Summit identified the free movement of business persons among EAC, COMESA and SADC as imperative to facilitate business, trade, and investment.[29] Negotiations on the free movement of business persons take during Phase 1 negotiations but are dealt with separately from negotiations on trade in goods and trade facilitation. Thus, negotiations on free movement of business persons do not form part of the "single undertaking" which guides Phase 1 negotiations.

Member states have largely designated their national home affairs/immigration officers to participate in the Committee on Movement of Business Persons. Since immigration officers are traditionally not in charge of "*progressively eliminating obstacles to the movement of people*" it remains to be see how the Committee members fill their new role by considering trade aspects when negotiating free movement of business persons and not immigration principles. According to the Consultants' knowledge **no progress in negotiations has been reported** to date.

Dispute Settlement Body

No progress has been reported with respect to this area of negotiations.

---

26 Namibia proposed for instance to have different minimum value allowances per member state, according to their development level.

27 Situational analysis on rules of origin in COMESA, EAC and SADC. TP/TWG-RoO/1/2012/5, 13 August 2012.

28 (1) Material content rule: CIF4 value of imported material shall not exceed 60%of total material costs; (2) Value addition rule: Production value added must be at least 35% of ex works product price; (3) Change in tariff heading rule: Goods are considered to be substantially transformed it their tariff heading under the HS system has changed.

29 A "business person" is defined as "*natural person residing in a Tripartite Member Sate who is engaged in trade in goods, the provision of services, or the conduct of investment activities and shall include business visitors, traders and investors, professionals and intra-company transferees*." (Draft Tripartite Committee on Movement of Business Persons, April 2012).

Monitoring and Evaluation

The TTNF agreed to monitor the 36 months negotiation period through six monthly progress reports and comprehensive annual reports in order to ensure that "*the final TFTA Agreement is credible and is an improvement over the current REC trading arrangements*."[30] The annual report shall be submitted to the Council that acts as overall monitoring organ, providing strategic guidance to negotiations. An external evaluation, as proposed by the TTNF, did not find majority support. The TTNF submitted its first progress report in June 2012. **The first progress report summarises what had been agreed during the past TTNF Meetings but does not cover an evaluation of what had been achieved on a country-by-country basis.**

As outlined above, this point of criticism also applies to the situation analysis of the TWG, reporting only on regional programmes/endeavours but not on the results of implementation. Given the size and diversity of the region as well as the lack of regional harmonisation for many areas covered by the TFTA it appears to be **necessary to undertake technical situation analyses on a country-by-country level.**

Assessing the technicalities for each Tripartite Chapter on a case-by-case level, offers two opportunities for the negotiation process: First, to enhance the understanding among public officials and policy makers of the status quo and challenges of regional harmonisation and second, to increase the options of learning from failures and best practice in other countries. Country-specific assessments offer further the option to fully comprehend on what needs to be achieved to implement the objectives of the TFTA with respect to customs cooperation, standards and technical barriers to trade and, subsequently, to prioritize activities in the light of limited capacities.

Challenges of the negotiation process

The limited progress of negotiations to date reflects the gap between member states' political rhetoric and economic interests. Though all countries agreed to establish the TFTA, following the agenda of the African Union's integration plan, many countries appear to have difficulties in defining their offensive and defensive interests in the negotiation process. To date there **no regional leader**, who pushes for the TFTA to become an effective tool for regional trade liberalization. South Africa, by far the strongest economy in the TFTA and the one that would gain most, having a significant trade surplus with the TFTA region, appears to act rather defensive. This in turn makes it difficult for small economies that have only little to gain (because of both limited production capacity and lack of regional competitiveness) to compromise with respect to their defensive interests.

The TTF proposed to build on the tariff offers of the existing RECs and to expand these to the other TFTA states.[31] The TTF proposal foresees that member states extend their "highest level of tariff liberalization achieved to all TFTA members".

---

[30] Draft Monitoring and Evaluation Mechanism for the Tripartite Free Trade Area Negotiations, 08 August 2012: p. 1. Both monitoring reports shall be prepared by the TTNF/TTF and submitted to the Sectoral Ministerial Committee.

[31] For the countries with overlapping membership (namely Malawi, Mauritius, Zambia and Zimbabwe) it is foreseen building on both acquis so that they would only have to negotiate with those four countries that have not yet acceded to neither COMESA nor SADC (Annex 5, 4th Meeting of TTNF, 05. - 07.09.12), What is not clear is whether Malawi, Mauritius, Zambia and Zimbabwe will grant each other preferential treatment under the COMESA or the SADC FTA.

This principle is, however, not agreed by all MS and is de facto also undermined by the principle of "Flexibility and Special Differential Treatment", which is interpreted as providing longer transitional periods for countries that are "*at different levels of economic development*" and have "*individual specificities as recognised by other member states*."[32] Thus, SDT applies explicitly not only to LDCs (which are entitled for SDT in the WTO context) but also to any other country that can convince its TFTA partners that its protectionist interests should be recognised accordingly.

In fact, the **interpretation of the negotiation principles of the TFTA is to some extent inconsistent.** With respect to the interpretation of SDT, for example, member states do not follow the interpretation of the WTO but expand SDT also to non-LDCs. The principle of "substantial liberalisation" on the other hand is interpreted as the "ultimate threshold for substantial liberalisation being 100%" to be achieved within three years".[33] While this clearly signals that the TFTA shall be WTO compliant it also raises the question of how meaningful SDT can be realised in a TFTA that covers (close to) 95-100% of regional trade to be liberalised within 3-8 years.

A similar "clash of interests" applies to the principles of "variable geometry" and "single undertaking". While variable geometry has been defined as allowing the co-existence of different trading arrangements within the TFTA, thus, providing the option for countries to join the TFTA at a later stage,[34] the concept of single undertaking foresees that all TFTA countries agree on Phase 1 of the negotiations.[35] Thus, it remains unclear whether the outcome of Phase 1 will be implemented by some or all member states and whether negotiations for Phase 2 will start if not all countries have finalized negotiations on Phase 1.

These **inconsistencies within the guiding principles of TFTA negotiations mirror the diverging interests among member states** and the difficulty in bridging the political interest ("functioning TFTA by 2017") with the difficulties of agreeing on and implementing according commitments.

Another major challenge of the TFTA negotiation process is its extremely ambitious agenda that risks overextending both national capacities and regional integration efforts. This becomes most apparent with respect to trade-related areas such as competition policy, Standardisation, Metrology, Conformity Assessment and Accreditation (SMCA) or IPR. Most TFTA countries do not have functioning national institutions to implement according policies, which hampers often also the creation of functioning regional institutions (see section 4.3.4 for an overview within SADC). The **scarcity of technical expertise on trade-related topics** becomes already apparent during the negotiation process, with the **TWGs not being adequately and sufficiently manned**, particularly for SPS, TBT, and NTBs.[36]

Since the **TFTA is a 'moving target', the question on its accountability cannot yet be assessed** but depends on (a) whether the parties can agree on a WTO compliant comprehensive FTA and (b) will be able and willing to implement it accordingly. In fact, the ultimate credibility of the TFTA depends on the implementation of the Agreement and the institutions that monitor and, if necessary, sanction any non-compliance of countries' commitments.

---

32 Ibid.

33 Year 1: 60% tariff liberalisation, year 2: 30% tariff liberalisation, year 3: 10% tariff liberalisation. See TFTA Negotiation Principles TP/TTNF/IV/2012/3.2.1, 6 September 2012.

34 Defined during second TTNF Meeting, 12.-14.03.12.

35 Except for Movement of business persons (Third TTNF Meeting, 1.-3.06.12).

36 Draft Report of Fifth TTNF Meeting, Cairo 10-12 Dec. 2012, p. 7.

2.4 Intra-Regional Trade and Trade Liberalization in COMESA, EAC and SADC

This section analyses the current state of intra-regional integration, the economic and trade performance of the three RECs (COMESA, EAC and SADC) as well as at the status of free movement of business persons; one of the most contentious issues with respect to implementation in all RECs. Finally, an overview of the opportunities and challenges of regional integration is provided.

2.4.1 Status Quo of Regional Integration Processes

COMESA

The Common Market for Eastern and Southern Africa (COMESA) is a Regional Integration Grouping of today 19 member states[37] that have agreed to promote regional integration through trade development. COMESA officially launched its FTA in December 1994, replacing a PTA which had existed since 1981. Its Member States committed themselves to achieve sequentially a Customs Union (CU) by 2009, a Common Market by 2015 and eventually a Economic Community by 2018. COMESA's vision is to *"be a fully integrated, internationally competitive regional economic community with high standards of living for all its people ready to merge into an African Economic Community*" (COMESA, 2012).

However, both the FTA and the CU have been delayed, with the FTA being established by 15 member states.[38] Under the **current status** as a **FTA,** COMESA is applying a variable speed and geometry approach. It allows non-participants to join when they are ready to reciprocate the terms of the arrangement (Nhara, 2006). Member States committed to eliminate tariffs in accordance with the tariff reduction schedule adopted in 1992 as well as the elimination of quantitative restrictions and other non-tariff barriers.

To realize its vision to become an economic community, COMESA launched the establishment of a Customs Union in 2009. The Common External Tariff (CET) was scheduled to be established within a 3-year transition period. It is foreseen to harmonize the COMESA CET with the CET of the East African Community (EAC) to work towards a Single Customs Union (COMESA, 2012). COMESA aims to establish a four-band CET with 0% duty for raw materials and capital goods, 10% for semi-processed goods and 25% for finished goods). However, the definition of what products are raw materials, processed, finished and capital goods are different in countries' Nomenclature. To date, the countries could not agree on a common definition of the categorisation of goods. The **difficulty to agree on a CET** is further complicated by countries' very different protectionist interests (ranging from free trade economies like Djibouti to comparably protected economies like Egypt or Zimbabwe) and the EPAs. Six COMESA countries are part of the Eastern Southern Africa (ESA) EPA with the EU[39] having agreed on different liberalisation commitments and exclusion baskets with the EU. However, if state A has removed its tariff for a product, which is fully retained by its neighbour state B, the countries cannot have a CET since they have very different perceptions of the sensitivity of a product. With respect to the ESA EPA, ODI & ECPM (2008:63) found that "*Not a single product is being excluded by all six states and only a trivial number by as many as four. The vast majority are being excluded by only one state or by two. In other words there is almost total regional incoherence.*"

---

37 Burundi, Comoros, Democratic Republic of the Congo (DRC), Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

38 DRC, Eritrea, Ethiopia, Swaziland have not joined the COMESA FTA

39 Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe.

In addition to a CET, the COMESA Treaty (Art. 41) also foresees the removal of NTBs and the prohibition to erect new ones. However, for the purpose of IIP and balance-of-payments difficulties the COMESA Treaty allows the application of quantitative barriers, albeit bound to a limited period of time. The application of quantitative measures is considered as measure of last resort and can only be applied when the concerned member state proved that it tried other means to resolve his problems (COMESA Treaty, Art. 49).

Eventually, COMESA aims to transform the CU into a Common Market with the aims and objectives to (COMESA Treaty, Art. 3):

- attain sustainable growth and development;
- promote joint development in all fields of economic activity;
- co-operate in the creation of an enabling environment for foreign, cross-border and domestic investment;
- co-operate in the promotion of peace, security and stability;
- co-operate in strengthening the relations between the Common Market and the rest of the world;
- contribute towards the establishment, progress and the realisation of the objectives of the African Economic Community.

However, to date the COMESA integration process has not got beyond the FTA, which is not established for all MS and still shows a significant level of NTBs (Viljoen, 2011). The establishment of the CU remains insecure due to countries very different economic structures and protection levels as well as overlapping memberships and countries' conflicting liberalization commitments under the EPA.

EAC

The East African Community (EAC) dates back to 1967 when Kenya, Tanzania and Uganda first formed a CU, which collapsed in 1977. The three countries revived the EAC in 1999 and launched their CU in 2005. In July 2007, Rwanda and Burundi acceded to the EAC. EAC's economic integration agenda has been ambitiously pursued by starting the integration process with a Customs Union, which shall be followed by a Common Market, a Monetary Union and, eventually, political federation.

EAC aims to "widen and deepen Economic, Political, Social and Culture integration in order to improve the quality of life of the people of East Africa through increased competitiveness, value added production, trade and investments." (EAC, 2012). This overarching goal is supported by the objectives of the East African Customs Union (EACCU) Protocol (EACCU Protocol, Art.3):

- to further liberalize intra-regional trade in goods on the basis of mutually beneficial trade arrangements among the partner states;
- to promote efficiency in production within the Community;
- to enhance domestic, cross border and foreign investment in the Community; and
- to promote economic development and diversification in industrialisation in the Community.

The **launch of the CU** in 2005 took place **without having implemented a FTA**, which was scheduled to be implemented in 2010. Thus, different to economic integration theory, EAC implemented the CU prior having a FTA for its members.

The reasoning for this is that the LDCs Tanzania and Uganda asked for transition periods to minimize potential negative effects from free trade with the stronger economy Kenya. Thus, EAC's approach to establish a CET and to eliminate NTBs underlies the principle of asymmetry as follows:

- goods between Uganda and Tanzania are duty free;
- goods from Uganda and Tanzania to Kenya are duty-free
- for selected products from Kenya, Tanzania and Uganda can apply duties, which have been gradually phased out by 2010 (EACCU Protocol, Art. 2.4).

MS agreed on a CET of 0% for meritorious goods, raw materials and capital goods, 10% for intermediate goods and 25% for consumer goods. The list of sensitive products is limited to 24 HS codes with applied duties 35-100%[40].

However, until today the **EAC CU has not been fully implemented**. Though the countries agreed to adopt in principle a destination model of clearance of goods where assessment of goods and correction of revenues is made at the point of entry, the merger of customs territories has not yet been realized (The East African, 2/11/12). **NBTs remain a major barrier to trade**, including administrative customs documentation, cumbersome inspection requirements, police roadblocks, varying transiting procedures and varying trade regulations (Mugisa et al, 2009).[41]

SADC

The Southern African Development Community (SADC) was originally established as a development coordinating conference (SADCC) in 1980 and transformed into a development community in 1992, following the end of Apartheid in South Africa and Namibia. The overarching goal of the 15 Member States[42] is to promote sustainable and equitable economic growth and socio-economic development through efficient productive systems, deeper cooperation and integration, good governance and durable peace and security (SADC, 2012). In order to reach this vision, the objectives of SADC are (SADC Treaty, Art.5):

- to achieve development and economic growth, alleviate poverty, enhance the standard and quality of life;
- to evolve common political values, systems and institutions;
- to promote and defend peace and security;
- to promote self-sustaining development;
- to achieve complementarities between national and regional strategies;
- to promote and maximize productive employment;
- to achieve sustainable utilization of natural resources;
- to strengthen and consolidate the long-standing historical, social and cultural affinities and links among the people of the Region.

---

[40] Sensitive products are for example milk and cream, wheat and meslin, maize, cigars and woven fabrics of cotton (EAC CET, 2012)

[41] All EAC Member States agreed under Article 13 of the EACCU Protocol to remove all the existing NTBs applied to goods originating from other Member States and to not impose any new ones.

[42] Angola, Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe. Madagascar's membership was suspended in 2009 following a political coup.

The Regional Indicative Strategic Development Plan (RISDP) outlines a comprehensive development and implementation framework guiding SADC's regional integration agenda from 2005 until 2020 – from a free trade agreement to an economic union (SADC, 2012).

The primary determinant of the SADC economic integration agenda is the SADC Trade Protocol (TP), which was signed in 1996 and entered into force in 2000. The TP established a **FTA for 12 countries**[43] liberalizing 85% of intra-regional trade in 2008 and 99.5% by 2012%. For the elimination of tariffs, SADC applied the principle of asymmetry to mitigate the impact of tariff reductions for lesser-developed Member States.[44] However, though today goods should be traded free within the SADC region (with exclusion baskets of 0-1.3% per country) the latest Monitoring Report found that **liberalization commitments have not yet been fully implemented** (USAID, 2011).

SADC's **deeper economic integration towards a CU**, originally scheduled for 2010, **appears to be stalled**. Following the very different economic structures and protectionist interests of member states countries could not yet agree on a CET. As 2008 study by ODI & DNA outlines each tariff model (uniform tariff, SACU CET, lowest MFN schedule, simplest MFN schedule) would produce winners and loser and does not appear to be acceptable to all countries. Moreover, the revenue collection mechanism and the implications for the CRP are heavily disputed. Being the dominant player in SADC, **South Africa would be crucial in agreeing on a SADC CET**, which requires concessions with respect to the complex SACU CET and revenue distribution. However, to date, it does not appear that South Africa is ready to make such concessions and focuses rather on trade facilitation and the full implementation of the SADC FTA.

In order to **push for the elimination of NTBs**, the Trade Monitoring Unit at the Trade, Investment and Finance Unit (TIFI) at the SADC Secretariat coordinates a Trade Monitoring and Compliance Mechanism (TMCM), since 2009 The TMCM consists of a NTB Monitoring System and a Trade Monitoring Mechanism and has launched, as part of the Tripartite Initiative, a NTB Online Reporting System where the private sector can complain about NTBs (see also sections 2.3 and 4.3.4.2). These complaints shall be followed-up and resolved by a NTB focal point in each TFTA Member State. However, the system faces several challenges as for example the lack of capacity and availability of focal points in TFTA Member States as well as the lack of knowledge about this mechanism by the private sector (see also section 4.3.4.2).

2.4.2 Intra-regional Trade and Economic Performance

The analysis on the trade performance of the three RECs is based on World Bank data for the period from 2006 to 2009.45

South Africa has the highest GDP in the TFTA region, accounting for 63% of SADC's total GDP and 36% of overall TFTA GDP. Egypt has the second highest GDP, which is about half of South Africa's (see Table below) and accounts for 38% of COMESA's GDP and 19% of overall TFTA GDP. Namibia is small, contributing only to 2% of SADC's GDP and 1% of the overall TFTA GDP.

---

[43] Angola, DRC and Seychelles have not yet signed/acceded to the TP.

[44] Thus, SACU frontloaded its liberalization having already 94.2% of tariff lines liberalized in 2005 while the LDCs Malawi, Mozambique and Tanzania had only liberalized about 30% of tariff lines in 2005 (see USAID, 2011 for details).

[45] The data used should be handled with care due to a different use of source and time period in contrast to the rest of the study.

In terms of GDP per capita, Libya is the richest country, followed by Seychelles. South Africa as most developed country in the region has only about 50% Seychelles' GDP per capita. Namibia, together with Angola and Swaziland, is in the middle field with respect to GDP per capita. DRC and Burundi have the lowest purchasing power: their GDP per capita accounts for about 3% of South Africa's.

Table 1: Selected economic indicators of TFTA countries

Country[46]	GDP in Mio US$	GDP per capita in US$	Total Exports in Mio US$	Total Imports in Mio US$
Angola	62,590	3,507	45,056	30,210
Botswana	12,153	6,261	5,165	4,495
Burundi	1,498	191	97	575
Comoros	483	701	69	215
Djibouti	912	1,074	395	547
DRC	10,429	169	5,441	6,548
Egypt	147,441	1,892	43,156	50,499
Eritrea	1,441	295	78	419
Ethiopia	22,164	281	2,626	6,972
Kenya	27,696	728	7,297	10,740
Libya	70,953	11,653	50,521	20,349
Madagascar	7,685	397	2,202	4,047
Malawi	4,018	289	1,045	1,747
Mauritius	8,193	6,476	4,486	5,375
Mozambique	8,672	391	2,787	3,937
Namibia	**8,639**	**3,962**	**4,183**	**4,702**
Rwanda	4,203	424	493	1,178
Seychelles	960	11,185	963	1,148
South Africa	276,015	5,687	85,854	92,244
Sudan	46,720	1,138	9,626	10,317
Swaziland	2,992	2,911	2,029	2,223
Tanzania	18,310	451	4,370	6,894
Uganda	13,034	421	2,693	4,146
Zambia	12,422	1,014	4,625	4,330
Zimbabwe	5,321	426	1,895	2,918

COMESA

In the period 2006-09, COMESA exported commodities worth US$ 139.748 Mio and imported commodities worth US$ 134.299 Mio. About 50% of COMESA's exports went to the EU, 33% to the rest of the world (RoW) and only 9% to Africa.

Libya and Egypt are considered as 'economic giants' in COMESA, together accounting for 67% of total COMESA exports. However, Libya exports almost solely oil, petroleum products and gas. Egypt as second largest exporter has a more diversified economy, exporting next to oil and petroleum products also cotton, textiles, metal products and chemicals; together accounting for about 50% of its total exports.

Burundi, Comoros and Eritrea are not only the smallest exporters in COMESA, but also in the TFTA region. Together, they account for only 0.18% of total COMESA exports and 0.08% of total TFTA exports. Their export products are primarily agricultural products as can be seen from Table 2 below).

[46] No data available for COMESA, EAC, SADC, Lesotho

COMESA receives around 30% of its total imports from the EU, 19% from the RoW and 18% from Africa. Major import products include machinery and equipment, foodstuffs, chemicals, and fuels.

EAC

Comparing the intra-regional exports of the three RECs, EAC traded the most with the TFTA region. EAC mainly export to Africa (34% of total exports), followed by exports to the EU (30%) and ROW. Kenya is the largest exporter in EAC accounting for about 50% of the region's total exports. Kenya, Tanzania and Uganda together account for 96% of total EAC exports, but only 5% of TFTA exports.

Kenya's major export products are tea, horticultural products, coffee, petroleum products, and fish. Tanzania exports gold, coffee, cashew nuts, manufactures and cotton and Uganda exports mainly coffee, fish and fish products, tea, cotton and flowers. Around 35% - 48% of their total products are exported to their top 5 export markets. Rwanda exports around 3.3% of all EAC exports including coffee, tea, hides and tin ore. Burundi is the weakest exporter with a share of around 0.65% of total EAC exports.

Most of EAC imports originated from the EU (20%), India (10%) and China (10%) and only 4% came from Africa. Import products include machinery and transportation equipment, petroleum products, motor vehicles, iron and steel as well as resins and plastics.

SADC

In the period 2006-09, SADC exported commodities worth US$ 170,111 Mio and imported commodities worth US$ 170.823 Mio. SADC exported 41% to the RoW, 26% to the EU and only 14% to Africa. South Africa is by far the largest and more diversified exporter in the region accounting for 50% of all exports (which are 30% of total TFTA exports). Angola is the second largest exporter in SADC with an export value worth half of South Africa's total exports, which is, however, almost exclusively crude oil, diamonds and petroleum products.
The third and fourth largest exporter in the region are Botswana and DRC with exports accounting together for only 6.2% of total SADC exports and 3.7% of total TFTA exports. Namibia is the fifth largest exporter in the SADC region.

South Africa is also the largest importer in the region, accounting for 54% of total SADC imports (33% of total TFTA imports.) SADC countries' imports are, like COMESA and EAC imports, mainly capital goods, such as machinery and equipment, chemicals, electric equipment, medicine, and scientific instruments but also petroleum products and foodstuffs.

Table 2: Top export and import products of TFTA countries

Country	Share of top 5 export products of total goods[47]	Top 5 export products[48]	Share of top 5 export markets of total goods	Share of top 5 import products of total goods	Top 5 import products	Share of top 5 import markets of total goods
Angola	-	crude oil, diamonds, refined petroleum products, coffee, sisal	78%	-	machinery and electrical equipment, vehicles and spare parts; medicines, food	60%
Botswana	90%	diamonds, copper, nickel, soda ash, meat	-	27%	foodstuffs, machinery, electrical goods, transport equipment, textiles	-
Burundi	72%	coffee, tea, sugar, cotton, hides	53%	49%	capital goods, petroleum products, foodstuffs	48%
COMESA	-	-	62%	-	-	54%
Comoros	99%	vanilla, ylang-ylang (perfume essence), cloves, copra	76%	52%	rice and other foodstuffs, consumer goods, petroleum products, cement, transport equipment	52%
Djibouti	-	hides and skins,	94%	-	foods, beverages, transport equipment, chemicals, petroleum products	59%
DRC	74%	diamonds, gold, copper, cobalt, wood products	65%	37%	foodstuffs, mining and other machinery, transport equipment, fuels	55%
EAC	62%	-	42%	39%	-	47%
Egypt	47%	crude oil and petroleum products, cotton, textiles, metal products, chemicals	35%	18%	machinery and equipment, foodstuffs, chemicals, wood products, fuels	40%
Eritrea	-	livestock, sorghum, textiles, food, small manufactures	-	-	machinery, petroleum products, food, manufactured goods	-
Ethiopia	78%	coffee, khat, gold, leather products, live animals	41%	40%	food and live animals, petroleum and petroleum products, chemicals, machinery, motor vehicles	54%
Kenya	47%	tea, horticultural products, coffee, petroleum products, fish	48%	42%	machinery and transportation equipment, petroleum products, motor vehicles, iron and steel, resins and plastics	47%
Lesotho	-	(clothing, footwear,), wool and mohair, food and live animals	-	-	food; building materials, vehicles, machinery, medicines	-
Libya	-	crude oil, refined petroleum products, natural gas, chemicals	73%	-	machinery, semi-finished goods, food, transport equipment, consumer products	52%
Madagascar	66%	coffee, vanilla, shellfish, sugar, cotton cloth	71%	28%	capital goods, petroleum, consumer goods, food	47%
Malawi	82%	tobacco 53%, tea, sugar, cotton, coffee	44%	42%	food, petroleum products, semi-manufactures, consumer goods, transportation equipment	61%
Mauritius	62%	clothing and textiles, sugar, cut flowers, molasses, fish	66%	31%	manufactured goods, capital equipment, foodstuffs, petroleum products, chemicals	54%

47 World Bank Data 2006-2009.

48 CIA Factbook (2012)

Country	Share of top 5 export products of total goods[47]	Top 5 export products[48]	Share of top 5 export markets of total goods	Share of top 5 import products of total goods	Top 5 import products	Share of top 5 import markets of total goods
Mozambique	-	aluminium, prawns, cashews, cotton, sugar	60%	-	machinery and equipment, vehicles, fuel, chemicals, metal products	57%
Namibia	**66%**	**diamonds, copper, gold, zinc, lead**	**-**	**28%**	**foodstuffs; petroleum products and fuel, machinery and equipment, chemicals**	**-**
Rwanda	88%	coffee, tea, hides, tin ore	34%	26%	foodstuffs, machinery and equipment, steel, petroleum products, cement and construction material	40%
SADC	665	-	61%	33%	-	56%
Seychelles	94%	canned tuna, frozen fish, cinnamon bark, copra	69%	46%	machinery and equipment, foodstuffs, petroleum products, chemicals, other manufactured goods	58%
South Africa	39%	gold, diamonds, platinum, other metals and minerals, machinery and equipment	46%	35%	machinery and equipment, chemicals, petroleum products, scientific instruments, foodstuffs	41%
Sudan	97%	l and petroleum products; cotton, sesame, livestock, groundnuts	95%	39%	foodstuffs, manufactured goods, refinery and transport equipment, medicines and chemicals, textiles, wheat	50%
Swaziland	72%	machinery, chemicals, metals, watches, agricultural products	/	25%	motor vehicles, machinery, transport equipment, foodstuffs, petroleum products	/
Tanzania	52%	gold, coffee, cashew nuts, manufactures, cotton	35%	45%	consumer goods, machinery and transportation equipment, industrial raw materials, crude oil	41%
Uganda	53%	coffee, fish and fish products, tea, cotton, flowers	42%	36%	capital equipment, vehicles, petroleum, medical supplies; cereals	60%
Zambia	86%	copper/cobalt 64%, cobalt, electricity; tobacco, flowers	65%	33%	machinery, transportation equipment, petroleum products, electricity, fertilizer	73%
Zimbabwe	48%	platinum, cotton, tobacco, gold, ferroalloys	63%	33%	machinery and transport equipment, other manufactures, chemicals, fuels, food products	71%

Source: World Bank Data 2006-2009 and CIA Factbook (2012).

Different indices outline the reasons why intra-regional TFTA trade is still limited. The **Overall Trade Restrictiveness Index** (OTRI) reflects the uniform equivalent tariff of a country's tariff schedule and non-tariff measures (NTMs) that would maintain the domestic import levels, including preferential tariffs[49]. According to the OTRI, **Tanzania has the highest protection level,** which equals a tariff equivalent of 52%. Comparing the OTRI of Tanzania with its Trade Tariff Restrictiveness Index (TTRI)[50], it can be concluded that NTBs account for 85%% of Tanzania's protection level. Sudan has the second highest protection level with a total tariff equivalent protection level of 45% of which NTBs account for a tariff equivalent of 29%.

South Africa in contrast has the **lowest protection level**, which equals a tariff equivalent of 6% (OTRI). Other countries that are equally open are Uganda, Kenya and Zambia with an OTRI of 8%. More protectionist countries include Egypt, DRC, Rwanda and Lesotho (see table below).

Another index that measures the degree to which a country is open to foreign businesses is called the '**Ease of doing business'** Index. It ranks a country (1 best – 183 worst) according to its overall business climate based on seven indicators like 'Starting a Business', 'Enforcing Contracts', and 'Closing a Business'. Under this ranking **Mauritius (17), South Africa (34) and Botswana (45)** are considered to have the best business climate in the TFTA region, while Namibia (66) is considered to have a medium business friendly climate. DRC (182), Burundi (176) and Eritrea (175) are in contrast considered to have the worst business climate.

Last but not least, the '**Doing Business – Trade across Borders'** Rank (1 best – 183 worst) reflects a country's trade facilitation capacities based on six indicators[51]. According to this index**, Mauritius (19) and Egypt (29) have the best trade facilitation capacities**, whereas Burundi (172), Malawi (172), Angola (171) and Rwanda (170) have the worst. Namibia ranks 151 and is therefore judged to have limited trade facilitation capacities.

Table 3: "Doing Business – Trade across Borders" Rank

Country	OTRI – All goods[52]	TTRI – All good	Ease of Doing Business - Rank	Doing Business – Trading across borders rank	Trade Integration (% of GDP)
Angola	-	-	169	171	100.8
Botswana	-	9	45	150	101.9
Burundi	-	12.4	176	175	61.12
COMESA	**16,75**	**11.5**	**125.4**	**130**	**106.1**
Comoros	-	-	137.9	136.6	95.28
Djibouti	-	-	163	92.25	108.5
DRC	19,47	-	182	136.6	95.28
EAC	**21,56**	**11.84**	**116,2**	**149**	**54.5**
Egypt	25,6	5.62	106	29	67.28
Eritrea	-	5.80	175	164	35.2
Ethiopia	13,83	13.02	107	159	33.73
Kenya	8,1	8.21	95	147	60.37
Lesotho	19,47	-	137.9	136.6	95.28
Libya	-	-	-	-	115.6

49 Indicator definition: http://info.worldbank.org/etools/wti/indicators_help.asp?id=72

50 Trade Tariff Restrictiveness Index (MFN applied tariff) - All Goods. This indicator reflects the equivalent uniform tariff of a country tariff schedule that would maintain domestic import levels constant. http://info.worldbank.org/etools/wti/indicators_help.asp?id=66

51 Indicators include: number of documents for import/export, time (in days) for import/export, cost (US$ per container) to import/export. (http://info.worldbank.org/etools/wti/indicators_help.asp?id=169)

52 Other Trade Restrictiveness Indice (applied tariff, incl. prefs. + Non-tariff measures)

Country	OTRI – All goods[52]	TTRI – All good	Ease of Doing Business - Rank	Doing Business – Trading across borders rank	Trade Integration (% of GDP)
Madagascar	12.71	13.55	134	111	57.26
Malawi	13.43	20.46	132	172	72.36
Mauritius	14.37	3.09	17	19	128
Mozambique	-	5.70	135	136	64.48
Namibia	***-***	***10.10***	***66***	***151***	***93.2***
Rwanda	18.3	16.18	67	170	33.12
SADC	**17.92**	**9.46**	**109.9**	**139.7**	**106.2**
Seychelles	-	-	111	93	575.5
South Africa	6.25	6.56	34	148	72.3
Sudan	45	16.10	154	142	34.54
Swaziland	-	-	115	158	190.8
Tanzania	52.21	7.76	131	108	57.6
Uganda	7.65	14.64	112	145	60.29
Zambia	8.53	8.95	90	157	94.86
Zimbabwe	-	-	159	167	161.4

Source: World Trade Indicators (2012)

2.4.3 Status of Free Movement of Business Persons

The free movement of business persons increases the aggregate output of the member countries and so the aggregate welfare of the RECs population. The mobility of business persons ensures that the regional availability of skills is fully exploited and can move easily to areas of greatest needs. The demand of one REC country can then be matched with the excess supply in another REC country, which would secure unambiguous gains for both countries (UNECA, 2011).

COMESA

Article 164 of the COMESA Treaty states that all Member States *"agree to adopt, individually, at bilateral or regional levels the necessary measures in order to achieve progressively the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence by their citizens within the Common Market*". Further legal documents covering the free movement of business persons exist within COMESA like the **Protocol on Free Movement** of Persons, Labour, Services and the Right of Establishment and Residence.[53] In the latter Protocol, the Member States agree to guaranty **entry without visa requirements for up to 90 days** if the citizen holds valid travel documents. However, to date the Free Movement Protocol was only signed by Burundi, Kenya, Rwanda and Zimbabwe and Rwanda is the only country that had ratified the Protocol. The Protocol has therefore **not entered into force**, awaiting the signature of at least seven member states (UNECA, 2011).

EAC

According to Art. 104 of the EAC Treaty *"Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the community"*. The East African Community Common Market Protocol attempts to a establish a legal framework for the free movement of goods; the free movement of persons; the free movement of labour; the free movement of services; the free movement of capital; the right of establishment; and the right of residence.

[53] In addition there is the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements.

The key objective is to accelerate the economic growth and development of the Partner States through the attainment of these freedoms. The EAC Common Market Protocol was implemented in 2010 and allows intra-regional EAC visitors up to **180 days entry without having to provide a proof that they visit the country for business purpose**. With respect to intra-regional work permit, the EAC Free Movement of Workers Regulation provides procedures for the application of permits per work category as well as rules migration applying for workers' spouses and children.

It is criticised that the EAC definition of 'worker' is very demanding, listing only high-qualified staff as eligible to obtain a work permit and providing inadequate provision for mutual recognition of qualification and experience. Moreover, there would be a lack of clarity with respect to the appeal procedures and accompanying rights if a work permit is denied. It is concluded that an EAC common labour does not yet exist, with the harmonisation of common polices being still at a nascent stage (Basnett, 2013:140-141).

SADC

The SADC Protocol on the Facilitation of Movement of Persons aims to facilitate people's entry from one member state to the other as well as citizens' temporary and permanent residence and work permits. It is foreseen to harmonise laws and administrative practice that allows SADC citizens to stay **up to 90 day p.a. in a non-residence SADC state**. The **Protocol will enter into force once at least nine SADC member states have ratified** it, which is not yet the case. Namibia is among those countries that have signed but not yet ratified the Protocol. As analyzed by Makochekanwa and Maringwa (2009:14-37) immigration practice differs still widely within SADC. While most SADC countries grant each other visa free entry, the procedures for work permits are extremely cumbersome. The requirements and procedures for obtaining such work permits differ from state to state and impose several impediments, such as high application fees, contract of employment, proof of qualification and/or comprehensive medical certificates (incl. negative tests of any contagious disease).

This brief summary shows that the RECs fall short of implementing their endeavours regarding the free movement of business persons. High unemployment rates, the fear of 'low skilled' immigrants and the lack of trust among countries are named as major reasons (UNECA, 2011). The discussion on 'Movement of business persons' in the TFTA context (section 4.3.5, page 96) discusses how the topic shall be dealt with in the TFTA context and what challenges are foreseen.

2.4.4 Summarising the Opportunities and Challenges of COMESA, EAC and SADC Integration

Both, the integration objectives and experiences of COMESAS, EAC and SADC are similar. All RECs aim for deep economic integration, following the classical steps of regional integration schemes (FTA, CU, Common Market etc.). However, all three RECs are still stuck in the infant stage of economic integration and struggle to move towards deeper integration.

The trade analysis shows that the potential for intra-regional trade in the TFTA region is limited. Except for South Africa (and to a lesser extent Egypt) TFTA countries are heavily dependent on the export of few primary products such as oil, diamonds, or coffee and import primarily capital goods (machinery, transport equipment as well as manufactured and consumer goods). With the exception of EAC the level of intra-regional trade is low and NTBs have often replaced intra-regional tariffs.

Economic theory predicts that countries are more successful in regional integration, the closer they are in per capita and absolute income level. This is due to dominance of intra-sectoral trade, which is much more valuable than inter-sectoral trade. Intra-sectoral trade, i.e. the trade within one sector, can be divided between intra-industrial trade (trade within one industry) and inter-industrial trade (trade between different industries).

Intra- industrial trade is a feature of trade between countries with similar industrial development, similar per capita income, small differences in market size and similar factor supply. The more advanced a country is, the more intra- industrial trade will occur from both, the demand and the supply side. Thus, the more unequal trading countries are, the less intra-industrial trade will occur (Balassa and Bauwens 1988). Since the bulk of intra-African trade is inter-industrial, it correlates positively with difference in per capita income, which results in high adjustment costs for weaker member countries of a regional integration scheme (Foroutan 1993:258-9). Subsequently, trade liberalization among African countries has often resulted in protectionist policies among the “losers” who feared further industrial polarization. The problem is well known to political leaders in Africa and mirrored in the integration objectives of the single RECs, all of which aim to address supply-side constraints and to promote industrial development. However, effectively addressing economic structures is a long-term development objective that appears to be beyond of what can be achieved by a regional trade agreement.

3 NAMIBIA'S TRADE AND TRADE POLICY REGIME

3.1 Namibia's Trade Profile

Namibia's economy is based on natural resources, namely diamonds, copper, uranium, lead and zinc. It has the sixth largest diamond industry in the world and is the fourth largest producer of uranium. Namibia has experienced high growth rates in recent years (on average 6% in the period 2003-08), which was largely led by mining. The country's main export earners are mining (35% of total export revenue in 2008), agriculture and food processing (24%) and manufacturing (39%).[54]

However, though mining accounts to about 45% to the country's total export value, it only employs around 2% of the workforce. **Agriculture**, on the other hand, has a smaller contribution to external trade but employs around 30% of the workforce and accounts as **income source for the majority of population**.[55] Moreover, there is a **close link between agriculture and manufacturing activities** in Namibia. Thus, manufacture is dominated by food products, beverages and fish processing (together accounting to about 50% of Namibia's total manufacturing activities).

Namibia is **highly trade-dependent** with an openness ratio to trade (exports plus imports to GDP) of over 88% in the period 2000-07 (WTO, 2009: p. 210). The country is therefore vulnerable to trade shocks such as commodity price and currency fluctuations as well as changes to SACU's trade or tariff regime negatively affecting the Common Revenue Pool (CRP). Namibia shows a chronic trade deficit, which is however, moderate. In the period 2009-11 exports paid for 94% of imports.

The relevance of trade policy for economic growth and development is recognized in the strategic planning of the Government. Thus, Namibia's National Development Plan 3 (2012-17) sees Namibia's **further trade integration in regional and international markets as central factor for economic development and poverty alleviation.** Also Namibia's Industrial Policy (2011) addresses the need to facilitate Namibia's participation in international and intra-regional trade as crucial to meet the country's policy objectives as outlined in the Vision 2030.

3.1.1 Exports

Namibia's global exports increased in the period 2009-11 by less than 1% to 5.9 billion US$. Major export markets were the EU and South Africa which accounted for 32% and 31% of Namibia's total exports respectively. Further relevant export markets were Angola, USA, Canada and China (see Table below).

---

[54] Primary industries accounted for 16% of gross domestic product (GDP) in 2008 (agriculture and forestry – 5%; fisheries –2%; mining – 9. %); secondary industries for 19% and tertiary industries for 58% (dominated by wholesale and retail – 12%, real estate and business services – 10%, and public administration – 9%) (WTO, 2009:2007-8).

[55] Agriculture is divided between commercial farming, which contributes around 70% to agricultural GDP and subsistence farming, which contributes only 30% of agricultural GDP but is practiced by about 65% of the population (WTO, 2009: p. 242).

Table 4: Namibia's exports by markets

Market	Market group	Export value ($000)				
		Average 2009-11	*Share 2009-11*	2009	2010	2011
TOTAL		***5,871,808***	***100.0%***	***5,870,110***	***5,844,878***	***5,900,437***
EU	EU	1,893,011	*32.2%*	1,493,157	2,088,019	2,097,858
South Africa	SACU	1,799,126	*30.6%*	1,985,659	1,693,902	1,717,817
Angola	TFTA SADC	571,575	*9.7%*	663,748	558,965	492,014
United States	RoW	314,813	*5.4%*	265,201	267,208	412,030
Canada	RoW	260,494	*4.4%*	254,377	246,631	280,476
Unspecified[56]		227,627	*3.9%*	135,066	282,621	265,194
China	RoW	195,591	*3.3%*	289,379	170,277	127,116
Malaysia	RoW	92,389	*1.6%*	247,924	25,338	3,906
Congo, Dem. Rep.	TFTA SADC/COMESA	75,632	*1.3%*	65,395	68,846	92,656
Switzerland	RoW	52,292	*0.9%*	29,895	50,325	76,658

Source: UN COMTRADE database, accessed 01.11.12

Namibia's major **10 export destination** accounted for a total share of **93.3%** of its total exports. Namibia's **20 major export products**, as listed in the Table below, accounted for almost **74% of total export revenue** in the period 2009-11. Major export products include minerals (diamonds, uranium, zinc and copper), fish, beer and meat.

Table 5: Namibia's major export products

Code	Description	Export value ($000)				
		Average 2009-11	*Share*	*2009*	*2010*	*2011*
	Total Export	**5,871,808**	**100.0%**	**5,870,110**	**5,844,878**	**5,900,437**
710231	non-industrial diamonds	934,219	15.9%	719,923	1,027,551	1,055,182
490700	*unused postage, revenue or similar stamps,* [57]	*762,416*	*13.0%*	*1,028,797*	*687,623*	*570,828*
261210	uranium ores and concentrates	687,365	11.7%	714,484	731,620	615,990
790112	unwrought zinc	313,272	5.3%	275,351	337,059	327,406
740200	copper, anodes for electrolytic refining	261,182	4.4%	214,322	227,677	341,546
030429	frozen fish fillets	240,940	4.1%	198,703	292,596	231,522

[56] Unfortunately, Namibia did not report the export destinations for 3.9% of its total exports. However, we know that 89% of these exports are in one code (HS 710231 – diamonds), which are most likely not destined for TFTA markets. Deducting diamonds from total unspecified exports we have only 0.4% of Namibia's total exports going to unspecified markets.

[57] The apparent export value of "unused postage, revenue or similar stamps" is misleading since customs report misleadingly according to the value of the bank notes and not according to the value of printing such notes.

Code	Description	Export value ($000)				
		Average 2009-11	Share	2009	2010	2011
	Total Export	**5,871,808**	**100.0%**	**5,870,110**	**5,844,878**	**5,900,437**
220300	beer made from malt	169,158	2.9%	173,384	162,074	172,015
710239	diamonds, worked, but not mounted or set	162,642	2.8%	72,936	170,283	244,707
030374	frozen mackerel	143,138	2.4%	117,909	153,389	158,116
030379	frozen fish,	109,198	1.9%	68,939	95,739	162,917
710813	gold, incl. gold plated	97,818	1.7%	80,469	108,800	104,184
010290	live bovine animals	94,108	1.6%	60,481	100,210	121,634
260800	zinc ores and concentrates	92,294	1.6%	101,716	102,622	72,545
030378	frozen hake	79,179	1.3%	142,228	48,140	47,170
870323	motor cars and other motor vehicles	61,702	1.1%	75,805	63,183	46,118
271011	light oils and preparations, of petroleum	59,057	1.0%	40,734	68,007	68,430
250100	salts, incl. table salt	57,426	1.0%	91,193	41,017	40,068
020130	fresh or chilled bovine meat, boneless	54,362	0.9%	61,610	61,154	40,321
020230	frozen, boneless meat of bovine animals	46,722	0.8%	57,502	46,162	36,502
080610	fresh grapes	41,487	0.7%	57,907	34,350	32,205

Source: UN COMTRADE database, accessed 01.11.12

Exports to the EU

The EU is Namibia's major export market with 32.2% of total exports in the period 2009-11. Exports to the EU are heavily concentrated, with **5 products** (diamonds, fish, copper, uranium, zinc) accounting for almost **75% of export revenue**. Namibia enjoys Duty Free Quota Free (DFQF) market access, which makes the EU a particular attractive destination for Namibian agricultural exports, such as fish, bovine meat, and grapes (see ODI and DNA, 2008; Meyn, 2007).

Exports to South Africa

Exports to South Africa account for about one third of Namibia's total exports. Like the EU, South Africa is an important market for Namibia's agricultural exports such as beer, live animals, fish, frozen bovine meat and carcasses.

Table 6: Namibia's exports to South Africa

Code	Description	Export value ($000)				
		Average 2009-11	Share 2009-11	2009	2010	2011
Total	**Total Export**	**1,799,126**	***30.6%***	**1,985,659**	**1,693,902**	**1,717,817**
490700	unused postage, revenue or similar stamps	753,319	40.8%	1,024,144	666,367	569,446
220300	beer made from malt	153,180	8.3%	157,822	149,006	152,712
710813	gold, incl. gold plated with platinum	97,818	5.3%	80,469	108,800	104,184
010290	live bovine animals (excl. pure-bred for breeding)	91,720	5.0%	57,762	97,401	119,996
260800	zinc ores and concentrates	89,757	4.9%	101,707	102,138	65,426

Code	Description	Export value ($000)				
		Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Total	**Total Export**	**1,799,126**	***30.6%***	**1,985,659**	**1,693,902**	**1,717,817**
890190	vessels for the transport of goods and persons	40,830	*2.2%*	-	2	122,490
020230	frozen, boneless meat of bovine animals	37,227	*2.0%*	42,384	38,866	30,431
250100	salts, incl. table salt	34,506	*1.9%*	62,013	21,286	20,220
020421	fresh or chilled sheep carcasses	34,291	*1.9%*	35,197	31,672	36,004
030379	frozen freshwater and saltwater fish	33,123	*1.8%*	23,686	33,468	42,216
020410	fresh or chilled lamb carcasses	27,478	*1.5%*	20,127	31,263	31,042
020130	fresh or chilled bovine meat, boneless	26,882	*1.5%*	31,089	33,615	15,943
870323	motor cars and other motor vehicles	26,795	*1.5%*	25,361	24,794	30,228
160413	prepared or preserved sardines,	25,892	*1.4%*	23,599	29,995	24,081
030378	frozen hake "merluccius spp., urophycis spp."	21,539	*1.2%*	14,679	20,539	29,400
030374	frozen mackerel	16,200	*0.9%*	11,310	20,475	16,814

Exports to the "Rest of the World"

Namibia's exports to the "Rest of the World" (i.e. non-EU, non-SACU, non-SADC countries) concentrate on the US, Canada and China, together accounting for 13% of Namibia's total exports. Exports are heavily concentrated on mineral products mainly uranium ores (more than 20%, 53% and 99% of Namibia's exports to China, USA and Canada respectively), copper, diamonds and zinc.

Namibia enjoys DFQF in the US market under the African Growth and Opportunity Act as well as preferential access in the Canadian market under the Generalized System of Preferences (GSP). However, agricultural and manufacturing exports to the US and Canada have been negligible in the last three reporting years.

Exports to TFTA countries

Exports to non-SACU TFTA countries accounted for 13.3% of Namibia's total exports in the period 2009-11. As can be seen from the Table below, Namibia's exports are **heavily concentrated on Angola**, accounting for more than 72% of Namibia's total exports to non-SACU TFTA countries.

Table 7: Namibia's non-SACU intra-regional exports

Market	Export value ($000)				
	Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
All countries	**5,871,808**	***100.0%***	**5,870,110**	**5,844,878**	**5,900,437**
Tripartite	**780,877**	***13.3%***	**950,474**	**720,505**	**671,653**
Angola	571,575	*9.7%*	663,748	558,965	492,014
Congo, Dem, Rep.	75,632	*1.3%*	65,395	68,846	92,656
Zambia	43,128	*0.7%*	61,590	32,867	34,929

Market	Export value ($000)				
	Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Kenya	42,005	*0.7%*	124,766	1,002	247
Mozambique	20,776	*0.4%*	15,735	14,940	31,654
Zimbabwe	12,168	*0.2%*	10,956	13,093	12,455
Malawi	9,275	*0.2%*	3,145	22,180	2,499
Seychelles	2,196	*0.0%*	404	5,369	815
Tanzania	1,589	*0.0%*	2,013	1,507	1,248
Mauritius	1,201	*0.0%*	1,125	794	1,685
Libya	740	*0.0%*	1,380	649	190
Eritrea	310	*0.0%*	0	1	929
Uganda	143	*0.0%*	77	140	213
Sudan	38	*0.0%*	16	97	0
Madagascar	31	*0.0%*	22	11	60
Ethiopia	27	*0.0%*	70	1	9
Egypt, Arab Rep.	17	*0.0%*	11	36	5
Djibouti	9	*0.0%*	6		21
Rwanda	8	*0.0%*	16	8	1
Burundi	7	*0.0%*			22
Comoros	1	*0.0%*			3

Source: UN COMTRADE database, accessed 01.11.12

Namibia's second largest export market in the Tripartite region is DRC, accounting for 1.3% of Namibia's total exports. Interestingly both countries are have not yet signed/acceded to the SADC Trade Protocol.[58]. Thus, **87% of Namibia's** non-SACU regional **exports** were **within SADC with two countries that have not yet implemented the SADC Trade Protocol**.

Other exports to the SADC region (Zambia, Mozambique, Zimbabwe, and Malawi) accounted only for 1.5% of Namibia's total exports. However, also these exports benefited only partly from the SADC Free Trade Area, which was launched in 2008 with 85% of intra-SADC trade being traded duty free and the remaining tariff barriers being phased down by 2012. Thus, Zimbabwe has received derogation on tariff phase downs and Malawi still applied the 2004-06 reduction levels in 2011 (USAID, 2011).

Namibia's exports to the **non-SADC TFTA** region are tiny, accounting for only **0.06% of Namibia's total export** (more details are provided in section 4.1).

3.1.2 Imports

Namibia's global imports increased in the period 2009-11 by 4% to 6.4 billion US$. South Africa is by far the largest import market, accounting for 73% of Namibia's total imports. Namibia's second largest import market is the EU with 11% of total imports, followed by China, India, Zambia and the USA (see Table below). Namibia's **major 10 import markets** accounted for a total share of **95.3%** of total imports.

58 Angola is a founding member of SADC and a signatory of the SADC Trade Protocol but has yet to submit instruments of accession. DRC is a member of SADC but has yet to sign the SADC Trade Protocol

Table 8: Namibia's imports by markets

Market	Market group	Import value ($000)				
		Average 2009-11	*Share 2009-11*	2009	2010	2011
TOTAL	***Total imports***	***6,211,980***	***100.0%***	***6,204,184***	***5,977,601***	***6,454,155***
South Africa	SACU	4,520,030	*72.8%*	4,336,353	4,331,183	4,892,555
EU	EU	701,845	*11.3%*	848,934	698,396	558,206
China	RoW	267,561	*4.3%*	330,715	204,944	267,023
India	RoW	90,825	*1.5%*	128,419	66,588	77,468
Zambia	TFTA SADC/COMESA	83,350	*1.3%*	41,910	75,269	132,873
United States	RoW	70,618	*1.1%*	86,611	72,959	52,286
Switzerland	RoW	57,091	*0.9%*	42,461	75,105	53,706
United Arab Emirates	RoW	55,993	*0.9%*	59,896	54,436	53,648
Malawi	TFTA SADC/COMESA	42,612	*0.7%*	8,419	44,940	74,477
Brazil	RoW	36,167	*0.6%*	56,315	26,134	26,051

Source: UN COMTRADE database, accessed 01.11.12

Namibia's **top 20 imports account for 31% of total imports** in the period 2009-11. As listed in the table below, these are mainly minerals and capital products, such as motor vehicles and machinery.

Table 9: Namibia's major import products

Code	Description	Import value ($000)				
		Average 2009-11	*Share*	*2009*	*2010*	*2011*
Total	**Total Imports**	***12,423,960***	***100%***	***12,408,369***	***11,955,201***	***12,908,311***
271011	light oils and preparations, of petroleum	507,855	*8.2%*	448,481	519,058	556,028
870323	motor cars and other motors	374,702	*6.0%*	378,561	368,976	376,569
710231	non-industrial diamonds	153,100	*2.5%*	103,753	184,592	170,954
701090	carboys, bottles, flasks, jars, pots, phials and other containers, of glass	92,418	*1.5%*	64,128	42,021	171,105
300490	medicaments consisting of mixed or unmixed products for therapeutic or prophylactic purposes	89,693	*1.4%*	76,944	83,230	108,905
170111	raw cane sugar	71,137	*1.1%*	68,485	73,671	71,256
870421	motor vehicles for the transport of goods	65,306	*1.1%*	75,289	58,561	62,067
847982	mixing, kneading, crushing, grinding, screening, sifting,	58,823	*0.9%*	106,000	67,174	3,295

Code	Description	Import value ($000)				
		Average 2009-11	*Share*	*2009*	*2010*	*2011*
Total	**Total Imports**	***12,423,960***	***100%***	***12,408,369***	***11,955,201***	***12,908,311***
	homogenising, emulsifying or stirring machines					
020714	frozen cuts and edible offal of fowls	57,211	*0.9%*	50,044	57,701	63,889
870899	parts and accessories, for tractors, motor vehicles for the transport persons	56,077	*0.9%*	50,511	58,200	59,520
240220	cigarettes, containing tobacco	54,003	*0.9%*	55,474	54,745	51,789
252329	portland cement	48,336	*0.8%*	64,991	60,609	19,409
731021	cans of iron or steel	44,725	*0.7%*	44,095	46,196	43,884
261210	uranium ores and concentrates	44,283	*0.7%*	8,427	45,093	79,330
851712	telephones for cellular networks	44,103	*0.7%*	42,968	40,358	48,982
732690	articles of iron or steel	41,130	*0.7%*	42,345	42,063	38,981
740200	copper, unrefined; copper anodes for electrolytic refining	35,414	*0.6%*	15,341	29,525	61,377
740311	copper, refined, in the form of cathodes and sections of cathodes	34,058	*0.5%*	1,859	38,780	61,534
220300	beer made from malt	32,556	*0.5%*	27,941	31,363	38,364
280700	sulphuric acid; oleum	31,077	*0.5%*	42,089	19,932	31,210

Source: UN COMTRADE database, accessed 01.11.12

Imports from South Africa

South Africa is Namibia's major import market accounting for **73% of total imports** in the period 2009-11. Of the approximately 4,500 products imported from South Africa the three largest product groups are: (1) motor cars and other motor vehicles principally designed for the transport of persons (7.3% of Namibia's total imports from South Africa); (2) light oils and petroleum (6.6%), and (3) bottles and glass containers (2%).

17% of Namibia's total imports from South Africa are agricultural products. In the period 2009-11, Namibia imported 3% of its animal and animal products from South Africa. As listed in the table below, these include meat products and dairy products concentrated on cheese and milk and cream.

Table 10: HS 01-05 animal and animal products imported from SA

Code	Description	Import value ($000)				
		Average 2009-11	*Share 2009-11*	*2009 in 1000 USD*	*2010 in 1000 USD*	*2011 in 1000 USD*
		133,403	*3.0%*	*140,505*	*131,972*	*127,732*
020714	frozen cuts and edible offal of fowls	51,737	*1.1%*	45,550	53,069	56,593
040690	cheese	11,772	*0.3%*	10,746	11,769	12,800
040229	milk and cream in solid forms, of a fat content by weight of > 1,5%, sweetened	4,822	*0.1%*	3,829	5,951	4,685
020329	frozen meat of swine	4,110	*0.1%*	5,816	4,443	2,070

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		133,403	3.0%	140,505	131,972	127,732
040110	milk and cream of a fat content by weight of <= 1%	3,110	0.1%	3,377	2,671	3,282
030379	frozen freshwater and saltwater fish	2,901	0.1%	3,930	2,163	2,610
040310	yogurt	2,688	0.1%	2,684	2,515	2,864
020712	frozen fowls not cut in pieces	2,579	0.1%	3,181	2,812	1,743
020319	fresh or chilled meat of swine	2,539	0.1%	1,156	2,499	3,961
040210	milk and cream in solid forms, of a fat content by weight of <= 1,5%	2,464	0.1%	3,702	2,218	1,472

Vegetable products accounted for 3.9% of total imports from South Africa; major products products were grains (sunflowers, maize, and rice), vegetables (potatoes) and fruits (apples and bananas).

Table 11: HS 06-15 vegetable products imported from SA

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		178,496	3.9%	185,006	173,670	176,812
151219	sunflower-seed or safflower oil and their fractions	24,606	0.5%	22,214	23,569	28,036
100590	maize (excl. seed)	13,986	0.3%	15,164	14,734	12,061
070190	fresh or chilled potatoes (excl. seed)	12,468	0.3%	14,339	11,710	11,357
151710	margarine (excl. liquid)	10,824	0.2%	11,767	10,238	10,467
091099	spices	7,639	0.2%	7,353	7,707	7,857
080810	fresh apples	6,264	0.1%	6,257	6,188	6,347
100190	wheat and meslin (excl. durum wheat)	5,676	0.1%	3,878	6,064	7,085
100640	broken rice	4,226	0.1%	4,970	3,800	3,909
080300	bananas, incl. plantains, fresh or dried	4,146	0.1%	3,876	4,151	4,411
100510	maize seed	4,097	0.1%	8,487	1,890	1,913

There is a great variety in foodstuffs products (HS 16-24) imported from South Africa accounting for 10.1% of total imports such sugar, cigarettes, beer and spirits.

Table 12: HS 16-24 foodstuffs imported from SA

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		458,677	10.1%	455,944	461,654	458,434
170111	raw cane sugar	70,646	1.6%	68,481	73,656	69,801
240220	cigarettes, containing tobacco	53,653	1.2%	55,142	54,561	51,257
220300	beer made from malt	28,834	0.6%	24,508	29,431	32,562
230990	preparations of a kind used in animal feeding	25,452	0.6%	25,498	25,990	24,869
170490	sugar confectionery not containing cocoa, incl. white chocolate	23,158	0.5%	24,758	21,058	23,659
200990	mixtures of fruit juices	18,630	0.4%	21,636	19,006	15,248
220820	spirits obtained by distilling grape wine	13,391	0.3%	11,718	13,477	14,979

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		458,677	10.1%	455,944	461,654	458,434
	or grape marc					
210390	preparations for sauces and prepared sauces	13,332	0.3%	12,811	13,057	14,128
210690	food preparations, n.e.s.	12,911	0.3%	13,150	13,741	11,841
220830	whiskies	11,162	0.2%	12,194	9,805	11,487

Imports from the EU

The EU is Namibia's second largest import market with 11% of total imports in the period 2009-11. Namibia imported mainly non-industrial diamonds and light oils and preparations of petroleum. Further relevant import products include industrial machines, malt, transformers, rails of iron and steel. Namibia's top 10 import products accounted for almost 60% of total imports from the EU.

Table 13: Imports from the EU

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
	Total imports	**701,845**	**100,0%**	**848,934**	**698,396**	**558,206**
710231	non-industrial diamonds	153,085	21.8%	103,752	184,548	170,954
271011	light oils and preparations	133,948	19.1%	230,415	170,957	471
847982	mixing, kneading, crushing, etc. machines	52,572	7.5%	93,367	64,291	57
110710	malt (excl. roasted)	22,378	3.2%	32,033	20,218	14,884
850434	transformers	10,920	1.6%	31,464	1,296	
730210	rails of iron or steel	9,090	1.3%		9,252	18,019
030749	cuttle fish	8,673	1.2%	3,822	10,521	11,675
382490	chemical products and preparations	7,767	1.1%	7,045	7,232	9,026
840999	parts suitable for compression-ignition engine, n.e.s.	7,182	1.0%	8,025	4,892	8,628
854190	parts of diodes, transistors	7,157	1.0%	18,498	454	2,518

Agricultural products accounted for 8.4% of total imports from the EU. Namibia imported 2.5% of animal and animal products (HS 01-05), about half of which were fish products (see Table below).

Table 14: HS 01-05 animal and animal products imported from the EU

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		17,461	2.5%	10.760	18.666	22.957
030749	cuttle fish and squid frozen, dried, salted or in brine, with or without shell	8,673	1.2%	3,822	10,521	11,675
040229	milk and cream in solid forms, of a fat content by weight of > 1,5%, sweetened	1,866	0.3%	999	1,875	2,725

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		17,461	2.5%	10.760	18.666	22.957
040221	milk and cream in solid forms, of a fat content by weight of > 1,5%, unsweetened	933	0.1%	118	1,569	1,113
020890	fresh, chilled or frozen meat and edible offal of pigeons, seals, game, reindeer and other animals	830	0.1%	693	843	955
040690	cheese	620	0.1%	514	723	622
030374	frozen mackerel	584	0.1%	367	605	781
020629	frozen edible bovine offal	462	0.1%	632	482	272
020622	frozen edible bovine livers	379	0.1%	1,025	88	23
020714	frozen cuts and edible offal of fowls	351	0.0%	49	207	796
030379	frozen freshwater and saltwater fish	242	0.0%	152	144	430

Vegetable products (HS 06-15) accounted for 4.7% of total imports from the European Union, in the period 2009-11. Major products were malt, wheat, coffee, vegetable products and oil.

Table 15: HS 06-15 vegetable products imported from the EU

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		32,664	4.7%	40,000	28,635	29,357
110710	malt (excl. roasted)	22,378	3.2%	32,033	20,218	14,884
100190	wheat and meslin (excl. durum wheat)	4,546	0.6%	0	3,310	10,327
110720	roasted malt	1,336	0.2%	1,818	1,254	935
130213	extracts of hops	866	0.1%	1,344	811	442
090121	roasted coffee (excl. decaffeinated)	826	0.1%	655	978	845
100110	durum wheat	581	0.1%	1,584	125	33
121020	hop cones, ground, powdered or in the form of pellets	517	0.1%	344	706	502
110311	groats and meal of wheat	392	0.1%	567	234	374
130239	mucilages and thickeners derived from vegetable products	201	0.0%	513	58	32
150990	olive oil and fractions obtained from the fruit of the olive tree	99	0.0%	117	38	141

EU foodstuff imports accounted for 1.2% of total EU imports from including spirits, beer, sugar confectionery and chocolate.

Table 16: HS 16-24 foodstuffs imported from the EU

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		8,538	1.2%	9,412	7,819	8,384
220890	ethyl alcohol of an alcoholic strength of < 80% vol, not denatured; spirits and other spirituous beverages	1,121	0.2%	1,031	1,174	1,158
220830	whiskies	1,004	0.1%	59	1,356	1,596
210690	food preparations, n.e.s.	872	0.1%	1,481	311	823

Code	Description	Import value ($000)				
		Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
		8,538	1.2%	9,412	7,819	8,384
220300	beer made from malt	749	0.1%	1,755	361	130
220210	waters, incl. mineral	648	0.1%	266	736	941
220870	liqueurs and cordials	423	0.1%	363	660	247
170490	sugar confectionery not containing cocoa, incl. white chocolate	331	0.0%	386	323	283
180631	chocolate and other preparations containing cocoa, in blocks, slabs or bars of <= 2 kg	318	0.0%	326	334	294
230120	flours, meals and pellets of fish or crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption	293	0.0%	555	323	
180690	chocolate and other preparations containing cocoa, in containers or immediate packings of <= 2 kg	185	0.0%	184	165	207

Imports from the "Rest of the World"

Namibia's imports from the "Rest of the World" (i.e. non-EU, non-SACU, non-SADC, non COMESA countries) come mainly from China, India and the USA, together accounting for 6.9% of the country's total imports in the period 2009-11. Major import products are helicopters (main import source China), motorcycles (India), motorcars (USA), apparatus based on x-ray (China) but also wheat and meslin from the US. Wheat and meslin, which are controlled products in the Namibian market, account for 7.7% of Namibia's total imports from RoW. Moreover, Namibia imports with durum wheat from the US and millet from India two further products that are "controlled" in the Namibian market.

Agricultural imports accounted for 25.3% of Namibia's total imports from China, India and the USA in the period 2009-11. **More than 50**% of the top 10 agricultural import products from RoW came **from the USA**.

Table 17: HS 01-05 animal and animal products imported from the RoW

Source Name	Code	Description	Import value ($000)				
			Average 2009-11	Share 2009-11	2009	2010	2011
			7,626	6.5%	6,322	7,475	9,081
United States	020714	frozen cuts and edible offal of fowls	2,893	4.1%	1,816	2,637	4,224
China	030379	frozen freshwater and saltwater fish	3,328	1.2%	2,361	4,001	3,623
India	020220	frozen bovine cuts, with bone in	222	0.2%		297	369
United States	030378	frozen hake	137	0.2%	202		209
China	030374	frozen mackerel	463	0.2%	1,334	5	50
India	030379	frozen freshwater and saltwater fish	151	0.2%		21	431
United States	020712	frozen fowls	65	0.1%	21	114	61
United States	040221	milk and cream in solid forms, of a fat content by weight of > 1,5%, unsweetened	59	0.1%		178	
United States	040229	milk and cream in solid forms, of a fat content by weight of > 1,5%, sweetened	49	0.1%	148		
United States	030379	frozen freshwater and saltwater fish	26	0.0%		77	

Namibia imported 10.4% of vegetable products (HS 06-15) from RoW with major products being grains and fats. Half of the top 10 vegetable imports from RoW come from the USA followed by 3 products (millet, rice and margarine) from India and 2 products (rice) from China.

Table 18: HS 06-15 vegetable products imported from the RoW

Source Name	Code	Description	Import value ($000)				
			Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
			8,098	10.4%	1,528	6,491	16,275
United States	100190	wheat and meslin (excl. durum wheat)	5,431	7.7%		1,637	14,657
United States	100110	durum wheat	865	1.2%		2,595	
India	100820	millet (excl. grain sorghum)	713	0.8%	1,128	595	417
India	100630	semi-milled or wholly milled rice	133	0.1%			398
China	100630	semi-milled or wholly milled rice	260	0.1%	65	524	191
United States	071340	dried, shelled lentils	63	0.1%		189	
United States	100630	semi-milled or wholly milled rice	56	0.1%			167
China	100610	rice in the husk, "paddy" or rough	193	0.1%	4	575	0
United States	150200	fats of bovine animals, sheep or goats	49	0.1%		73	73
India	151710	margarine (excl. liquid)	40	0.0%	119		

Foodstuffs (HS 16-24) accounted for 8.4% of total imports from RoW in the period 2009-11. More than half of it came from China (preserved tomatoes, chewing gum, sugar, active yeasts, cigarettes and sardines).

Table 19: HS 16-24 foodstuffs imported from the RoW

Source Name	Code	Description	Import value ($000)				
			Average 2009-11	Share 2009-11	2009 in 1000 USD	2010 in 1000 USD	2011 in 1000 USD
			9,957	8.4%	10,357	7,877	11,637
India	190531	sweet biscuits	5,064	5.6%	5,127	3,804	6,261
India	170490	sugar confectionery not containing cocoa, incl. white chocolate	655	0.7%	410	859	696
China	200290	tomatoes, prepared or preserved otherwise than by vinegar or acetic acid	1,386	0.5%	2,614	1,198	347
United States	170111	raw cane sugar	204	0.3%			611
China	170410	chewing gum, whether or not sugar-coated	651	0.2%	431	683	840
China	170490	sugar confectionery not containing cocoa, incl. white chocolate	622	0.2%	215	383	1,269
China	210210	active yeasts	251	0.1%	59	135	558
India	220830	whiskies	66	0.1%	54	27	116
China	240220	cigarettes, containing tobacco	184	0.1%	87	123	343
China	160413	prepared or preserved sardines, sardinella and brisling or sprats	151	0.1%	414		39

Imports from non-SACU SADC countries

Imports from non-SACU SADC countries accounted only for 2.4% of Namibia's total imports in the period 2009-11. The Table below outlines that more than half of it came from **Zambia**; with copper accounting for 90% of Namibia's imports from Zambia.

Table 20: Namibia's non-SACU intra-regional imports

Market	Market group	Import value ($000)				
		Average 2009-11	*Share 2009-11*	2009	2010	2011
TOTAL	**Total imports**	**145,999**	**2.4%**	**77,540**	**133,428**	**227,030**
Zambia	TFTA SADC/COMESA	83,350	*1.3%*	41,910	75,269	132,873
Malawi	TFTA SADC/COMESA	42,612	*0.7%*	8,419	44,940	74,477
Angola	TFTA SADC	9,169	*0.1%*	12,048	6,184	9,274
Zimbabwe	TFTA SADC/COMESA	3,347	*0.1%*	4,992	2,564	2,485
Mauritius	TFTA SADC/COMESA	2,660	*0.0%*	2,112	1,680	4,187
Congo, Dem. Rep.	TFTA SADC/COMESA	2,275	*0.0%*	4,320	1,312	1,192
Mozambique	TFTA SADC	1,495	*0.0%*	1,637	988	1,861
Tanzania	TFTA SADC/EAC	857	*0.0%*	1,543	465	563
Madagascar	TFTA SADC/COMESA	189	*0.0%*	561	7	0
Seychelles	TFTA SADC/COMESA	45	*0.0%*		20	116

Source: UN COMTRADE database, accessed 01.11.12

Namibia's imports from non-SADC TFTA countries are de facto non-existent, accounting for **0.09% of total imports** in the period 2009-11. The few products imported include engines and motors from Egypt and carbonate from Kenya.

3.1.3 Namibia's Trade Policies in the SACU

Since 1920, when the Republic of South Africa was given the mandate over the former German colony South West Africa, today's Namibia had been a *de facto* member of SACU. In 1969 the SACU Agreement was concluded between apartheid South Africa and Botswana, Lesotho and Swaziland (BLS). Namibia became a formalised member of SACU after its independence in 1990.[59]

SACU provides duty-free movement of goods within its territory and shows a common external tariff (CET) as well as common excise and sales duties, common rebates, refunds and drawbacks against third countries. The primary goal of SACU has been to facilitate the cross-border movements of goods and to promote investment and product diversification in its area.

[59] Soon after the first democratic elections in South Africa the SACU countries started to renegotiate the 1969 SACU Agreement with a view to reducing South Africa's political dominance and to making decision processes more democratic. The 2002 SACUA, which shows reformed institutions and decision procedures as well as a revised revenue-sharing formula, was ratified in 2005.

South Africa accounts for more than 87% of SACU citizens and 93% of the region's GDP. South Africa is Namibia's major trading partner and about 90% of Namibia's imports enter its territory from South Africa; only few good are imported directly via Walvis Bay. The non-SACU imports are mainly transport and machinery equipment from China and EU countries (WTO, 2009:223).

Applied customs tariffs, excise duties, valuation methods, rules of origin, and contingency trade remedies are harmonized throughout SACU There are, however, still **significant differences of non-tariff trade policy measures among SACU countries**, including customs procedures, standards, SPS, and trade-related policies (industrial policy, taxation, competition policy) (WTO, 2009).

Namibia is **highly dependent on the SACU Common Revenue Pool** (CRP), which currently accounts for about 40% of total Government Revenue and 13% of GDP. The CRP is managed by South Africa, which collects and distributes customs and excise duties. Due to increased expenditures from the CRP as well as due to tight spending policies, Namibia has been able to improve its public balance from a 7.2% deficit in 2003/04 to 4.8% in 2009/11 (WBG, 2012a). Namibia is undertaking steps to decrease this high dependency on the CRP by broadening its tax base, further strengthening public expenditure and improving the financial supervision of state-owned enterprises. Being highly dependent on income from the CRP also limits Namibia's options to offensively negotiate its trade policy interests within SACU, which are not necessarily identical with those of South Africa.

The new **SACU Agreement** (2002 SACUA) can be regarded as **"framework agreement"** that foresees the establishment of joint institutions and joint policies. Annexes on accompanying policies in the areas of competition, agriculture, unfair trade practices and industrial development still need to be developed. The same applies to joint institutions such as the Tariff Board or the Tribunal. The SACU **Technical Liaison Committees** (TLCs) had suspended their work a couple of years ago. However, the Council would like to revive the work of the TLCs to support its decisions and the TLCs are expected to restart their work shortly.[60]

The 2002 **SACUA provides several exemptions from its standard provisions of free movement of goods** (Article 18.1), abolition of intra-regional trade barriers, freedom of transit, application of identical customs duties, simplified customs measures and harmonised standards. At present there are **five 'pegs'** on which member countries can 'hang' trade policies hat differ from those of their SACU partners.[61].

1. Different customs duties can be applied when necessary to meet multilateral or bilateral commitments made prior the existence of the SACUA (Article 20.3c, d).[62]
2. Freedom of transit can be abolished in exceptional cases such as precautionary measures against animal or plant diseases (Article 24).
3. Import and export restrictions can be applied under Article 25 in the following cases:
    a. for 'economic, social, cultural or other reasons as may be agreed upon by the Council';

[60] The SACUA foresees the creation of four Technical Liaison Committees: on agriculture, on customs, on trade and industry and on transport.

[61] This may change in future once the outstanding Annexes have been developed.

[62] This applies for instance to South Africa's Trade Development and Co-operation Agreement (TDCA) with the EU.

b. in line with 'any law within any part of the Common Customs Area which prohibits or restricts the importation or exportation of goods'; i.e. existing domestic laws that foresee import and export restrictions.

4. Infant Industry Protection (IIP) is permitted for the BLNS countries under Article 26. BLNS may levy intra-SACU duties for a maximum period of eight years as long as they are not higher than for products outside SACU.
5. Discriminatory regulations can be applied by any member state for the marketing of agricultural products in order to protect emergent agriculture industries or in case of 'any other purposes as agreed upon between Member States' (Article 29.3).

Namibia applies infant industry protection (IIP) for its pasta and UHT milk industries as well as a number of trade policies for agricultural and agro-processed products that are classified as non-tariff barriers (NTBs) according to the WTO. The following paragraphs present Namibia's trade policies and check to what extent these are in line with the provisions of the 2002 SACUA.

Infant Industry Protection

According to the SACUA 2002 (Art. 26), BLNS countries can apply infant industry protection (IIP) for their emerging industries for up to eight years. Namibia applies IIP for pasta (since 2002) [63] and cement since July 2012. IIP for UHT milk had expired by the end of 2011 after more than 10 years.[64] IIP for the broiler industry was accepted by the SACU Council but has not yet been applied. The SACU Council approved Namibia's application and extension for IIP, thus, **Namibia's IIP application is in line with the provisions and interpretation of the SACUA.**

However, as outlined by Stevens et al. (2008), Namibian practise is not uncontroversial and could be challenged in the near future. As stated by the SACU Secretariat: *"The notion that the eight years can be extended because an industry has not optimally utilised the benefits of protection is not supported by the SACU Agreement and/or other international conventions*." (SACU Secretariat, no date, p. 5). **An Annex to Art. 26, specifying the application of IIP is under review by the SACU Secretariat since about three years.**

Non-tariff barriers (NTBs)

The WTO classifies seven NTB categories, namely

(1) Government intervention (such as export subsidies, monopolies, national restrictions);
(2) Customs and Administrative Entry Procedures (such as anti-dumping duties, import licenses, restrictive RoO);
(3) Technical Barriers to Trade (standards and technical regulations not based on international standards);
(4) Sanitary and Phytosanitary Measures (SPS not based on international standards);
(5) Specific Limitations (such as quantitative restrictions, minimum prices, embargoes);
(6) Import charges (such as administrative fees, additional border taxes); and
(7) Procedural problems (such as administrative discrimination, lengthy procedures, complexity, lack of information).

---

[63] The protection for pasta has been extended and increased and is now scheduled to be abolished in 2014. It was originally foreseen to decrease the additional 40% tariff to 30% in 2005, 20% in 2007 and zero in 2009. However, since 2009 the industry enjoys an additional 40% tariff up to 2014.

[64] Tariff protection for UHT milk, which was originally set for 10% (2001-03) was increased to 40% in 2009 and gradually decreased to zero by the end of 2011.

To summarise, NTBs are trade barriers other than tariffs that restrict imports by discriminating treatment.

Namibia applies a number of trade policies that are classified as NTBs under the WTO:

WTO NTB Category 5: Specific Limitations

Namibia applies **import controls** and seasonal bans for white maize, wheat, pearl millet (mahangu) and products thereof [65] and **quantitative restrictions** on the import of horticultural products.[66] These **import restrictions also apply to Namibia's customs union members** Botswana, Lesotho, South Africa and Swaziland.

Namibia is not self-sufficient in producing maize, wheat and horticultural products. Thus, about 50% of its maize consumptions and 85% of the wheat consumption are imported. As outlined in section 3.1.2, major import markets are South Africa for maize and wheat and the US and EU for wheat. Any imports of these products have to be registered with the Agronomic Board.

The basis for these import restrictions is **Art. 29** of the 2002 SACUA which provides a justification to suspend the normal requirement of 'free trade' in agriculture between Members for "emergent agriculture". However, Art. 29.4 clearly prohibits the unlimited duration of trade restrictions by a **"sunset clause"** (Article 29:4). Since Namibian cereals and horticulture policy are framed at present as being of unlimited duration it appears that they **do not meet the limitation set by the 2002 SACUA**.

In this context it is also worth noting that Art. 25 (import and export restrictions) excludes the import 'prohibition or restriction' by one SACU member of 'goods grown, produced or manufactured in other areas of the Common Customs Area for the purpose of protecting its own industries producing such goods.' In other words, trade restrictions from imports produced outside SACU is permissible under this Article (if the Member States agree) but not trade restrictions of goods produced within SACU. So the **bans on agricultural products imported from outside SACU can be justified under Article 25 – but not the related bans on imports from South Africa and BLS**.

WTO NTB Category 2: Customs and Administrative Entry Procedures

Non-automatic licenses are applied for a range of products including fish, meat, motor vehicles, and all second-hand products.[67] This intervention is in line with Art. 25 of the SACUA since the import restriction applies to products produced outside the customs territory as agreed by the SACU Council.

[65] Trade of "controlled products" are managed the Namibian Agronomic Board.

[66] Under the "Namibian Horticulture Market Share Promotion" 17.5% of horticulture produce purchases need to be locally sourced before any imports are allowed. Moreover, an import levy of 1.2% of the landed cost (cost price plus transport) is collected (RTFP; 2007: p. 34, 36).

[67] The WTO Agreement on Import Licensing Procedures requires that import licensing is simple, transparent and predictable. Government needs to publish procedures for granting licenses and to ensure that the administrative burden for acquiring the license is minimized.

WTO NTB Category 1: Government intervention
The Government applies **export taxes** to diamonds, live cattle and live small stock in order to stimulate domestic value addition. Moreover, certain quantitative restrictions on diamond exports and contingency on the export of certain agricultural products for domestic processing are applied.

The export and import of meat and live animals has to be registered with the Meat Board.[68] **All non-SACU trade requires import and export licenses** which have to be obtained at the respective Ministries. In 2007, six Ministries were in charge of issuing according licenses (RTFP: 2007: p. 25).

In summary it can be stated that Namibia applies trade restrictions to many imports that stand in direct competition with its local production. It is argued that Namibia, as small developing country with a limited production base being in a custom union with a much larger and more developed country, needs such protection to develop its industrial base. While this might be correct, it significantly limits the options for Namibia's intra-regional trade in the TFTA context. First, because Namibia's trade restrictions apply to all imports (i.e. also to those of lesser developed SACU and SADC countries) and second, because Namibia's major export markets in the region (BLS, Angola) have put forward similar arguments to restrict their markets for Namibian exports. There will be, however, no options for trade creation in the TFTA if countries restrict regional imports because the products stand in direct competition with domestic production.

The Table below summarises Namibia's trade policy interventions per product group.

[68] The export of live animals is restricted or levied so as to ensure that the overhang capacity of local abattoirs is limited. The same applies for animal hides and skins. See RTFP (2007: p. 15) for the type of restriction per animal category.

Table 21: Overview of national trade policy intervention in Namibia per product group

Product group	Sub-components	Max. bound tariff	MFN (2011)	National trade policy intervention	Regulating Body / Legal basis	Comments
Maize Maize meal	*(N.B.: white maize not listed specifically in the HS nomenclature)*	50% 99%	0% 0%	Import permit control measures	SACU Council / Art. 29 Namibia Agronomic Board MAWF	Imports are only allowed after domestic production has been fully marketed Restrictions also apply to SACU imports
Maize flour		99%	0%	Import prohibition		All flour consumed in Namibia is domestically milled
Wheat	Durum Wheat & meslin	21% 72%	0% 0%	Import permit control measures		
Wheat flour		99%	0%	Import prohibition		All flour consumed in Namibia is domestically milled
UHT milk		96%	0%	Infant Industry Protection (IIP), SACUA Art. 26 since 2001: 2001-03: 10% 2004-06: 7% 2007-08: 4% - *Permission of IIP extension in 2008* 2009: 40% 2010: 26.8% 2011: 13.6% **2012: 0%**	SACU Council / Art. 26 MAWF	IIP duty is applied for any exports incl. from SACU countries.
Pasta[69]		54%	30%	Infant Industry Protection (IIP), SACUA Art. 26 since 2001: 2001-04: 40% 2005-06: 30% 2007-08: 20% - Permission of IIP *extension in 2008* **2009-14: 40%**	SACU Council / Art. 26 MAWF	IIP duty is applied for any exports incl. from SACU countries. IIP tariff (40%) plus applied MFN (30%) exceed max. bound MFN tariff.
Broilers (poultry)	Fresh or chilled, whole	82%	0%	**Not yet implemented**. <u>Originally envisaged:</u> introduction rate of 46% to be reduced to 30% after four years and then to 20% after another two years.	SACU Council / Art. 26 MAWF	IIP for the broiler industry was accepted by the SACU Council but has not yet been applied.

69 IIP for pasta is not compliant with WTO provisions since the application of the IIP tariff rate (40%) plus the applied MFN rate (30%) exceeds the maximum bound MFN tariff rate of 54%.

Product group	Sub-components	Max. bound tariff	MFN (2011)	National trade policy intervention	Regulating Body / Legal basis	Comments
	Frozen, whole Fresh or chilled cuts Frozen, cuts	82% 37% 82%	27% 0% 0–27% or 220c/kg			
Cement		0%	0%	Infant Industry Protection (IIP), SACUA Art. 26 since July 2012 2012-14: 60% 2015: 50% 2016: 42 2017: 24% 2018: 12%		Right of IIP application is disputed in Court; final decision not yet been taken.
Horticulture (HS 07)	Beans and leguminous veg. excl. peas	24%	0–24%	Import permit control measures plus import levy of 1.2% of the landed cost (cost price plus transport)	SACU Council / Art. 26 Namibia Agronomic Board MAWF	17.5% of horticulture produce purchases need to be locally sourced before any imports are allowed. Restrictions also apply to SACU imports.
	Chicory Peas 'pisum sativum', dried chickpeas Tomatoes, onions, garlic, leeks, cauliflower/broccoli, Brussels sprouts, cabbage/kale etc., lettuce, carrots, turnips, beetroot/celeriac/ radish etc., cucumber/gherkin, artichoke, asparagus, aubergine, celery, mushrooms, truffles, capsicum/pimento, spinach, sweet corn, olives, capers	30% 33% 37%	0-20% 0–30% 0–20%			
	Potatoes, lentils Dried, shelled peas	49% 52%	0–30% or 4c/kg 0–30%			

Product group	Sub-components	Max. bound tariff	MFN (2011)	National trade policy intervention	Regulating Body / Legal basis	Comments
	'pisum sativum'					
	Cassava, sweet potatoes, arrowroot/ Jerusalem artichokes/ etc.	60%	0 or 5%			
Dairy products	Milk and cream Yoghurt Buttermilk Dairy spread	96% 96% 79%	0% 450c/kg with a maximum of 96% 500c/kg with a maximum of 79%	MAWF import license according to quota system: - importer is a Namibian based, local company; - Namibia is the final destination of the consignment. MTI general import license	MAWF – Directorate of Planning MAWF - Veterinary Services MTI	
Live animals Meat and meat products Frozen and chilled fish All second hand products Diamonds, gold and other minerals				Non-automatic licenses	Ministry of Health Meat Board of Namibia MAWF – Directorate of Veterinary Services Ministry of Environment Namibian Police Ministry of Mines and Energy Diamond Board Ministry of Fisheries	

3.1.4 Namibia's External Trade Relations

Namibia is a **founding member of SADC** and has ratified the SADC Trade Protocol that entered into force in 2000 and aimed to establish a FTA within 8 years. The SADC FTA was officially launched in August 2008 with 85% of intra-SADC trade receiving duty free treatment – and the remainder being liberalised by 2012. SACU submitted one tariff offer towards the other SADC countries participating in the Trade Protocol[70], frontloading liberalisation with 94.2% in 2005 while most countries only committed to substantial liberalisation in 2008. SACU has implemented its liberalisation offer in due time, granting **DFQF for 99.2% of tariff lines** (USAID, 2011).

Namibia has a **reciprocal PTA with Zimbabwe** dating back to 1992. The agreement provides for mutual free market access subject to compliance with the RoO requirements of a minimum content of 25%. Since Zimbabwe has asked for derogation to implement the SADC FTA, the bilateral treaty offers **superior market access for Namibia** than granted to other SADC countries. Namibia's other bilateral trade agreements (e.g. with China, Cuba) are only on trade cooperation and do not provide superior market access. Namibia also signed a PTA with Angola and, recently, a MoU. It is, however, understood, that the PTA had never been ratified by Angola and that the MoU does not provide preferential market access.[71] According to the UNCTAD TRAINS Database, **Namibia accesses the Angolan market at MFN rate**, which is also confirmed by interviews with the private sector.

As developing country Namibia enjoys unilateral preferences under the Generalised System of Preferences (**GSP**) in Australia, Canada, Japan, New Zealand, Norway, Russia, and Switzerland. These were mainly beneficial for the meat industry (Norway and New Zealand – though the industry hardly exported to these markets in recent years). The textile and apparel industry had benefited from the US' **AGOA** initiative, which provides for DFQF exports to the US market and had in the past attracted significant investment. However, with the expiration of the WTO Multi-Fibre Agreement in January 2005, which limited garment and apparel exports of major supplies, such as China, Pakistan or Bangladesh, Namibia's garment industry had collapsed.

Since having gained independence, **Namibia enjoys largely free access to the EU market.** When the unilateral character of EU trade preferences to ACP countries were challenged at the WTO, the EU offered ACP regions to enter into reciprocal trade arrangements. Namibia negotiated an Economic Partnership Agreement (EPA) with the EU in the SADC 'minus' framework, which included the SACU members Botswana, Lesotho, Namibia, and Swaziland (BLNS) plus Mozambique.[72] However, though Namibia initialled the EPA in December 2007, it has not yet signed the Agreement. Negotiations with the EU continue with the objective to negotiate an EPA that also includes South Africa so as to maintain the integrity of SACU.

---

[70] 12 SADC countries participate in the Trade Protocol: South Africa, Botswana, Lesotho, Namibia, Swaziland, Madagascar, Malawi, Mauritius, Mozambique, Tanzania, Zambia and Zimbabwe. Angola is a signatory of the Protocol but has not yet submitted its instruments to accession and DRC and Seychelles have yet to sign.

[71] Unfortunately, the Consultants were not able to obtain either document.

[72] The other SADC countries negotiated either in the Eastern Southern Africa (ESA) framework (Madagascar, Mauritius, Seychelles, Zambia, Zimbabwe) or refrained from negotiating an EPA since they were classified as Least Developed Countries (LDCs) and continued enjoying DFQF in the EU market on a non-reciprocal basis.

To date, the **EU has three trade regimes with the SACU countries**: the Trade, Development and Co-operation Agreement with South Africa (2001), the SADC-minus EPA with BLS (largely following the liberalisation schedule of the TDCA), and no trade agreement with Namibia (though Namibia implements de facto the TDCA).[73] The **EU continues granting Namibia DFQF market access without having signed the EPA but set a deadline of June 2013 for signature**. Shall this deadline pass; the EU might apply the GSP regime to Namibia that is granted to all non-LDCs developing countries with whom no FTA/EPA has been negotiated. The implications for Namibia's beef, fish and grapes exports would be severe with beef being no longer exported to the EU (see Meyn, 2007).

Namibia negotiated in the SACU framework the SACU-EFTA and the SACU-MERCOSUR FTAs. The **SACU-EFTA FTA follows largely the EU-South Africa TDCA** and was notified under Art. XXIV at WTO. The SACU-MERCOSUR agreement is PTA, granting tariff concessions to a limited number of products. Furthermore, SACU signed the **Trade, Investment and Development Cooperation Agreement (TIDCA) with the US**, which is a framework agreement to consult, discuss and cooperate on trade, investment and related issues. TIDCA should be the building block towards successful negotiations of a SACU-US FTA, which were suspended in 2006 due to divergent views on scope and content. Ongoing SACU trade negotiations include also a PTA with India.

In summary it can be said that Namibia has DFQF market access for the majority of its exports, most of which go to the EU and the South African market. Being a member of SACU and receiving about 90% of imports from or via South Africa Namibia has de facto implemented the TDCA, liberalising imports for about 87% of products from the EU. "*By 2012, therefore, the import policy of Namibia with respect to the EU is likely to be very similar to that of South Africa under the TDCA."* (ODI & DNA, 2008:10). Thus, **Namibia has already liberalised its import regime for its major trading partners**, South Africa and the EU, as well as for most SADC countries. In fact, **about 87% of Namibia's total imports receive preferential treatment** under the SACU, TDCA, and SADC Trade Protocol. The NTBs discussed in section 3.1.3 are the only "protectionist shield" remaining for most imports.

3.1.5 Namibia's Trade Infrastructure

Coastal ports and transit corridors

A number of transport corridors link Namibia to the SADC region. The routes of the Walvis Bay Corridor (WBC) are the Trans-Kalahari Corridor (TKC) connecting Namibia and Botswana to South Africa's industrial heartland (Gauteng), the Trans-Caprivi Corridor (TCC) into Zambia and further on to the DRC, and Trans-Cunene Corridor (TCuC) linking into Southern Angola. A further corridor is the traditional North-South route from Windhoek to South Africa (RTFP, 2007:Chapter 6).

Recently, the World Bank Group (2012) undertook a comprehensive analysis of Namibia's regional transport and trade logistics capacities, requested by the National Planning Commission. The study found that traffic along the routes of the WBC grew on average by 33% in the period 2005-11. Growing transit traffic offers the chance for Namibia to reduce trade costs and to benefit from economic spillovers, such as increased investment. **Namibia's major transit partners are all non-SACU countries**, namely Angola (accounting for 41% of total traffic in 2011 and 70% of outbound traffic), Zambia (26%), Zimbabwe (19%) and DRC (9%).

73 About 90% of Namibia's imports come via South Africa. Though EU goods that enter Namibia via the territory of South Africa would be subject to MFN tariff, Namibia does not apply the duty. Thus, any customs collection is in the discretion of South Africa (see ODI & ECDPM, 2008:62-72 for a detailed analysis of the SADC-minus EPA).

Table 22: Walvis Bay Corridors Traffic by Country, 2005–2011

	2005	2006	2007	2008	2009	2010	2011	Average outbound share
Angola - to	76832	122002	178563	309755	445073	287877	209627	**70.56%**
Angola - from	0	0	0	0	0	0	0	
Zambia - to	11565	7644	17866	37034	31010	53933	91536	10.85%
Zambia - from	0	0	88	946	12538	39520	39226	
South Africa - to	1394	1094	1049	3304	308	895	1148	0.40%
South Africa - from	0	44	1154	1295	308	2889	1861	
Botswana - to	1324	943	4172	2642	4129	8935	18150	1.74%
Botswana - from	1210	1060	558	582	132	286	339	
Zimbabwe - to	0	279	62	1286	5271	22842	94428	5.38%
Zimbabwe - from	0	0	0	615	0	66	582	
DRC - to	538	1748	6849	39309	19353	29089	45273	6.16%
DRC - from	0	0	0	1034	1276	0	0	
Malawi - to	0	27	0	0	195	762	2271	0.14%
Malawi - from	0	0	0	0	66	1100	1452	
Total Outbound	**91652**	**133738**	**208561**	**393329**	**505339**	**404334**	**462433**	
Total Inbound	**1210**	**1104**	**1800**	**4472**	**14320**	**43861**	**43460**	
TOTAL	92862	134842	210361	397801	519659	448195	505893	

Source: WBCG data compiled by WBG, 2012b:29.

Major products traded include vehicles, chemicals, paper, machinery, machinery equipment and, recently, also copper from Zambia (WBG, 2012b:9). As can be seen from the Table above, Namibia's traffic is heavily misbalanced with **outbound traffic** accounting for more than **90% of total** transit trade. Thus, **SADC countries source their imports via Walvis Bay but do not use the harbour for their exports**, which results in increased costs for WB.

According to the study, increased efforts would be required for Namibia to become a regional logistical hub, outperforming competitors by being "better than best" (WBG, 2012b:vii). Namibia struggles with a range of constraints in addition to the high traffic imbalances of transit trade, namely:

- *Geography:* Namibia's large territory combined with the small population makes the maintenance of transport infrastructure expensive. Moreover, the harbour of Walvis Bay (WB) is further away from densely populated markets than competing harbours;
- *Small cargo volume*: Due to the small cargo handled, only few shipping lines make direct calls in WB. Currently 5.5 million tons p.a. are handled at WB but 10-15 million tons p.a. would be needed to make the port internationally attractive.
- *Lack of professional services*: Services are mainly provided by SMEs that lack managerial capacity, technical and marketing skills to be regionally competitive.
- *Low diversification degree*: Namibia exports mainly raw materials, which are not well suited for containerized shipping.

- *High-cost competitor*, resulting from low cargo and high traffic imbalances. Thus, transiting goods via WB is more expensive than via Port Elizabeth or Durban (WBG, 2012b:17).

However, the report names also a range of advantages the WBC has over its regional competitors:

- *Good physical trade and transport infrastructure* including a well-maintained road network of 65,000 km and 2,400 km rail tracks connecting the country to South Africa;
- *Save environment and good security*
- *Two reliable ports* with streamlined clearance process and competitive rates – ensuring no delays in schedule and cargo handling;
- *Efficient customs procedure by regional standards;*
- *WBCG allows effective pooling of resources, expertise and authorities*
- *Rapidly growing transhipment business* (accounting already for 60% of container movements in WB).

It is recommended building on Namibia's **comparative advantages, such as security and on-time delivery** and addressing **shortcomings** that are in Namibia's discretion, such as **lack of professional services and traffic imbalances**[74]. Thus, Namibia could succeed *"...in carving out a niche market as the partner of choice for moving time-sensitive, high value, and mission critical cargo between the region and the world*. Focussing on metals and minerals (e.g. copper from Zambia = outbound traffic) as well as on motor vehicles (e.g. to Angola = inbound traffic) is a recommended strategy for future growth of Namibia's transit activities (WBG, 2012b).

Namibia's Aid for Trade (AfT) Strategy puts further emphasis on the country's poor railway infrastructure, which would require investments and enhanced management to be developed into a cost effective transportation mean (MTI and UNDP, 2011: 29).

In the period **2006-09 Namibia received about US$ 61.5 Mio AfT funds**. Almost 80% of these funds were spent on economic infrastructure, 20% on productive capacities and less than 0.4% on trade policy and adjustment. It is criticised that Namibia still does not have an AfT Strategy. Moreover, the designated AfT Committee, which coordinates the funds and manages the dialogue between the Government and different donors would not be operational (Ibid., p. 49-51),

Quality infrastructure

The Namibian Standards Institution (NSI) was established in 2005 in order to reduce Namibia's reliance on the South African Bureau of Standards for product testing. The NSI is responsible for technical regulations, standards, export certification and conformity assessment procedures, which are largely based on South African and international norms. Standards and technical regulations are not yet harmonised within SACU. NSI acts also as the National TBT Enquiry Point and has been notified accordingly to WTO.[75]

Namibia has difficulties in fully meeting the standards, technical regulations and SPS requirements of its major export markets. Since full compliance is a critical success factor for the country's ability to export, improved infrastructure development and training would be required (WTO, 2009:220-227). Currently, inspection services of the NSI focus on export products since the institution does not

---

[74] It is recommended removing the third party rule, which prevents a transit operator from moving cargo among countries if neither country is his home country.

[75] According risk management is, however, regarded as insufficient by NSI since the institution has only one person to act as TBT Enquiry Point.

have sufficient capacities to ensure product inspection services for imports. Due to limited capacities and the lack of accreditation for testing laboratories, testing for some products is also conducted in South Africa (e.g. for fish exports to the EU). The NSI shall receive technical knowledge and capacity support as outlined in Namibia's AfT Strategy. In particular, support shall be provided to (a) formulate, adopt and enforce standards; (b) strengthen the metrology division to provide accurate measurement traceability of standards; (c) provide reliable testing especially of food and fish products; and (d) provide food safety technical support to industries through enhanced test and inspection facilities (MTI and UNDP, 2011:68-69).

The NSI participates in the SADC Standardisation, Quality Assurance, Accreditation, and Metrology (SQAM) Programme and is cooperating with the SADC accreditation body, SADCAS. Namibia aims to establish a national accreditation body but the lack of technical expertise (e.g. the number of lead assessors) has yet prevented such undertaking.

In 2009, Namibia established the **National SPS and Food Safety Committee** in response to its obligation arising from the SADC TP. However, to date the work of the Committee, which is hosted by the Ministry of Agriculture, Water and Forestry (MoAWF) is **limited to developing the appropriate mechanisms for its operation** (Kleih, 2012:25).

Customs valuation

All SACU countries use a single administrative document (SAD 500) for customs declaration, which is also in the process of being adopted by other SADC countries. The **customs management systems within SACU are not yet harmonised**. Namibia operates the ASYCUDA++ customs management system and is in the process of implementing ASYCUDA World. Customs maintains a consolidated monthly import entry procedure to enable regular importers of SACU products to enter data on a monthly customs declaration (WTO, 2009:224). To accelerate customs formalities and overcome the problem of customs systems communication, "Cloud Computing" (internet-based information system) shall be applied. Namibia pilots a "one stop border post" based on Cloud Computing for registered haulage operators on the Trans-Kalahari route (Walvis Bay to Botswana). If successful, this system shall be expanded to other SADC countries.

Namibia **aims to establish a** "**Single Window**" system, which would allow the trader to submit all required documents (such as customs declarations, applications for import/export license, certificate of origin) through one single electronic entry point. The Single Window System is regarded as best possible solution by the World Customs Organization (WCO) since it facilitates trade and reduces the costs of doing business. However, implementing the Single Window system in Namibia is still in its infancy with the process being scheduled to start in early 2013. It is not yet clear whether the Ministry of Finance or the Ministry of Trade and Industry will lead the process.

The WTO Trade Policy Review (2009:221) concludes that **Namibia needs to enforce its customs procedures, in particular with respect to customs valuation, rules of origin and product inspection**. For the latter, close cooperation with the NSI would be necessary. NSI plans to intensify cooperation with customs with the objective of being represented at major border posts in order to undertake product inspection services. With respect to customs valuation and proof of origin, intensive training for customs official is recommended (WTO, 2009:221).

Trade Statistics

Namibia has recently established its Statistic Agency as independent body. The transformation process from the Central Bureau of Statistics to the Statistic Agency had temporarily resulted in insufficient data reporting to international institutions, such as UN Comtrade or the SADC Secretariat. The Statistic Agency is, however, in the process of restoring Namibia's reporting ability and reported to UN Comtrade for the years 2009-11 in August 2012.

There is a general **lack of reliable trade and tariff data within the TFTA region** and many countries do not report consistently to international institutions. This makes the conduction of according trade and tariff analyses difficult. The TTF therefore requested from all member states the exchange of trade data for the past four years and of tariff data for each applicable trade regime.[76] However, according to the Consultants' information, no set of TFTA trade and tariff data has yet been distributed to TFTA states.

76 Trade statistics (HS8) for the period 2006-10; tariff data indicating applied MFN rate and preferential rates under respective trade agreement; RoO for all preferential trade agreements. Moreover, MS are requested to provide an overview of current national trade policy measures and contact details of their trade enquiry point (3rd TTNF Meeting, 1-3 June 2012).

4 NAMIBIA AND THE TFTA

This section looks in detail at Namibia's trade and tariff relations with TFTA countries outlining major products traded as well as the tariff and non-tariff barriers faced for both, Namibian exporters to TFTA and TFTA exporters to Namibia. Moreover, the section analyses the revenue implications of the TFTA, not only by considering Namibia's direct imports from TFTA countries but also how the liberalization of South Africa's imports vis-à-vis TFTA would impact the CRP.

It has to be borne in mind **that Namibia's trade with non-SADC TFTA countries is extremely small**, accounting for 0.06% of total exports and 0.09% of total imports.[77] Moreover, as the discussion in section 4.3.2 shows, SACU's tariff levels for 'major' non-SADC TFTA imports are rather low, thus, unlikely of prohibiting TFTA exports to the region. The same applies for Namibia's exports to the TFTA region, which are less restricted by tariff barriers than by NTBS.

The question is therefore whether the TFTA will be able to overcome multiple NTBs by enforcing according trade rules. Section 4.3.4 will analyze the rules and regulations of the Draft TFTA as well as their implications for Namibia by comparing the legal texts of the 2010 Draft Agreement and its Annexes with those of the 2002 SACUA and the SADC Trade Protocol. This is an important exercise since Government's policy space on any trade policy issue is set by the terms of the most restrictive agreement that it has signed. As the discussion in section 4.3.4 shows, the Draft TFTA is more restrictive than both the SACUA and the TP on a number of issues.

4.1 Namibia's Exports to TFTA countries

As discussed in section 3.1.1, Namibia's exports to non-SACU TFTA countries accounted for 13.3% of total exports in the period 2009-11 with more than 70% going to Angola and about 10% to DR. Other SADC exports (Zambia, Mozambique, Zimbabwe, Malawi) accounted for 1.5% of Namibia's total exports.

Table 23: Namibia's non-SACU TFTA exports

Market	Export value ($000)				
	Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
All countries	**5,871,808**	***100.0%***	**5,870,110**	**5,844,878**	**5,900,437**
Tripartite	**780,877**	***13.3%***	**950,474**	**720,505**	**671,653**
Angola	571,575	*9.7%*	663,748	558,965	492,014
Congo, Dem. Rep.	75,632	*1.3%*	65,395	68,846	92,656
Zambia	43,128	*0.7%*	61,590	32,867	34,929
Kenya[78]	*42,005*	*0.7%*	*124,766*	*1,002*	*247*
Mozambique	20,776	*0.4%*	15,735	14,940	31,654
Zimbabwe	12,168	*0.2%*	10,956	13,093	12,455
Malawi	9,275	*0.2%*	3,145	22,180	2,499
Seychelles	2,196	*0.0%*	404	5,369	815
Tanzania	1,589	*0.0%*	2,013	1,507	1,248
Mauritius	1,201	*0.0%*	1,125	794	1,685

[77] As discussed in section 4.1 most of Namibia's 'exports" to Kenya are in fact re-exports (planes) so that the real value of Namibian exports to Kenya accounts for only 0.041% of Namibia's total exports.

[78] See footnote above.

Market	Export value ($000)				
	Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Libya	740	*0.0%*	1,380	649	190
Eritrea	310	*0.0%*	0	1	929
Uganda	143	*0.0%*	77	140	213
Sudan	38	*0.0%*	16	97	0
Madagascar	31	*0.0%*	22	11	60
Ethiopia	27	*0.0%*	70	1	9
Egypt, Arab Rep.	17	*0.0%*	11	36	5
Djibouti	9	*0.0%*	6		21
Rwanda	8	*0.0%*	16	8	1
Burundi	7	*0.0%*			22
Comoros	1	*0.0%*			3

Source: UN COMTRADE database, accessed 01.11.12

Exports to Angola: 9.7% of total exports

Export of motor cars/vehicles and motorcycles account for a large proportion of Namibia's exports to Angola. Since Namibia does not produce motor cars/transport vehicles, re-exports account for a large proportion of Namibia's total exports to Angola,[79] which somehow distorts the initial picture according to which Angola is a medium-relevant export destination for Namibia. **Deducting machinery/vehicles re-exports from Namibia's export products to Angola reduces the total export value by about 32%.**

Namibia's export products to Angola include wooden furniture, frozen mackerel, cigarettes, cider, non-alcoholic beverages, beer, wine, spirits and sweet biscuits.

Table 24: Namibia's exports to Angola

Code	Description	Export value ($000)				
		Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Total	**Total exports**	**571,575**	***100.0%***	**663,748**	**558,965**	**492,014**
870323	*motor cars and other motor vehicles*	*32,830*	*5.7%*	*48,784*	*36,394*	*13,313*
870421	*motor vehicles for the transport of goods*	*23,794*	*4.2%*	*27,388*	*17,785*	*26,211*
940360	wooden furniture	17,800	*3.1%*	25,168	14,764	13,467
870324	motor cars and other motor vehicles	16,256	*2.8%*	21,632	11,492	15,644
030374	frozen mackerel "scomber scombrus, scomber australasicus, scomber japonicus"	13,485	*2.4%*	4,028	16,095	20,333
870899	*parts and accessories, for tractors, motor vehicles*	*12,439*	*2.2%*	*4,690*	*8,946*	*23,682*
240220	cigarettes, containing tobacco	11,727	*2.1%*	17,275	15,455	2,450
871120	*motorcycles, incl. mopeds,*		*1.7%*			

[79] Machinery (HS87) accounts for 23.7% and vehicles (HS84) for 8.2% of Namibia's total exports to Angola. For machinery (HS84), most exports are "used" according to the Namibian NTL code description. For vehicles (HS87) we cannot say whether they are new or used since it is not stipulated in the HS6 codes or the Namibian NTL codes.

Code	Description	Export value ($000)				
		Average 2009-11	Share 2009-11	2009	2010	2011
Total	**Total exports**	**571,575**	***100.0%***	**663,748**	**558,965**	**492,014**
		9,635		*12,932*	*8,946*	*7,027*
870333	*motor cars and other motor vehicles*	*9,514*	*1.7%*	*11,342*	*6,897*	*10,304*
220600	cider, perry, mead and other fermented beverages	8,267	*1.4%*	10,046	6,806	7,950
852872	reception apparatus for television	7,122	*1.2%*	8,417	6,885	6,065
170490	sugar confectionery not containing cocoa	6,789	*1.2%*	5,474	6,011	8,882
940429	mattresses, fitted with springs	6,677	*1.2%*	6,585	6,191	7,254
340600	candles and the like	6,427	*1.1%*	7,646	6,878	4,756
220290	non-alcoholic beverages	6,381	*1.1%*	11,310	5,571	2,261
070310	fresh or chilled onions and shallots	6,010	*1.1%*	3,686	10,297	4,047
220830	whiskeys	5,729	*1.0%*	7,920	5,737	3,532
730890	structures and parts of structures, of iron or steel	5,506	*1.0%*	8,245	5,379	2,896
220300	beer made from malt	5,406	*0.9%*	6,558	3,463	6,198
851712	telephones for cellular networks "	5,395	*0.9%*	3,672	4,367	8,147
220421	wine of fresh grapes	5,280	*0.9%*	5,793	5,068	4,981
790500	zinc plates, sheets, strip and foil	4,934	*0.9%*	8,375	3,774	2,654
870210	motor vehicles for the transport of >= 10 persons,	4,757	*0.8%*	6,145	4,550	3,576
190531	sweet biscuits	4,600	*0.8%*	5,697	3,642	4,461
870422	*motor vehicles for the transport of goods*	*4,500*	*0.8%*	*7,741*	*3,328*	*2,432*

Source: UN COMTRADE database, accessed 01.11.12

Democratic Republic of Congo (DRC): 1.3% of total exports

Horse mackerel and frozen fish accounts for more than 75% of Namibia's exports to DRC. Further export products are salt, meat offal, cement, palm oil and beer.

Table 25: Namibia's exports to DRC

Code	Description	Export value ($000)				
		Average 2009-11	Share 2009-11	2009	2010	2011
Total	**Total exports**	**75.632**	***100,0%***	**65.395**	**68.846**	**92.656**
030374	frozen mackerel	37.900	*50,1%*	30.082	35.056	48.562
030379	frozen freshwater and saltwater fish	11.708	*15,5%*	1.813	8.008	25.302
030499	frozen fish meat "whether or not minced" (excl. swordfish, toothfish and fillets)	7.110	*9,4%*	6.905	14.425	

Code	Description	Export value ($000)				
		Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Total	**Total exports**	**75.632**	***100,0%***	**65.395**	**68.846**	**92.656**
250100	salts, incl. table salt	6.188	*8,2%*	6.291	4.992	7.282
020714	frozen cuts and edible offal of fowls	1.983	*2,6%*	5.277	525	148
252329	portland cement	1.010	*1,3%*	1	525	2.505
010290	live bovine animals (excl. pure-bred for breeding)	816	*1,1%*		1.498	949
850434	transformers having a power handling capacity > 500 kva	759	*1,0%*	2.276		
151190	palm oil and its fractions,	712	*0,9%*	2.136		
030349	frozen tunas of the genus	450	*0,6%*		1.350	
220300	beer made from malt	439	*0,6%*	1.218	47	52

Source: UN COMTRADE database, accessed 01.11.12

Zambia: 0.7% of total exports

Namibia's exports to Zambia are small but comparably diversified. Export products include beer, chemical products, cider, whiskey, wine and flour.

Table 26: Namibia's exports to Zambia

Code	Description	Export value ($000)				
		Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Total	**Total exports**	**43,128**	***100.0%***	**61,590**	**32,867**	**34,929**
220300	beer made from malt	4,071	*9.4%*	3,804	3,066	5,343
382490	chemical products	3,882	*9.0%*	8,454	2,536	656
220600	cider, perry, mead	3,446	*8.0%*	3,448	3,398	3,491
220830	whiskies	2,545	*5.9%*	2,089	2,788	2,759
220421	wine of fresh grapes	2,182	*5.1%*	3,367	1,952	1,227
320120	wattle extract	1,736	*4.0%*	2,186	2,480	542
740200	copper, unrefined; copper anodes	1,677	*3.9%*	5,030		
230110	flours, meals and pellets, of meat or offal	1,318	*3.1%*	994	1,468	1,493
220890	ethyl alcohol of an alcoholic strength of < 80% vol	865	*2.0%*	189	1,058	1,349
732611	grinding balls and similar articles	838	*1.9%*	2,514		
250100	salts, incl. table salt	827	*1.9%*	922	1,077	482
740319	copper, refined, unwrought	822	*1.9%*	2,465		
220870	liqueurs and cordials	734	*1.7%*	1,302	628	273
721049	flat-rolled products of iron	678	*1.6%*		1,920	113

Source: UN COMTRADE database, accessed 01.11.12

Mozambique: 0.4% of total exports

Namibia's exports to Mozambique are dominated by fish, accounting for more than 90% of its total exports.

Table 27: Namibia's exports to Mozambique

Code	Description	Export value ($000)				
		Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Total	**Total exports**	**20,776**	***100.0%***	**15,735**	**14,940**	**31,654**
030379	frozen freshwater and saltwater fish	7,707	*37.1%*		2,132	20,990
030374	frozen mackerel "scomber scombrus, scomber australasicus, scomber japonicus"	7,348	*35.4%*	10,098	4,004	7,943
030499	frozen fish meat "whether or not minced" (excl. swordfish, toothfish and fillets)	3,793	*18.3%*	3,939	7,439	
220300	beer made from malt	1,105	*5.3%*	899	610	1,804

Source: UN COMTRADE database, accessed 01.11.12

Zimbabwe: 0.2% of total exports

Namibia's small exports to Zimbabwe are also a result of the economic and political crisis in the country. Export products include horse mackerel, beer, non-alcoholic beverages, meat offal, salt and fish and fish products.

Malawi

Though Namibia reports that exports to Malawi accounted on average for 0.2% of its total exports in the period 2009-11, "unused postage, revenue or similar stamps" account for 87% of the value. Since this figure equals value of the bank notes and not the value of printing such notes Namibia's exports to Malawi accounted for less than 0.05% of total exports. Export products include building elements, beer and horse mackerel.

EAC

Exports to the EAC accounted apparently for a share of 0.7% of Namibia's total exports (2009-11) with Kenya receiving virtually all of it.

Table 28: Namibia's exports to EAC

Market	Export value ($000)				
	Average 2009-11	*Share 2009-11*	*2009*	*2010*	*2011*
Kenya	42,005	*0.7%*	124,766	1,002	247
Tanzania	1,589	*0.0%*	2,013	1,507	1,248
Uganda	143	*0.0%*	77	140	213
Rwanda	8	*0.0%*	16	8	1
Burundi	7	*0.0%*			22

Source: UN COMTRADE database, accessed 01.11.12

However, looking at the exports on a product level it become apparent that **Namibia's "exports" to Kenya are re-exports** namely planes, chisels, gouges and similar cutting tools for working wood" (HS 820530) and aeroplanes (880230). Both products accounted for 98.3% of Namibia's total "exports" and took only place in one reporting year, being most likely trade data errors.

Deducting these two items from Namibia – EAC trade, Namibia exported goods worth **U$2.4 Million** p.a. to EAC countries, which accounted for **0.041% of total exports** in the period 2009-11. Export products include beer, chocolate, salt, buckets, and light oils

Other COMESA countries

Namibia's exports to COMESA countries that are not SADC and/or EAC countries[80], are de fact non-existent. Total exports accounted for an average of **US$ 1.15 Million** p.a. in the period 2009-11 - or **0.019% of Namibia's total exports**. Export products include unclassified goods (HS9999), live animals, salts, frozen fish, raw hides and skins.

To summarise Namibia's export profile with TFTA countries it can be said that the vast majority of non-SACU exports, which account for 13.2% of Namibia's total exports, goes to SADC countries (mainly Angola and DRC). **Only 0.06%** of Namibia's total exports **to non-SADC TFTA** countries with a total value of about US$ 3.5 Mio.

The Table below summarises Namibia's top 10 exports to the region (i.e. to Angola and DRC). These include – when deducting the re-exports of motor cars and vehicles - frozen fish (mainly mackerel), wooden furniture, cigarettes, cider, and sugar confectionary. Further relevant export products are beer (Angola, Zambia, Malawi, EAC), meat offal (Zimbabwe), salt (Zimbabwe, EAC, other COMESA countries) and live animals and raw hides and skins (other COMESA countries).

Table 29: Namibia's major exports to TFTA countries

HS code	Product description	Average value (2009-11) '000 US$	Exports to
030374	frozen mackerel	37,900	DR Congo
870323	*motor cars and other motor vehicles*	*32,830*	*Angola*
870421	*motor vehicles for the transport of goods*	*23,794*	*Angola*
940360	wooden furniture	17,800	Angola
870324	*motor cars and other motor vehicles*	*16,256*	*Angola*
030374	frozen mackerel "scomber scombrus, scomber australasicus, scomber japonicus"	13,485	Angola
870899	*parts and accessories, for tractors, motor vehicles*	*12,439*	*Angola*
240220	cigarettes, containing tobacco	11,727	Angola
030379	frozen freshwater and saltwater fish	11,708	DR Congo
871120	*motorcycles, incl. mopeds,*	*9,635*	*Angola*
870333	*motor cars and other motor vehicles*	*9,514*	*Angola*
220600	cider, perry, mead and other fermented beverages	8,267	Angola
030499	frozen fish meat "whether or not minced" (excl. swordfish, toothfish and fillets)	7,110	DR Congo
852872	reception apparatus for television	7,122	Angola

80 COMESA excluding DRC, Malawi, Madagascar, Mauritius, Rwanda, Seychelles, Swaziland, Uganda Zambia, and Zimbabwe.

HS code	Product description	Average value (2009-11) '000 US$	Exports to
170490	sugar confectionery not containing cocoa	6,789	Angola
940429	mattresses, fitted with springs	6,677	Angola
TOTAL Top 10 **TOTAL Top 10 excl. Motor cars and vehicles**		233.05 Mio **128.59 Mio**	

Source: UN COMTRADE database, accessed 01/11/12.

Namibia's exports to the TFTA region are more diversified than to its main export market, the EU. While Namibia's exports to the EU and to the RoW are dominated by minerals, its exports to the region are dominated by agricultural exports. South Africa is the major export destination for Namibian agricultural and agro-processed exports such as beer, live animals, fish, and frozen bovine meat while high-value fish (hake and monk fish) and premium cut beef are primarily exported to the EU market. **By trend Namibia's agriculture and agro-processed exports to the non-SACU TFTA region are rather low value products**, which are often not demanded in other markets, such as horse mackerel, meat offal or hides and skins.

4.2 Namibia's Imports from TFTA countries

As outlined in section 3.1.2, imports from non-SACU TFTA countries accounted for only 2.4% of Namibia's total imports in the period 2009-11 – with about half coming from Zambia.

Table 30: Namibia's non-SACU intra-regional imports

Market	Market group	Import value ($000)				
		Average 2009-11	*Share 2009-11*	2009	2010	2011
TOTAL	***Total imports***	***145,999***	***2.4%***	***77,540***	***133,428***	***227,030***
Zambia	TFTA SADC/COMESA	83,350	*1.3%*	41,910	75,269	132,873
Malawi	TFTA SADC/COMESA	42,612	*0.7%*	8,419	44,940	74,477
Angola	TFTA SADC	9,169	*0.1%*	12,048	6,184	9,274
Zimbabwe	TFTA SADC/COMESA	3,347	*0.1%*	4,992	2,564	2,485

Source: UN COMTRADE database, accessed 01.11.12

Zambia: 1.3% of total imports

Almost 90% of the products imported from Zambia are copper products. The remaining 10% are maize.

Table 31: Namibia's imports from Zambia by product level

Code	Description	Import value ($000)				
		Average 2009-11	*Share*	*2009*	*2010*	*2011*
Total	**Total Imports**	**83,350**	***100.0%***	**41,910**	**75,269**	**132,873**
740200	copper, unrefined	35,076	*42.1%*	15,224	29,373	60,630
740311	copper, refined, in the form of cathodes and sections of cathodes	33,380	*40.0%*		38,779	61,360
740319	copper, refined, unwrought	6,250	*7.5%*	18,749		
100590	maize (excl. seed)	1,460	*1.8%*	0	385	3,995
230210	bran, sharps and other residues of maize "corn"	1,220	*1.5%*	1,487	910	1,262

Source: UN COMTRADE database, accessed 01.11.12

Malawi: 0.7% of total imports

99.9% of Namibia's imports from Malawi were uranium ores and concentrate.

Angola: 0.1% of total import

Namibia's imports from Angola were dominated by fish meal and light oils and preparations, of petroleum imports, together accounting for about 60% of total imports from Angola.

Table 32: Namibia's imports from Angola by product level

Code	Description	Import value ($000)				
		Average 2009-11	*Share*	*2009*	*2010*	*2011*
Total	**Total Imports**	**9,169**	***100.0%***	**12.048**	**6.184**	**9.274**
230120	flours, meals and pellets of fish	3,021	*33.0%*		3.683	5.381
271011	light oils and preparations, of petroleum	2,541	*27.7%*	7.582		40
490700	unused postage, revenue or similar stamps	870	*9.5%*	1.096	405	1.108
870421	motor vehicles for the transport of goods	375	*4.1%*	396	320	408
870333	motor cars and other motor vehicles principally designed for the transport of persons	355	*3.9%*	1		1.065

Source: UN COMTRADE database, accessed 01.11.12

Zimbabwe: 0.1% of total imports

Namibia's imports from Zimbabwe concentrate on agricultural products or products used in agricultural production.

Table 33: Namibia's imports from Zimbabwe by product level

Code	Description	Import value ($000)				
		Average 2009-11	*Share*	*2009*	*2010*	*2011*
Total	**Total Imports**	**3,347**	***100.0%***	**4,992**	**2,564**	**2,485**
843210	ploughs for use in agriculture, horticulture or forestry	559	*16.7%*	710	586	381
170199	cane or beet sugar and chemically pure sucrose	503	*15.0%*	1,508		
440710	coniferous wood sawn or chipped lengthwise	233	*7.0%*	436	224	39
843290	parts of agricultural, horticultural or forestry	220	*6.6%*	146	339	175
090230	black fermented tea and partly fermented tea	164	*4.9%*	122	181	189

Source: UN COMTRADE database, accessed 01.11.12

Imports from EAC

Imports from EAC accounted for only 0.02% (US$1.56 Mio) of Namibia's total imports (2009-11). Imported products include carbonate, machinery parts and tools and human vaccines, coming mainly from Kenya.

Imports from other COMESA countries

Imports from other COMESA countries[81] accounted for 0.1% of Namibia's total imports in the period 2009-11 and come almost exclusively from Egypt (98% of total COMESA imports with a total value US$ 4.64 Mio). Three products, namely engines and motors, parts of engines and generators accounted for 87% of Namibia's total imports from Egypt.

To summarise Namibia's trade profile with TFTA countries it can be said that Namibia sources hardly from the region. The majority of Namibia's imports are not produced in non-SACU TFTA countries and come from South Africa and the EU such as processed mineral products, motor vehicles, machinery, medicaments, and chemical products. **Only 2.4% (US$ 127 Mio) of Namibia's total imports came from non-SACU TFTA in the period 2009-11, of which 59% was copper from Zambia and 33% uranium from Malawi** (see Table below).

Table 34: Namibia's top 10 imports from TFTA countries

HS code	Product description	Average value (2009-11) '000 US$	Imports from
261210	uranium ores and concentrates	42,600	Malawi
740200	copper, unrefined	35,076	Zambia
740311	copper, refined, in the form of cathodes and sections of cathodes	33,380	Zambia
740319	copper, refined, unwrought	6,250	Zambia
230120	flours, meals and pellets of fish not for human consumption	3,021	Angola
271011	light oils and preparations, of petroleum	2,541	Angola

[81] COMESA excluding DRC, Malawi, Madagascar, Mauritius, Rwanda, Seychelles, Swaziland, Uganda Zambia, and Zimbabwe.

HS code	Product description	Average value (2009-11) '000 US$	Imports from
100590	maize (excl. seed)	1,460	Zambia
230210	bran, sharps and other residues of maize "corn"	1,220	Zambia
490700	unused postage, revenue or similar stamps	870	Angola
843210	ploughs for use in agriculture, horticulture or forestry	559	Zimbabwe
TOTAL Top 10		**126.98 Mio**	

Source: UN COMTRADE database, accessed 01/11/12.

Virtually all of Namibia's TFTA imports come from SADC countries. Non-**SADC TFTA countries accounted for only 0.09% of Namibia's total imports** (2009-11).

Are those products Namibia imports from non-SACU TFTA countries mainly sourced from the region or are there other major suppliers? The Table below illustrates that **copper and uranium** (which account together for 92% of Namibia's total imports from the non-SACU TFTA region) **are in majority sourced from the region**. For more diversified imports from the region, such as agricultural machinery, tea and refined sugar South Africa is Namibia's major supplier.

Table 35: Namibia's major imports from non-SACU TFTA countries

Country	HS	Product	Imports from country 2009-11	Av. Product share 2009/11	Total imports 2009-11	Country share of total M	Major import market
Zambia	740200	copper, unrefined	35076	42.1%	35414	99.0%	Zambia
	740311	copper, refined	33380	40.0%	34058	98.0%	Zambia
	740319	copper, unwrought	6250	7.5%	6530	95.7%	Zambia
Malawi	261210	uranium ores	42600	99.9%	44283	96.2%	Malawi
Angola	230120	flours, meals and pellets of fish	3021	33.0%	3664	82.5%	Angola
	271011	light oils and preparations	2541	27.7%	507855	0.5%	**South Africa**
Zimbabwe	843210	ploughs for use in agriculture	559	17.0%	1138	49.1%	Zimbabwe
	170199	cane or beet sugar	503	15.0%	1423	35.3%	Zimbabwe
	440710	coniferous wood sawn	233	7.0%	6830	3.4%	**South Africa**
	843290	parts of agricultural machinery	220	7.0%	1451	15.2%	**South Africa**
	090230	black fermented tea	164	5.0%	1176	14.0%	**South Africa**
	170191	refined cane sugar	164	5.0%	605	27.1%	**South Africa**

Source: UN COMTRADE database, accessed 01/11/12.

4.3 Implications of the TFTA for Namibia

The discussion so far has demonstrated that the non-SACU TFTA region is currently only of limited relevance for Namibia’s exports and imports. However, neighbouring non-SACU countries such as Angola, DRC, Zambia and Zimbabwe might have the potential to become medium-relevant export markets, in particular for Namibia’s agriculture and agro-processed products (fish, beer, dairy and milling products) if non-tariff barriers will be effectively addressed by the TFTA as the discussion in section 4.3.1 shows.

Whether Namibia’s low imports from the non-SACU TFTA region (2.4% of total imports) are a result of high tariff protection and what are the implications of extending the SADC Trade Protocol to all TFTA countries with respect to import competition and revenue is discussed in the section 4.3.2 and 4.3.3 respectively. The sections 4.3.4-4.3.6 analyse the legal provisions of the Draft TFTA and its Annexes and compare them with Namibia’s existing obligations under the 2002 SACUA and SADC Trade Protocol. This exercise does not only serve the purpose of identifying the most restrictive provision in the respective treaties (which guides Government’s trade policy once having committed to it) but also of providing an overview of Namibia’s existing trade obligations and institutional framework.

4.3.1 Namibia’s Export Potential in the TFTA

As discussed in section 3.1.1 Namibia’s exports to the non-SACU Tripartite region account for 13.3% of its total export and go almost exclusively to Angola and DRC (11% of total exports). **Exports to non-SADC Tripartite countries are tiny,** accounting on average for **US$ 3.55 Mio, or 0.06% of Namibia’s total exports** in the period 2009-11, if automotive re-exports are deducted.

The Table below provides an overview of Namibia’s major export products and the tariffs they face in Tripartite countries that have not acceded to the SADC Trade Protocol. Major export products include **fish, beer, salts, light oils, and live animals**, which **face tariffs between zero and 25%.** The only prohibitive tariff is applied by Seychelles with 200% on frozen tuna imports.

Table 36: Namibia's exports to non-SADC TP Tripartite countries[82]

Market	Code	Description	Export value ($000)			Tariff applied in destination market	Hypothetical duty payable (US$ 000)
			Average 2009-11	*Share of X to all Tripartite*	*Share of X to country*		
Total							**20.017**
Eritrea	010690	live animals	309	*0,0%*	*99,8%*	2	6
Seychelles	030341	frozen tunas	264	*0,0%*	*12,0%*	200	528
DRC	030374	frozen mackerel	37.900	*1,4%*	*50,1%*	10	3.790
Libya	030378	frozen hake	152	*0,0%*	*20,6%*	0	-
DRC	030379	frozen freshwater and saltwater fish	11.708	*0,4%*	*15,5%*	10	1.171
Libya	030429	frozen fish fillets	541	*0,0%*	*73,1%*	0	-
DRC	030499	frozen fish meat	7.110	*0,3%*	*9,4%*	20	1.422
Tanzania	220300	beer made from malt	662	*0,0%*	*41,7%*	25	-
Uganda	220300	beer made from malt	69	*0,0%*	*48,5%*	25	17
DRC	250100	salts, incl. table salt	6.188	*0,2%*	*8,2%*	10 or 20	1.238
Ethiopia	250100	salts, incl. table salt	20	*0,0%*	*75,4%*	5 or 10	2
Uganda	250100	salts, incl. table salt	11	*0,0%*	*8,0%*	25	3
Comoros	271011	light oils and preparations	1	*0,0%*	*100,0%*	15	0
Seychelles	271011	light oils and preparations	149	*0,0%*	*6,8%*	0	-
Tanzania	271011	light oils and preparations	102	*0,0%*	*6,4%*	0	-
Kenya	*820530*	*planes, chisels, gouges*	*40.492*	*1,5%*	*96,4%*	*10*	*4.049*
Tanzania	*842121*	*machinery for filtering water*	*88*	*0,0%*	*5,5%*	*0*	*-*
Tanzania	*843049*	*boring or sinking machinery*	*101*	*0,0%*	*6,4%*	*0*	*-*
Tanzania	*843141*	*buckets, shovels, grabs*	*230*	*0,0%*	*14,5%*	*10*	*-*
Rwanda	*847130*	*data-processing machines*	*0*	*0,0%*	*5,6%*	*0*	*-*
Uganda	*847330*	*parts of data-processing machines*	*8*	*0,0%*	*5,6%*	*0*	*-*
Angola	*870323*	*motor cars*	*32.830*	*1,2%*	*5,7%*	*2-20*	*6.566*
Burundi	*870323*	*motor cars*	*5*	*0,0%*	*62,4%*	*0 or 25*	*1*
Uganda	*870323*	*motor cars*	*19*	*0,0%*	*13,2%*	*0 or 25*	*5*
Burundi	*870324*	*motor cars*	*3*	*0,0%*	*37,6%*	*0 or 25*	*1*
Uganda	*870324*	*motor cars*	*11*	*0,0%*	*7,7%*	*0 or 25*	*3*
Rwanda	*870333*	*motor cars*	*2*	*0,0%*	*20,3%*	*0 or 25*	*0*
Seychelles	*890200*	*fishing vessels*	*1.775*	*0,1%*	*80,8%*	*0*	*-*

Source: UN COMTRADE database; UNCTAD TRAINS database, accessed 27/12/12.

Exports to the **non-SADC TFTA** region are not only **extremely small** but also **limited to very few products**: *One product* with exports worth less than US$ 550,000 accounted for more than 70% of Namibia's total exports to Eritrea (live animals), Libya (frozen fish) and Uganda (beer). Trade with Burundi, Comoros, Egypt, Ethiopia, Rwanda, Djibouti, Egypt, Madagascar and Sudan is close to non-existent with total exports accounting for less than US$ 40,000 p.a. in the period 2009-11.

Why does Namibia export so little to TFTA countries and can the reasons be targeted by the TFTA? According to **Namibian exporters** tariffs are not a prohibiting factor, though lower tariffs in non-SADC TP countries would be desirable. They observed, however, the following constraining factors for regional exports:

82 The products marked in italic are most likely transit products (planes, motor cars, vessels, data processing machinery) and are therefore disregarded in the analysis.

- *Protectionist tendencies in form of manifold NTBs*, e.g. for beer, dairy and milling products, cement – all of which are products that are produced in most TFTA country;
- *Cumbersome customs procedures*, including delays and intransparent, unpredictable and changing processes (particularly a problem in Angola, Namibia's major non-SACU export market);
- *High transport costs* due to poor road and infrastructure network;
- *Namibia's limited production capacities* and non-competitive products (particularly for food products that the region imports from the RoW).

The Table below summarises the opportunities and limits for Namibia's main regional export products.

Product-specific barriers for Namibian exporters to the Tripartite region

Fish
Namibia exports mainly horse mackerel to the TFTA region; more valuable fish species like hake or monk fish go largely to the EU and South African market where exporters get the best price. Horse mackerel is a basic food product that competes with the price of chicken pieces; alas producers are very much restricted in their price policy. The Namibian horse mackerel is the smallest of all the horse mackerels fished around the globe and the lowest in fat content. Therefore the product has to be sold at a discount to be competitive with horse mackerel from other zones (e.g. West Sahara).
Export advantages:
Close to Angola, DRC and Mozambique, which are major horse mackerel markets where the Namibian product is well accepted.
Limits of expanding exports:
Fish exports are naturally limited and depend on fluctuating fish stocks. To avoid the overfishing of its waters, Namibia manages its resource by a strict quota system. For horse mackerel the options for value addition are limited since the fish is not demanded in canned or filleted form.
Tariff and non-tariff barriers faced:
Though horse mackerel is categorized as "foodstuff" and thus, considered duty free under the SADC Trade Protocol, Namibia still pays significant duties when exporting to DRC or Angola. This risks resulting in under-declaration and production of faked invoices in order to reduce the customs duties to be paid.

Beer
Namibian Breweries exports around 60% of its total production: 85% goes to South Africa, 6% to Botswana and the remaining 9% to Zambia, Cameroon, Tanzania, Zimbabwe, Swaziland, Mozambique, Kenya and Uganda.
Export advantages: Quality of product that is appreciated in export markets.
Tariff and non-tariff barriers faced: Most SADC countries have a monopolistic beer sector, which makes exporting complicated. Despite the SADC Trade Protocol duties and taxes differ substantially from country to country: Angola applies a tariff o 50%, Zambia 40% , Tanzania: 5%. NTBs include random border stops and discriminative taxation (incl. within SACU).

Milling products
NamibMills produces about 70-75,000 tons maize meal and 55,000 tons wheat flour. In 2008, the company was initially able to export. Exports go to South Africa, Botswana, Zambia and Angola. However, capacities are still limited and the primary focus is on serving the local market. Only 5-7% of total production is currently exported.
Limits of expanding exports: Low capacities and not internationally competitive. Angola for instance imports directly from Brazil and Argentina. Moreover, production is of low value and high volume, which implies high transport costs.
Tariff and non-tariff barriers faced: NamibMills exports currently only to Angola where its pasta faces a tariff of 25%. Moreover, exports face an increasing number of NTBs since the country aims to set-up its own milling industry. NTBs are also applied within SACU with Botswana, Namibia and Swaziland restricting the import of flour and flour products.

Dairy products
Namibian Dairies is one of the few industries in Namibia that produces in an integrated value chain, ranging from milk farmers, over production of dairy products to packaging. The industry sources exclusively from local milk farmers (instead of importing subsidised milk powder). Thus, its prices are not internationally competitive. Namibian Dairies exports around 2-3% of total production to Angola. Export products are exclusively value-added products such as yoghurt or milk drinks.
Limits of expanding exports: High tariff and non-tariff barriers: Most SADC countries (incl. the SACU members Botswana and Swaziland) have a controlled market for dairy products and strictly control/limit dairy imports.
Tariff and non-tariff barriers faced: Dairy exports face high tariffs and difficult customs procedures in Angola. Moreover, the industry complains about lengthy payment processes since the Central Bank of Angola limits the export of foreign exchange.

Meat and meat products
Namibia is small meat producer in international terms having about 2 Million cattle. About 85% of production is exported, primarily to South Africa (live animals cuts and canned meat) and the EU ("premium cut"").[83] Exports to other TFTA countries are very limited. Namibia sees potential in increasing exports of on-hoof, canned beef and low-quality meat into Angola (depending on infrastructure development).
Limits of expanding exports: Being an arid country, the options for Namibia of expanding production are limited. Abattoirs work below capacity and taxation of live animal exports has not yet succeeded in fully exploiting capacity utilisation.

While the TFTA may be able to address some of the existing trade barriers, such as tariffs or cumbersome customs procedures, it cannot target Namibia's supply-side constraints, namely the limited production capacities of single industries. Another factor that cannot be addressed by a trade agreement is the region's general lack of industrial development resulting in missing trade complementarities. These are long-term development issues, which would need to be addressed in order to allow countries to take full advantage of regional FTAs.

4.3.2 Tariff Protection and Import Competition

To assess whether and to what extent Namibia is likely to face import competition as a result of the TFTA, we look at four issues:

5. *Tariff and non-tariff regimes for Namibia's major non-SADC TFTA imports* – assessing the current protection of Namibia's direct imports from those TFTA countries that have not yet joined the SADC Trade Protocol and, therefore, enter the Namibian market at MFN tariff (i.e. incl. Angola and DRC);
6. *SACU's tariff regime for South Africa's major imports from non-SADC TFTA countries* – assessing products and tariff protection of South Africa's major imports from TFTA countries since these products could be re-exported to Namibia;
7. *Current MFN tariffs for Namibia's and South Africa's major import products from SADC countries* – since these products could be potentially replaced or increased by non-SADC TFTA exports.
8. *Egypt's and Kenya's top 10 export products and protection level of these products in SACU* – assessing whether Namibia or South Africa sources any of Egypt's and Kenya's major exports and, if not, whether high tariffs are the reason.

[83] ODI and DNA (2008:32-33) investigated the options for re-directing Namibia's "EU premium cuts" to other markets. They found that only 8 of the 17 markets analysed would pay a similar price than Namibia receives in the EU. Moreover, these markets would only absorb about 1/4 of Namibia's current EU exports so that loosing the EU market would imply a significant loss of revenue.

1. Current tariff and non-tariff regime for Namibia's major non-SADC TFTA imports

Namibia's direct imports from non-SADC TFTA countries accounted for only 0.09% of its total imports, which makes the question for import competition redundant. However, Namibia also imports products from SADC countries that do not yet benefit from free access to the SACU market since they have not yet implemented the SADC Trade Protocol. The Table below summarises Namibia's top 10 import products and tariff regimes from respective TFTA countries.

Table 37: Namibia's top 10 imports from TFTA countries

HS code	Product description	Average value (2009-11) '000 US$	Imports from	MFN Tariff	SADC TP
230120	flours, meals and pellets of fish not for human consumption	3,021	Angola	0	0
271011	light oils and preparations, of petroleum	2,541	Angola	0-15% + 0.091c/li-11c/li	0
490700	*unused postage, revenue or similar stamps*	*870*	*Angola*	*0-15%*	*0*
260300	copper ores and concentrates	824	DRC	0	0
740311	copper, refined, in the form of cathodes and sections of cathodes	620	DRC	0	0
870421	*motor vehicles for the transport of goods*	*375*	*Angola*	*0-20%*	*0*
870333	*motor cars and other motor vehicles*	*355*	*Angola*	*20-26%*	*0*
810590	articles of cobalt, n.e.s.	348	DRC	0	0
740319	copper, refined, unwrought	238	DRC	0	0
740200	copper, unrefined; copper anodes for electrolytic refining	169	DRC	0	0

Source: UN COMTRADE database; UNCTAD TRAINS database, accessed 27/12/12.

The data in the Table shows two errors, namely Angola's motor vehicle imports from Namibia, which are most likely transit goods and the "unused postage, revenue or similar stamps", which customs reports misleadingly according to the value of the bank notes and. Deducting these errors, the Table shows that **with the exception of light oils** and preparations of petroleum **Namibia's top 10 import products from TFTA countries enter its market duty free.**

The reason for Namibia's low TFTA imports is therefore hardly high tariffs. As reported from private sector representatives in Namibia the reasons for limited sourcing from the region include poor quality of products,[84] poor road network and high transport costs,[85] lack of trade finance,[86] low production capacities and non-existing business relations. Further reasons are possibly non-tariff barriers, such as Namibia's import bans and import controls for maize, wheat, flour or horticultural products.

[84] Namibia used to import significant amounts of maize from Zambia and sugar from Zimbabwe. However, the quality of products was declining so that importers have chosen other sources.

[85] Quoted as a major reason by Namibian exporters for exporting mainly to South Africa, and southern Angola and DRC.

[86] The difficult socio-economic conditions in some SADC countries have negatively impacted intra-regional trade. Namibian-Zimbabwean trade relations have declined significantly since the country has severe difficulties in financing imports and hardly any capacity to export.

2. SACU's tariff regime for South Africa's major imports from non-SADC TFTA countries

South Africa's imports from TFTA countries accounted for 4.2% of its total imports in the period 2009-11 of which **99.9% come from the SADC region.**[87] Egypt is South Africa's 'largest' non-SADC Tripartite import source, accounting for 0.05% of total imports (which equals 1.1% of its Tripartite imports).

Moreover, as can be seen from the Table below, almost half of the top 30 non-SADC imports enter the SACU market duty free. Only seven products face a tariff of more than 10% or ad valorem tariffs. Thus, **South Africa's protection level for major TFTA imports is already very low.**

Table 38: South Africa's top 30 imports from non-SADC TFTA countries

Origin	Product code	Product label	Average 2009-11	Share of M per country total	MFN tariff 2011
Uganda	24012000	Tobacco	5,637	*51.3%*	15% or 860c/kg less 85%
Kenya	28362000	Disodium carbonate	5,384	*19.8%*	5,5
Egypt	27129010	Mineral waxes nes	3,638	*9.2%*	0
Egypt	28141000	Anhydrous ammonia	2,679	*6.8%*	0
Kenya	09024000	Black tea	2,278	*8.4%*	400c/kg
Egypt	20041090	Other vegetables	2,080	*5.3%*	20
Ethiopia	07133300	Kidney beans & white pea beans	1,923	*35.1%*	10
Ethiopia	09011110	Coffee	1,856	*33.9%*	0
Egypt	48184000	Sanitary articles of paper	1,687	*4.3%*	20
Uganda	06021000	Cuttings and slips, unrooted	1,682	*15.3%*	0
Egypt	08061000	Grapes, fresh	1,596	*4.0%*	4
Kenya	84798100	Mach f treatg metal	1,535	*5.7%*	0
Egypt	38170010	Mixed alkylbenzenes	1,352	*3.4%*	0
Egypt	69109000	Ceramic sinks, wash basins	1,225	*3.1%*	20
Egypt	39202090	Plates, sheets, film, foil	1,173	*3.0%*	10
Uganda	09011120	Coffee	1,144	*10.4%*	0
Kenya	28391900	Silicates of sodium nes	1,029	*3.8%*	0
Ethiopia	07133390	Dried, shelled kidney beans	972	*17.8%*	10
Egypt	59021000	Tire cord fabric made of nylon	963	*2.4%*	15
Kenya	24012000	Tobacco	866	*3.2%*	15% or 860c/kg
Kenya	48115990	Paper and paperboard	824	*3.0%*	0
Egypt	32089090	Paints & varni based on polymers	818	*2.1%*	10
Egypt	30051000	Adhesive dressings	805	*2.0%*	0
Kenya	39202090	Plates, sheets, film, foil	759	*2.8%*	10
Kenya	84224000	Packing or wrapping machinery	732	*2.7%*	0
Egypt	70109090	Carboys, bottles, flasks, jars	732	*1.9%*	10
Egypt	25231000	Cement clinkers	711	*1.8%*	0
Kenya	21039090	Sauces	710	*2.6%*	5
Egypt	68022100	Monumental/ stone, cut	700	*1.8%*	0
Egypt	33051000	Hair shampoos	680	*1.7%*	20

Source: UN COMTRADE database, downloaded November 2012; UNCTAD TRAINS database.

[87] South Africa's non-SADC TFTA imports accounted on average for US$ 84.6 Mio in the period 2009-11 and its total imports for US$ 81,210.4 Million (UN Comtrade).

Annex 6 provides a more detailed overview of South Africa's trade and tariff regime with Tripartite countries. South Africa has a massive trade surplus with the region (US$ 7.1 billion), which accounts for 14.5% of its total exports. However, as it is the case with Namibia, South Africa's trade with the Tripartite region is largely limited to SADC.

3. Current MFN tariff for Namibia's and South Africa's major imports from SADC countries

The following two Tables provide an overview of Namibia's and South Africa's major imports from the SADC region and the external SACU protection level applying for all non-SADC Trade Protocol countries in the region.

Table 39: Namibia's major imports from SADC TFTA states

Source	*Average 2009-11*	*Share total imports 2009-11*	*HS*	*Product*	*MFN*	*SADC TP*
Zambia	**83350**	**1,3%**				
	35076		740200	copper, unrefined	0	0
	33380		740311	copper, refined	0	0
	6250		740319	copper, unwrought	0	0
	1460		100590	maize (excl. seed)	0	0
Malawi	**42612**	**0,7%**				
	42600		261210	uranium ores + concentrates	0	0
Angola	**9169**	**0,1%**				
	3021		230120	flours, meals and pellets of fish	0	0
	2541		271011	light oils and preparations	0-15 + 0.091c/li-11c/li	0
Zimbabwe	**3347**	**0,1%**				
	559		843210	ploughs for use in agriculture	0	0
	503		170199	cane or beet sugar	0	0
	233		440710	coniferous wood sawn	0	0
	220		843290	parts of agricultural machinery	0	0
	164		090230	black fermented tea	400c/kg	0
	164		170191	refined cane or beet sugar	0	0
	136		230610	oilcake and other solid residues	6,6	0

Source: UN COMTRADE database, downloaded November 2012; UNCTAD TRAINS database.

The data clearly demonstrates that **Namibia's major imports from the SADC region could also be supplied by the RoW duty free.** In fact, light oils and black tea are the only products Namibia imports DFQF from the SADC region for which non-SADC TFTA states still face an import tariff.

South Africa's imports from SADC countries are more diverse than Namibia's, accounting for 4.2% of South Africa's total imports. As the Table shows, there are **some products** South Africa imports from the SADC region **for which non-SADC TFTA countries face medium high to high tariffs**. In addition to light oils, tea and tobacco, these are **cotton and clothing**, which are regarded as sensitive in the SACU market. There are voices in SACU that fear detrimental competition for South Africa's textile and apparel industry when liberalising these products TFTA-wide.

Table 40: South Africa's major imports from TFTA states

Source	Average 2009-11	Share total imports 2009-11	Share of total Tripartite Imports	HS	Product	MFN	SADC TP
Angola	**1.671.388**	**2,1%**	**48,5%**				
	1.648.813			27090000	Petroleum oils	0	0
	18.167			71023100	Diamonds	0	0
Mozambique	**663.251**	**0,8%**	**19,2%**				
	206.968			27160000	Electrical energy	0	0
	175.226			27111100	Natural gas, liquefied	0	0
	164.997			27101130	Light oils and preparations	0.183c/li	0
Zambia	**290.800**	**0,4%**	**8,4%**				
	86.761			74081100	Wire of refind copper	0	0
	84.329			74031100	Copper cathodes	0	0
	30.573			85444990	Insulated wire, cable	15	0
	24.976			52010020	Cotton, not carded or combed	160c/kg	0
Zimbabwe	**271.214**	**0,3%**	**7,9%**				
	50.261			26040000	Nickel ores and concentrates	0	0
	35.452			24012000	Tobacco, unmanufactured	15% or 860c/kg less 85%	0
	31.845			52010020	Cotton, not carded	160c/kg	0
	29.723			75021000	Nickel unwrought	0	0
	13.596			71023100	Diamonds non-industrial	0	0
Botswana	***138.275***	***0,2%***	***4,0%***				
Mauritius	**106.693**	**0,1%**	**3,1%**				
	24.171			61091000	T-shirts, singlets	45	0
	15.699			62034200	Mens/boys trousers	45	0
	6.919			62052000	Mens/boys shirts, not knitted	45	0
	4.694			61051000	Mens/boys shirts, knitted	45	0
Malawi	**65.852**	**0,1%**	**1,9%**				
	24.225			09024000	Black tea (fermented)	400c/kg	0
	6.803			40012900	Natural rubber in other forms	0	0
	4.416			24012000	Tobacco, unmanufactured	15% or 860c/kg less 85%	0
	4.373			52010020	Cotton, not carded or combed	160c/kg	0
Namibia	***56.027***	***0.07%***	***1.6%***				
Tanzania	**56.013**	**0.07%**	**1.6%**				
	23.052			27101130	Light oils and preparations	0.183c/li	0
	5.894			27101102	Light oils and preparations	0.091c/li	0
	5.885			09024000	Black tea (fermented)	400c/kg	0

Source: UN COMTRADE database, downloaded November 2012; UNCTAD TRAINS database.

It appears, however, doubtful that these fears are justified. The Table below summarises South Africa's top 10 imports for the Chapter 51-61 (textiles and clothing) coming from the TFTA countries – with 70% coming from Mauritius.

Table 41: South Africa's top 10 textiles and clothing imports from Tripartite countries

Product code	Product label	Imports (US$ thousand)				SACU tariff 2011	
		Avg. 2009-11	*Product share of World total*	*Product share of Tripartite total*	*Tripartite share of SA M of product*	*MFN*	*SADC TP*
52010020	Cotton, not carded or combed	61.842	*0,1%*	*1,8%*	*93,7%*	160c/kg	0
61091000	T-shirts, singlets	26.976	*0,0%*	*0,8%*	*25,2%*	45	0
61051000	Mens/boys shirts, of cotton	6.721	*0,0%*	*0,2%*	*18,2%*	45	0
61102000	Pullovers, cardigans	5.020	*0,0%*	*0,1%*	*16,8%*	45	0
52051200	Cotton yarn,>/=85%,single	4.091	*0,0%*	*0,1%*	*82,6%*	15	0
61099000	T-shirts,singlets	3.645	*0,0%*	*0,1%*	*9,4%*	45	0
61103000	Pullovers, cardigans	3.111	*0,0%*	*0,1%*	*7,0%*	45	0
60049000	Knitted or crocheted fabrics	2.890	*0,0%*	*0,1%*	*32,9%*	22	0
52091200	Twill weave cotton fabric	2.752	*0,0%*	*0,1%*	*96,0%*	22	0
60032000	Knitted fabrics of cotton	2.491	*0,0%*	*0,1%*	*97,5%*	22	0

Source: UN COMTRADE database, downloaded November 2012; UNCTAD TRAINS database.

The total value of South Africa's top 10 textiles and clothing imports from Tripartite countries (incl. SADC countries) was about US$120 Mio in the period 2009-11 – this equals 3.5% of South Africa's total imports from the region. The Table above illustrates that **textiles and clothing are of minor relevance in intra-Tripartite trade**, accounting for a product share of only 0.1-1.8%.

For 4 of South Africa's top 10 textiles and clothing imports from the Tripartite region TFTA countries are the major supplier (see Table above), namely Mauritius, which accounts for 70% of South Africa's clothing and textile imports from Tripartite countries. Neither Egypt nor Kenya has an internationally competitive textile or clothing industry.[88] However, while Kenya does not have an established textile sector[89] and exports mainly clothing to the EU and the US (where it enjoys preferential market access) textiles and apparel constitute Egypt's third-largest industrial sector. **Like the South African textile and apparel industry, the Egyptian industry is traditionally highly protected** in terms of tariffs and quota and not competitive in international terms (USITC, 2004:L3). **Opening the industry to regional competition** might therefore likely to be beneficial for both, Egypt and South Africa since it **would offer the chance to increase the industry's competitiveness** without exposing it to international competition.

4. Egypt's and Kenya's major exports and protection level in SACU

The Table below lists Egypt's top 10 exports, which are, except for carpets, exclusively primary product. Of these products, South Africa sources only petroleum oils from Egypt. However, even for petroleum oils Egypt is not a major supplier for South Africa - despite the fact that the products enter the SACU market largely duty free.

88 Leading textiles exporters are the EU and China, together accounting for about 60% of global textile and 65% of global clothing export. No African country is among the world's 15 leading textile exporters and Tunisia is Africa's only internationally competitive clothing exporter (with a share of 1% of global exports in 2009) (WTO, 2010).

89 In fact, South Africa and Mauritius are the only Sub-Saharan African countries with an established textile sector with South Africa being the largest Sub-Saharan textile exporter and Mauritius earning the majority of export revenue from textile and clothing exports (USITC, 2004:K-3).

Table 42: SACU's import protection for Egypt's top 10 exports

Product Code	Product Description	Egypt's reported exports to World (in		SA's reported imports from World (in 1000 USD)		SACU tariff 2011		
		Average 2009-11	*Share of total*	*Average 2009-11*	*Share of total X*	*MFN AV*	*MFN non-AV*	*SADC TP*
Total		**27.365.515**	**100,0%**	**81.029.723**	**100,0%**			
270900	Petroleum oils & oils	2.119.923	7,7%	11.859.839	14,6%	0		0
271111	Natural gas, liquefied	1.970.707	7,2%	173.808	0,2%	0		0
271019	Petroleum oils	1.787.145	6,5%	15.781	0,0%	--	11c/li	0
710812	Gold	1.189.518	4,3%	169	0,0%	0		0
310210	Urea	1.135.323	4,1%	238.638	0,3%	0		0
271011	Light petroleum oils	1.056.936	3,9%	3.836.566	4,7%	0-15	0.091c/li-11c/li	0
740911	Copper plates, sheets	559.073	2,0%	3.982	0,0%	10		0
080510	Oranges, fresh/dried	505.694	1,8%	368	0,0%	4		0
570190	Carpets	332.686	1,2%	2.968	0,0%	5		0
854411	Winding wire, of copper	305.486	1,1%	4.329	0,0%	15		0
	Total top 10 exports	**10.962.491**	**40,1%**	**16.136.448**	**19,9%**			

Source: UN COMTRADE database, downloaded November 2012; UNCTAD TRAINS database.

None of Egypt's top 10 export products (which account for 40% of its total exports) can be regarded as sensitive in the SACU market, facing only low to medium high MFN tariffs.

Kenya's top 10 exports account for more than 45% of its total export revenue and are mainly agricultural products. As can be seen from the Table below, **Kenya's top 10 exports are hardly sourced from South Africa** – from nowhere in the world. In fact, South Africa is a producer and exporter of many of Kenya's agricultural exports. Thus, the abolition of import duties for Kenya's major exports is most likely having nil implications on SACU's imports of these products.

Table 43: SACU's import protection for Kenya's top 10 exports

Product Code	Product Description	Kenya's reported exports to World (in 1000 USD)		SA's reported imports from World (in 1000 USD)		SACU tariff 2011		
		Average 2008-10	*Share of total X*	*Average 2009-11*	*Share of total X*	*MFN AV*	*MFN non-AV*	*SADC TP*
Total	**Total Trade**	**4.770.129**	**100,0%**	**81.029.723**	**100,0%**			
090240	Tea, black (fermented)	988.556	20,7%	41.132	0,1%	--	400c/kg	0
060312	Fresh carnations	194.206	4,1%	26	0,0%	20		0
090111	Coffee, not roasted	183.411	3,8%	53.083	0,1%	0		0
070990	Vegetables	176.762	3,7%	1.880	0,0%	0 or 15		0
060390	Cut flowers	162.519	3,4%	237	0,0%	20		0
283699	Carbonates	130.082	2,7%	6.362	0,0%	0		0
271019	Petroleum oils	126.982	2,7%	15.781	0,0%	--	11c/li	0
252329	Portland cement	98.797	2,1%	14.371	0,0%	0		0
240220	Cigarettes	89.364	1,9%	24.546	0,0%	45		0
151190	Palm oil	60.740	1,3%	311.882	0,4%	10		0
	Total top 10 exports	**2.211.418**	**46,4%**	**469.302**	**0,6%**			

Source: UN COMTRADE database, downloaded November 2012; UNCTAD TRAINS database.

To summarise the implications for **import competition** in the Namibian market when extending the SADC Trade Protocol to all TFTA countries it can be stated that these are most **likely to be nil**. Thus, most of Namibia's direct imports from non-SADC Trade Protocol countries enter its market already duty free. Egypt's and Kenya's top 10 export products face either zero tariffs or are hardly imported from South Africa.

There are very few products South Africa sources from the Tripartite region (i.e. incl. SADC) for which non-SADC Tripartite countries would still face a medium to high MFN tariff. These products include light oils, tea, tobacco, cotton, textiles and clothing. Of these, textiles and clothing appear to be the only sensitive product group within SACU. However, **textiles and clothing are only of minor relevance in intra-Tripartite trade** (accounting for a product share of 0.1-1.8%). Moreover, Egypt, the only TFTA producer in addition to South Africa and Mauritius that has an established textile sector, is not an internationally competitive producer. Thus, it appears **doubtful that textiles and clothing imports from Egypt imply significant import competition in the SACU market.**

4.3.3 Revenue Implication of the TFTA

Income from the SACU revenue pool is extremely important for Namibia, accounting for about 40% of the country's total revenue. Namibia's dependency on income from the CRP has increased in recent years, following the 2002 reform of revenue sharing mechanism. When analysing at the revenue implications of the TFTA, we therefore have to look at it from two angles: first, the implications for Namibia's direct imports and second, the implications for the SACU revenue pool.

A couple of caveats accompany this analysis. First, it has to be highlighted that the "hypothetical revenue loss" of the TFTA is assessed. This is obtained by applying the base applied tariff (where known) to the average value of imports in the past three years (2009-11).[90] The concept of "hypothetical revenue" assumes 100% collection efficiency and no rebates – both assumptions that are unrealistic. However, both "errors" work in opposite directions: while the 100% collection efficiency overstates the revenue loss, the fact that no rebates are taken into consideration understates revenue collection. Second, the analysis assumes that SACU's tariff liberalisation offer under the SADC Trade Protocol is expanded to all TFTA countries, thus that 99.2% of tariff lines are going to be liberalised under the TFTA. Though this is the original proposal of the Tripartite Task Force, recent debates in the TTNF suggest that a lower share of trade will be liberalised, which would imply an exaggeration of our figure of hypothetical revenue loss. Last but not least, it needs to be taken into account that the analysis is static and limited to revenue. Thus, economic effects of the TFTA and their implications for SACU revenue, such as the replacement of imports from the RoW by TFTA imports, which would lead to increased revenue losses, are not taken into account. These were, however, assessed by a comprehensive SACU TFTA study (IMANI/SAIIA, 2011).[91]

[90] In other words, if imports are €100 and the tariff is 15%, the hypothetical revenue is €15.

[91] However, the study took only one year (2009) as basis for its analysis, which can distort results. Moreover, MFN imports from SADC countries (Angola, DRC, Seychelles) were not incorporated, whose liberalisation would, however, also impact on trade creation and diversion. For Namibia, it also needs to be considered that "automotive trade" with non-SACU TFTA countries is most likely transit trade.

Hypothetical revenue loss – Namibia's TFTA imports

Namibia's **hypothetical revenue from TFTA imports** was on average **US$ 1.12 Mio p.a.** in the period 2009-11, [92] which is **less than 0.1% Namibia's revenue from the CRP** in 2011/12.[93]

The "top 10 TFTA revenue earners" listed in the Table below accounted for more than 82% of total hypothetical revenue from TFTA. The largest share (32%) comes from light oils and preparations of petroleum.

Table 44: Highest revenue products for Namibia's TFTA imports (2009-11)

Code	Description	Indicative hypothetical rev. on imports (avg., 2009-11)		Avg. import value (2009-11, $000)	SACU tariff 2011			
					MFN		SADC TP	
		Namibia (US$000)	Share of Nam. hypo. rev.	Namibia	AV	Non-AV	AV	Non-AV
271011	light oils and preparations, of petroleu	381,1	31,7%	300.416	0-15	0.091c/li-11c/li	0	
630900	worn clothing and clothing accessories,	152,7	12,7%	255	20-60	35 or 50c/u-60% or 2500c/kg	20-60	35 or 50c/u-60% or 2500c/kg
490700	unused postage, revenue or similar sta	130,4	10,8%	8.865	0-15		0	
870421	motor vehicles for the transport of good	97,4	8,1%	49.168	0-26		0	
870333	motor cars and other motor vehicles pri	92,4	7,7%	7.798	20-26		0	
870323	motor cars and other motor vehicles pri	61,5	5,1%	341.445	20-26		0	
170490	sugar confectionery not containing coco	25,8	2,1%	23.260	37		0	
840999	parts suitable for use solely or principa	17,2	1,4%	12.259	0-20		0	
841850	refrigerated or freezing chests, cabinets	17,2	1,4%	2.778	20		0	
190211	uncooked pasta, not stuffed or otherwis	15,1	1,3%	219	30		0	

Source: UN COMTRADE database; UNCTAD TRAINS database, accessed 27/12/12.

Most other "top revenue earners" are regarded as sensitive within SACU and SADC such as worn clothing, motor vehicles, sugar confectionary, and staffed pasta. These products, accounting for about 50% of Namibia's total hypothetical revenue from TFTA countries, are therefore likely to be restricted from duty-quota free trade in the TFTA.

Hypothetical revenue loss – South Africa's TFTA imports

South Africa's hypothetical revenue from TFTA countries was on average **US$6.47 Mio p.a.** in the period 2009-11, which is **less than 0.1% of the total value of the CRP**.[94] The revenue implications of the TFTA can thus considered being insignificant for SACU.

The Table below lists the "Top 20 TFTA revenue earners" for South Africa, accounting for almost 60% of total hypothetical revenue in the period 2009-11. Tobacco, prepared vegetables and fruits as well as motor vehicle equipment are major revenue earners.

---

92 This includes Namibia's hypothetical revenue collection from those SADC countries that have not yet implemented the SADC Trade Protocol, namely Angola and DRC.

93 Namibia's revenue share was ZAR 9.567 billion (about U$ 1.127 billion), which equals 17.3% of the total CRP, in 2011/12 (SACU Secretariat, 2012).

94 The total CRP was ZAR 55.2 billion (about US$ 6.5 billion) in 2011/12 (SACU Secretariat, 2012).

Table 45: Top 20 TFTA revenue earners

Supplier	Product code	Product label	Imports (US$ thousand)	SACU tariff 2011 (hover to see note)		Hypothetical revenue (US$ thousand)
			Avg. 2009-11	*MFN*	*SADC TP*	
TOTAL						**6.473**
Uganda	24012000	Tobacco, unmanufactured	5.637	15% or 860c/kg less 85%	0	845,5
Egypt	20041090	Other vegetables prepared	2.080	20	0	416,1
Egypt	48184000	Sanitary articles of paper	1.687	20	0	337,4
Kenya	28362000	Disodium carbonate	5.384	5,5	0	296,1
Egypt	69109000	Ceramic sinks	1.225	20	0	244,9
Ethiopia	07133300	Kidney beans	1.923	10	0	192,3
Egypt	59021000	Tire cord fabric	963	15	0	144,5
Egypt	98010025	for motor vehicles for the transport of ten or more persons	656	21	21	137,8
Egypt	24031010	Smokg tobacco	305	45	0	137,3
Egypt	33051000	Hair shampoos	680	20	0	136,1
Kenya	24012000	Tobacco, unmanufactured	866	15% or 860c/kg less 85%	0	129,9
Egypt	39202090	Plates, sheets, film, foil	1.173	10	0	117,3
Ethiopia	07133390	Dried, shelled kidney beans	972	10	0	97,2
Kenya	20082000	Pineapples nes,o/w prep	174	55	0	95,9
Kenya	06031900	Fresh cut flowers and buds	474	20	0	94,9
Kenya	07081000	Peas, shelled or unshelled	630	15	0	94,5
Egypt	04063000	Cheese processed	89	500c/kg with a maximum of 95%	0	84,9
Egypt	08101000	Strawberries, fresh	399	15	0	82,9
Egypt	32089090	Paints & varni	760	10	0	81,8
Egypt	87029020	Buses	309	20 or 26	0	80,4

Source: UN COMTRADE database; UNCTAD TRAINS database, accessed 27/12/12.

4.3.4 Implications for Namibia's Trade Policies

Namibia has entered into several international commitments that already constrain its freedom of manoeuvre. These include the 2002 SACUA, the WTO Agreement, the SADC Trade Protocol and also the EFTA Agreement. Moreover, Namibia has de facto implemented the TDCA between South Africa and the EU, liberalising its market for the majority of its EU imports. The requirements of these treaties differ considerably with respect to what trade policies are allowed as will be outlined in this section with respect to SACU and SADC. Generally, **Government's policy space on any trade policy issue is set by the terms of the most restrictive agreement that it has signed.**

As discussed in section 3.1.3, the 2002 SACUA provides several exemptions from its standard provisions of free movement of goods and explicitly allows Namibia to apply import and export restrictions for external SACU trade. Additionally, Namibia applies bans for certain intra-SACU imports, which may not be permitted by the SACUA but have not yet been challenged by any SACU member. Namibia claims that current trade restrictions for agriculture and agro-processed products are necessary for Namibia being able to develop any meaningful industries in a customs union with South Africa.

However, what are the rules and conditions in the larger regional context, namely within SADC and the forthcoming TFTA, and how would these rules affect Namibia's trade policies currently applied?

The following analysis compares the provision in the 2002 SACUA and the SADC Trade Protocol with the provision of the **2010 Draft TFTA**. As said before, these provisions are only regarded as "input" to the negotiations; i.e. they cannot be interpreted as TFTA provisions which will enter into force. However, in the absence of tangible negotiation results, the Consultants had to take the legal texts and Annexes of the Draft TFTA as benchmark. Undertaking such a **comparative analysis of the SACU, SADC and Draft TFTA** provisions allows an overview of the **implications single provisions and institutional settings have for Namibia's** trade policy and trade-related institutions. This in turn enables policy makers to adapt their negotiation strategy accordingly.

The presentation of the single provisions and institutional settings follows the structure of the Draft TFTA as presented in section 2.2.

4.3.4.1 Trade Remedies

SACU

The 2002 SACUA foresees to establish a **joint Tariff Board**, consisting of representative from all SACU countries with a rotating Chair. The Tariff Board shall recommend to the Council on the level and changes of customs duties and protectionist measures (Art. 11 and Annex B, SACUA). The governance of such duties and protectionist measures shall be ruled by the provisions of the WTO and SACU's regional/bilateral trade agreements as well as by policy guidelines and procedures developed by the Council. These foresee that the designated national bodies may undertake immediate action and notify the SACU Secretariat accordingly (Art. 8.2)
However, to date **neither the SACU Tariff Board nor the designated national bodies within BLNS exis**t. The South African International Trade Administration Commission (ITAC), remains in charge for tariff investigations, amendments, and trade remedies on behalf of SACU. Namibia is in the advanced process of establishing the **Namibia Board of Trade** to operate as designated SACU national body.

SADC

The SADC Trade Protocol **does not foresee the establishment of a regional institution on trade remedies** or the application of regional rules. Art. 18-20 allow member states to apply national provisions in line with WTO rules. The correct application of trade remedies shall be ensured by the competent authorities of the respective member states.

Draft TFTA

The application of anti-dumping and safeguard measures is governed by Annex 6 of the Draft TFTA. A **Trade Remedies Sub-Committee shall act as Competent Authority**, initiating and conducting investigation on trade remedies and making according recommendations on how to apply protectionist measures (such as increased customs duties, anti-dumping duties, import/export restrictions or other measures "consistent with appropriate protection").

Any protectionist measures applied by the Sub-Committee on Trade Remedies shall be **in line with the provisions of the WTO Agreement on Antidumping**

Measures. The TFTA foresees further that its member states cooperate in their investigation efforts and the imposition of according measures (Art. 20).

Implications for Namibia

Like most TFTA states Namibia faces the problem that it lacks the technical capacities to undertake investigations on trade remedies. Namibia would need to ensure that its Board of Trade is fully operational and has the capacities to effectively liaise and engage not only with the SACU Tariff Board but also with the TFTA Trade Remedies Sub-Committee.

4.3.4.2 Duties, border charges and non-tariff barriers

SACU

As outlined in section 3.1.3 the SACU Agreement provides '**five pegs' that allow exemptions** from its standard provisions **of free movement of goods**, such as temporary import and export restrictions (Art. 25), infant industry protection (Art. 26), and regulatory measures for the marketing of agricultural products (Art. 29). For trade outside the customs area the SACUA allows the application of quantitative restrictions and also enables any MS to act upon request of another MS to prevent the exportation of such "prohibited or restricted goods" from its area to a custom union member.

SADC

The 2000 Trade Protocol foresees the elimination of import duties within 8 years. When launching the SADC FTA in August 2008, 85% of intra-regional trade attained duty free status, which the remaining tariffs being phased out until 2012. SACU frontloaded its tariff offer and has granted duty free access for 99.2% of SADC imports since 2008 (USAID, 2011). The Trade Protocol foresees further that no export duties are applied for intra-regional exports. Quantitative import restrictions shall be phased out (Art. 8). The Protocol allows, however, the application of export duties and import restrictions for third country trade (Art.5.2, 8.2). Moreover, it provides a "loophole", allowing quantitative restrictions of imports and exports "necessary to prevent or relieve critical shortages of foodstuffs" (Art. 9g).

Draft TFTA

The national schedules on the elimination of import duties and charges have not yet been prepared by MS, which will be done once agreement on liberalization modalities has been agreed (see section 2.3). **Any export duties and quantitative restrictions are prohibited** by the Draft TFTA (Art. 9+11). Any protectionist measures have to be in line with the provisions on trade remedies explained above; i.e. they have to be in line with in line with the provisions of the WTO Agreement on Antidumping Measures, which are governed by the Trade Remedies Sub-Committee.

Non-tariff barriers (NTBs) have been clearly identified as major obstacle to intra-regional trade. Subsequently, the Draft TFTA aims to establish stringent rules to report, monitor and eliminate all NTBs (Art. 10). For this purpose a regional **Mechanism for the Elimination of Non-Tariff Barriers** shall be established, ensuring that NTBs in COMESA, EAC and SADC are identified and classified according to WTO categories (see section 3.1.3).

Member states shall establish National NTB Monitoring Committees/Enquiry Points that report to the regional Secretariats.[95] On the Tripartite Level, the three regional bodies shall form a **Tripartite NTB Monitoring Unit** to track and monitor intra-regional NTBs and work with the National NTB Monitoring Committees on their elimination (Draft TFTA, Annex 14). To date, the web-based NTB Monitoring Mechanism www.tradebarriers.org exists as well as National NTB Monitoring Committees in some TFTA states including Namibia. However, NTBs remain a problem in all Tripartite countries and have, according to observations of the Namibian private sector, even increased in recent years (NTBs faced by Namibian exporters are outlined in section 4.3.1).

Implications for Namibia when implementing TFTA provisions

As discussed, the SACU Agreement foresees a number of exemptions from the free movement of goods principles so that BLNS also apply quantitative restrictions and NTBs for intra-regional trade. Provisions such as infant industry protection or temporary quantitative restrictions were included in the SACUA to allow the vulnerable BLNS economies to protect from being in a customs union with the economic giant South Africa.

However, the SADC Trade Protocol generally prohibits quantitative restrictions and NTBs; as does the Draft TFTA. **The *potential* difference between the SADC Protocol and the Draft TFTA lies in its enforcement ability.** The TFTA aims to establish stringent rules to report, monitor and eliminate NTBs. Namibia's NTB Focal Point shall act as National NTB Monitoring Committee within the TFTA. It would have to report on Namibia's NTBs according to WTO classification and develop an according elimination plan. Any NTBs for which no elimination is foreseen would have to be reported to the Tripartite Committee on Trade and Customs, which would consider it further. Should Namibia not comply with the Committee's resolutions to the elimination of an NTB a penalty system is foreseen, which would also include the suspension of preferences granted under the TFTA (Annex 14, Art. 10-11).[96]

4.3.4.3 Infant Industry Protection

SACU

As discussed in section 3.1.3, the SACU Agreement allows BLNS countries to apply infant industry protection (IIP) for their 'emerging industries' for up to eight years (Art. 26) but the SACU Council had also agreed to extended IIP for Namibian UHT milk. Whether an industry can be considered as emergent is decided by the SACU Council.

SADC

The application of IIP is broader and more generous than in the 2002 SACUA, allowing member states to apply to the Council of Ministers for the 'suspension of certain obligations' to protect an 'infant industry' (Article 21). The SADC Trade Protocol neither defines the term infant industry nor does it specify what measure may be taken or for how long. It is up to the Council to review whether IIP is applied appropriately.

---

95 Interestingly, it is not foreseen that the National NTB Points report to the TFTA Mechanism for the Elimination of Non-Tariff Barriers/NTB Unit of the Tripartite Secretariat but to the regional Secretariats (TFTA, Annex 14, Art. 4).

96 The penalty would be the 'last resort' following the failure of the cooperative procedures outlined in Art. 11, Annex 14. The implementation of such penalty shall be in accordance with the Dispute Settlement Procedures of the TFTA.

Draft TFTA

The Draft TFTA defines infant industries as "new industry of national strategic importance that has not been in existence for than five years" (Art. 21.4). Any IIP measure applied shall be determined by the Council, which also defines the period for IIP. Application of IIP shall be on a non-discriminatory basis, i.e. the measure applied by Namibia would need to affect all TFTA countries equally. The Trade and Customs Committee should monitor whether the IIP is applied properly and report to the Council accordingly.

Implications for Namibia when implementing TFTA provisions

The Draft TFTA foresees the comparably strictest interpretation of IIP by clearly defining what industry can be declared "infant" and by closely monitoring the application of IIP. For Namibia, the implementation of this rule would imply the abolishment of existing IIP for pasta since the industry exists for more than five years. Moreover, the application of IIP for new industries might become more difficult since Namibia would have to demonstrate that the industry for which is requests protection has "national strategic importance".

4.3.4.4 Rules of Origin

Rules of origin (RoO) are, next to trade in goods liberalization, *the* contentious issue of current TFTA negotiations.[97] Annex 4 of the Draft TFTA outlines the proposed RoO regime. Only products that have been produced in the TFTA region shall be considered as 'originated in the TFTA' and thus, benefit from free trade.

A product shall be considered as originated in the TFTA region if it is either "wholly obtained" or has undergone "sufficient working or processing". While the concept of "wholly obtained" is not disputed in any REC, this is different with respect to "sufficiently worked or processed." SADC RoO have a product-specific approach, defining the maximum non-originating content per HS code. SADC see a product to be "sufficiently worked or processed" if the import value does not exceed 60% of the product's ex-works price or the value of originating materials is at least 35% of the product's ex works price. The Draft TFTA proposal, which follows the approach of COMESA/EAC RoO, would like to increase the threshold of the import value to 70%. Further changes between COMESA/EAC RoO and the TFTA Draft were summarised by Naumann (2011a and b) as follows:

- Simplification/more generous interpretation of wholly-obtained provisions for fishing vessels;
- Replacement of the value-added percentage test by the 'percentage local content' test.

[97] The subject of RoO in the TFTA negotiations does not form part of the Consultants' ToR and will be dealt with in a separate study. We would, however, like to summarise the status quo of the debate in this paragraph.

Table 46: Overview of RoO provisions in the single RECs and the TFTA Draft

RoO	COMESA and EAC	SADC	Draft Tripartite
Basis for determining origin	Wholly obtained or substantial transformation	Same	Same
Tests for substantial transformation	Non-originating materials ≤ 60% based on total cost of materials or value-added ≥ 35% based on ex-factory cost	Product-specific rules based on maximum non-originating content, CTH, SP methodologies (or in combination)	Non-originating materials ≤ 70% based on ex-works price of product or value of originating materials ≥ 30% based on ex-works price of product
	CTH (EAC: if included in special list, and subject to conditions)	n/a	Special rules (CTH or SP) if included in Appendix I.
	Value-added ≥ 25% if designated as “economically important” (not applicable to EAC RoO)	n/a	n/a
Wholly obtained	List of criteria	Similar list	Similar, further expanded
Criteria relating to fish in wholly obtained provisions	Products of fishing conducted within the Member States; Products obtained from rivers and lakes within the Member States by a vessel of a Member State	Products of fishing conducted there; Products of sea fishing and other products taken from the sea by their vessels	Products obtained by fishing conducted there; Products from sea, rivers or lakes of Tripartite Member State by vessels of that Member State
Criteria relating to ‘qualifying’ vessels	Vessel must be registered in Partner State and fulfil one of the following conditions: 1) 75% officers nationals from Member State 2) 75% of crew from Member State 3) Majority equity and control by nationals of Member State	Vessel must be registered in Partner State and fulfil one of the following conditions: 1) Sail under flag of Member State 2) 75% of officers and crew from Member State 3) Majority equity and control by nationals from Member State	Vessel must be registered and recorded in the official records of a Tripartite Member State
Principle of territoriality			Included, but with 10% derogation, by value
Cumulation	Full – Member States treated as ‘one territory’ for purposes of implementing RoO	Full – Member States treated as ‘one territory’ for purposes of implementing RoO (separate Article on cumulation)	Full – Member States treated as ‘one territory’ for purposes of implementing RoO (separate Article on cumulation)
Value of originating materials			Value of materials used: MINUS any costs related to the international shipment of the merchandise from State of export to the importing Tripartite Member State
Value of non-originating materials	Material content rule: CIF (cost plus insurance plus freight) value of imported materials MINUS any transport costs incurred in transit through Member States	Customs value of materials MINUS transport costs incurred in transit through Member States PLUS cost of transport to port or place of importation PLUS insurance PLUS loading, unloading and handling charges associated with the	Value of materials used: MINUS any costs related to the international shipment of the merchandise from State of export to the importing Tripartite Member State

RoO	COMESA and EAC	SADC	Draft Tripartite
		transport of the imported goods	
Value addition rule	The difference between ex-factory cost of product and the CIF value of non-originating materials used		
Value tolerance/*de minimis*		10% based on ex works price, excluding products of Chapter 50-63, 87 and 98	

Source: Naumann (2011b) as quoted in IMANI/SAIIA (2011:45-6).

In a nutshell it can be stated that the Draft TFTA RoO are based on the COMESA/EAC RoO but are even less restrictive. While most countries in the region have a very small industrial base and are therefore in favour of relaxed RoO, this is not in the interest of South Africa, which fears the re-export of products from the RoW in its territory with only little value added in the TFTA. This is of particular concern for labour-intensive products, such as clothing. South Africa would like to avoid negative experience as it was the case in SADC: In early 2000 when the textile RoO were drafted, South Africa agreed to establish a facility (the so-called MMTZ arrangement) that allowed SADC's LDCs (Malawi, Mozambique, Tanzania, and Zambia) to export to SACU (subject to quota volumes) under a single transformation rule for clothing. This had, however, resulted in transhipment from some LDCs so that the arrangement was not extended when it expired in 2009. Since then South Africa insists on the double transformation rule for all its garment imports from SADC.

4.3.4.5 Customs Cooperation, Trade Facilitation and Transit Trade

SACU

Within the customs territory the applied tariffs, excise duties, valuation methods, rules of origin, and contingency trade remedies are harmonized. However, there are a number of important trade policy measures have not been harmonized within SACU, such as customs procedures, standards and technical regulations, and sanitary and phytosanitary measures (WTO, 2009:223). Though the SACUA foresees that MS "strive to harmonize product standards and technical regulations" (Art. 28.2) it does not outline any provisions of according cooperation and harmonization attempts but only refer to the need to comply with according WTO provisions.

SADC and Draft TFTA

Annex 2 of both Agreements, stipulating the rules and regulations for the region's customs procedures, is **largely identical** and foresees:

- Harmonization of the tariff and statistical nomenclature in conformity with the Harmonized System;
- Harmonization of valuation laws and practice in line with the WTO Valuation System;
- Simplification and harmonization of customs procedures in line with international best practice and development of **single customs document** (Art. 5);
- Computerization of customs procedures;
- Close cooperation of customs, including the exchange of lists of goods that are prohibited in respective territories (Art. 7) but also on trainings and information exchange.

The activities on customs cooperation shall be implemented and supervised by the SADC Sub-Committee on Customs Cooperation / the TFTA Sub-Committee on Customs Co-operation and Trade Facilitation respectively.

The relevance of regional **trade facilitation** is also reflected in both the Trade Protocol and the Draft TFTA (Annex 3), calling upon members to "simplify and harmonize" trade documentation and procedures. Joint endeavours shall encompass:

- Reduced costs by minimizing the processing documents;
- Adoption of common trade procedure standards in line with international trade and transport procedures;
- Training programmes for trade facilitation personnel;
- Establishment of one-stop border posts.

The activities on trade facilitation shall be implemented and supervised by the SADC Sub-Committee on Trade Facilitation / the TFTA Sub-Committee on Customs Co-operation and Trade Facilitation respectively.

Products traded within SADC and/or TFTA shall enjoy **freedom of transit** and only be subject to "normal rates" for the services rendered as outlined in Annex 4 of the SADC Trade Protocol and Annex 5 of the Draft TFTA. Thus it is foreseen:

- Not to levy any import or export duties on transit traffic;
- To apply national treatment for transit fees and/or administrative service charges as well as for other laws and regulations;
- To exempt the transit goods from customs charges and examinations.

This treatment shall apply to any licensed transit operator within SADC/TFTA who uses an approved means of transport (Art. 4+5 Annex 4 of SADC Trade Protocol and Draft TFTA). It is further foreseen to have a **SADC/Tripartite Transit Document** on which the SADC Committee of Ministers responsible for trade matters/the Tripartite Council has agreed and which is therefore accepted as legal transit document for intra-regional trade (SADC TP and Draft TFTA, Art. 7, Annex 4).

The Trade Protocol/TFTA foresee further to establish bonded warehouses for the temporary storage of transit goods and to facilitate the establishment of cargo, clearing and forwarding offices (SADC TP and Draft TFTA, Art. 11, Annex 4).

The TFTA TWG on Trade Facilitation proposes the Tripartite technical harmonisation process to be based on/in line with:

- The nomenclature of the Harmonized System (HS) on a eight-digit level; and
- The customs legislation and procedure of the Revised Kyoto Convention, the World Customs Organization (WCO) Framework; and the according WTO provisions;

With respect to transit traffic it is foreseen adapting the SADC Chain Bond Guarantee Scheme within the Tripartite region.

Implications for Namibia when implementing TFTA provisions

The latest WTO Trade Policy Review for Namibia states that the country's customs enforcement capacity would need to be strengthened, in particular in the fields of customs valuation, rules of origin and inspection of goods (WTO, 2009:221).

Given that there are still significant differences on non-tariff trade policy measures within SACU, which includes Namibia's major trading partner South Africa, it appears that efforts to strengthen customs enforcement capacity need to be first directed towards harmonizing and enforcing common rules within SACU and with major SADC partners (Angola/DRC) before targeting the wider region. Namibia applies the SADC single customs document (SAD 500) for customs declaration within SACU, which is, however, not yet applied by all SADC countries (incl. Angola and DRC).

4.3.5 Trade-Related Areas

The Draft TFTA foresees cooperation in the fields of (1) competition policy, (2) cross-border investment, (3) standardization, metrology, conformity assessment and accreditation, (4) Sanitary and Phytosanitary Standards (SPS), (5) Intellectual Property Rights (IPR), (6) Infrastructure Development, (7) Movement of Business Persons, (8) Trade in Services, (9) Productive Capacity and Competitiveness, (10) Sector Strategies and Rural Trade Programmes, (11) Export Promotion, and (12) Research and Statistics.

Competition Policy and Consumer Protection

According to Art. 40 of the 2002 SACUA member states shall ensure functioning competition policies in their countries and cooperate with respect to regional rules. The SADC Trade Protocol states only vaguely that MS shall implement "*measures that that prohibit unfair business practices and promote competition*" but does not define the term 'measures". The Draft TFTA goes further and defines anti-competitive behaviour such as dominant market positions and prohibited practices and provides a catalogue of prohibited means of false or misleading product and service declarations in order to protect consumers (Draft TFTA, Annex 7).

The establishment of a regional competition council is not foreseen in the SACU, SADC or Draft TFTA treaty. However, the Draft TFTA (Annex 7, Art. 11) foresees to establish a **Competition Policy and Consumer Protection Forum**, which shall serve as a platform for sharing information and monitor the proper implementation of competition policy and consumer protection laws.

The Namibia Competition Commission (NACC) was established in 2009, six years after the Competition Bill passed through Parliament. The NACC is divided in the divisions Mergers and Acquisition (M&A); Restricted Business Practice; and Research; Corporate Services. NACC's mandate is largely based on the South African competition mandate and focuses on M&A and restricted business practices. **NACC's wider scope with respect to industrial policy interventions or State Owned Enterprises (SoEs) is yet to be defined**. Moreover, it is important to note that the NACC's mandate is limited to Namibia and does not target cross-border trade.

NACC cooperates with the competition authorities in South Africa and on a SADC-level. Since the exchange of competition-related information is very sensitive, Namibia and South Africa agreed in a MoU to treat the exchange of bilateral competition information confidential.

Cross-Border Investment

The Draft TFTA foresees that the region is marketed as a "single investment area" – but does not contain any provisions that divergent national investment policies will have to be harmonized. Like the SADC Trade Protocol, the TFTA focuses purely on cooperation and *does not* provide for any liberalization commitments or binding rules on intra-regional investment, such as the protection of intra-regional investment or non-discrimination.

Standardization, Metrology, Conformity Assessment and Accreditation (SMCA)

The relevance of a sound quality infrastructure framework in order to facilitate intra-regional trade of goods and services is mirrored in the Draft TFTA, which foresees an extensive cooperation framework, including the creation of a Sub-Committee on SMCA under the Trade and Customs Committee. This Sub-Committee shall work towards harmonized standards and conformity procedures, mutually recognized metrology and accreditation practices for major products trade regionally. The Draft TFTA recognizes the lack of physical quality infrastructure and human capacities as major challenge for TFTA countries. The bundling of resources on a regional level as outlined in Annex 8 of the Draft TFTA shall help to overcome the capacity constraints of MS.

TFTA countries shall develop and apply a common policy with respect to:

- Standardisation, metrology, conformity assessment and accreditation;
- Relations of national SMCA bodies to related regional and international organizations;
- Development and application of Tripartite Standards that shall replace national standards;
- Harmonisation of legal metrology requirements, national metrology standards, and calibration procedures
- Establishment of a Tripartite accreditation cooperation system to promote the recognition of test and calibration laboratories, inspection and certification bodies;
- Common rules and procedures for inspection, testing, calibration and certification of products;
- Harmonisation of SMCA documentation to facilitate intra-regional trade;
- Joint training facilities and harmonized curricula.

A Tripartite Sub-Committee on Standardisation, Metrology, Conformity Assessment and accreditation (SMCA) shall be established to coordinate related activities.

A very similar cooperation framework is also foreseen by the **SADC MoU on Cooperation in Standardisation, Quality Assurance, Accreditation and Metrology**, operationalising the need to harmonize standards and quality systems in line with international standards as outlined in Art. 6 of the SADC Trade Protocol. The 2001 MoU established the formal framework of Standardization, Quality Assurance, Accreditation, and Metrology (SQAM), foreseeing institutional cooperation on metrology, standardization, accreditation, traceability and quality assurance including the creation of the following regional structures (Art. 5 MoU).

- SADC Cooperation in Standardization (SADCSTAN): (a) promote regional cooperation in the development of harmonized standards and technical regulations; (b) facilitate the exchange of information on existing standards, draft standards and technical regulations among members, and (c) facilitate the adoption of regional standards by member states.
- SADC Cooperation in Measurement Traceability (SADCMET): Infrastructure for traceability of measurement results.
- SADC Cooperation in Legal Metrology (SADCMEL): The establishment of a harmonized legal metrology regime within member states that is internationally acceptable for trade promotion through the removal of technical barriers and enhanced confidence in trade measurements.
- SADC Cooperation in Accreditation (SADCA): Infrastructure for accreditation for both voluntary and regulatory domains.
- SADC SQAM Expert Group (SQAMEG): Expert Group to deal with these issues of Standards, Quality assurance, Accreditation, Metrology, overseeing and coordination according activities within SADC.

The aim of SADC cooperation is the "*progressive elimination of technical barriers to trade (TBTs) among the member states and between SADC and other Regional and International Trading Blocks and the promotion of quality infrastructure in the member states*". (MoU, 2001:Art. 4). This objective is also in line with the Draft TFTA SMCA cooperation attempt, with the ultimate objective to merge according regional integration efforts at a pan African level.[98]

Most SADC member states have a lack of technical, financial and institutional capacities to effectively verify that locally produced and imported products meet technical requirements and international standards. Regional cooperation with respect to testing and conformity assessment is therefore regarded as alternative approach. The creation of a regional accreditation body (SADCAS) aims to support and supplement the accreditation activities of SADC member states, of which currently only two, South Africa and Mauritius, have a national accreditation body. *"The SADC region has little choice but to develop and implement a functioning regional technical regulation framework, and to develop the institutional capacity in the Technical Regulatory, Standards, Metrology and Accreditation domain to make it work."* (Peet, 2005:207)

Still, like many national institutions operating in the field of quality infrastructure, the **regional institutions suffer from a lack of funds and expertise**. Bundling the scarce resources of standardization, certification and accreditation services more effectively on the Tripartite Level might help to improve the accessibility of services. This requires, however, close cooperation, putting back national interests as well as leadership of those Tripartite countries that have a functioning quality infrastructure, such as South Africa and Mauritius.

Sanitary and Phytosanitary Standards (SPS)

As is the case for SMCA, the TFTA countries foresee close cooperation with respect to SPS. Annex 15 of the Draft TFTA reaffirms that their **cooperation endeavours shall be in line with the principles and objectives of international agreements** such as the WTO SPS Agreement, Codex Alimenarius, the International Plant Protection Convention (IPPC) and the World Organization for Animal Health (OIE). Cooperation shall be based on transparency and information exchange. An early "warning system" shall be established and MS shall inform each other about national SPS contact points to facilitate the information flow in case of SPS measures affecting tripartite trade. The Agreement foresees further to establish a **Tripartite SPS Sub-Committee** to coordinate and strengthen cooperation among national SPS institutions, to develop and expand capacities and to harmonize policy guidelines.

The 2008 developed **SPS Annex to the SADC Trade Protocol is largely identical to the Draft TFTA** Annex on SPS cooperation, following the WTO SPS agreement and including additional obligations in terms of regional cooperation and information sharing.[99]

---

98 Meeting Report of COMESA-EAC-SADC Tripartite Quality Infrastructure (QI) Meeting, held at Taj Pamodzi Hotel, Lusaka/Zambia, 25-28 October, 2011.

99 The 2002 SACUA does not envisage such close cooperation in the field of SPS but only consultations "from time to time" to facilitate trade flows (Art. 18). The agreement also explicitly recognizes MS' right to apply national SPS measures.

Cassidy (2010) holds the opinion that the SADC SPS Annex is overambitious and proposes a more practical approach to regional SPS cooperation based on (a) closer integration of the private sector; (b) focus on selected commodities most relevant for regional trade to start building capacities; (c) increased public awareness regarding the relevance of SPS in regional trade among public officials so as to increase their engagement in identifying the needed regulatory changes to successfully implement the SPS provisions of according trade agreements;

Intellectual Property Rights (IPR)

While the **SACU** only refers to IPR as possible reason to restrict free movement of goods within SACU (Art. 18), the **SADC** Trade Protocol reiterates the need to comply with the WTO TRIPS Agreement (Art. 24). The **Draft TFTA** also refers to the TRIPS Agreement and states at the same time that intellectual property shall be protected in a "balanced manner", protecting and promoting cultural industries in TFTA states in line with international obligations while at the same time allowing the benefit and participation of TFTA citizens in art, science and technology (Art.27). The modus operandi for IPR cooperation is outlined in Annex 9 of the Draft TFTA, which foresees among others:

- ✓ Providing incentives and funding for R&D, innovation and IPR education;
- ✓ Promoting and facilitating the audits of IPRs in TFTA states;
- ✓ Facilitating regional trade in IPR-intensive products;
- ✓ Develop an effective IPR promotion and protection system by adopting effective policy and legal frameworks and by enhancing according regional cooperation;
- ✓ Reducing dependence of copyright products outside the region and ensure the international competitiveness of TFTA copyright and cultural industries.
- ✓ Create effective systems to protect traditional knowledge.

Apart from these ultimate objectives, the Draft TFTA does, however, **not provide practical guidelines or an operation plan for any area of cooperation**. Thus, it is not clear who will take the initiative to start according cooperation, for what funds MS shall apply, which national institutions are in charge and how coordination among national institutions shall be coordinated.

Most TFTA countries are members of the WTO and thus, of the TRIPS Agreement. Subsequently, they have to incorporate the TRIPS Agreement in their national legislation (LDCs until 2016). However, due to limited knowledge and low capacities, the implementation of TRIPS obligations is limited. Moreover, some provisions of the TRIPS remain disputed, e.g. with respect to pharmaceutical patents and access to essential medicines. A regional strategy to optimize the use and flexibilities of TRIPS provisions is therefore recommended (Bannenberg, no date). However, to date it appears that such regional strategy is largely driven by donors (e.g. UNDP, DFID).[100]

In Namibia, the recently approved Industrial Property Bill foresees to combine different pieces of legislation and to cover all forms of industrial property protection (like patents, trademarks, industrial designs and inventions) in one IPR policy and legislation. For this purpose, the establishments of an Industrial Property Office and an Industrial Property Tribunal as well as the appointment of a Registrar of Industrial Property are foreseen (WTO, 2009: 237-8).

The forthcoming Business and Intellectual Property Authority Bill (2012, currently under final review) foresees to establish a Business and Intellectual Property

[100] The DFID funded Southern African Regional Programme on Access to Medicine and Diagnostics (SARPAM) provides technical advice to the SADC Pharmaceutical Programme. UNDP provides technical advice on IPR trade issues, incl. TRIPS.

Authority. The Authority shall consolidate the various functionaries and officers involved in business and IPR registration and promote the efficient administration and protection of business and industrial properties throughout the economy.To date, the responsibility for IPR protection is divided among three Ministries: (1) MTI oversees industrial property and is responsible for the registration of companies, private corporations, patents, trademarks, and designs; (2) the Ministry of Information and Communication Technology manages copyright protection; (3) the Ministry of Environment and Tourism protects indigenous plant varieties and associated traditional knowledge (US Department of State, 2012).

Trade in Services

The WTO General Agreement on Trade in Services (GATS) defines trade in services according to 4 modes referring to the supply, consumptions and presence of services. Namibia submitted an initial offer on the multilateral level, which has not yet been improved. Namibia's GATS commitments relate to commercial presence and the presence of natural persons for all sectors. Cross-border supply and consumption abroad are excluded (see Table below).

Table 47: Namibia's GATS commitments

Horizontal commitments		
Mode of supply	**Meaning**	**Namibia's commitment**
Mode 1: Cross border supply	Supply of services from the territory of one party to the territory of the other party. For the consumer the transaction is almost exclusively domestic with the import/export component handled between the providers, e.g. e-commerce.	No commitments
Mode 2: Consumption abroad	Supply of services in the territory of party to the service consumer of the other party, i.e. consumer moves to the service supplier, e.g. tourism, repair of ships.	No commitments
Mode 3: Commercial presence	Supply of a service through the establishment of a business (defined as the constitution, acquisition or maintenance of a juridical person or creation/maintenance of a branch or representative office); i.e. foreign-owned bank or supermarket.	Foreign services must be incorporated or establish local businesses.[101]
Mode 4: Presence of natural persons	Entry and temporary stay of natural persons in the territory of one party by service supplies of the other party; i.e. foreign economic consultant.	Personnel of foreign service providers are limited to management and experts, subject to Government approval.[102]
Sectoral commitments		
Offshore oil and gas exploration	No restrictions on market access and national treatment	
Hotels and restaurants	No restrictions on market access and national treatment	
Travel agencies /tour operators	No restrictions on market access and national treatment	

Source: GATS Namibia, 1994.

[101] Foreign service providers have to incorporate or establish their business locally (according to Companies Act 61 of 1973). Such companies enjoy the same rights and responsibilities as domestic companies.

[102] The residence of foreign service providers is restricted by Namibia's Immigrations Control Act (1993) and domestic labour laws which generally limits foreign personnel to management and experts. For tourism and travel related services (hotels, restaurants, travel agencies and tours operators) as well as for offshore oil and gas explorations Namibia has not limited the market access (GATS Namibia, 1994).

Though Namibia's GATS commitments are very limited, it has already de facto opened a couple of service sectors to foreign competition, such as the banking insurance or road transport sector. It is therefore argued that **extending Namibia's GATS offer or regional commitments to these sectors would not imply any additional costs** but would improve legal certainty, sending positive signals to investors (ODI & DNA, 2008: 65).

Since services do not form part of the SACUA 2002, **Namibia's service offer to the TFTA would be country-specific.** It would have to be compliant with Namibia's multilateral obligations under the General Agreement of Trade in Services (GATS). The GATS allows for deviations from its general principles of most-favoured nation and national treatment for regional free trade agreements or customs unions under Art. V. Article V of GATS is the 'services equivalent' of Article XXIV and the principal 'peg' for exceptions to MFN and national treatment. It sets the rules for services liberalisation within an FTA or CU.

Article V specifies that:

- a regional economic integration agreement should provide **substantial sectoral coverage** in terms of number of sectors, volume of trade and modes of supply.; in particular, there should be **no *a priori* exclusion of any mode of supply;**
- any such agreement should provide for the absence or **elimination of all discrimination** among its parties in the sectors it covers, by eliminating existing measures and/or preventing the introduction of new discrimination;
- any such agreement must be designed to **facilitate trade** between parties; and should not erect new trade barriers.[103]

Though Namibia has not yet made any further trade in services liberalisation commitments to its initial GATS offer, it is, as a member of SADC, involved in regional trade in services negotiations. **SADC** adopted its **Protocol on Trade in Services** in June 2007.[104] It foresees the liberalization of six key service sectors, which are (1) Construction; (2) Communication; (3) Transport; (4) Energy; (5) Tourism; and (6) Finance as well as the harmonization of according legislations and regulations. By November 2012, 10 SADC member states[105] signed the Trade in Services Protocol, with Namibia and South Africa having announced to do so in the coming months. With more than two third of SADC member states having signed the Trade in Services Protocol, negotiations on trade in services (TIS) liberalization will now begin and must be concluded within three years. Negotiating TIS commitments on the SADC level (and, in parallel, with the EU), is likely to push SADC countries to define their offensive and defensive TIS interests also on the TFTA level. The **TFTA Annex on Trade in Services is yet to be developed** defining priority sectors for liberalization in addition of joint rules and regulations.

Though the service sector is becoming increasingly important and contributes to the majority of GDP in most TFTA states, many countries are still reluctant to liberalise

---

[103] It has to be noted that there are contentious interpretations with respect to "substantial sectoral coverage", "a priori exclusion," and "discrimination." Whether a regional trade in services agreement is compliant with the provisions of Art. V GATS will be determined after its entry into force by the WTO Committee on Regional Trade Agreements (CRTA).

[104] A draft annex to the SADC Protocol on Trade was developed in 2002 and later converted into a separate SADC Protocol on Trade in Services.

[105] Botswana, DRC, Lesotho, Malawi, Mauritius, Mozambique, Seychelles, Swaziland, Tanzania, and Zambia.

trade in services.[106] Analyzing the commitments of the Draft SADC Trade in Services (TIS) Protocol, observers are doubtful that it will contribute to increased competition and competitiveness of SADC service. Thus, the application of MFN treatment is diluted by allowing countries to negotiate bilateral preferences and exclusion lists to MFN. Further dilution of service liberalization commitments is granted by enabling countries to regulate in order to meet national policy objectives (Art. 5, Draft TIS Protocol). Stern et a. (2011:28) conclude: "*The draft SADC Protocol on Trade in Services is far less ambitious and, in its current form, is unlikely to take member states much beyond their existing GATS commitments… There is, therefore, a significant risk that the SADC Free Trade Agreement will be overtaken by the EPA … SADC negotiators need to be more active in identifying areas where regional co-operation makes sense. Where such opportunities exist, they need to work hard to achieve regulatory reform and harmonisation within the region."* In fact, many of the TFTA states, including the SACU members Botswana, Lesotho and Swaziland, have committed themselves to negotiate a GATS compatible service agreement with the EU. **The benchmark for TFTA TIS negotiations is therefore not only GATS and existing regional commitments but also countries' bilateral commitments with the EU.**

Movement of Business Persons

Within **SADC**, the movement of business persons is dealt with under the 2005 Draft Protocol on the Facilitation of Movement of Persons in SADC.[107] The Protocol foresees visa free entry of persons from one SADC state into another for up to 90 days, to facilitate temporary and permanent residence and to facilitate self-employment or working in another SADC States (Art. 3). Immigration practice shall be harmonized by adopting laws and administrative practice accordingly (Art. 13). The Protocol will enter into force once at least nine SADC member states have ratified it, which is, however, not yet the case. Namibia is among those countries that have signed but not yet ratified the Protocol. As analyzed by Makochekanwa and Maringwa (2009:14-37) immigration practice differs still widely within SADC. While most SADC countries grant each other visa free entry,[108] the procedures for work permits are extremely cumbersome. The requirements and procedures for obtaining such work permits differ from state to state and impose several impediments, such as high application fees, contract of employment, proof of qualification and/or comprehensive medical certificates (incl. negative tests of any contagious disease). Some countries have even included arbitrary conditions such as the "protection of local and/or economic interests" or the "reputation of the prospective employee". Also **Namibia** imposes high barriers for SADC citizens to be granted employment incl. educational certificates, medical certificates, policy clearance, work offer, motivation letter, and proof of registration with relevant professional body if the applicant is a medical officer or engineer. Additionally, a proof of advertisement in the local newspaper is to be presented, regardless of whether the skills requested are available locally or not (Makochekanwa and Maringwa, 2009:22-23.)

The first Tripartite Summit identified the free movement of business persons among EAC, COMESA and SADC as imperative to facilitate business, trade, and

---

[106] In Namibia the service sector accounts for about 60% of GDP and 40% of employment but only for less than 15% of total trade (Stern et al., 2011:)

[107] The Protocol is the replacement of the Protocol on the Free Movement of Persons in the Southern African Development Community (SADC).

[108] Namibia grants all but four SADC member states (DRC, Madagascar, Mauritius and Seychelles) visa free entry into its territory for up to 90 days and is allowed visa free entry into Angola, Botswana, Lesotho, Malawi, Mozambique, Seychelles, South Africa, Swaziland, Zambia and Zimbabwe between 30 and 90 days.

investment.[109] This finding was confirmed by the Consultants' interviews with **private sector representatives in Namibia, who complained** that cumbersome and time consuming visa procedures make it difficult for them to visit some countries in the region for business purposes. Further complaints of private sector representatives related to the prohibitive allocation of work permits. Thus, in many cases no work permit would be granted; even for highly qualified personnel not available in Namibia – regardless of whether the person comes from Germany or Zimbabwe.

The **Draft TFTA** is even more ambitious than the SADC Draft Protocol with respect to the Facilitation of Movement of Persons. The definition of "business person" is very broad: "*a natural person residing in a Tripartite Member State who is engaged in trade in goods, the provision of services or the conduct of investment activities, and shall include business visitors, traders and investors, professionals, and intra-company transferees."* For any business visitor (Art. 2), trader and investor (Art. 3), intra-company transferee (Art. 4), and professional (Art. 5) the TFTA foresees:

- **Free entry without**
  - visa or employment authorization;
  - prior approval or certification procedures;
  - maintaining any numerical restriction relating to entry.

To ensure the proper implementation of the Draft TFTA provisions a **Sub-Committee on Movement of Business Persons** was established in October 2012 started to work on the revision of the TFTA Annex on Movement of Business Persons. However, it is understood that the members of the Committee are to large extent immigration officials from the single member states. Since their job is to check the right of entry according to existing legislation and procedures and to use legal powers to detain or remove illegal entrant, it can be questioned whether immigration officers are the right persons to work towards the facilitation of free movement of people. To date, most RECs in Africa foresee the free movement of business persons as part of their integration objectives but "*The system of harmonized immigration and emigration foreseen by REC protocols is yet to be widely implemented*." (UNECA, 2012:61)

What appears to be missing is a debate about the merits and demerits of the free movement of business persons in the region and who should qualify as business person. While labour importing countries would like to receive highly qualified specialists, labour exporting countries seek to send low-skilled labour. This conflict of interest applies to all countries around the globe and can only be addressed if both sides tend to gain from the arrangement. In this context, it needs to be borne in mind that the **movement of persons is only one mode of service supply** (Mode 4, see Table 42 in section 4.3.5). It would need to be negotiated together with cross border supply, consumption abroad and commercial presence to allow each member state to define its offensive and defensive interests accordingly. Thus, a labour importing country might be ready to compromise on providing access for lower-skilled labour if it can in return improve its access to supply certain services in the labour exporting country (Modes 1-3). **Separating negotiations of the movement of business persons from overall trade in services negotiations bears the risk of not achieving any meaningful result.**

---

[109] A "business person" is defined as "*natural person residing in a Tripartite Member Sate who is engaged in trade in goods, the provision of services, or the conduct of investment activities and shall include business visitors, traders and investors, professionals and intra-company transferees*." (Draft Tripartite Committee on Movement of Business Persons, April 2012).

Infrastructure Development and Productive Capacity and Competitiveness

Acknowledging that poor infrastructure and low productive capacities are major hindrances in intra-regional trade, the Draft TFTA foresees according cooperation programmes. For **infrastructure cooperation**, the focus shall be on energy, ICT, and intra-regional corridor development as well as on joint cooperation in developing ports, harbours and air transport (Art. 28). Cooperation attempts for **productive capacity and competitiveness** are outlined in Annex 12 of the Draft TFTA, including the development and harmonization of key sector strategies, close cooperation with the business community, development of joint trade promotion strategies, facilitation of provision of regional trade-related services (such as transport and storage), and the establishment of regional market intelligence and R&D institutions. To date these comprehensive cooperation attempts have, however, not been operationalised. What would be needed are sub-regional cooperation plans for single issues as it is the case with the regional transport and transit corridors.

In fact, such regional cooperation incentives need to be in line with countries' national development objectives and subsequently driven by single countries. Namibia's Industrial Policy (2011) explicitly refers to intra-regional industry cooperation (see Box below).

Box 1: Namibia's Industrial Development Policy

As stipulated in the *Vision 2030* Namibia aims to become a "*Prosperous and industrialised (country), developed by her human resources, enjoying peace, harmony and political stability"* (Government of Namibia, 2004). With respect to industrial development, Namibia aims that manufacturing activities and services account for 80% of the country's GDP, that processed products account for at least 70% of export revenue and that the country's infrastructure is modernized and it has a significant share of a knowledge-based workforce (Ibid, p. 39).
Though the *Vision* acknowledges that the realisation of the vision requires significant investments in infrastructure, human resources and productive capacity, it had been criticised that the operationalisation of how such industrial development can be achieved had remained unclear. With its Industrial Policy (2012) Government presented a number guiding principles of how Namibia's approach towards its industrial policy objectives shall be implemented.[110]

Namibia's industrialisation plan, which implies a fundamental change to its current production and export structure, is indeed very ambitious. Targeted investment incentives, SME promotion, infrastructure development, close cooperation with the private sector as well as government investments in skills, education and R&D shall help to materialise Namibia's industrialisation objectives. The policy addresses also the regional level and the need to **develop cross-border industrial incentives** at the **SACU and SADC level** or on a bilateral level with neighbouring countries like South Africa or Angola. **MTI is assigned to facilitate intra-regional trade** and to support Namibian businesses to successfully enter regional markets at lower costs. For this purpose, FTAs and PTAs with selected economies shall be concluded and the removal of trade and investment barriers closely monitored (Government of Namibia, 2012:14-16). The **TFTA** can be seen in the **context of intra-regional industrial development cooperation:** *"To gear a common single market to serve our Vision 2030 goals requires markets that function well and are well-connected... Access for our SMEs to a single African market has to be improved.'* (Ibid, p.14).

[110] (1) Alignment with Vision 2030; (2) Macroeconomic stability; (3) Multilateral and regional trade openness while at the same time protecting national interests (e.g. infant industry protection); (4) Promoting priority sectors; (5) Interrelation of market, infrastructure and industrial development; (6) Equitable and broad-based economic empowerment; (7) Stable and predictable regulatory environment;(8) Integrated in Competition Policy; (9) Flexible implementation, adapted to changing environment; and (10) Consideration of environmental concerns.

Sector Strategies and Rural Trade Programmes, Export Promotion and Research and Statistics

The development of regional sector strategies including according trade associations (Art. 32), the creation of regional export promotion schemes and special economic zones (Art. 33) as well as cooperation in the areas of R&D, statistics and trade policy research (Art. 34) are envisaged in the Draft TFTA. According programmes exist in all RECs and would need to exchange information and resources to create potential synergies.

Further areas of cooperation foreseen in the Draft TFTA (Part VII, Art.35-26) relate to industrial policy, financial and payment systems, development of capital markets and commodity exchanges as well as the coordination of trade negotiations with external parties. These cooperation objectives have not yet been operationalised so it remains unclear how they shall be reached.

With respect to the **coordination of external trade negotiations** including the objective to "*maintain common objectives and positions in international, regional and bilateral negotiations with third countries and other organisations"* it can be stated that this would at least require a TFTA customs union in which the members have agreed on a common external tariff from which negotiations with third countries would start. However, given the variety of TFTA countries with respect to economic development, size, type of production, industrial structure, geography, culture and, of course, external protection levels, it appears to be questionable that the TFTA region will be able to form a customs union. In their study on **investigating the options for a SADC customs union** ODI & DNA (2008) reviewed countries' experiences around the globe in moving towards a customs union and beyond and highlighted a number of obstacles, such as (a) long transition periods and partial implementation of the CU; (b) remaining barriers in intra-regional trade; and (c) slow removal of physical and administrative barriers (with the harmonisation of EU standards and regulation being an ongoing process). In fact, **moving towards deeper regional integration always requires a driver**, either the political will of member states to compromise on national interests for the success of the region or the private sector that pushes for deeper regional integration.

4.3.6 Dispute Settlement Body

An effective dispute settlement mechanism, settling trade disputes in a structured and timely manner, is regarded as crucial to enforce a trade agreement, thereby increasing its internal and international credibility.[111]

Both, the **2002 SACUA and the SADC Trade Protocol** foresee to set-up a Dispute Settlement Body/Tribunal but neither regional body has **yet established such trade dispute body**.

According to the **SADC** Trade Protocol member states can withdraw preferences if another member state is not complying with the provisions of the agreement (Art. 32.2-3). In case of disagreement, the member state can bring the case to an ad hoc dispute settlement mechanism (DSM) that is to be appointed by the Committee of Ministers. The procedures of the SADC DSM are outlined in Annex V of the Trade Protocol,[112] and are judged to be relatively rigorous modelled after the WTO DSU (Bohanes, 2005). The **dispute settlement mechanism of the Draft TFTA follows largely the SADC/WTO model**. Annex 13 of the Draft TFTA outlines in detail the procedures and timing of settling a trade dispute as well as the potential sanctions in

---

[111] The WTO is the pioneer in this respect, having agreed on enforceable trade rules with the "Understanding on Rules and Procedures Governing the Settlement of Disputes" (DSU).

[112] This is a separate institution from the Tribunal, for which the rules and procedures were agreed in 2000 in the Protocol on the Tribunal.

case of non-compliance. The settlement of any dispute between TFTA states is foreseen by the following steps (see Annex 13 Draft TFTA):

1. In case of disagreement, the complaining party shall refer to the CEO of its REC to ask for consultations;
2. The defendant party shall respond within 10 days and enter into consultations with the complaining party within 30 days (10 days in case of urgency/perishable goods);
3. The matter shall be settled through consultations within 60 days (20 days in case of urgency/perishable goods);
4. If the time frame is not respected or if no amicable solution can be reached,, the complaining party shall refer to the Tripartite Council via the CEO of its REC, requesting a Tripartite Panel to settle the issue;
5. The Tripartite Council will meet within 25 days to establish the Panel within 7 days.
6. The members of the Panel are determined by the Council[113]
7. After its constitution the Panel has 7 days to determine its ToR and to procedures
8. The complaining and the defendant party shall present the case and their arguments to the Panel;
9. Panel will draft a report containing all arguments;
10. Both parties comment on the report;
11. Panel will issue an interim report with its conclusion;
12. Both parties will have the chance to comment on the interim report;
13. Panel will consider comments in its final report and make according recommendations to the Council;
14. The final report has to be submitted to the Council within 3 months (1.5 months in case of urgency/perishable goods) after the Panel has been constituted;
15. Council will make the final decision on the case within 30 days.

The remedial measures to be undertaken by the defendant party are to be determined by the Panel. This includes temporary suspension of concessions. However, Art. 16 also stipulates that any such remedial measure is not the preferred solution and shall only be applied *"… in the event that the accepted recommendations and rulings of the Tripartite Council are not implemented within a reasonable period of time,"* which is defined to be up to 90 days (Art. 20.2).

Like the SACU and SADC DSM, the dispute settlement mechanism of the TFTA is supposed to be an *ad hoc* institution. This is likely to create delays due to the potential unavailability of panellists as it is also a problem at the WTO DSU (Bohanes, 2005:11).

The major question, however, is **whether TFTA states will be willing and capable of setting up the DSM** at the Tripartite level. The reasons for the insufficient implementation of the DSM at the SADC level ranges from asymmetrical distribution of power and capacities to a lack of trust to give up national sovereignty (Bohanes, 2005:24). These are presumably constraints that aggravate at the larger regional level.

[113] The members of the Panel are to be determined by the Council and shall be "experts from the public and private sectors who are well qualified and experienced in the subject matter of the dispute and shall be of a number to be determined by the Tripartite Council on a case by case basis." (Art. 7, Annex 13, Draft TFTA). It is foreseen that each Tripartite State shall proposal annually two names for inclusion on the indicative list (Ibid.).

Summarising the comparative analysis of the envisaged regulatory and institutional framework of the Draft TFTA with the SACU and SADC Trade Agreements it can be stated that the **Draft TFTA has stricter rules than the 2002 SACUA, with many provisions being identical to the WTO**, such as trade remedies, border charges or infant industry protection. The institutional set-up of the Draft TFTA follows largely the SADC TP and its Annexes, foreseeing the creation of Tripartite institutions in the fields of competition, standardization/metrology, SPS, R&D etc. Most of the institutions that shall be created at the TFTA level are also envisaged under the SADC TP. The **relation and cooperation between the trade-related institutions in the RECs and the TFTA are not yet clear.** Significant coordination would be required to avoid duplication of cooperation, which risks putting further constraint on countries limited capacities.

5 CONCLUSIONS AND POLICY RECOMMENDATIONS: NAMIBIA'S INTERESTS IN THE TFTA

The Draft TFTA aims "*to create a large single market with free movement of goods and services and business persons, and eventually to establish a customs union"* by

a. eliminating all tariff and non-tariff barriers to trade in goods;
b. liberalising trade in services and facilitating cross-border investment and movement of business persons;
c. harmonising customs procedures and applying trade facilitation measures;
d. establishing and maintaining a TFTA institutional framework; and
e. adopting and implementing joint policies (Art. 4 Draft TFTA).

In other words, the **TFTA is supposed to become a comprehensive free trade agreement** that does not only address the liberalisation of trade in goods and services but also targets 'behind the border measures', thereby creating a comprehensive legal framework for trade-related cooperation areas, such as standards, SPS, competition policy and intellectual property rights.

The study assessed Namibia's offensive and defensive interests in TFTA negotiations with respect to export potential, import competition, revenue implications, and implications for trade rules and trade-related institutions.

5.1 Export Potential

Namibia's offensive interests in the TFTA are very limited. In fact, it would be correct to talk about Namibia's offensive interests within **SADC** – where more than **99% of Namibia's non-SACU regional exports** go to. **Major export products** to the non-SACU TFTA region include frozen fish (mainly horse mackerel), wooden furniture, cigarettes, cider, and sugar confectionary. Further regional export products (which are, however, very low in value) include beer (Angola, Zambia, Malawi, EAC), meat offal (Zimbabwe), salt (Zimbabwe, EAC, other COMESA countries), live animals and raw hides and skins.

Namibia's exports to the **non-SADC TFTA** region are **extremely small** and **limited to very few products**: One product with exports worth less than US$ 550,000 accounted for more than 70% of Namibia's total exports to Eritrea (live animals), Libya (frozen fish) and Uganda (beer). Trade with Burundi, Comoros, Egypt, Ethiopia, Rwanda, Djibouti, Madagascar and Sudan is close to non-existent with total exports accounting for less than US$ 40,000 p.a. in the period 2009-11.

Thus, Namibia's trade with the non-SACU Tripartite region is almost exclusively limited to SADC and **focuses on agriculture, agro-processed and simple manufactured products**. This export portfolio is different to Namibia's exports to the RoW, which are dominated by minerals and high-value agricultural products (like premium beef, fish and grapes). Namibia's access to the non-SACU regional market therefore appears to offer the **chance to expand value added exports** of agro-processed and simple manufactured goods. Neighbouring SADC countries (Angola, DRC, Zambia and Zimbabwe) have already become **medium-relevant export markets for selected products**, such as horse mackerel, beer, dairy and milling products. There are, however, a number of **limitations** to this positive scenario of Namibia's expanded value added regional exports, namely:

- Protectionist tendencies in the form of manifold NTBs in regional markets, e.g. for beer, dairy products, milling products, and cement – all of which are produced in almost every SADC/TFTA country;
- Cumbersome customs procedures, including delays and intransparent, unpredictable and changing processes (particularly a problem in Angola, Namibia's major non-SACU export market) and;
- High transport costs due to poor road and infrastructure network.

Moreover, it needs to be borne in mind that Namibia's **production capacities are limited** and, in case of agricultural and agro-processed goods, its regional export products stand often in direct competition with (subsidised) products from the RoW (e.g. dairy and milling products).

5.2 Import Competition

Namibia is already an open economy. Being in a customs union with South Africa, having de facto implemented the EU-South Africa FTA (TDCA) and the SADC Trade Protocol, **Namibia liberalised its import regime for about 87% of its total imports.** The only **"protectionist shields**" that remain are **NTBs,** such as quantitative restrictions and non-automatic licenses, which protect in particular Namibia's agriculture and agro-processed industry.

Imports from non-SACU TFTA countries accounted for only 2.4% of Namibia's total imports in the period 2009-11; which limits the risk of import competition and revenue loss in a FTA by definition. Private sector representatives named the poor quality of products, high transport costs, lack of trade finance, low production capacities, non-existing business relations and non-tariff barriers (such as cumbersome customs procedures) as major reasons for Namibia's low imports from non-SACU TFTA countries.

Most of Namibia's imports from non-SACU SADC countries come from countries which acceded to the SADC Trade Protocol and therefore enjoy duty free access to the Namibian market. In fact, **only 0.09% of Namibia's imports come from TFTA countries that are non-signatories of the SADC Trade Protocol – and most of these products enter the Namibian market already duty free**. Expanding the analysis to SACU (taking into consideration that TFTA products might enter Namibia via South Africa) the picture looks similar: **South Africa's imports about 4% from TFTA countries of which 99.9% come from the SADC region**. Moreover, most of the remaining 0.1% of South Africa's import from TFTA countries face zero or low import duties. Egypt is South Africa's 'largest' non-SADC Tripartite import source, accounting for 0.05% of total imports (which equals 1.1% of South Africa's Tripartite imports).

5.3 Revenue Implications

The revenue implications of the TFTA for Namibia appear to be negligible. Namibia's hypothetical revenue from not yet liberalised TFTA imports was on average US$ 1.12 Mio p.a. in the period 2009-11, which was **less than 0.1% of Namibia's revenue from the SACU CRP** in 2011/12. South Africa's hypothetical revenue from not yet liberalised TFTA countries was on average US$6.47 Mio p.a. which equals less than 0.1% of the total value of the SACU CRP and has thus, virtually **no implications of Namibia's revenue from the CRP** (these values also include not yet liberalised SADC trade, i.e. imports from Angola and DRC).

5.4 Trade Policies and Trade Institutions

As the discussion showed, the **trade rules and regulations** of the Draft TFTA are **often more restrictive** than those of the 2002 SACUA and follow **largely WTO provisions**. However, in many cases the SADC TP also provides for stricter rules than the 2002 SACUA. Taking for instance duties and border charges: while the SACUA foresees a number of exemptions from the free movement of goods principle (allowing BLNS also to apply quantitative restrictions and NTBs for intra-regional trade), this is not allowed under both the SADC TP and the Draft TFTA. The **major issue with respect to border duties and other NTBs is therefore whether the provisions of the TFTA (or the SADC TP) can and will be enforced**. In other words: Namibia has already committed itself to abolish extra duties and phase out quantitative restrictions for intra-regional trade under the SADC TP. However, to date these obligations have not been imposed within SADC.

The fields of trade and trade-related cooperation foreseen in the Draft TFTA are immense, following, and partly even expanding, the cooperation provisions of the existing RECs. The **Draft TFTA foresees the harmonization of trade-related policies**, such as customs procedures, standards, SPS, IPR or competition policy; all of which have not yet been harmonized on a SACU and/or SADC level. Moreover, **Namibia's trade-related institutions are comparably new or have difficulties in policy enforcement**:

- *Customs*: A comprehensive assessment of the WCO found that Namibia needs to strengthen its services in the fields of customs valuation, rules of origin and inspection of goods.
- *Standards and SPS*: According to the latest WTO TPR, Namibia has difficulties to comply fully with the standard, technical regulations and SPS requirements of major export markets. Moreover, the newly established Namibian Standards Institution (NSI) does not have the capacities to ensure full inspection services for imports. In 2009 Namibia created the National SPS and Food Safety Committee hosted by the MoAWF to coordinate SPS activities in the SADC context, which is, however, still in an infant stage.
- *IPR*: The development of national IPR policies and set-up of institutions as outlined in Industrial Property Bill is delayed due to capacity constraints.
- *Competition policy*: The Namibia Competition Commission was established in 2009 and aims to develop and implement a National Competition Policy. To date, it still lacks the wider scope of competition intervention; e.g. how industrial policy interventions or investments are controlled.

Being in the **process of strengthening its national trade-related institutions**, it is **challenging for Namibia to meet also institutional obligations on a regional level.** The Table below provides a rough overview of the planned institutional set-up of the Draft TFTA and to what extent institutional equivalents exist in Namibia and on a SACU and SADC level.

Table 48: Comparative overview of Namibia's trade-related institutional framework in regional integration schemes

Topic	Competent Authority				Status Quo
	Draft TFTA	SADC	SACU	Namibia	
Trade remedies	*Trade Remedies Sub-Committee*[114]	-	*SACU Tariff Board*	*Namibia Board of Trade*	No existing institution at national or regional level
NTBs	*Tripartite NTB Monitoring Unit*	-	-	TBT Enquiry Point at MTI	Web-based NTB monitoring mechanism exists as well as national TBT point. Effectiveness in Namibia limited since private sector is not aware of existing institutions and services.[115]
Trade Facilitation	*Sub-Committee on Trade Facilitation*	Sub-Committee on Trade Facilitation	-	TBT Enquiry Point at MTI	
Standards, Metrology, conformity assessm, accreditation – SMCA	*Sub-Committee on SMCA*	SADC SQAM Expert Group SADCAS	-	Namibia Standards Institution (NSI)	NSI participates in SADC institutions and activities
SPS	*SPS Sub-Committee*	National SPS Committees		MoAWF (lead)[116]	National SPS and Food Safety Committee established.
Competition	*Competition Policy and Consumer Protection Forum*	-	-	Namibia Competition Commission (NACC)	NACC cooperates on SADC level to share information on non-competitive behaviour
IPR	-	-	-	*Industrial Property Office and Industrial Property Tribunal*	Industrial Property Office and Industrial Property Tribunal not yet operational. MTI, Ministry of ITC, and Ministry of Environment are in charge
Dispute Settlement Body	*Dispute Settlement Mechanism*	*Dispute Settlement Mechanism*	*Tribunal*	n/a	No existing institutions

Source: Authors' compilation according to information quoted in the text.

114 Institutions marked in italic do not yet exist.

115 Not one of the private sector representatives interviewed knew about the web-based NTB Monitoring Mechanism (www.tradebarriers.org) or was aware that the TBT Enquiry Point at MTI is supposed to follow-up reported NTBs in intra-regional trade.

116 Representatives of the National SPS and Food Safety Committee in Namibia are the Ministries of Fisheries and Marine Resources; Health and Social Services; Trade and Industry; Education, the Namibian Standards Institution; Environment and Tourism; and the City of Windhoek. Private sector stakeholders consist of the Agronomic, Meat and Karakul Boards; the Abattoir Association; the Agricultural Trade Forum and the Farmers Unions. Under the Committee, three subcommittees were established: Food safety, Livestock and Plant protection. Their terms of references are in the process of being drafted. The three subcommittees meet prior to the National committee and report back to this body (Kleih, 2012:25).

In fact, the creation of TFTA institutions, many of which do not yet exist on a country or REC level, is likely to become a major challenge when implementing the Treaty. Clarifying roles and responsibilities as well as establishing an **effective coordination mechanism** between the trade-related institutions on the different levels will be imperative so as to avoid duplication of efforts; which would put further constraint on countries' limited capacities. Taking into consideration that member states have already difficulties to man the TWG with adequate experts, the **lack of technical expertise is likely to be the major constraint of implementing the trade-related provisions** of the TFTA (and regional treaties).

Trade in services (TIS) liberalization will be dealt with in Phase 2 of the TFTA negotiations while **movement of business persons** is negotiated in Phase 1, albeit separated from negotiations on trade in goods and trade facilitation. Free movement of business persons was identified as **imperative to facilitate business**, trade, and investment by the Tripartite Summit. **Private sector representatives in Namibia agreed** and would like to see facilitated visa procedures and more generous allocation of work permits for high-skilled personnel. To date there are still high barriers for business people to move in the region and the immigration practice differs widely within SADC. The provisions of the Draft TFTA are even more ambitious than the SADC Draft Protocol on the Facilitation of Movement of Business Persons with respect to employment authorization and mutual recognition of certification. The question is, however, to what extent the Draft TFTA provisions will form part of the final Agreement. Thus, the TFTA Sub-Committee on Movement of Business Persons consists to large extent of immigration officials who might not see the advantages of facilitating the movement of business people. What also appears to be problematic is the separation of negotiations of the movement of business people from overall trade in services negotiations. Thus, the **movement of business persons is only one mode of service supply** and has to be seen in the overall context of service liberalization in the Tripartite region so as to allow countries to define their offensive and defensive negotiation positions accordingly.

5.5 Namibia's Opportunities and Challenges in the TFTA

Summarising the **opportunities and challenges for Namibia** in the TFTA, it appears that both **are very limited** due to Namibia's very limited trade with the region. While non-SACU SADC countries are a medium relevant export destination for Namibia, particularly for some agriculture, agro-processed and simple manufactured products, Namibia exports hardly to the non-SADC TFTA region. Limited production capacities and high transport costs make it currently unviable to export to the wider region. **Reducing tariffs and NTBs would therefore mainly benefit Namibian exports to neighbouring SADC markets**, such as Angola, DRC, Zambia or Zimbabwe. The full implementation of the SADC TP is therefore regarded as priority by the Namibian private sector.

There are, of course, a number ***potential* benefits** for Namibia within the TFTA, such as access to a larger market for its goods and services or enhanced *functional cooperation* in the wider region (e.g. in the fields of joint infrastructure projects or joint regional policies).

These *potential* benefits are, however, no self-fulfilling prophecies but require certain preconditions. To benefit for instance from a large regional market Namibia would need to increase its production capacities and improve the competitiveness of its products. The same applies for regional producers that aim to supply Namibia, e.g. with agricultural products such as maize or wheat. In the moment both, the region and Namibia, source rather from the RoW than from neighbouring countries since the price-quality ratio is superior.

The Table below provides an overview of the potential effects of regional trade agreements (RTAs) and the (divergent) empirical evidence observed.

Table 49: Potential effects of regional trade agreements – empirical evidence

<table>
<tr><th>RTA EFFECT</th><th>IMPLICATION</th><th>EMPIRICAL EVIDENCE</th><th>PRECONDITION</th><th>SOURCE</th></tr>
<tr><td>INCREASED FDI</td><td>RTA/FTA membership increases FDI inflow</td><td>FDI from 20 OECD countries to 60 OECD/non-OECD countries, 1982–98;

Single European Act (1992) and Iberian enlargement</td><td>• Increased intra-regional trade
• Increased market openness
• Market size
• Labour costs/capital costs
• Investment environment
• Educated labour force
• Stable financial institutions</td><td>Levy, Stein and Daude (2002)

Brenton et al., (1998)

Jaumotte (2004)</td></tr>
<tr><td>ECONOMIC GROWTH</td><td>RTA membership increases economic growth</td><td>Cross-country and time-series growth regressions over 1970-90</td><td>• Open economy with large, developed neighbours (e.g. EU integration)

• No empirical evidence</td><td>Vamvakidis (1998)

Te Velde (2008)</td></tr>
<tr><td>ECONOMIC CONVERGENCE</td><td>RTA membership increases economic convergence among member states</td><td colspan="3" rowspan="2"><u>Highly disputed</u>:
• Ghura and Hadjimichael (1996) found a tendency of per capita income convergence growing by 2% when investigating 29 African countries belonging to RTAs;
• In case of the old EAC (1960-77), Venables (2003) argues that Kenya moved its production structure in the opposite direction it would have done under free market conditions. Only under the protection of the EAC Kenya was able to expand its manufacturing production – at the expense of the poorer countries, which had to shift their manufacturing imports from RoW towards Kenya. The losing countries, Tanzania and Uganda, could not benefit from trade creation since their limited product range was also produced by Kenyan producers in a more competitive way.
• Using time series McCoskey (2002) found increasing divergence among the members of African regional integration bodies.
• Based on an econometric analysis using data from 46 African countries Hammouda et al (2007) assessed the level and rate of the convergence of income for the members of SADC, COMESA, ECOWAS, CEMAC and UEMOA. They found that the link between regional integration and income convergence is low for which they classified three main reasons. First, slow growth of output, productivity and accumulation of production factors; second, the low levels of intra-regional trade, the bias towards commodity trade and the low factor mobility; and third, the limited inflow of FDI which further constrained capital accumulation.</td></tr>
<tr><td>ECONOMIC DIVERGENCE</td><td>RTA membership increases economic divergence among member states</td></tr>
<tr><td>ECONOMIC FUNCTIONAL COOPERATION:

STANDARDS & SPS

INDUSTRIAL</td><td>• Cooperation on standards/SPS issues enhances the exportability of products/ market access</td><td colspan="2">• EU-Egyptian cooperation on standards/SPS has enhanced the exportability of Egyptian agricultural products

• Joint industrial/manufacturing promotion schemes, e.g. in ASEAN, ANDEAN,</td><td>Barrell and Te Velde (2002)

Cuervo-Cazurra and Un (2007)</td></tr>
</table>

RTA EFFECT	IMPLICATION	EMPIRICAL EVIDENCE	PRECONDITION	SOURCE
COOPERATION SCHEMES	• Industrialisation by industrial cooperation	MERCOSUR has helped to promote joint industrial activities – but not resulted in 'equal industrialisation'		Singh (2006)
R&D	• Increased innovation by R&D cooperation	• RTA promoted increased investment in companies' internal R&D as well as increased purchase of external R&D in Latin America • Cross country study: Potential gains from access to diverse ideas and expertise from different locations were mainly offset by difficulty in achieving integration of knowledge across multiple locations		
INFRASTRUCTURE / TRANSPORT	• Enhanced transport infrastructure by regional cooperation	• Africa: Lack of competition in intra-regional transportation resulted in high prices, which were reduced by intra-regional trade in service liberalisation; • Enforcement of harmonised transit/transportation regulations		WBG (2008)
SOCIAL COHESIONS	RTA increases social cohesion in the region	EU: European Social Funds, structural policies and the mutual recognition of qualifications and core labour standards ASEAN, MERCOSUR and ANDEAN Community have developed regional social policies	• Free movement of labour • Significant regional funds – ideally common revenue pool • Harmonised regional rules on investment behaviour and labour rights	Borras, 2005

Source: Information obtained from Te Velde and Meyn, (2008).

Two issues become apparent when analysing the empirical evidence of countries' regional integration experiences: first, opposite effects may occur, depending on the type and context of the RTA (e.g. with respect to economic convergence/divergence) and second, RTAs can *support* positive economic development in the region but are not a sufficient precondition. Taking for instance increased FDI inflows as a result of an enlarged market/increased consumption: stable financial institutions, investment security, labour and capital costs are regarded as important determinants influencing the decision of the investor. In other words: without sound economic policies in the investment recipient country, it is unlikely that access to a larger market will result in increased FDI.

The **biggest challenges** for Namibia in the TFTA will not be increased competition or revenue losses but to **implement the rules and regulations** of the TFTA, to contribute to the **establishment of its comprehensive institutional framework** and to **coordinate trade policy-making between the national and the different regional levels.**

A number of trade-related institutions foreseen in the Draft TFTA have only recently been established in Namibia (NACC, NSI, TBT Focal Point), or are not yet operational (Trade Board, IPR Office/Tribunal). Moreover, trade-related institutions on the SACU and/or SADC level are very weak or non-existent. **Consolidating the**

operation of existing national and regional institutions so that they become effective in supervising the proper implementation of existing trade commitments **appears to be a top priority** for Namibia. Spreading already limited technical resources further on the Tripartite level might, however, bear the risk that regional integration efforts are diluted and no feasible progress will be reached at all.

The TFTA is an ambitious 'stepping stone' towards the continent's final objective of creating a Common African Market. Since the **TFTA is a 'moving target', the question on its accountability cannot yet be assessed** but depends on (a) whether the parties can agree on a WTO compliant comprehensive FTA and (b) will be able and willing to implement it accordingly. In fact, the ultimate credibility of the TFTA depends on the implementation of the Agreement and the institutions that monitor and, if necessary, sanction any non-compliance of countries' commitments.

The Table below provides a summarising SWOT (strength-weakness-opportunity-threat) analysis of Namibia in the TFTA.

Table 50: SWOT Analysis: Namibia's opportunities and challenges in the TFTA

	STRENGTH	WEAKNESS	OPPORTUNITY	THREAT	Policy Recommendation
EXPORT POTENTIAL	• Neighboring SADC countries have become medium-relevant export markets for selected products (e.g. beer, horse mackerel, milling product); • Long-standing relations and common history with a number of regional trading partners (e.g. Angola, Zimbabwe, SACU).	• Limited export capacities; • Range of export products that is also produced in many countries in the region; • High transport costs for intra-regional trade; • Language barriers to major regional export markets (Angola, DRC).	• SADC/TFTA market offers chance to expand value added exports: Potential market niches for Namibian agro-processed and manufactured products.	• -Protectionist tendencies in SADC/TFTA; • Changing rules and procedures (e.g. in Angola); • Region sources subsidized agricultural products from RoW (e.g. dairy/milling products), which substitute Namibian export products.	• Strengthen dialogue with private sector to assess what hampers exports to the region and to what extend Government can support export expansion (e.g. NTBs, custom facilitation…); • Enter into dialogue with Governments of main regional export markets (Angola, DRC) to negotiate how bilateral trade could be facilitated.
IMPORTS / INCREASED COMPETITION	• Namibia is already an open economy: being in a customs union with SA and having de facto a FTA with the EU about 87% of its total imports enter its territory duty free.	• Namibia does hardly source from the region: only 2.4% of its total imports come from the non-SACU TFTA region (of which 75% were mineral products from two countries).	• The region could *potentially* supply some of Namibia's agricultural imports, e.g. maize and wheat.	• Namibia's subsidized imports from RoW (e.g. wheat US and EU).	• Assess options for increased sourcing from the region and address reasons for low level of regional imports, e.g. product quality, quantity, reliable delivery, NTBs etc.
REVENUE	• n/a	• Namibia's high dependency on the CRP/trade duties as income source.	• Namibia's and South Africa's extremely limited trade with the non-SADC TFTA region; low level of MFN tariffs for intra-regional trade; • The "top 10 TFTA revenue earners" account for > 82% of total hypothetical revenue from TFTA.	• n/a	• Exclude some of the 'top 10 revenue earners' from liberalization, e.g. worn clothing, motor vehicles, sugar confectionary.

	STRENGTH	WEAKNESS	OPPORTUNITY	THREAT	Policy Recommendation
TRADE POLICIES	• Namibia's trade policies are transparent and predictable.	• Namibia's trade policies are not fully compliant with its commitments in its trade agreements; • No enforcement of trade policy provisions of SADC TP; doubtful that TFTA provisions can be enforced.	• Namibia has already committed itself to abolish extra duties and to phase out quantitative restrictions under the SADC TP.	• Namibia's applied 'protectionist shields' (quantitative restrictions, import bans, export duties) are not compliant with the provisions of the SADC TP and the Draft TFTA; • Unpredictable ad hoc trade policies within SADC are widespread; which hampers intra-regional trade.	• All SADC Governments need to enforce their trade policy commitments as stipulated in the SADC TP; • Intra-regional dialogue on NTBs needs to be strengthened further; private sector needs to be aware and fully included.
TRADE RELATED POLICIES	• Namibia has already developed and implemented most trade-related policies.	• Joint SACU policies not yet developed; • Lack of technical expertise at national and regional level (e.g. on standards, SPS); • Policy coordination between different regional levels unclear.	• Relevance of trade-related policies in international and regional trade agreements acknowledged.	• Strengthening policies at a national level while at the same time developing them at different regional levels risks to overextend Namibia • Comprehensive set of trade-related policies risks overextending TFTA countries.	• Work towards joint SACU policies; • Clarify roles of SADC vs. TFTA trade-related policies; avoid duplication.
TRADE RELATED INSTITUTIONS	• Namibia has functioning institutions in most trade-related policy fields.	• A number of Namibia's trade and trade-related institutions are new and/or face capacity constraints; • Joint SACU institutions yet to be established.	• Need to strengthen trade-related institutions in order to implement regional and international trade commitments raised.	• Strengthening institutions at a national level while at the same time developing them at a SACU, SADC and TFTA level risks overextending Namibia • TFTA countries have hardly the capacities to set-up/participate in the foreseen institutional framework.	• Strengthen trade-related institutions at the national level; • Work towards joint SACU institutions; • Contribute to SADC/TFTA regional institutions IF the added value for Namibia is clear (e.g. in case of the SADC Accreditation Body – since Namibia does not have a national accreditation body); • Clarify roles of SADC vs. TFTA institutional set-up; avoid duplication; • Respect principle of subsidiarity, i.e. refer to the responsibility of the lower authority when possible.

6 LIST OF REFERENCES

African Union (2007): "Protocol on Relations between the African Union and the Regional Economic Communities." Assembly/AU/Dec.166 (IX); text available on the AfriMAP website.

Balassa, Bela / Bauwens, Luc (1988): "Changing Trade Patterns in Manufactured Goods: an Econometric Investigation", Amsterdam-New York: North-Holland.

Bannenberg, Wilbert (no date): "Briefing paper: Trade, TRIPS and access to medicines - challenges and options for the SADC region." Internal SARPAM Briefing Paper.

Basnett, Yurendra (2013): "Labour Mobility in East Africa: An Analysis of the East African Community's Common Market and the Free Movement of Worker." In: Development Policy Review, 2013, 31 (2), p. 131-148.

Bohanes, Jan (2005): "A Few Reflections on Annex VI to the SADC Trade Protocol." Tralac Working Paper no. 3/2005, tralac: Stellenbosch.

Cassidy, Dermot (2010): "Assessment of the Status of Implementation of the SPS Annex to the SADC Protocol on Trade." Study for the SADC Secretariat, August 2010, SADC Secretariat: Gaborone.

Centre for International Economics (2011): "Study on the Review of the Revenue Sharing Arrangement for SACU." Report prepared for the SACU Secretariat.

COMESA (2012): Online: http://www.comesa.int/index.php

DNA (Development Network Africa) (2007): "Evaluation of an Appropriate Model for a SADC Customs Union." Report commissioned by the SADC Secretariat, September 2007.

EAC CET (2012): Online: www.customs.eac.int

ECA (Economic Commission for Africa) (2006): "Assessing Regional Integration in Africa II. Rationalizing Regional Economic Communities". ECA: Addis Ababa.

Flatters, Frank (2010): "Implementing the SADC FTA: Where Are We? What Next?", Technical Report for Southern African Global Competiveness Hub, September 2010.

Foroutan, Faezeh (1993): "Regional integration in Sub-Saharan Africa: past experience and future prospects. In: De Melo, Jaime / Panagariya, Arvind (Eds.): New dimensions in regional integration, pp. 234-71, Cambridge: Cambridge University Press.

Government of Namibia (2011), Ministry of Trade and Industry: "Namibia's Industrial Policy." Government Gazette: Windhoek.

Government of Namibia (2004): "'Namibia Vision 2030". Available at http://www.npc.gov.na/ vision/pdfs/Summary.pdf.

IMANI/SAIIA (2011): "Analysis of Implications of the Proposed Establishment of a Tripartite Free Trade Area between COMESA, SADC and the EAC on SACU." Final Report prepared for SACU, December 2011.

Kalenga, P. (2011): "Making the Tripartite FTA work" in T Harzenberg et al, *Cape to Cairo: Making the Tripartite Free Trade Area Work* 2011, Tralac.

Kleih, Ulrich (2012): "National SPS Coordination Mechanism: An African Perspective." Standards and Trade Development Facility (Ed.), January 2012.

Makochekanwa, Albert / Maringwa, James (2009): "Increasing Temporary Movement of Natural Persons in the SADC Region: What Should be Done? TIPS Working Paper December 2009, TIPS: Pretoria.

Meyn, Mareike and Kennan, Jane (2010): "Economic Partnership Agreements: Comparative Analysis of the Agricultural Provisions." UNCTAD.

Meyn, Mareike (2007): "The end of current EU preferences for Namibia: Economic and social impacts". ODI Briefing, May 2007.

MTI/UNDP (2011): "Integrating Globally. Namibia's Aid for Trade Framework and Strategy." MTI and UNDP: Windhoek/Namibia.

Mugisa, E.,Onyango, C. and Mugoya, P. (2009): "An evaluation of the implementation of the East African Community Customs Union". Final report.

Naumann, Eckhart (2001a): "Tripartite FTA. State of Play on Preferential Rules of Origin. Tralac Trade Brief March 2011, Stellenbosch.

Naumann, Eckhard (2011b): "Tripartite FTA Rules of Origin: Reflections on the Status Quo and the Challenges Ahead" in Hartzenberg, T. et al, *Cape to Cairo: Making the Tripartite Free Trade Area Work* 2011, Tralac.

Nhara, A. (2006): "SADC and COMESA integration: separating myth from reality". (online): http://www.tradescentre.org.zw/index.php/index.php?option=com_docman&task=doc_details&gid=50&Itemid=29

ODI & DNA (2008) "Comprehensive cost–benefit analysis of all the economic, social and developmental implications of a possible conclusion of an EPA for Namibia." Confidential study prepared for the Government of Namibia, funded by the European Union.

ODI and ECDPM (2008): "The new EPAs: comparative analysis of their content and the challenges for 2008." http://www.odi.org.uk/iedg/Projects/0708010_The_new_EPAs.html.

ODI and Kilimo Trust (2009): "Strategic study to support evidence-based negotiation position of the East African Community (EAC) with respect to agriculture sector between EAC and European Commission (EC)", May 2009.

Pearson, Mark (2011): "Trade Facilitation in the COMESA-EAC-SADC Tripartite Free Trade Area." TradeMark Southern Africa, September 2011: http://www.trademarksa.org/publications/trade-facilitation-comesa-eac-sadc-tripartite-free-trade-area

Peets,Mike (2005): Presentation on regional approaches to standardisation and CA procedures and their impact on trade. Panel 2 of OECD Workshop and Policy Dialogue on "Standards and Conformity Assessment in Trade: Minimising Barriers and Maximising Benefits", Berlin, 21-22 November, 2005, p. 203-208.

RTFP (2007): "2007 Update Survey of Non-Tariff Barriers to Trade: Namibia." Study prepared by IMANI Development International Ltd. For the Regional Trade Facilitation Programme (RTFP), July, 2007.

SACU (2002): "Legal Text of the SACU Agreement": http://www.sacu.int/main.php?id=468, accessed 01/11/12.

SACU (2010a): "Merchandise Trade Statistics 2010." SACU Secretariat: Windhoek.

SACU (2010b): "SACU Member Sates Economic Performance: 2010. A fragile economic recovery." SACU Secretariat: Windhoek.

SADC (2000): "Legal Text of SADC Protocol on Trade": http://www.sadc.int/english/key-documents/protocols/protocol-on-trade/#annex2, accessed 05/11/12.

SADC (2012): Online: www.sadc.int

Shayanowako, Petros (2011): "Towards a COMESA, EAC and SADC Tripartite Free Trade Area." Trade & Development Studies – Trust, Trades Centre Harare, January 2011.

South Africa Mingration International (2012): Online http://www.samigration.com/visitors-permit

Stern, Matthew / Truenand, Sarah / Ramkolowan, Yash (2011): "SADC Trade in Services: Negotiating the National Interest." SAIIA Occasional Paper no. 93, September 2011. SAIIA: Johannesburg.

Steven, Christopher / Meyn, Mareike / Kennan, Jane (2008): "Infant Industry Protection in the Context of SACU and the SADC IEPA." ODI, London.

Te Velde, Dirk Willem / Meyn, Mareike (2008): "Regional integration in ACP. A review of the literature and a preliminary stocktaking." Study conducted for the European Commission, DG Development.

TFTA (2010): "Legal Texts of COMESA, EAC, SADC Tripartite Agreement (2010)". http://www.tralac.org/2011/06/29/sadc-eac-comesa-tripartite-free-trade-area-legal-texts/, accessed 08/10/12.

The East African (02/11/2011): "Not there yet: Customs Union still a long way off" (online): http://www.theeastafrican.co.ke/Rwanda/Business/EAC-Customs-Union-still-a-long-way-off-/-/1433224/1610050/-/frwf3lz/-/index.html; accessed 20/01/13.

TIPS (2010): "Liberalisation of SADC trade towards 2012 and beyond." (http://www.tips.org.za/files/SADC_Liberalisation.pdf).

TradeMark Southern Africa (2011): "Negotiating the COMESA-EAC-SADC Tripartite FTA." Aid-for-Trade Case Story, 31 January 2011.

TradeMark Southern Africa (2011): "Consultative Workshop on the Tripartite Free Trade Area", Seychelles, 28th March 2011: http://www.trademarksa.org/publications/consultative-workshops-eac-comesa-sadc-tripartite-free-trade-area-march-2011.

TradeMark Southern Africa (no date): "Negotiating the COMESA-EAC-SADC Tripartite FTA." TMSA Case Study Series: http://www.trademarksa.org/publications/tmsa-case-story-series-negotiating-tripartite-free-trade-area.

Trade Mark Southern Africa (no date): "Establishing a Regional Non-Tariff Barrier Reporting and Monitoring Mechanism." TMSA Case Study Series: http://www.trademarksa.org/publications/tmsa-case-story-series-monitoring-non-tariff-barriers.

Trade Mark Southern Africa (no date): "The COMESA-EAC-SADC Tripartite Trade and Transport Facilitation Programme." TMSA Case Study Series: http://www.trademarksa.org/publications/tmsa-case-story-series-tripartite-trade-and-transport-facilitation.

Tralac (Trade Law Centre Southern Africa) (2012): "The Tripartite Free Trade Area." Towards a new African Integration Paradigm?" Stellenbosch.

UN Commodity Trade Statistics (COMTRADE) database, accessed via World Bank World Integrated Trade Solution (WITS) (http://wits.worldbank.org).

UNCTAD. TRAINS: Trade Analysis and Information System database, accessed via World Bank World Integrated Trade Solution (WITS) (http://wits.worldbank.org).

UNECA (2011): "Study on the Establishment of Inter-RECs Free Trade Areas in Africa. Drawing Lessons from the COMESA-SADC-EAC FTA Experience." Final Report, Addis Ababa, 2 May 2011.

UNECA (2012): "Assessing Regional Integration in Africa (ARIA V): Towards an African Continental Free Trade Area". (online): http://new.uneca.org/aria/aria5.aspx

USAID (2010): "Case Study: SADC Trade Monitoring and complicance Mechanism (TMCM)". (online): http://www.tcboostproject.com/resources/results.php?o=&q=TMCM&t%5B%5D=2&r%5B%5D=2&rt%5B%5D=

USAID (2011): "Technical Report: 2011 Audit of the Implementation of the SADC Protocol on Trade." Submitted by AECOM International Development, August 2011.

US Department of State (2012): "2012 Investment Climate Statement of Namibia." Conducted by Bureau of Economic and Business Affairs. (online): http://www.state.gov/e/eb/rls/othr/ics/2012/191205.htm; accessed 12.02.13.

USTIC (United States International Trade Commission) (2004): "Textiles and Apparels. Assessment of the competitiveness of certain foreign suppliers to the US market." (online): www.usitc.gov/publications/docs/pubs/332/pub3671/pub3671.pdf

Viljoen, Willemien (2011): "Non-tariff barriers affecting trade in the COMESA-EAC-SADC Tripartite Free Trade Agreement." Tralac Working Paper, March 2011.

World Bank Group (2012a): "Country Profile Namibia": http://www.worldbank.org/en/country/namibia, accessed 17/12/12.

World Bank Group (2012b): "Regional Transport and Trade Logistics in Namibia. A Policy Note." 31 May, 2012. Poverty Reduction Economic Management 1, Southern Africa. World Bank Group: Washington D.C.

WTO (2009): "Trade Policy Review Botswana, Lesotho, Namibia, South Africa and Swaziland." Annex 3 - Namibia. Report by the Secretariat. WTO: Geneva.

WTO (2010): "International Trade Statistics 2010. Merchandise trade by product" (online): http://www.wto.org/english/res_e/statis_e/its2010_e/its10_merch_trade_product_e.htm; accessed 30/12/12.

Annexes

Annex 1

Terms of Reference

ANNEX 1 – TERMS OF REFERENCE

Project Purpose: To enhance the overall knowledge of the Namibia Ministry of Trade and Industry, the private sector and the overall Namibian public of implications of the Tripartite FTA for Namibia, thereby enhancing the negotiation position for the Namibia Ministry of Trade and Industry. The study will outline the objectives and current status quo of the COMESA-EAC-SADC Tripartite Agreement and assess the potential chances, risks and challenges for Namibia. The direct costs and benefits will be quantified and the indirect socio-economic costs and benefits will be assessed. Namibia's offensive and defensive interests in negotiating the Tripartite Agreement will be considered vis-à-vis its main trading partners within the TFTA and potential winners and losers will be identified. Moreover, Namibia's leverage of negotiating the TFTA within the SACU Framework will be outlined. The comprehensive study serves the purpose to optimally equip the Namibia Ministry of Trade and Industry in identifying a coherent Strategy of successfully negotiating the Tripartite FTA.

Purpose/Indicators of Success:

Indicators of Success (evidence: how we will know the purpose has been achieved)	Status before project (what is the situation before the project starts	Source of Information (where you will obtain the information to demonstrate if the indicators have been achieved)
The Ministry of Trade and Industry through the Namibia Trade Forum will be proactively engaged in the negotiation process	The Ministry of Trade and Industry is not sure where the benefits will be in the TFTA and is not fully equipped for negotiations.	Main findings and recommendations of the study will be incorporated into MTI's TFTA negotiation strategy
Improve knowledge on Namibia's trade flow, and potential trade gains and losses within the TFTA process (i.e. trade tax revenue)	The Ministry of Finance has no clear picture of the implications of the TFTA with respect to revenue implications. About 30% of state revenue is derived from SACU revenue pool.	Ministry of Finance and other public and private stakeholders know about the potential trade gains and losses of the TFTA.
Foster the private sector's participation in intra-regional trade beyond SACU	Namibia is a member of SACU and the free movement of goods only exists amongst the member states (South Africa, Botswana, Lesotho, Namibia and Swaziland). Enhancing the knowledge of chance offered by the TFTA will contribute to enhanced regional integration beyond SACU for the private sector.	Continuous engagement between the private sector and the MTI negotiating team will be enhanced by incorporating the study results into Namibia's negotiation position, thereby ensuring that the interests of the private sector become an integral part of the common negotiating position of the TFTA.
Ensure that TFTA will positively contribute to Namibia's trade balance and overall socio-economic development	Namibia has been suffering increasing trade deficits and is fighting very high unemployment and poverty rates. The study's recommendations for negotiation positions need to take this adequately into account.	The Steering Committee will incorporate a member of the National Planning Commission who will guide and advice on macroeconomic issues

Outputs: The results of project activities. These should be sufficient to achieve the project purpose	1. **<u>The study</u>** recommends and advices on the need for an improved trade infrastructure development to address productivity capacity constraints. This will also give an outlook of how the economic and social policy may be coordinated. Moreover, an assessment and recommendations on Namibia's institutional capacity to negotiate and implement the TFTA shall be provided. In addition, there will be a cost-benefit analysis and an identification of attributes/interest, if any, that Namibia and the other SACU States may forgo to pave ways for regional integration. An estimate of the intra-regional trade potential for Namibia within the TFTA will also be included. 2. **<u>Trade policy-makers' understanding</u>** of offensive and defensive trade interests of the private sector in Namibia will be considerably enhanced. 3. **<u>Namibian's policy makers understanding</u>** of their current obligations within regional trade agreement and needed trade policy reforms to implement the TFTA will be increased.
Main Activities: (list the tasks to be done to deliver the outputs. Please link activities to outputs through the numbering, e.g. output 1 may have three activities, 1.1, 1.2 and 1.3)	**1.** **<u>The study</u>** recommends and advices on the need for an improved trade infrastructure and institutional strengthening and provides a cost-benefit analysis of the TFTA. Moreover, it assesses the potential costs and benefits and implications for Namibia (incl. SACU regional integration). 1.1. Literature Review: Assessment of Namibia's coastal ports and corridors 1.2. Desktop study - Develop a country profile on trade Import and Tariff structure 1.3. Interviews and desktop study - Analysis of Required Trade Policy Reforms. 1.4. Economic Quantitative analysis- Analysis of Revenue Implications and Economic Effects 1.5. Interviews and desktop study - Strategically determine the important products that are revenue sensitive. Identify if the agreement underpinning the TFTA can be limited to a few sectors. 1.6. Literature review: Assess the compatibility of Namibia's industrial and health standards with those recommended under the TFTA 1.7. Determine markets and products for Namibia which could be traded under the TFTA (assess Namibia's offensive interests) 1.8. Assessment and evaluation of Namibia's current custom regulation system according to the WTO Trade Policy Review 1.9. Interview - Identify potential social costs and benefits accruing to the nation at large as a result of TFTA 1.10. Provide an update on the trade liberalisation programmes of the three RECs making up the TFTA and assess their current trade performance 1.11. Interviews and literature review –Indicate the measures to be deployed to facilitate the movement of business persons across the three Regional Economic Communities (RECs).

	1.12. Round table discussions with the government officials (trade negotiation team) on how increased FDI may lead to exploitation of untapped valuable natural resources found in COMESA, EAC and SADC **2.** <u>**Trade policy-makers understanding**</u> of offensive and defensive trade interests of the private sector in Namibia 2.1. Demonstrate the anticipated implication of the Tripartite FTA's external trade policy to Namibia by considering the SACU CET, administrative revisions, policy domestication, implementation, customs management, and trade results. 2.2. Identification of key important sectors to Namibian economy that may require protection from intense competition from TFTA countries. 2.3. Meeting with the negotiating team from the Ministry of Trade and Industry to discuss the findings on the significance of the trade policy reforms applied in both SACU and under the envisaged TFTA. **3.** <u>**Namibian's policy makers (government) understand the significance of the trade policy reforms applied in both SACU and the envisaged TFTA.**</u> 3.1 Policy dialogue with the government officials (trade negotiation team) on the significance of the trade policy reforms applied in both SACU and the envisaged TFTA 3.2 Round table discussions with policy makers to pprovide an update on the trade liberalisation programmes of each of the three Regional Economic Communities(RECs) making up the proposed tripartite FTA. Cross-cutting Issue: Assess the potential impact of the trade policy reform under the TFTA on gender equality, inclusion of socially and spatially disadvantaged groups, and on environmental and social cohesion.

Background

Namibia is one of the largest countries in Southern Africa, characterized by a dry climatic condition and a scattered population of about 2.2 million people. Due to its peculiar weather condition and narrow industrial base, Namibia is a net food importing country with SACU and EU being Namibia's major trading partners. Europe is Namibia's most important export destination for beef, fish and grapes accounting for 100 percent of Namibia's agricultural exports while South Africa is Namibia's largest import market. Namibia is largely dependent on mining, fisheries and agriculture and all these sectors are relatively capital intensive, thus explaining an alarming unemployment rate of 51.2%.

Namibia is a member of the South African Custom Union (SACU) which consists of South Africa, Botswana, Lesotho, Namibia and Swaziland. There exists a free flow of tradable goods amongst the member states and they have a Common External Tariff. About 30% of Namibia's revenue comes from the SACU Revenue Pool so that any regional initiative that may pose a detrimental impact on the revenue pool will put Namibia on a fragile edge. In addition, Namibia is defined by a small economy with a number of infant industries which still need government protection.

A number of relevant studies have been conducted in recent years to assess Namibia's trade policy in the context of SACU, SADC and EPA negotiations. These include: 2008 study on Comprehensive cost–benefit analysis of all the economic, social and developmental implications of a possible conclusion of an EPA for Namibia (ODI and DNA); 2007 study on the implications of the end of EU preferences for

Namibia (ODI) and 2008 study of Options to negotiate a development-friendly SADC EPA (ODI). The proposed Tripartite Study will build on the results of these studies and highlight the strengths and weakness for Namibia in terms of trade and production potential when negotiating the TFTA.

Project Risk Analysis

Risk Description	Likelihood	Impact	Management
1. Political Risk	Low	High	Lobbying, usage of influential power at a political level
2. Negotiating as a group: Compromise on certain issue to reach consensus	Medium to high	High	Convince SACU states about Namibia's sensitivities Be able to successfully negotiate Namibia's sensitivities within the TFTA framework

Project Stakeholders

Stakeholder	Interest	Likely Impact =/-	Management
1. Government- MTI, MAWF, MOF (Directorate of Customs) National Planning Commission	High	Positive	1. By including high level officials into the Steering Committee 2. By a dedicated workshop at the end of the consultancy
2. Academics – UNAM & Polytechnic of Namibia	Medium	Positive	By introduction to trade issues by interviews and participation in panel discussion
3. Research Institutions: IPPR	Medium	Positive	Inclusive participation
4. Namibia Trade Forum	High	Positive	Implementing agent
5. Media	Medium	Positive	By generating and spreading knowledge in Tripartite issues

Annex 2

Minutes of First Steering Committee Meeting

ANNEX 2 - MINUTES OF FIRST STEERING COMMITTEE MEETING

<table>
<tr><td>Attendants:</td><td>Dr. John Steytler (Director General of the Namibia Statistical Agency), Mr. Maik Sheyavali (Control: Customs Officer, Ministry of Finance), Ms. Ndiitah Robiati (National Coordinator, Namibia Trade Forum), Ms. Dagmar Honsbein (General Manager: Professional Services, Agra), Ms. Lina (Deputy Director for Demographic and Social Statistics, Namibia Statistical Agency), Dr. Mareike Meyn (Senior Trade Policy Expert, GFA Consulting Group), Ms. Anna-Luisa Peruzzo (Junior Trade Economist, GFA Consulting Group)</td><td>Date, Time, Venue:
15.11.2012, 11h00-13h00
NSA Board room</td></tr>
<tr><td>Agenda:</td><td colspan="2">1) Introduction of all participants
2) Presentation of the Inception Report by Dr. Mareike Meyn (Annex I)
3) Discussion Round (Questions and Recommendations from the Steering Committee)

Discussion Round (Questions and Recommendations from the Steering Committee):

• Ms. Honsbein raised the question whether the study will analyze the implementation and/or enforcement of existing trade agreements of the three RECs (SADC, COMESA and EAC). The different development statuses of the countries concerned under the TFTA might cause difficulties to negotiate tariffs under the TFTA as it has been proven to be difficult under previous trade agreements, notably the Economic Partnership Agreements (EPAs) with the EU. Some countries still have not ratified the EPAs or lacking far behind the planned implementation process. Past mistakes, difficulties and challenges should not be repeated within the process of another layer of Trade Agreements.
→ Ms. Meyn outlined that the study will not incorporate a new analysis on the implementation and enforcement of existing trade agreements such as the EPA and referred to the 2008 ODI study.[1] However, what will be done is to analyse Namibia's obligations under the SACU, SADC and WTO Agreements and to check to what extent current trade policies are compliant with these obligations. The study will further undertake a legal analysis of the TFTA Draft Agreement (which is only considered to be an "input" but not a basis by the negotiators) and check to what extent the TFTA provisions are more strict/relaxed than SACU and SADC provisions.

• Ms. Honsbein asked whether anti-dumping issues are taken into consideration and whether there will be an analysis of competition policies.
→ Yes, the legal analysis of trade-related policies in SACU, SADC, TFTA will be undertaken and stakeholder interviews will support the analysis (with Namibia Competition Commission and MTI)

• Comments received on trade statistics (source: UN ComTrade. (Ms. Robiati, Ms. Honsbein)
→ Trade data does not look 100% correct. The export of cattle and beer to the region is not covered and it is believed that these products are exported more than they appear in the data.
→ It is known that Namibia exported vessels to Seychelles; probably in the period under review (N. Robiati)
→ Looking at exports to Mozambique, fish should be the primary export product.
→ SC stressed that it is necessary to compare UN ComTrade data with national customs data.
→ Ms. Meyn responded that the Consultants are aware that UN ComTrade data</td></tr>
</table>

[1] ODI-ECDM (2009): The African IEPAs: a baseline analysis of their terms, available online.

		might contain some "mirror data" and will try to obtain Namibian data from the statistical agency. Dr. Steytler and his team will support the Consultants in obtaining the data accordingly (HS6 code export/import data, 2009-2011, in US$). • Ms. Honsbein proposed to assess also other issues that are problematic in SADC intra-regional trade, such as exchange control regulations, Forex shortages and transfer pricing. Thus, Zimbabwe put up tariffs to get Forex. → Ms. Meyn confirmed that these points will be raised in interviews with the private sector, assessing what non-tariff barriers (NTBs) they are facing when trading with the region. • Informal trade should not be underestimated. A lot of trade does not go into national statistics as goods are brought over the border by foot or bike, e.g. car parts are transported in luggage. The study should highlight that high barriers on formal trade are also responsible for the high level of informal trade, e.g. to Angola (D. Honsbein, N. Robiati). → Ms. Meyn agreed to this comment. • The Angolan market is very important for Namibia. The terms of reference of the PTA/MoU need to be revised as they do not include a chapter/annex concerning the movement of business persons. Regulations concerning the movement of business persons are an important issue and are differently handled within SADC and for single SADC members. Thus, Namibians only get a work permit for one month in South Africa, whereas Zimbabweans get a 3-month work permit. (Ms. Honsbein). • MTI is interested in launching a study on the strength and challenges to improve the business environment in Namibia. The World Bank Group (WBG) country report outlined that Namibia is already at an advanced stage of being business friendly. • Dr. Steytler raised the concern that the activities proposed by the study's ToR are very comprehensive, risking that the study becomes too broad and gets lost in details. He suggested using a more direct question to narrow down the scope of the study. This would allow the reader to get an impression on what issues are still outstanding and for which inputs are still needed and what positions are already set. In this way the study could feed into the negotiation process. Ms. Honsbein agreed and suggested concentrating on only 5-6 countries in the TFTA region that are important for Namibia's regional trade. As example she mentioned the impact Angola's restrictions on Forex exports have on Namibia's housing market. Due to this policy the Namibian housing market relaxed as Angolans face a higher opportunity cost to invest in Namibian properties. → Ms. Robiati highlighted that the ToR had to follow the templates of the donor and agreed that focusing is important. → Ms. Meyn presented the preliminary structure of the study and highlighted that the study's objective is to define Namibia's offensive and defensive interests in TFTA negotiations from both, a private sector and public sector point of view. • Ms. Honsbein suggested to further define the term 'private sector'. What sectors will benefit, what sectors will suffer? Agriculture, manufacturing industry, tourism? → Ms. Meyn confirmed that the study will look at all trade in goods sectors that are subject to intra-regional TFTA trade and assess how they will be affected by the TFTA. For trade in services, the modalities of negotiations are still unknown since services will only be dealt with in Phase 2 of the negotiations. • Mr. Steytler would like to see a concretization of the methodological approach for some activities. He quoted activity 1.1, which seems to be a study on its own. • The study should highlight what are 'main' and what are 'side' activities.

	→ Ms. Meyn confirmed that this will be the case and that the study will also highlight the limits of its findings, bearing in mind that a 'moving target' is under investigation. • Ms. Honsbein suggests looking at the short, medium and long-term opportunities and challenges of Namibia when signing the TFTA vs. not signing the TFTA. • The SC Members agreed that the study should focus on Namibia's offensive and defensive interests in TFTA negotiations ('what to win and what to lose'), be concrete and concise and not too long. The study should "visualize" wherever possible and summarise the main findings (e.g. the results of the legal comparison of SACU/SADC/TFTA could be put in a Table, the text in an Annex). → Ms. Meyn agreed to this approach and also confirmed that an executive summary will form part of the study. Moreover, a trade policy brief will be compiled to enable NTF communicating the main findings.
Further steps:	• The minutes of the first Steering Committee meeting will be sent around for comments. • The draft final report will be sent two weeks before it is presented to the Steering Committee. • The next Steering Committee meeting is likely to take place in the week 4th to the 8th of February 2013. NTF will liaise with the SC Members, fix the date and send invitations.

Protocol: Anna Peruzzo and Mareike Meyn, 17 November 2012

Annex 3

Table 1:
Specification of Methodological Approach to Address Study Activities

ANNEX 3 - TABLE 1: SPECIFICATION OF METHODOLOGICAL APPROACH TO ADDRESS STUDY ACTIVITIES

RESULTS	Activities	Methodological approach
R1 (I) **RECOMMEN-DATIONS ON IMPROVED TRADE INFRASTRUCTURE AND INSTITUTIONAL STRENGTHENING OF TFTA** **R1 (II)** **COST-BENEFIT ANALYSIS OF THE TFTA INCLUDING ECONOMIC AND REGIONAL IMPLICATIONS FOR NAMIBIA**	**1.1** Assessment of Namibia's coastal ports and corridors	Secondary literature review as agreed with beneficiary.
	1.2 Develop a country profile on trade Import and Tariff structure	Apply international trade data source (Comtrade, WITS, IMF etc.); combined with international country profile information (WTO, IMF, WBG etc.)
	1.3 Analysis of Required Trade Policy Reforms (to negotiate/implement the TFTA)	Secondary literature and data analysis Interviews with selected stakeholders (e.g. MIT, NTF, Chambers, Central Bank, EUD…)
	1.4 Analysis of Revenue Implications and Economic Effects	Analysis of Namibia's most relevant imports (in terms of value) from Tripartite countries (top 10) Analysis of current customs conditions of top 10 commodities within SACU Quantification of top 10 revenue losses for Namibia under Tripartite Agreement (two different scenarios) Analysis of average CET for Namibia TFTA trade Interviews: Analysing Namibia's negotiation leverage within SACU
	1.5 Strategically determine the important products that are revenue sensitive. Identify if the agreement underpinning the TFTA can be limited to a few sectors	Combine finding of A1.2 and A1.4 with legal analysis of TFTA. Stakeholder interviews (e.g. TFTA Coordination Desk in SADC Secretariat, SACU Secretariat).
	1.6 Assess the compatibility of Namibia's industrial and health standards with those recommended under the TFTA	WTO TPR in combination with analysis of TFTA.
	1.7 Determine markets and products for Namibia which could be traded under the TFTA (assess Namibia's offensive interests)	Assess Namibia's comparative and competitive advantages (A1.2) Define Namibia's offensive trade interests within the TFTA (data/literature analysis plus interviews)
	1.8 Assessment and evaluation of Namibia's current custom regulation system	WTO Trade Policy Review
	1.9 Identify potential social costs and benefits accruing to the nation at large as a result of TFTA	Combine findings of A1.2-A1.5 (economic costs/reforms) with assessments of previous relevant studies (e.g. EPA analyses for Namibia) and personnel interviews.
	1.10 Provide an update on the	Literature review in combination with trade

RESULTS	Activities	Methodological approach
	trade liberalisation programmes of the three RECs making up the TFTA and assess their current trade performance	data analysis (Comtrade, WITS, IMF) Secondary interviews with COMESA, EAC, SADC Secretariats (if possible)
	1.11 Indicate the measures to be deployed to facilitate the movement of business persons across the three Regional Economic Communities (RECs).	Assessment of experiences in other RECs and gap analysis for COMESA, EAC, SADC on basis of secondary literature Validation of results via secondary interviews with COMESA, EAC, SADC Secretariats (if possible)
	1.12 How may increased FDI lead to exploitation of untapped valuable natural resources in COMESA, EAC and SADC	Preparation of Round Table Discussion by presenting background on thesis and experiences of different regions Taking notes of discussion results and including main messages into the study
R2 **ENHANCE TRADE POLICY-MAKERS UNDERSTAN-DING OF OFFENSIVE AND DEFENSIVE TRADE INTERESTS OF THE PRIVATE SECTOR IN NAMIBIA**	**2.1** Demonstrate the anticipated implication of the Tripartite FTA's external trade policy to Namibia by considering the SACU CET, administrative revisions, policy domestication, implementation, customs management, and trade results	Combining results of A1.1-A1.8 with findings from personnel and secondary interviews.
	2.2 Identification of key important sectors to Namibian economy that may require protection from intense competition from developed TFTA countries.	Update results from 2007 IPR study with results from data analysis (A1.2) and personnel interviews.
	2.3 Discuss findings on the significance of the trade policy reforms applied in both SACU and envisaged TFTA	Present main findings of Draft Study to stakeholders for discussion.
R3 **NAMIBIAN'S POLICY MAKERS UNDERSTAND THE SIGNIFICANCE OF TRADE POLICY REFORMS APPLIED IN BOTH SACU AND THE ENVISAGED TFTA.**	**3.1** Policy dialogue on the significance of the trade policy reforms applied in both SACU and the envisaged TFTA	Present preliminary findings of A1.3, 1.5 and 1.7 for discussion with trade negotiation team; update information accordingly.
	3.2 Provide update on the trade liberalisation programmes of each of the three Regional Economic Communities(RECs) making up the proposed tripartite FTA	Present preliminary findings of A1.11 to stakeholders and update information accordingly.
CROSS-CUTTING ISSUE	Assess the potential impact of the trade policy reform under the TFTA on gender equality, inclusion of socially and spatially disadvantaged groups, and on environmental and social cohesion	Present study findings to stakeholders and update information accordingly.

Annex 4

Interview Partners

ANNEX 4 - INTERVIEW PARTNERS

Interview partners Namibia

INSTITUTION	NAME/POSITION	MEETING
ATF NAMIBIAN AGRICULTURAL TRADE FORUM	Mr. Jürgen Hoffmann Senior Trade Advisor	Monday, 12.11.2012 – 10.00h
	Mr. Frans N. Uusiku Trade Advisor	Skype interview, Thursday, 20.12.12
AGRIINSPECT	Gerhard Jooste Senior Manager	Tuesday, 13.11.2012 – 15.00h
BRITISH HIGH COMMISSION	H.E. Marianne Young High Commissioner	Wednesday, 14.11.2012,10.00
EUROPEAID PROJECT: 'STRENGTHENING THE ECONOMIC AND TRADE POLICY CAPACITIES AND COMPETENCES IN THE SADC'	Mr. Markus Jelitto Team Leader, Expert Trade in Services	Tuesday, 13.11.2012 – 17:30h
MINISTRY OF FINANCE – CUSTOMS CONTROL	Ms. Sebastiana Apollus Acting Deputy Director of Central Region	Friday, 16.11.2012, 15.00h
	Mr. Boniface Mike Sheyavali Control: Customs Officer, Windhoek	Friday, 16.11.2012, 15.00h
	Ms. Emily Nguvauva Senior Customs and Excise Officer	Friday, 16.11.2012, 15.00h
MINISTRY OF TRADE AND INDUSTRY (MTI)	Mr. Benjamin Rinaune Katjipuka Head, Trade Agreements and Multilateral Economic Diplomacy Unit	Wednesday, 14.11.2012 -10.00h
MTI - NTB FOCAL POINT	Ms. Jaanda E. Maharero Principal Economist at Directorate of Commerce	Thursday, 15.11.2012; 16.30h
NAMIBIA AGRONOMIC BOARD	Mr. Ludwig L. Araëb Chief Inspector	
NAMIBIA BREWERIES LIMITED	Mr. Thomas Hochreiter Manager Export / Global Partnerships	Thursday, 15.11.2012; 15.00h
NAMIBIA COMPETITION COMMISSION (NACC)	Mr. Heinrich Mihe Goamab II CEO & Secretary to the Commission	Friday, 16.11.2012;12.00h
	Joseph Hausiku, Researcher at Research Division Unit	Friday, 16.11.2012;12.00h
	Dr. Michael N. Humavindu Assistant Secretary: Research	Friday, 16.11.2012;12.00h
NAMIBIA CUSTOMS & EXCISE (WALVIS BAY OFFICE)	Ms. Yoolokeni M.N. Haihambo Deputy Director, Western Region	Monday, 19.11.2012; 10.00h
	Mr. Theo Mushindi: Customs Officer	Monday, 19.11.2012; 10.00h
	Mr. Bernard Louw: Customs Officer	Monday, 19.11.2012; 10.00h
NAMIBIAN DAIRIES	Mr. Hubertus Hamm Managing Director	Thursday, 22.11.2012; 09.00h
NAMIBIA STANDARDS INSTITUTION (NSI)	Mr. Riundja Ali Kaakunga (Othy) CEO	Tuesday, 20.11.2012; 10.00h
	Dr. Mvula Eino General Manager: Regulatory and Consumer Protection	Tuesday, 20.11.2012; 10.00h
NAMIBIA STATISTICS	Dr. John Steytler	Tuesday 13.11.2012 – 10.00h

INSTITUTION	NAME/POSITION	MEETING
AGENCY (NSA)	Statistician General	
	Mr. Aloysius Tsheehama Chief Statistician	Wednesday, 14.11.2012 – 15.00h
	Mr. Elijah Saushini Mr. Sadick Chombo	Friday, 16.11.2012 – 09.00h
NAMIBIA TRADE FORUM (NTF)	Ms. Ndiitah Nghipondoka- Robiati National Coordinator	Thursday, 15.11.2012; 09.00h
NAMIB MILLS (PTY) LTD	Ian Collard Managing Director	
NAMSOV, NAMIBIAN FISHERIES	Mr. Jan Arnold Managing Director	Saturday, 17.11.2012; 11.00h
NMI GROUP SERVICES (PTY) LTD	Mr. Heinrich Stevens Group Company Secretary	Wednesday, 21.11.2012; 11.30h
SACU SECRETARIAT	Mr. Anton Faul Director: Policy Development & Research	Monday, 19.11.2012; 17.00h
TRANSWORLD CARGO / NAMIBIA LOGISTICS ASSOCIATION	Mr. Norbert Liebich Director	Tuesday, 20.11.2012; 15.00
WALVIS BAY CORRIDOR GROUP	Mr. Johny M. Smith CEO	Wednesday, 21.11.2012; 10.00h
WORLD BANK GROUP	Dr. Philipp Schuler Senior Country Economist for Namibia	Wednesday, 21.11.2012; 10.00h
	David Russell, Independent Fisheries Consultant	Wednesday, 21.11.2012; 16.00h

Interview Partners South Africa

INSTITUTION	NAME/POSITION	MEETING
DEPATMENT OF TRADE AND INDUSTRY (DTI)	Ms. Elizabeth van Renen Director, SADC – International Trade and Economic Development	Friday, 23.11.2012; 14.00h
DNA ECONOMICS	Dr. Matthew Stern Managing Director	Thursday, 22.11.2012; 19.00h
TRADEMARK SOUTHERN AFRICA	Ms. Stella Mushiri Deputy Programme Director	Friday, 23.11.2012; 10.00h
	Mr. Fudzai Pamacheche Programme Manager – Trade Policy	
	Ms. Maggie Tladi Customs and Trade Facilitation Expert	

Annex 5

Tripartite Trade Negotiation Forum (TTNF) Meetings To Date

ANNEX 5 – TRIPARTITE TRADE NEGOTIATION FORUM (TTNF) MEETINGS TO DATE

Meeting	Place / Date	Topics
1st TTNF Meeting	Nairobi, 2 -9 December 2011	• Constitution of the TTNF • Discussion of draft rules of procedure facilitate TFTA negotiations
2nd TTNF Meeting	Lusaka, 12 – 14 March 2012	• Approval of roadmap • Adoption of 11 negotiation principles
3rd TTNF Meeting and 4th Meeting of the Tripartite Committee of Senior Officials	Mauritius, 1 -6 June 2012	• Approval of ToR for TWGs • TTF to provide draft paper on tariff negotiation modalities • Validation of tariff and trade statistics to be undertaken
4th TTNF Meeting	Arusha, 5-7 September 2012	• Consider draft modalities for negotiations on tariff liberalization • Tariff and trade statistics were circulated
5th TTNF Meeting	Cairo, 10 12 December 2012	• M&E – internal monitoring mechanism by TTF agreed • Discuss modalities for negotiations on tariff liberalization

Annex 6

South Africa's Trade and Tariff Profile with TFTA Countries

ANNEX 6 - SOUTH AFRICA'S TRADE AND TARIFF PROFILE WITH TFTA COUNTRIES

In the period 2009-11, South Africa had on average a **trade surplus of 7.1 billion US$** p.a. with the TFTA region, excluding trade with the BLNS. South Africa exported products worth 10.5 billion US$ to the TFTA region (14.5% of total exports), while it imported products worth 3.4 billion US$ (4.2% of total imports). In contrast, ***South Africa's trade with non-SADC countries is very limited but positive: It exported 1.9% of its total exports to non-SADC countries (13.1% of total Tripartite exports) and imported 0.1% of total imports from non-SADC Tripartite Member States (2.4% of total Tripartite imports). South Africa's major non-SADC trading partners are Egypt, Kenya, and Uganda.***

SA's exports to the TFTA region

South Africa's global exports increased by 73% to 92.9 billion US$ (2009 to 2011). 14.5% of total exports went to the Tripartite region excluding BLNS (which are not reported by SA). Most Tripartite exports go to SADC, which receives 87% of South Africa's total TFTA exports.

SA's top 3 Tripartite export markets were Zimbabwe, Mozambique and Zambia, which accounted for about 60% its total exports to the Tripartite region. The **range of export products** to these three SADC countries is **diverse** as the top 10 export products for each country accounted for only between 16% and 26% of total export products. Major export products were light oils, fertilizer, electrical energy and coal.

South Africa exported 13.1% of its total TFTA exports (**1.9% total exports**) **to non-SADC Tripartite Member States**. The top 3 non-SADC Tripartite export destinations were Kenya, Uganda and Egypt. Major export products to these countries include minerals, maize, medicaments, sugar and tobacco.

Table 1: South Africa's exports to the Tripartite region

Market	Export value ($000)				
	Average 2009 - 2011	*Share of Tripartite*	2009	2010	2011
TOTAL	9,994,401	95%	8,293,452	9,939,768	11,749,980
Zimbabwe	2,118,272	*20.1%*	1,683,317	2,203,906	2,467,592
Mozambique	2,028,532	*19.2%*	1,629,722	1,992,218	2,463,655
Zambia	1,869,170	*17.7%*	1,445,299	1,775,252	2,386,959
Congo, Dem. Rep.	857,849	*8.1%*	587,997	880,901	1,104,650
Kenya	849,564	*8.1%*	887,827	794,048	866,816
Angola	778,298	*7.4%*	711,400	713,268	910,227
Tanzania	540,070	*5.1%*	454,481	570,068	595,661
Malawi	429,501	*4.1%*	437,564	447,722	403,216
Mauritius	328,318	*3.1%*	305,979	349,292	329,683
Uganda	194,827	*1.8%*	149,866	213,093	221,521

Source: UN COMTRADE database, downloaded November 2012.

SA imports from the TFTA region

Imports from the Tripartite region, accounted for 2.4% of South Africa's total imports. More than 96% of South Africa's total Tripartite Imports come from SADC countries.

Egypt is the 'largest' non-SADC Tripartite import source, accounting for 0.05% of South Africa's total imports (which equals 1.1% of its Tripartite imports).
South Africa's top 3 import markets from the TFTA region were **Angola, Mozambique and Zambia**, which account together for **76% of total TFTA imports** in the period 2009 - 2011. South Africa imported almost solely petroleum oils from Angola (almost 50% of total Tripartite imports) and electrical energy, natural gas and light oils from Mozambique. Other products include minerals (diamonds, copper and nickel), cotton, tobacco and black tea.

Major import products include mineral waxes, vegetables, fruits, ceramic sinks, disodium carbonate and black tea.

Table 2: South Africa's imports from the Tripartite region

Market	Import value ($000)				
	Average 2009 - 2011	*Share of Tripartite*	2009	2010	2011
TOTAL	**3,358,928**	**97.30%**	**2,573,799**	**3,472,454**	**4,030,527**
Angola	1,671,388	*48.5%*	1,413,071	1,983,132	1,617,961
Mozambique	663,251	*19.2%*	428,544	526,904	1,034,305
Zambia	290,800	*8.4%*	204,151	292,414	375,835
Zimbabwe	271,214	*7.9%*	187,781	191,299	434,561
Botswana	138,275	*4.0%*	105,330	147,424	162,070
Mauritius	106,693	*3.1%*	66,707	97,640	155,731
Malawi	65,852	*1.9%*	66,557	64,268	66,732
Namibia	56,027	*1.6%*	47,035	67,369	53,677
Tanzania	56,013	*1.6%*	27,841	62,834	77,363
Egypt	39,415	*1.1%*	26,782	39,170	52,292

Source: UN COMTRADE database, downloaded November 2012.

Competitiveness of TFTA products in the South African market

South Africa's top 10 import products account for only 4% of total imports, but 81% of total Tripartite imports in the period 2009 - 2011. South Africa's import products from the TFTA region were **concentrated on around 10 products for which Tripartite countries were its major supplier**, thus they were competitive. However, these are **almost exclusively mineral products**: Over 93% of South Africa's total imports from the TFTA are electrical energy, copper cathodes, cotton and nickel ores.

Table 3: Competitiveness of Tripartite products in the South African market

Product code	Product label				Import value ($000)		
		Average 2009 - 2011	Product share of World total	Product share of Tripartite total	Tripartite share of SAM of product	2009	2010	2011
	TOTAL	**2,796,495**	**4%**	**81%**	**650%**	**2,134,945**	**2,930,612**	**3,323,927**
27090000	Petroleum oils and oils	1,657,859	*2.0%*	*48.1%*	*13.8%*	1,394,561	1,977,470	1,601,547
71023100	Diamonds non-industrial	232,462	*0.3%*	*6.7%*	*48.7%*	166,719	250,800	279,867
271600	Electrical energy	206,968	*0.3%*	*6.0%*	*94.0%*	175,411	214,809	230,684

Product code	Product label				Import value ($000)			
		Average 2009 - 2011	Product share of World total	Product share of Tripartite total	Tripartite share of SA M of product	2009	2010	2011
00								
27101130	Light oils and preparations	188,050	*0.2%*	*5.5%*	*10.0%*	61,476	69,813	432,860
27111100	Natural gas, liquefied	175,226	*0.2%*	*5.1%*	*100.0%*	135,914	175,963	213,800
74081100	Wire of refind copper	87,451	*0.1%*	*2.5%*	*56.7%*	66,048	94,016	102,288
74031100	Copper cathodes	86,379	*0.1%*	*2.5%*	*99.5%*	45,604	53,385	160,148
52010020	Cotton	61,842	*0.1%*	*1.8%*	*93.7%*	45,320	50,801	89,404
26040000	Nickel ores and concentrates	50,319	*0.1%*	*1.5%*	*99.8%*	-	1,152	149,806
24012000	Tobacco	49,939	*0.1%*	*1.4%*	*33.7%*	43,892	42,403	63,523

Source: UN COMTRADE database, downloaded November 2012.

MFN tariffs on top 30 import products

The table below outlines **South Africa's top 30 import products from the non-SADC TFTA** region. As can be seen, **almost half of the top 30 products are imported duty free** and 16 face tariffs. However, **only** seven products face a tariff above 10% or ad valorem tariffs. Thus, South Africa's **protection level for major TFTA imports is already very low.**

Table 4: South Africa's top 30 imports from non-SADC TFTA countries

Origin	Product code	Product label	Average 2009 - 2011	Share of M per country total	MFN tariff 2011
Uganda	24012000	Tobacco	5,637	*51.3%*	15% or 860c/kg less 85%
Kenya	28362000	Disodium carbonate	5,384	*19.8%*	5,5
Egypt	27129010	Mineral waxes nes	3,638	*9.2%*	0
Egypt	28141000	Anhydrous ammonia	2,679	*6.8%*	0
Kenya	09024000	Black tea	2,278	*8.4%*	400c/kg
Egypt	20041090	Other vegetables	2,080	*5.3%*	20
Ethiopia	07133300	Kidney beans & white pea beans	1,923	*35.1%*	10
Ethiopia	09011110	Coffee	1,856	*33.9%*	0
Egypt	48184000	Sanitary articles of paper	1,687	*4.3%*	20
Uganda	06021000	Cuttings and slips, unrooted	1,682	*15.3%*	0
Egypt	08061000	Grapes, fresh	1,596	*4.0%*	4
Kenya	84798100	Mach for treating metal	1,535	*5.7%*	0
Egypt	38170010	Mixed alkylbenzenes	1,352	*3.4%*	0
Egypt	69109000	Ceramic sinks, wash basins	1,225	*3.1%*	20
Egypt	39202090	Plates, sheets, film, foil	1,173	*3.0%*	10
Uganda	09011120	Coffee	1,144	*10.4%*	0
Kenya	28391900	Silicates of sodium nes	1,029	*3.8%*	0

Origin	Product code	Product label	Average 2009 - 2011	Share of M per country total	MFN tariff 2011
Ethiopia	07133390	Dried, shelled kidney beans	972	*17.8%*	10
Egypt	59021000	Tire cord fabric made of nylon	963	*2.4%*	15
Kenya	24012000	Tobacco	866	*3.2%*	15% or 860c/kg less 85%
Kenya	48115990	Paper and paperboard	824	*3.0%*	0
Egypt	32089090	Paints & varnish based on polymers	818	*2.1%*	10
Egypt	30051000	Adhesive dressings	805	*2.0%*	0
Kenya	39202090	Plates, sheets, film, foil	759	*2.8%*	10
Kenya	84224000	Packing or wrapping machinery	732	*2.7%*	0
Egypt	70109090	Carboys, bottles, flasks, jars	732	*1.9%*	10
Egypt	25231000	Cement clinkers	711	*1.8%*	0
Kenya	21039090	Sauces	710	*2.6%*	5
Egypt	68022100	Monumental/ stone, cut	700	*1.8%*	0
Egypt	33051000	Hair shampoos	680	*1.7%*	20

Source: UN COMTRADE database, downloaded November 2012; UNCTAD TRAINS database.

Annex 7

Study: "The Implications for Namibia in the Tripartite FTA" Minutes of 2nd Steering Committee Meeting

ANNEX 7 - STUDY: "THE IMPLICATIONS FOR NAMIBIA IN THE TRIPARTITE FTA" MINUTES OF 2ND STEERING COMMITTEE MEETING

Attendants:	Mr. Mike Sheyavali (Customs Officer at the Ministry of Finance), Ms. Ndiitah Robiati (National Coordinator at Namibia Trade Forum), Ms. Dagmar Honsbein (General Manager, AGRA), Mr. Jürgen Hoffmann (Senior Trade Advisor, Agricultural Trade Forum), Mr. Frans N. Uusiku (Trade Advisor, Agricultural Trade Forum), Dr. Mareike Meyn (Senior Trade Policy Expert, GFA), Ms. Anna-Luisa Peruzzo (Junior Trade Economist, GFA)	Date, Time: 31.01.2013, 09h45-12h00
Agenda:	• The Consultants presented the study's main results (see PP, **Annex 10**) <u>General discussion:</u> • Ms. Honsbein asked why apparently Namibia is not able to trade with TFTA countries like Egypt due to high transport costs, but is able to trade with the EU? → The structure of Namibia's exports to the EU and to TFTA countries is fundamentally different: while Namibia exports mineral products and high-value agricultural products to the EU, it exports low-value agricultural products (such as horse mackerel, hides and skins) and simple manufactured products to the TFTA region. The type of (low value) products to the TFTA region is therefore much more affected by transport costs than high value exports to the EU. Chanelling EU exports to the TFTA region is, however, hardly possible since the markets would not pay the same price for the high quality products. • Ms Honsbein remarks that not only pure trade statistics (hard facts) explain trade patterns, but also so-called 'soft facts' like long established trade relationships that build on trust, common understanding, culture and language. These facts are hard to measure, but should nevertheless be taken into consideration. • Ms. Honsbein: What might add to the frustration for regional traders are non-tariff barriers. For instance, Namibia levies export duties on live animals and applies quantitive restrictions. However, no other country in the region will ever point its finger at Namibia as they themselves are applying this type of trade policies. It is a 'tit-for-tat' situation. • Mr. Hoffmann confirmed that NTBs are a real problem for exporters. Volatile rules and procedures applied by often countries in the SADC region, which makes it very difficult for Namibian exporters. Namibia's trade policies, on the other hand, are predictable. • Ms. Robiati asked about the EU's rules and regulations in the case of their agricultural subsidies, which are also prohibited under the WTO. →The EU committed itself in the WTO framework to phase out export subsidies by 2017 at the latest. However, the level of agricultural subsidies in the EU (about €40 billion p.a.) has not decreased and the external effects of the EU Common Agricultural Policy (CAP) remain disputed. One needs to bear in mind that international trade policies (that are also applied in regional agreements) have been largely shaped by the EU and the US – and subsequently, serve their interest. • Ms. Robiati: Are the products that are currently benefiting from infant industry protection (IIP) are primarily exported to TFTA countries? →No, pasta and UHT milk are not among Namibia's major exports to the	

region and do not feature in the quantitative analysis of major exports. As interviews with the private sector revealed the production capacities are still limited (pasta – only little is exported; concentration on serving domestic market) and competition is high (UHT milk – competing with subsidized dairy products from RoW).

- Ms. Honsbein pointed out that the information on the IPR enforcement and institutional set-up in Namibia are not correct since institutions exist.

  She asked the Consultants to refer to the Namibian Companies Act to correct their information.

- Mr. Hoffmann pointed out that national competition policy is limited to the respective country and cannot be enforced on a regional level.
- Mrs. Honsbein highlighted the importance to consider that Namibia 'divorced' South Africa politically but not economically. Namibia is still bound by SACU rules and regulations for instance with respect to the Common Monetary Area (CMA).

<u>Final remarks</u>

- The SC Members reviewed the ToR and agreed that it is beyond the scope of the study to 'positively contribute to Namibia's trade balance and overall socio-economic development' (success indicator 4 of ToR).
- The SC Members agreed that the draft final study fully meets the requirements as stipulated in the ToR.
- The SC Members asked the Consultants to undertake some changes and provide additional information when before submitting the final study as follows:

<u>Additional information</u>

- The policy recommendations of the study should be expanded by an overview of the final results in form of a SWOT (strengths-weaknesses-opportunities-threats) analytical table;
- The study should summarise the *potential* benefits arising from Namibia's access to a wider market;
- The minutes of the public-private dialogue meeting (30.01.13), the presentation held and the minutes of the SC Meeting (31.1.13) should form part of the final study.

<u>Changes</u>

- The Consultants will correct the information on trade-related IPR policies by consulting the 2010 Companies Act. Mrs. Honsbein will provide additional information by email, which will also be incorporated.
- Soft factors that may constrain intra-regional trade, such as culture, language, people relations will be considered in the SWOT analysis.
- The Consultants will remove Ms. Honsbein from the list of interview partners since she only participated in the SC Meetings

The SC Members agreed that the study is approved once the a.m. additional information and changes have been incorporated and the final study is submitted by 15 March, 2013.

Further steps:	- The Consultants will submit the revised final draft incorporating the final comments of the SC Members by 25 February, 2013; - The SC Members will check whether the comments have been adequately incorporated and provide final feedback by 8 March, 2013; - The Consultants will incorporate the comments accordingly and submit the final study not later than 15 March, 2013.

Protocol: Anna Peruzzo and Mareike Meyn, 01.02.2013.

.

Annex 8

Minutes of the Public Private Dialogue Meeting

ANNEX 8 – MINUTES OF THE PUBLIC PRIVATE DIALOGUE MEETING

Attendants:	Ms. Marianne Young (British High Commissioner), Mr. Astro Kabuku (MTI), Mr. Joseph Halwoodi (MTI), Mr. Victor Pea (MFMR), Ms. Angelina Kanduvarisa (Agra), Mr. Eino Mvula (NSI), Mr. David Russel (Fisheries Consultant), Mr. Philip Schuler (World Bank Group), Mr. Jürgen Hoffmann (ATF), Mr. Frans Uusiku (ATF), Ms. Ndiitah Robiati (National Coordinator at Namibia Trade Forum), Mr. Abed Iyambo (Bank of Namibia), Dr. Mareike Meyn (Senior Trade Policy Expert, GFA), Ms. Anna-Luisa Peruzzo (Junior Trade Economist, GFA)	Date, Time: 30.01.2013, 09h30-11h30
Agenda:	Ms. Robiati opened the Meeting by honouring the presence of H.E. Ms. Marianne Young (British High Commissioner). The 'Prosperity Fund' of the UK Foreign and Commonwealth Office funded the TFTA study initiated by NTF. The meeting followed the agenda: 1) Introduction round 2) Presentation of the results of the Draft Final Report by Dr. Mareike Meyn and Ms. Anna-Luisa Peruzzo (Presentation can be found in **Annex 10**) 3) Discussion Round (Questions and Recommendations from the audience) Discussion Round (Questions and Recommendations from the audience): • Ms. Young appreciated the results of the study and questioned that if the benefits of the TFTA are limited for Namibia, why the country engages in it? Why should negotiations go ahead? This remark was supported by Mr. Schuler) → It has to be kept in mind that the TFTA is largely politically driven; as building block towards the AU. The status quo analysis shows neither any major economic benefits nor any major threats (import competition, revenue losses). • Mr. Hoffmann mentioned that one of the main obstacles in the TFTA negotiations are Rules of Origin and asked whether the study makes any according recommendations. → The analysis of RoO is beyond the Terms of Reference of this study. The Draft TFTA foresees RoO that largely follow those of EAC/COMESA. What would be the implications for SACU (mainly SA) of changing the SADC RoO accordingly would need to be investigated separately. However, it needs to borne in mind that RoO are highly politicized and SA has different interests than most (underdeveloped) TFTA countries. • Mr. Mvula asked whether it is reasonable to further optimize current trade policies in order to maximize the support for certain industries. → Picking winners is a widely disputed concept. In the context of the TFTA, it would, however, help the private sector if rules and procedures were transparent and predictable, so that the industries can act accordingly. • Mr. Iyambo asked why South Africa is reluctant to play a front-runner role in the TFTA process. Are they facing major competition from the non-SADC TFTA region? → No. Figures show that South Africa is importing less than 0.01% of its total imports from the non-SADC TFTA region. It appears, however, that the perception of the 'risks' of the TFTA is not based on facts. This might be due to import competition from other countries (resulting in protectionist tendencies). • Mr. Schuler remarks that the TFTA is a FTA on goods and services. The results of the study highlight the limited relevance of trade in goods. It might, however,	

		that trade in services is much more important in Tripartite trade than trade in goods. As Namibia is a huge market for re-exports in the region it is worth looking into capacity building in the service and especially logistics sector. One should also keep in mind the possible development of niche markets. Given the small size of Namibia, a niche market would already be a great opportunity to create jobs. → Mr. Hoffmann remarks that supply-side constraints also a big issue for trade in services. Namibia already opened up its tourism industry under GATS Mode 4, while this has not been done by other TFTA countries. For Trade in Services (TIS) it is even more important to have a two ways exchange. The bigger question is: how do you force other countries to implement and comply with the protocols? → Ms. Meyn puts the focus on the pitfalls of the negotiating setting: Thus, the Free Movement of Business Persons is negotiated in Phase 1, while TIS is negotiated in Phase 2. However, Free Movement of Business Persons is only one mode of supply of TIS and should be negotiated jointly with the other three modes in order to achieve tangible results. • Ms. Robiati: As Success Indicator 2 of the ToR outlines, one of the main results to be achieved by the study is to enhance the understanding of offensive and defensive trade interest of the private sector in Namibia. This understanding will give policy makers the opportunity to translate the results of the study into effective TFTA negotiations. Another important issue that was highlighted by the study is the need to cooperate closely with the private sector. Do we have to change our export profile? And can we change it? Do we have to put more resources into industrial development? • Mr. Uusiku asked what tariff lines we suggest to be liberalised and classified as sensitive as countries should not be worst of under the TFTA. → As the analysis showed, the extension of the SADC TP would affect less than 0.1% of Namibia's total imports so that the risk of import competition and revenue losses is almost nil. Namibia's sensitive products are rather protected by NTBs than by tariffs. • Mr. Hoffmann agreed that there is room for improvements under the TFTA. The full implementation of the SADC TP is of top priority for Namibia. The TFTA might, however, also improve Namibia's export portfolio and the export of added value products. → Ms. Robiati agrees, emphasizing that there is potential for economies of scales and that the elimination of tariffs under the TFTA is just the starting point. Deeper integration and cooperation, e.g. with respect to industrial development will be crucial to realise the potentials of the TFTA. • Mr. Schuler remarks that the technical inputs during the negotiations process can support/strengthen local and national institutions. → Ms. Meyn answered that this is a potential benefit, but current capacity constraints limit the participation in all regional trade bodies and thus, the optimization of the knowledge transfer. She quoted the fact that the TFTA TWG on Standards lacks technical expertise to formulate negotiations positions. The Consultants were informed by the Namibian Standardisation Institute (NSI) that it suffers from the lack of qualified human capital to optimally operate at the national and regional level (e.g. SADC Accreditation Body) → Mr. Mvula added that NSI is participating at the SADC level and that under the TFTA is it most efficient if not every country sends individual representatives, but if joint institutions are established.

	• Mr. Iyambo: In the presentation it was mentioned that it is difficulties to comply fully with the standard, technical regulations and SPS requirements of major export markets. Namibian products are, however, well known for their top quality → This is a misunderstanding. The remark did not refer to the quality of Namibian products but to the capacities of the NSI to undertake inspection services for all exports and imports. Thus, NSI focuses on exports and some export products (e.g. fish) are inspected in South Africa due to limited NSI capacities. • Concluding Ms. Young asks NTF to outline the next steps undertaken. → The Consultants will present the outcomes to the MTI negotiation team and possibly to the Permanent Secretary.

Protocol: Anna Peruzzo and Mareike Meyn, 01 February, 2013

Annex 9

Minutes of Meeting with MTI Negotiation Team

ANNEX 9 – MINUTES OF MEETING WITH MTI NEGOTIATION TEAM

<table>
<tr><td colspan="2">Attendants: Mr. Astro Kabuku (MTI, Policy Analyst), Mr. Victor Pea (MFMR), Mr. Eino Mvula (NSI), Mr. Asser Nashikaku (MTI, Chief Policy Analyst), Ms. Jaanda Maharero (MTI, NTB Focal Point), Mr. Hans Garoeb (MoF, Deputy Director Customs), Mr. Frans Uusiku (Trade Advisor,ATF), Ms. Ndiitah Robiati (National Coordinator at Namibia Trade Forum), Dr. Mareike Meyn (Senior Trade Policy Expert, GFA), Ms. Anna-Luisa Peruzzo (Junior Trade Economist, GFA)</td><td>Date, Time: 01.02.2013, 08h15-09h30</td></tr>
<tr><td>Agenda:</td><td colspan="2">Mr. Kabuku opened the Meeting, which followed the agenda:
1) Introduction of all participants
2) Presentation of the results of the Draft Final Report by Dr. Mareike Meyn and Ms. Anna-Luisa Peruzzo (Presentation can be found in Annex 10)
3) Discussion Round (Questions and Recommendations)
<u>Discussion Round (Questions and Recommendations):</u>
• Mr. Kabuku acknowledged the limited export capacities and the limited current export potential of Namibia but pointed out that this outcome only relates to the shortest term. Namibia should not be worse off with the TFTA and hence it should be thoroughly negotiated. Industrial policy is currently being driven forward and Namibia needs to concentrate on its trade infrastructure. Namibia cannot expect to hit the jackpot right away but should also see the long term effects. Phase 1 negotiates trade in goods, phase 2 trade in service. In particular trade in service offers great potential for Namibia, in particular for transport and logistic service to supply landlocked TFTA countries. The study only focuses on short-term effects and the status quo, but does not analyse long-term benefits.
→ Ms. Robiati answered that the Terms of Reference only included the analysis of the status quo in order to establish in what areas the negotiations should focus on. It has never been the intention not to sign the TFTA, but rather to see how we can optimize the outcome. The study focuses on four results; we are currently at result no. 3: “Namibian’s policy makers understand the significance of trade policy reforms applied in both SACU and the envisaged TFTA.” Looking at Angola and DRC, Namibia is trading with the two countries even though they haven’t yet signed the SADC TP. Consequently, there must be other drivers than tariff reduction such as long-standing relations or geographic proximity.
• Mr. Nashikaku asked what products Namibia should protect in order to maximize revenues. What are Namibia’s sensitive products?
→ Ms. Meyn: More than 87% of all products already enter the Namibian market duty free: imports from South Africa and the EU (with Namibia having de facto implemented the TDCA) as well as from SADC countries. Imports from non-SADC TFTA countries are tiny (less than 0.1%) and so are risks of import competition and revenue losses. Namibia’s sensitive products are already protected within SACU by NTBs (e.g. quantitative restrictions).
→ Ms. Robiati added that the homogeneity of industries of Namibia’s neighbouring countries is a challenge for Namibia’s exporting industries. Botswana’s economic profile, for example, is the mirror image of Namibia: with both countries trying to set-up the same industries. The question is in how far Namibia can protect its industries with trade policies and where it is simple necessary to develop further in order to stay competitive. Moreover, it is important to make trade policy predictable within SADC so that Namibia’s exporters know what to expect when exporting to the region.</td></tr>
</table>

	• Mr. Uusiku proposed analysing the sensitive products of all three RECs in order to see to what extent Namibia's major exports are sensitive in other markets. → Certainly an interesting exercise, but would be a complete new study. Moreover, it could also be done the other way round: look at your export products and potential target markets and then analyse the conditions (tariffs and NTBs) for the specific product in the specific export market. • Mr. Nashikaku outlined that it is an important point of the study that EU goods enter the Namibian market through the TDCA. The TDCA is not supposed to be implemented by Namibia. How can we indentify EU products at the border coming via South Africa? For example, if EU oranges are imported by South Africa, repacked and then exported to Namibia, then Namibia won't recognize them as EU product anymore. → Mr. Garoeb remarks that if there is enough proof of a product being of EU origin, the MFN tariff will be applied. → Ms. Meyn pointed out that the free trade agreement with the EU is not necessarily a threat but also enables Namibian producers to source competitively. She quoted the the example of fruit pulp, which is needed for the production of Namibian fruit yoghurt and imported from Spain. NamibDairies pays the duty when importing via Walvis Bay and additional transport costs when importing via South Africa, which puts them in a less competitive situation vis-à-vis their South African competitors. → Ms. Robiati asked why something like 'fruit pulp' cannot be sourced from the region. It should be Namibia's objective to source raw materials like maize, wheat and fruits from the region and use them in processing activities. → Ms. Meyn pointed out that close consultation with the private sector will help Namibian policy-makers to understand the reasons for the limited level of sourcing from the region, which can then be addressed accordingly. • Mr. Nashikaku stated that Namibia should import industrial products for its own industrialization. What industrial products we are currently importing? Are high tariffs the reason for limited industrialisation? → Mr. Garoeb clarified that most of Namibia's inputs are industrial products, most of which are imported duty free (from SA and the EU). → Ms. Robiati identified the need to optimize supply chains/value chains in intra-regional trade so as to overcome the obstacle of trading identical low value products. → Following-up Mr. Uusiku asked whether it is possible to import parts and components and then assemble them in order to export the final product. How is this regulated in terms of RoO? → Ms. Meyn clarified that if there is no major value addition/transformation of the product it will not be accepted as Namibian product in an export market. To what extent major value addition/transformation takes place in case of assembly activities depends on the specific product and the target export market. → Ms. Robiati added that Namibia should look at other country examples with respect to industrialisation strategies/value addition of exports. She quoted Italy which is a major importer of wheat and at the same time the largest exporter of wheat products (pasta). This might also be a suitable strategy for Namibia. → Mr. Garoeb asked when the assessment of the World Customs Organisation on Namibian customs services was undertaken. → Ms. Meyn responded that the study is from 2009. → Mr. Garoeb pointed out that there has been some relevant improvement in recent years and offered to provide the Consultants with according information. → Ms. Robiati asked the Consultants to incorporate also Namibia's policy objectives as quoted in the industrial strategy.

	→ Ms. Meyn confirmed that the information will be incorporated in the study if provided in due time. → Mr. Kabuku thanked the audience and the Consultants and confirmed that MTI will review the results of the study so as to assess how the TFTA will best benefit Namibia.
Follow-up	Mr. Garoeb will send the Consultants updated information on Namibian customs services. Ms. Robiati will send the Consultants Namibia's Industrial Strategy.

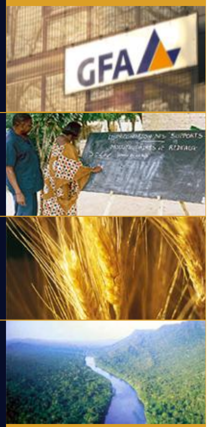
Protocol: Anna Peruzzo and Mareike Meyn, 03 February 2013

Annex 10

Presentation of Draft Final Study Results

ANNEX 10 - PRESENTATION OF DRAFT FINAL STUDY RESULTS

GFA Consulting Group



The Implications for Namibia in the Tripartite Free Trade Agreement

Steering Committee Meeting

31 January, 2013

20.02.2013

Study objective and results

GFA Consulting Group

- Objective: To enhance the overall knowledge of the Namibia Ministry of Trade and Industry, the private sector and the overall Namibian public of implications of the Tripartite FTA for Namibia, thereby enhancing the negotiation position for the Namibia Ministry of Trade and Industry

  - ✓ R1.1 Recommendations on improved **trade infrastructure and institutional strengthening.**
  - ✓ R1.2 **Cost-benefit analyis of the TFTA** including economic and regional implications for Namibia.
  - ✓ R2 **Enhance Trade policy-makers understanding** of offensive and defensive trade interests of the private sector in Namibia.
  - ✓ R3 Namibian's policy makers understand the **significance of trade policy reforms** applied in both SACU and the envisaged TFTA.

20.02.2013 TFTA Namibia – Steering Committee Meeting 2

Methodological approach

GFA Consulting Group

Conducted a total of 18 activities (see Annex 3) to assess Namibia‘s offensive and defensive interests in TFTA negotiations and to achieve the study‘s results:

- **Literature review** incl. Internal Tripartie Protocols and Reports;
- **Data analysis**: UN Comtrade (Namibian and TFTA trade data), UNCTAD Trains database (tariff analysis), ITC Trade Map (SARS data);
- **Stakeholder interviews**: conducted 30 personal interviews with major public and private sector stakeholders (Annex 4) to
  - ✓ Analyses implications for trade policy reforms;
  - ✓ Identify offensive and defensive interests;
  - ✓ Identify NTBs in intra-regional trade.
- **Roundtable discussion and SC Meetings**

20.02.2013 TFTA Namibia – Steering Committee Meeting 3

Guiding questions

GFA Consulting Group

1. Export potential:

- Namibia’s exports to TFTA in terms of value and products;
- Tariff and non-tariff barriers faced by Namibian exporters in TFTA markets;
- Private sector assessment of export opportunities to TFTA region

2. Import competition

- Namibia’s and SA’s imports from TFTA (value and products);
- SACU tariffs and Namibian NTBs for TFTA imports;
- Major export products of Egypt and Kenya and protection level within SACU

3. Revenue implication

- Namibia’s and SA’s “hypothetical revenue loss” when extending the SADC TP to all TFTA countries and implications for CRP

20.02.2013 TFTA Namibia – Steering Committee Meeting 4

Guiding questions *(continued)*

GFA Consulting Group

4. Trade policy implications

- Analysis of Namibia's current trade policies and compliance with SACU and SADC provisions
- Implications for Namibia's trade policy if Draft TFTA provisions were enforced

5. Trade infrastructure and institutional setting

- Assessment of institutional framework of Draft TFTA:
- To what extent do the institutions exist/function in Namibia, SACU and/or SADC and what are the challenges of implementing the provisions?
- Status of Namibia's trade infrastructure and needed upgrading/ strengthening

20.02.2013 TFTA Namibia – Steering Committee Meeting 5

1. Export Potential

GFA Consulting Group

Export Destination	% of total exports	Major products
Non-SACU SADC	**13.14%**	
Angola	9.7%	*(motor vehicles),* wooden furniture, frozen fish, cigarettes, cider, beer, sugar confectionary
DRC	1.3%	Frozen fish (75%)
Zambia, Mozambique, Zimbabwe, Malawi	1.5%	Beer, frozen fish, chemical products, cider, whiskey, wine, flour, meat offal, salt, beverages
Non-SADC TFTA	**0.06%**	
EAC	0.041% *(U$2.4 Mio.)*	Beer, chocolate, salt, buckets, and light oils
Other COMESA	0.019% *(U$ 1.15 Mio)*	Live animals, salts, frozen fish, raw hides and skins.

20.02.2013 TFTA Namibia – Steering Committee Meeting 6

1. Export Potential *(continued)*

GFA Consulting Group

- TFTA exports are limited to SACU and SADC and focus on agriculture, agro-processed and simple manufactured products;
- Access to non-SACU regional market can offer chance to expand value added exports ⇨ Angola, DRC, Zambia and Zimbabwe are medium-relevant selected products, such as horse mackerel, beer, dairy and milling products
- **Export limitations** are not due to tariffs but:
  1) Protectionist tendencies in form of manifold NTBs – since most of Namibia's exports are also produced in the region;
  2) Cumbersome, intransparent and changing customs procedures
  3) High transport costs and poor road network
  4) Limited production capacities and competitiveness of Nam. exporters (competing with imports from RoW in SADC)

20.02.2013 TFTA Namibia – Steering Committee Meeting 7

2. Import Competition

GFA Consulting Group

Import markets	% of total imports	Major products
Non-SACU SADC	**2.31%**	
Zambia	1.3%	Copper (90%), maize
Malawi	0.7%	Uranium (99%)
Angola, Zimbabwe	0.2%	Fish meal, light oils, agricultural products
Non-SADC TFTA countries	**0.09%**	
Other COMESA	0.1% *(U$3.78 Mio.)*	98%: Engines and motor parts from Egypt
EAC	0.02% *(U$1.56 Mio)*	Disodium carbonate, machinery parts, vaccination

⇨ Only 2.4% (US$ 127 Mio.) of Namibia's total imports came from non-SACU TFTA countries of which about half was copper from Zambia and one third was uranium from Malawi

20.02.2013 TFTA Namibia – Steering Committee Meeting 8

2. Import Competition - *Analysis*

GFA Consulting Group

- To assess the risk of import competition as a result of the TFTA four issues were analysed:

1. Tariff regime for Namibia's major non-SADC TFTA imports
   - ✓ Most of Namibia's direct imports from non-SADC TFTA enter its market already duty free
2. SACU's tariff regime for South Africa's major imports from non-SADC TFTA countries
   - ✓ SA sources only 4.2% of total imports from TFTA – of which 99.9% come from SADC; most non-SADC TFTA products face low protection level

20.02.2013 TFTA Namibia – Steering Committee Meeting 9

2. Import Competition – *Analytical results*

GFA Consulting Group

3. Current MFN tariffs for Namibia's and South Africa's major import products from SADC countries
   - ✓ SA/Nam sourced very few products from SADC for which non-SADC TFTA countries still face medium to high tariffs (light oils, tea,tobacco, cotton, textiles, clothing)
4. Egypt's and Kenya's top 10 export products and protection level of these products in SACU
   - ✓ Egypt's and Kenya's top 10 exports face either a zero tariff in SACU or are not imported from SACU - from nowhere in the world

➡ Namibia is already an open economy: 87% of its imports enter its market duty free (2009-11)

➡ The risk of increaed import competition as result of the TFTA is very likely to be nil

20.02.2013 TFTA Namibia – Steering Committee Meeting 10

3. Revenue Implications

GFA Consulting Group

- Namibia's 'hypothetical revenue loss' when extending the SADC TP to all TFTA countries would be US$ 1.12 Mio. p.a.
- ⇨ which is less than **0.1%** of Namibia's revenue from the **CRP** in 2011/12;
- South Africa's 'hypothetical revenue loss' when extending the SADC TP to all TFTA countries would be US$6.47 Mio. p.a.
- ⇨ which is less than 0.1% of the total value of the CRP

The "top 10 TFTA revenue earners" account for > 82% of total hypothetical revenue from TFTA *(light oils, preparations of petroleum, worn clothing, motor vehicles and sugar confectionary)*

⇨ high concentration would enable SACU to exclude (revenue) sensitive products

20.02.2013 TFTA Namibia – Steering Committee Meeting 11

4. Trade Policy Implications

GFA Consulting Group

- Trade rules and regulations of the Draft TFTA are often more restrictive than those of the 2002 SACUA and follow largely WTO provisions;
- In many cases the SADC TP also provides stricter rules than the 2002 SACUA – but these rules are not applied by Namibia (e.g. with respect to quantitative restrictions);
- ⇨ Government's policy space on any trade policy issue is set by the terms of the <u>most restrictive</u> agreement that it has signed

- ❖ **Enforcement** of TFTA/SADC trade rules is therefore **a major issue**
- ❖ The other major issue is whether the envisaged **institutional set-up will be achieved** on the national and regional level

20.02.2013 TFTA Namibia – Steering Committee Meeting 12

4. Trade Policy Implications *(continued)*

GFA Consulting Group

- Draft TFTA: harmonization of trade-related policies, such as customs procedures, standards, SPS, IPR or competition policy
  - ✓ not yet been harmonized on a SACU level;
  - ✓ Needs strengthening / establishment at national level:
    - **Customs**: customs valuation, rules of origin and inspection of goods need to be strengthened (WCO assessment);
    - **Standards and SPS**: difficulties to comply fully with the standard, technical regulations and SPS requirements of major export markets plus difficulties to ensure inspection services for imports (TPR, 2009).
    - **IPR:** development of national IPR policies and set-up of institutions is delayed due to capacity constraints;
    - **Competition policy**: Namibia Competition Commission aims to develop and implement a National Competition Policy but still lacks the wider scope of competition intervention
  - – Ensuring effective operation of national and SACU trade-related institutions appear to be top priority

20.02.2013 TFTA Namibia – Steering Committee Meeting 13

5. Trade Infrastructure and Institutional Setting

Challenge to
- establish effective institutions,
- clarify roles and responsibilities
- establish an effective coordination mechanism between trade-related institutions
  - on a national level with the different regional levels, and
  - between the regional levels and the TFTA level

➡ **Risk**: duplication of efforts, putting further constraint on countries' limited capacities

Topic	Competent Authority				Status Quo
	Draft TFTA	SADC	SACU	Namibia	
Trade remedies	Trade Remedies Sub-Committee	-	SACU Tariff Board	Namibia Board of Trade	No existing institution at national or regional level
NTBs	Tripartite NTB Monitoring Unit	-	-	TBT Enquiry Point at MTI	Web-based NTB monitoring mechanism exists as well as national TBT point. Effectiveness in Namibia limited since private sector is not aware of existing institutions and services.[1]
Trade Facilitation	Sub-Committee on Trade Facilitation	Sub-Committee on Trade Facilitation	-	TBT Enquiry Point at MTI	
Standards, Metrology, conformity assessm, accreditation – SMCA	Sub-Committee on SMCA	SADC SQAM Expert Group SADCAS	-	Namibia Standards Institution (NSI)	NSI participates in SADC institutions and activities
SPS	SPS Sub-Committee	National SPS Committees		MoAWF (lead)[2]	National SPS and Food Safety Committee established.
Competition	Competition Policy and Consumer Protection Forum	-	-	Namibia Competition Commission (NACC)	NACC cooperates on SADC level to share information on non-competitive behaviour
IPR	-	-	-	Industrial Property Office and Industrial Property Tribunal	No existing institutions
Dispute Settlement Body	Dispute Settlement Mechanism	Dispute Settlement Mechanism	Tribunal	n/a	No existing institutions

20.02.2013

Conclusions: Chances and Challenges of the TFTA for Namibia

GFA Consulting Group

Both, opportunities and challenges of the TFTA appear to be very limited for Namibia, which is due to its very limited trade relations with non-SADC TFTA countries.

- Limited production capacities and high transport costs make it unviable to export to the wider region. Reducing tariffs and NTBs would therefore mainly benefit Namibian exports to neighbouring SADC markets.
- The full implementation of the SADC TP is regarded as priority by the Namibian private sector.

Challenges:

- The creation of and participation in the comprehensive institutional framework
- Enforcement of TFTA rules and regulations.
- Weak/non-existent trade-related institutions at national/regional levels

20.02.2013 TFTA Namibia – Steering Committee Meeting 15

GFA Consulting Group

Thank you for your attention!

GFA Consulting Group

20.02.2013 16