ANNEX 1

BOTSWANA

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TABLES

I. THE ECONOMIC ENVIRONMENT

(1) MAIN FEATURES

1. The Republic of Botswana is located in sub-Saharan Africa and bordered by South Africa, Zambia, Zimbabwe, and Namibia. About half of its 1.68 million population (August 2001) live in urban centres.

2. Botswana was a middle-ranking "medium human development" country in 2000.[1] Impressive economic performance since independence has raised GDP per head, estimated at almost US$3,000 in 2001, and promoted social development (Table I.1). It has higher living standards on average than other sub-Saharan African countries. Development has been driven mainly by a rich diamond mining industry. Mineral taxation has also enabled the Government to improve basic infrastructure, such as transportation and telecommunication networks, and social services, such as education and health.

Table I.1
Main economic and social indicators

Land area	582,000 km^2	Urban share of population (2000)	49%
Population (August 2001)	1.68 million	Nominal GDP at current market prices (2001)	US$5.3 billion
Annual population growth (1980-93)	3.5%	GDP per capita (2000/01)	US$2,970
UN human development index (2000)		GDP per capita annual growth rate (1995-01)	2.0%
- Overall ranking	126	Nominal GDP at constant 1993/94 prices (2001)	P17.1 billion
- Category	Medium human development	GDP shares (2000/01):	
		Primary	37.4%
		Secondary	4.2%
		Tertiary	58.4%
- Ranking within category	73rd	Enrolment ratio (net) in education (1998)	
Life expectancy at birth (2000)	40.3	- primary	81%
Infant mortality rate per '000 (2000)	74	- secondary	57%
Adult literacy (2000)	77.2		

Source: UNDP (2002), *Human Development Report 2001;* and authorities of Botswana.

3. Since the mid-1990s, the HIV/AIDS pandemic has retarded Botswana's economic and social progress. Its ranking on the UN human development index fell from a high of 71st in 1996 to 126th in 2000. It has the world's highest (and still rising) incidence rate of HIV/AIDs (38.8% in 2001), and crucial social indicators have fallen drastically, e.g. life expectancy from 67 years in 1996 to 40 years in 2000. The Government's goal is for an "AIDS-free generation" by 2016. Its comprehensive programme is aimed at reducing new infections by 50% by 2010; an Anti-Retroviral Therapy Programme was recently introduced.[2] Combating HIV/AIDS will have long-term budgetary repercussions; the cost of treating it could rise from 5% now to over 10% of GDP by 2010.[3]

[1] UNDP (2002).

[2] National AIDS Coordinating Agency (2001). The current programme also aims to increase the rate of access to basic, intermediate, and advanced care to 95% and to cut the impact of HIV/AIDS on the population by 50%.

[3] Mfunwa (2002). See also BIDPA (2000).

(2) RECENT ECONOMIC DEVELOPMENTS

4. Real GDP growth dipped to 4.1% in 1998, but had rebounded to 9.2% in 2000 (Table I.2). Although diamonds are the main impetus to growth, non-mining activities, especially services, maintained strong growth; 4% in 2000 and 6.0% in 2001. Unemployment remains high. However, it fell from over 20% in the mid-1990s to 15.6% in 2000. Formal employment grew by 4% in 2000 (8% in the private sector), but slowed to 0.6% in 2001.

Table I.2
Main macroeconomic trends, 1997-01[a]

	1997	1998	1999	2000	2001[b]
Real GDP growth (%)	8.1	4.1	8.1	9.2	1.2
Non-mining private	7.3	7.8	6.2	4.0	6.0
Unemployment (%)	19.8	17.8	15.8	15.6	..
Formal employment growth (5)	6.1	6.4	2.1	4.0	0.6
Inflation (consumer prices, period average)	8.9	6.5	7.8	8.5	6.6
Money supply (M3) growth (%)	19.9	34.5	28.9	-1.1	27.6
Bank credit growth (%)	5.4	56.1	41.4	17.7	10.7
Prime lending interest rate	14.0	14.0	14.8	15.8	15.8
Central government fiscal balance (% of GDP, before grants)	4.4	-6.7	5.8	8.9	-3.1
Expenditure (% of GDP)	37.8	42.8	42.7	40.7	44.1
Growth (%)	21.6	22.4	15.0	10.6	18.5
Revenue (% of GDP)	42.3	36.2	49.0	49.8	41.0
Growth	12.0	-7.3	55.8	18.0	-10.0
Balance of payments					
Trade balance (% of GDP)	17.2	1.6	15.5	16.8	12.6
Current account (% of GDP)	13.9	4.1	12.2	10.2	7.4
External reserves (months of imports, end-of-year)	28.8	28.2	31.2	32.6	32.1
Real effective exchange rate (annual change %)[c]	Na	-0.9	6.0	3.8	6.7
External debt (% of GDP)	9.4	10.3	8.9	8.0	7.7
Debt to export (goods and services) ratio (%)	16.3	19.7	17.3	15.8	15.6

.. Not available.

a Certain data are based on fiscal years (1 April to 31 March).
b Preliminary.
c Period average; a positive figure indicates a real effective appreciation of the pula.

Source: Authorities of Botswana.

5. In early 2001, Botswana obtained its first international credit ratings of A2 and A by Moody's, and Standard and Poor's, respectively. The Government was considering an international and a domestic pula-denominated bond issue during 2002.

(i) Fiscal policies and public sector reforms

6. Recent budget surpluses (before grants) had risen to 8.9% of GDP in 2000 (Table I.2). Long-term prudent fiscal management has generated substantial budgetary reserves, and the

Government's national planning objectives are closely linked to its fiscal outcomes.[4] However, the budget fell sharply into deficit in fiscal year 2001, to 3.1% of GDP (much worse than expected) and deficits are forecast to be well over 4% in 2002 and 2003. While such deficits can be accommodated by accumulated reserves without government borrowings, they may reflect unsustainable public expenditure growth, unless accompanied by increased productive capacity and sustainable, especially non-mining, revenue sources.[5] Development spending is forecast to accelerate towards the end of the Eighth National Development Plan in March 2003, especially on health, for HIV/AIDS treatment, including free access to anti-viral drugs. Revenue growth lags well behind planned expenditure growth, despite several revenue initiatives, such as replacing the sales tax with the comprehensive VAT from July 2002. Volatile mineral tax receipts will also be boosted by the pula's depreciation against the U.S. dollar. While the Revenue Stabilization Fund was established to accrue funds from investments as a general revenue reserve, it has instead been used to provide loans to parastatals and councils.

7. Public sector reforms to improve efficiency and contain costs are a government priority.[6] The progressive implementation of the performance management system is to be completed by 2004. A defined-benefit pension scheme for public employees replaced from April 2001 (for new employees) the unfunded scheme that had accumulated large government contingent liabilities, estimated at P 10 billion.[7] The Public Enterprise Evaluation and Privatisation Agency (PEEPA) is preparing a privatization master plan, despite Air Botswana's deferred privatization in light of the depressed global aviation market; poorly performing parastatals, such as Botswana Railways, are being restructured and commercialized. Their access to concessional loans from the Public Debt Service Fund also ceased; existing debt is to be sold to financial institutions through loan conversions to marketable securities.[8] Several new autonomous authorities and boards will operate commercially, and revised legislation will facilitate private-sector development.

(ii) Monetary and exchange rate policies

8. The Bank of Botswana's principal monetary policy objective is controlling inflation.[9] It maintained a restrictive monetary policy stance in 2001 to reduce inflation in the face of demand pressures from rising commercial bank credit and government spending.[10] Buoyant foreign exchange earnings boosted liquidity and money supply growth in 2001; M3 grew by 27.6% (-1.1% in 2000). The Bank of Botswana certificates (BoBCs) were sold to mop up excess liquidity; such holdings, mainly by commercial banks, totalled P 5.148 billion at end 2001 (P 3.712 billion at end 2000). Holding weekly auctions and standardizing BoBCs maturity at 91 days enhanced liquidity management. Inflation, rising since 1998, fell from 8.5% to 6.6% in 2001. While the Bank Rate was maintained at 14.25% (set in October 2000), the prime-lending rate increased from 14.75% to 15.75%

[4] The fiscal goal of NDP 8 is to maintain a sustainable budgetary position, whereby non-mining government revenue at least equals "non-investment recurrent expenditure" (recurrent expenditure apart from outlays on health and education).

[5] BIDPA (2002c).

[6] The theme of the 2002 Budget Speech was *Implementing Public Sector Reforms: a way Forward for sustainable Economic Diversification*, Ministry of Finance and Development Planning, Gaborone.

[7] Bank of Botswana (2002a), p. 51.

[8] It has been suggested that if the Government ends up guaranteeing the debt service of PDSF loans, then the privatization of the PDSF loan portfolio will be meaningless since the loans will be equivalent to government bonds. See BIDPA (2002c).

[9] Bank of Botswana (2002b), p. 1.

[10] The Bank was also concerned about the inflationary impact of rising disposable incomes due to public sector salary increases and tax cuts from raising the tax-free threshold. Bank of Botswana (2002b), p. 7. Public sector salaries were again increased by 6% from April 2002.

in 2000, and real interest rates rose to well above regional and international levels as domestic inflation fell.[11]

9. The Bank's main monetary tool is interest rates set through open market operations. In pursuing sustainable low inflation, it tries to maintain real interest rates at prevailing international levels, subject to domestic demand and inflationary pressures. In practice, it tries to keep Botswana's inflation rate at no higher than the weighted average level of its major trading partners. The Bank focuses on intermediate targets that influence domestic demand levels, especially private-sector credit growth, which interest rates directly affect. Other demand indicators used are public expenditure growth and factors affecting domestic costs, such as wage and productivity growth.

10. The Bank's inflation targets are set through exchange rate policy.[12] It maintains the pula's nominal effective exchange rate constant and seeks to achieve an inflation rate that, at a minimum, also maintains a relatively stable real effective exchange rate, so as to promote export competitiveness and economic diversification. Inflation was expected to increase in 2002, due to credit growth, sharp increases in government expenditure, and the one-off price effects of the VAT introduction. The Bank's target inflation rate for 2002 of 4% to 6%, with private-sector credit growth of 12.5% to 14.5% (credit growth of 17.7% in 2000 and 10.7% in 2001), was expected to achieve a stable real effective exchange rate.

11. Botswana has continued to try to contain the fluctuations of the pula against the rand. However, unstable and sharp divergence in the value of the rand and the U.S. dollar, the major determinant of the SDR, increasingly complicated Botswana's exchange rate management.[13] While the rand has a large weight in the currency basket, attempts to maintain the pula's real value against the rand, when the U.S. dollar was also strengthening, required periodic technical adjustments of the currency basket. Nevertheless, during 2000 and 2001, Botswana's international competitiveness, as measured by the real effective exchange rate, deteriorated by about 4% and 7% respectively, thereby making domestic producers on balance less competitive against imports and in export markets (Table I.2).

12. The pula's real exchange rate against the rand has appreciated substantially since the rand sharply depreciated against major currencies. The pula strongly appreciated nominally against the rand, by 21.8% in 2001 (rising to 1.74 rand), while depreciating substantially against the SDR by 20.1%.[14] Its nominal effective exchange rate appreciated by 5.1% in 2001. Allowing for inflation differences between Botswana and its major trading partners, the pula's real exchange rate appreciated against the rand by 21.8%. Recent exchange rate movements are claimed by some to contradict the exchange rate policy, reiterated in the 2002 Budget Speech, of maintaining and enhancing international competitiveness of domestic producers by ensuring that the real exchange rate

[11] The real three-month yield on BoBCs rose, for example, from 3.9% at end-2000 to 6.1% at end-2001. The real prime-lending rate also rose from 6.5% in February 2000, to 7.8% in February 2001, and to 9.5% in February 2002. BIDPA (2002a), p.2.

[12] The pula exchange rate is pegged to a basket of currencies comprising the South African rand and the IMF's Special Drawing Right (SDR), in unpublished proportions that broadly reflect Botswana's trade patterns. The SDR's value is set by the IMF as a weighted average of the U.S. dollar, the euro, the yen, and pound sterling.

[13] Botswana also needed to avoid the so-called "Dutch disease" of a diamond-led exchange rate appreciation that would make non-mineral exports less competitive and expand the non-traded sector relative to the traded sector, thereby hampering the economic restructuring needed to diversify production and exports.

[14] During 2001, the pula depreciated against individual currencies by 23.2% (U.S. dollar), 21% (pound sterling), 19.5% (euro) and 12.1% (yen).

of the pula remains relatively stable.[15] Such developments may further undermine Botswana's diversification efforts. Botswana's loss of international competitiveness based on the real exchange rate is compounded by its trade patterns.[16]

13. Botswana's balance of payments remains strong, despite subdued diamond exports due to demand slowdown, especially in the United States, and declining world prices, such as for copper and nickel. Trade and current account surpluses declined as a share of GDP from 17% to 13% and from 10% to 7% in 2001. Foreign reserves remained substantial, providing 32 months of import coverage at end-2001 (33 months at end-2000). Botswana has not regulated current or capital account transactions since February 1999. Its external debt to export ratio was below 16% in 2001.

(3) TRADE PERFORMANCE

(i) Trade in goods

14. Diamonds dominate exports, accounting for 85% in 2001, up from 78.5% in 1996 (Table I.3). Other exports include mainly meat, copper/nickel, soda ash, textiles, and vehicles (mainly Volvo tractors after the Hyundai assembly plant closed in 2000). Exports are also heavily concentrated geographically. Europe, especially the United Kingdom, accounted for 85% of exports in 2001, compared up from 77% in 1996 (Table I.3). SACU members, mainly South Africa, accounted for 10% of merchandise exports in 2001 (18% in 1996), but are important markets for manufactured products, e.g. textiles.

Table I.3
Exports by major commodity and destination, 1996 and 2001
(US$ million and per cent)

Commodity/destination	1996		2001	
	Value	Share	Value	Share
Commodity				
Mining	1,745	85.7	2,047	90.1
Diamonds	1,597	78.5	1,937	85.2
Nickel/copper	125	6.1	70	3.1
Soda ash	23	1.1	40	1.8
Non-mining	291	14.3		9.9
Meat	85	4.2	73	3.2
Textiles	59	2.9	43	1.9
Other	147	7.2	110	4.8
Total	**2,035**	**100.0**	**2,274**	**100.0**
Destination				
SACU	372	18.3	236	10.4
Other Africa	75	3.7	80	3.5
Zimbabwe	63	3.1	54	2.4
Europe	1,564	76.7	1,925	84.7
United Kingdom	1,106	54.3	1,512	66.5
United States	19	1.0	16	0.7
Other	5	0.3	17.0	0.7
Total	**2,035**	**100.0**	**2,274**	**100.0**

Source: Authorities of Botswana.

15. Imports consist mainly of machinery, including electrical equipment, metals, transport equipment, including vehicles, food and beverages, mainly (over three quarters) from SACU members, especially South Africa (Table I.4).

15 BIDPA (2002c), and BIDPA (2001).

16 The pula's sharp real appreciation against the rand makes its non-mineral products, such as textiles, less competitive against South African products. While the pula's real depreciation against the U.S. dollar will improve pula-denominated export earnings, it is unlikely to boost the volume of diamond exports.

Table I.4
Imports by commodity and source, 1996 and 2001
(US$ million and per cent)

Commodity/source	1996		2001	
	Value	Share	Value	Share
Commodity				
Food, beverages, and tobacco	294	16.9	264	14.0
Wood and paper products	127	7.3	153	8.1
Textiles and footwear	129	7.4	112	5.9
Chemical and rubber products	178	10.2	176	9.3
Fuel	111	6.4	81	4.3
Metal and metal products	153	8.8	164	8.7
Machinery and electrical equipment	280	16.1	401	21.2
Vehicles and transport equipment	245	14.1	257	13.6
Other	221	12.7	282	14.9
Total	**1,739**	**100.0**	**1,891**	**100.0**
Source				
SACU	1,356	78.0	1,448	76.6
Other Africa	107	6.1	79	4.2
Zimbabwe	100	5.7	74	3.9
Europe	118	6.8	174	9.2
United Kingdom	45	2.6	51	2.7
Republic of Korea	76	4.4	49	2.6
United States	22	1.3	35	1.8
Other	60	3.4	106	5.6
Total	**1,749**	**100.0**	**1,891**	**100.0**

Source: Authorities of Botswana.

(ii) Trade in services

16. Botswana is a net importer of services, especially of transportation services. In 2001, trade in services (invisibles) recorded a deficit of P 1.2 billion (US$202 million). A small surplus is recorded on tourism (US$26 million in 2001).

(4) INVESTMENT PATTERNS

17. The stock of foreign direct investment (FDI) was P 9.8 billion (US$1,920) at end 2000 (Table I.5); almost 60% related to non-equity investment (P 4.5 billion (US$1,225 million) at end 1997).[17] About 80% of total FDI is in mining, followed by retail and wholesale trade (8%), finance (6%), and manufacturing (4%). Most FDI is from South Africa (61%), followed by Europe (37%), especially Luxembourg (25%).

18. Inward FDI was some US$55 million in 2000 and 2001, down from US$96 million in 1997. The main factors facilitating Botswana's inward FDI have been political stability, strong macroeconomic fundamentals, good governance, low corruption, improved human and physical capital, low labour costs, and low tax rates.[18] However, its FDI performance appears to have slipped from being a "front-runner FDI performer with high FDI potential" in 1988-90 to "performing below its high FDI potential" in 1998-00.[19] An impediment to investment and to the country's

[17] Bank of Botswana (2002a), p. 57. The stock of FDI declined during 2001 to US$1,734 (UNCTAD, 2002). Botswana has nine foreign affiliates.

[18] Basu and Srinivasan (2002), p. 22.

[19] UNCTAD (2002). The analysis uses two indices. The Inward FDI Performance Index, the ratio of a country's share in global FDI flows to its share in global GDP, indicates how a country has performed in attracting FDI relative to its economic size. A value below unity means it has attracted less FDI than expected by its size. The Inward FDI Potential Index measures a country's potential for attracting FDI given its structural factors. It is derived from the unweighted normalized values of eight variables: GDP growth; GDP per capita;

diversification is increasing difficulties in employing expatriates through hindrances in obtaining work permits.[20]

Table I.5
Stock of foreign investment, by sector and source, end-2000
(P '000 and per cent)

Sector/source	Foreign direct investment		Other investment	
	Value	Share	Value	Share
Sector				
Mining	7,791,739	79.3	1,363,213	28.6
Manufacturing	343,497	3.5	233,693	4.9
Finance	618,917	6.3	140,589	2.9
Retail and wholesale	773,017	7.9	95,064	2.0
Electricity, gas and water	0	0	403,243	8.4
Real estate and business services	161,145	1.6	69,620	1.5
Transport, storage and communication	105,177	1.1	130,214	2.7
Construction	15,622	0.1	25,224	0.5
Hospitality	17,371	0.2	1,261	..
Public administration	0	0	2,304,430	48.2
Other	0	0	15,309	0.3
Total	**9,826,485**	**100.0**[a]	**4,781,580**	**100.0**[a]
Source				
North and Central America	96,959	1.0	242,721	5.1
United States	96,958	1.0	242,721	5.1
Europe	3,627,657	36.9	1,505,785	31.4
United Kingdom	970,104	9.9	141,202	2.9
Germany	0	0	1,207,851	25.2
Luxembourg	2,478,342	25.2	82,601	1.7
Asia pacific	910	..	74,217	1.5
Africa	5,998,657	61.0	604,979	12.6
South Africa	5,982,755	60.9	588,856	12.3
Middle East	102,356	1.0	9,807	2.0
Other	0	0	2,355,123	49.1
Total	**9,826,540**	**100.0**[a]	**4,792,993**	**100.0**[a]

.. Not available.

a Figures may not sum to 100 due to rounding.

Source: Bank of Botswana (2000), *Annual Report 2001*, p. 57.

(5) OUTLOOK

19. Botswana's short-term economic performance relies heavily on its main growth primer, diamonds. Such exports depend in turn on global economic prospects, especially in the major gem

export share of GDP; telephone lines per 1,000 inhabitants; commercial energy use per capita; R&D share in gross national income; share of tertiary students of population; and country risk. Despite obvious limitations, comparing these two indices may give a rough guide to whether countries are performing adequately given their (restricted set of) structural assets. Botswana fell in world ranking from 29th in 1988-90 to 109th in 1998-00 on FDI Performance and from 41st to 45th on the FDI Potential Index.

[20] BIDPA (2002c).

markets, e.g. the United States. While such developments are volatile, diamond exports appear to be rebounding, suggesting that future stockpiling of diamonds is unlikely. Real GDP is forecast to improve in fiscal year 2002 to around 3-4%, fuelled mainly by buoyant non-mining growth of over 6%.[21] Diamond exports are projected to rise by 5%, reflecting mainly the pula's depreciation against the U.S. dollar. Inflation is expected to rise to 7% (above the Bank's maximum target rate of 6%), and future trends are uncertain. Despite a restrictive monetary policy and declining bank credit growth, further inflationary pressures are likely due to large government spending increases in fiscal years 2001 and 2002, and the introduction of the VAT, which is estimated to create a one-off price increase of 3% to 5%.[22] Unemployment is projected to fall slightly to 15.2% in 2002, with expected formal employment growth of 5%. While the current account surplus is forecast to rise by 13% in 2002, foreign reserves are expected to fall slightly.

20. The economy's longer term outlook will also be heavily influenced by economic strategies used to support economic diversification, such as providing sound macroeconomic policies, including fiscal balance with low tax rates, monetary stability and competitive exchange rates, as government embarks on National Development Plan 9 in early 2003. Economic diversification policies to encourage broad-based and sustainable development should lessen dependence on government assistance, since increasing government expenditures and subsidies cannot be sustained without commensurate private-sector growth and productivity improvements.[23]

[21] BIDPA (2002b).
[22] BIDPA (2002a), and (2002b).
[23] BIDPA (2001).

II. TRADE AND INVESTMENT REGIMES

(1) POLICY FORMULATION AND IMPLEMENTATION

1. As a member of the Southern African Customs Union (SACU), Botswana has, until now, had most of its trade policy instruments (customs matters in particular) set at the regional level (Main Report, Chapter II(2)). There have been few changes since the last Trade Policy Review of Botswana in 1998. The Ministry of Trade and Industry retains primary responsibility for formulating and implementing trade and industry policies, especially in areas not covered by the SACU Agreement. Within the Ministry, the Department of Trade and Consumer Affairs handles foreign trade policy, including multilateral, regional, and bilateral trade relations; consumer protection and education; and issues import permits. The Department of Industrial Affairs formulates and implements industrial policy, including support measures, issues manufacturing licences, and is Secretariat to the National Industrial Licensing Authority. The Authority, whose members are appointed by the Minister of Trade and Industry, approves industrial licences in accordance with the Industrial Development Act of 1988; it also reviews industrial and licensing policies. Applicants must meet certain zoning, health and environmental requirements. Following the National Conference on Citizen Economic Empowerment in 1999, some industrial programmes, especially the Micro-credit Scheme for Small, Medium and Micro Enterprises (SMME), and the Financial Assistance Policy (FAP), which began in 1982, were abolished and replaced in 2001 with the newly created Citizen Entrepreneurship Development Agency (CEDA) to improve effectiveness. This reflected the Government's policy of increasing the Ministry's policy formulation and performance monitoring responsibilities while devolving programme implementation to autonomous agencies.

2. Other institutions having important inputs into trade-related policies include the ministries responsible for finance (budget, expenditure/revenue measures, and development plans); mineral resources, transport and communications; and agriculture; as well as the central bank, the Bank of Botswana. The Public Enterprise Evaluation and Privatisation Agency (PEEPA) was also established in late 2001 to formulate and administer the Government's Privatization Policy. A national committee was established to coordinate the implementation of the Government's Industrial Development Policy with a view to stimulating manufacturing activity; industrial development is a key objective and has been incorporated in the Ministry of Trade and Industry's strategic plan for 2001-09. Furthermore, the 2002 SACU Agreement provides for a National Body to be established in each member country; the Body will be in charge of SACU issues (including tariff changes) at the national level and will make recommendations to the Customs Union Commission (Main Report, Chapter II(2)(ii)(a)).

3. Trade policies are formulated through a consultative process involving all stakeholders, including government, business, workers, and civil society. An initial consultancy report is prepared and released for public comment through a national seminar. Following revisions, a white paper is usually produced as the basis of government policy. Trade policy coordination among officials is conducted mainly on an ad hoc basis with few formal structures in place. The High Level Consultative Council, chaired by the President, consists of the Vice-President, Ministers and private-sector representatives. Discussions and recommendations at sectoral levels are reported to the Council, and once approved, are discussed in national seminars before draft bills are prepared.

4. The Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) is the main body representing the private sector's views to government. Implementation of policies at the national level is reviewed every three years under the auspices of BOCCIM. The Botswana Chamber of Commerce and Industry acts as the voice of small and medium-sized businesses to government. The Exporters Association of Botswana also represents major exporters' interests, and provides

specialized export services, including assistance in identifying foreign markets. The Botswana Federation of Trade Unions represents workers in the tri-partisan consultative process with business and government.

5. There is no independent statutory body that specifically reviews or advises the Government on trade policies, including the provision of government assistance to industry. The Government, however, established the independent Botswana Institute for Development Policy Analysis (BIDPA), in 1995, to conduct contractual public policy research for it and other clients, including monitoring of economic performance. Its main research areas are economic planning and projections; welfare, incomes, and poverty; and structural change of the economy. BIDPA also trains local economists in policy research and provides valuable public commentary on topical economic policy issues.

6. Trade liberalization and investment promotion remain key elements of Botswana's trade policy framework and its development strategy. The Government's main objectives are to promote export-led industrialization; foreign direct investment is attracted to diversify the economy away from diamond (and other minerals) into non-traditional goods, such as textiles, clothing, engineering products, leather goods, electronics, and pharmaceuticals. Broadening Botswana's manufacturing base is a key objective of the Government's industrial policies. Developing small and medium-sized enterprises is also a high priority. Economic empowerment of its citizens is to be achieved by promoting their participation in mainstream economic activities, without compromising transparency, accountability, competition, efficiency, and equity. The Government also wishes to create a more enabling business environment to facilitate private sector growth, which it sees as essential to the economy's sustained and balanced development. Promoting vigorous competition, including from imports, is to be encouraged while ensuring that adequate safeguards and regulatory measures protect consumers from monopoly prices and other unfair trading practices, as well as ensuring environmental conservation.

7. The Government's four development planning objectives are economic growth, social justice, economic independence, and sustained development. Its Eighth National Development Plan 1997/98-2002/03 adopted the theme of "sustainable economic diversification".[24] The Ninth Plan, to cover the period April 2003 until March 2009, is well advanced, and its theme is to realize Botswana's Vision 2016 by achieving "internationally competitive sustainable economic diversification", with ambitious growth and poverty-reduction targets, and greater economic empowerment of its citizens. Key priorities are to control the cost of development projects and maintain existing public infrastructure.

8. The Government views rural development as essential for alleviating poverty. It recently released for public comment a draft White Paper on the Revised National Policy for Rural Development, which highlighted the urgent need to tackle the HIV/AIDS pandemic through more effective drug distribution, as well as other development impediments, such as ill-defined property rights in rural areas. The Government's National Poverty Reduction Strategy, which was to be completed in April 2002, is aimed at designing a cohesive national action framework to guide anti-poverty initiatives.

9. Table II.1 presents Botswana's main trade-related laws.

[24] Six-year national development plans are subject to mid-term reviews; the Eighth Plan was reviewed in 2000 with the theme of "accelerating economic diversification."

Table II.1
Main trade-related legislation in Botswana, December 2002

Area	Legislation
Exports and imports	Customs and Excise Act, and 2001 amendments and regulations
Government procurement	Public Procurement and Asset Disposal Act, 2001
Competition	Consumer Protection Act, 1998
Services	Botswana Power Corporations Act, 1971
Mining	Mines and Minerals Act, as amended in 1999
Standards	Standards Act, 1995
Intellectual property rights	Copyright and Neighbouring Rights Act, 2000; Industrial Property Act, 1996; Industrial Property Regulations, Statutory Instrument No. 78 of 1997; Industrial Property (Amendment) Act, 1997
Price control	Control of Goods, Prices and Other Charges Act
Foreign investment	Foreign Investment Act; Foreign Investment Code, 2001

Source: Information provided by the Botswana authorities.

(2) TRADE AGREEMENTS

10. Botswana attaches great importance to its WTO membership and is committed to a liberal and fair trade regime. Table II.2 shows selected recent notifications by Botswana to the WTO.

Table II.2
Selected notifications to WTO, September 2002

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
Agreement on Agriculture (Article 18.2)	Domestic support	Annual	G/AG/N/BWA/5 15 April 1997	Domestic support commitments for 1995/96
Agreement on Agriculture (Article 10 and 18.2)	Export subsidies	Annual	G/AG/N/BWA/4 24 February 1997	No export subsidies during 1996
Agreement on Agriculture (Article 5.7)	Special safeguard provisions	Annual	G/AG/N/BWA/3 21 February 1997	No special agricultural safeguards were invoked in 1996
Agreement on Implementation of Article VI of the GATT 1994 (Article 18.5)	Laws and regulations	Once, then changes	G/ADP/N/1/BWA/1 29 September 1995	No laws and regulations on anti-dumping practices
TRIPS (Article 63.2)	Laws and regulations	Once, then changes	IP/N/1/BWA/1 19 February 2002	Copy of copyright and industrial property legislation
Agreement on Safeguards (Article 12.6)	Laws and regulations	Once, then changes	G/SG/N/1/BWA/1 11 February 1997	No laws or regulations on safeguards
Agreement on Sanitary and Phytosanitary Measures (Article 7, Annex B)	SPS to be notified promptly	Once, then changes	G/SPS/N/BWA/3 29 October 1997	Microbiological specifications for raw and processed milk
GATT 1994 (Article XVII:4(a) and Understanding on the interpretation of Article XVII:1	State-trading enterprises	Annual	G/STR/N/1/BWA 7 February 1997	No state-trading enterprises
Agreement on Subsidies and Countervailing Measures (Article 25.11)	Countervailing actions taken	Semi-annual	G/SCM/N/23/Add.1/ Rev.8 23 April 2002	No countervailing actions taken during 1 July-31 December 1996
Agreement on Subsidies and Countervailing Measures (Article 25)	Measures	Annually	G/SCM/N/71/BWA 7 March 2002	No export subsidies
Agreement on Technical Barriers to Trade (Annex 3, Paragraph C of Code of Good Practice for Preparation, Adoption and Application of Standards)	Acceptance or withdrawal from the Code of Good Practice	Once, then changes	G/TBT/CS/N/109 31 August 1999	Acceptance of Code of Good Practice

Source: WTO documents.

11. Botswana is a member of the Southern African Development Community (SADC) and the African Union/African Economic Community, in which all the other SACU countries also participate (Chapter II, Common Report).[25] Botswana's capacity to negotiate trade agreements bilaterally is further curtailed by the 2002 SACU Agreement. Botswana is concerned about the adverse economic impact of the European Union-South Africa Trade, Development and Cooperation Agreement (TDCA). Although the major products of interest to Botswana, such as beef, have been excluded from the TDCA, Botswana (and other SACU members) is de facto obliged to implement the reciprocal tariff preferences negotiated by South Africa on EU exports, without receiving corresponding improved market access to the EU. This situation is to be aggravated by the establishment of the EU/South Africa Free Trade Area in 2012, well ahead of 2020 for other ACP states. Of further concern are the revenue losses for Botswana from reduced tariffs on imports from the EU. To address these concerns, the EU agreed to establish an appropriate institutional mechanism in consultation with Botswana (and Lesotho, Namibia, and Swaziland) to consolidate its existing trade preferences to BLNS beyond 2007, to improve immediate access, and to assist BLNS in fiscal restructuring commensurate with revenue losses from the TDCA.[26]

(i) Bilateral agreements

12. Botswana signed a bilateral arrangement with India in 2001. Its 1988 bilateral trade agreement with Zimbabwe provides generally for reciprocal duty-free entry of each other’s goods. To be eligible for preferential treatment, manufactured goods must meet rules of origin requiring at least 25% local content and Botswana/Zimbabwe, as the exporting country, must be the place of last substantial manufacturing (or where solely produced or grown for non-manufactured products). The Botswana Department of Customs and Excise issues certificates of origin to exporters. Botswana imposes quotas on clothing imports from Zimbabwe; according to authorities the quota has not been used since the mid 1990s. Trade between the two countries has declined in relative importance; Zimbabwe represented about 2% of Botswana’s merchandise exports and 4% of imports in 2001.

13. Botswana has an old reciprocal customs agreement with Malawi dating back to 1956, which works on a de facto basis, whereby all goods, except spirits, reared, grown or produced, can be imported duty free. Although Botswana has occasionally imported sugar from Malawi under this agreement, it is rarely used.

14. Botswana has MFN trade agreements with the following countries; China, Czech Republic, Cuba, India, Slovakia, Romania, Russia, Republic of Korea, and Zambia. These agreements provide a general framework for the bilateral trade between Botswana and each of these countries.

(ii) Other agreements

15. As a developing country, Botswana is eligible for GSP treatment from most industrialized countries, which provide preferential access to their markets (at zero or reduced tariffs) for eligible products, subject to rules of origin. Product coverage and origin rules vary between countries, but generally require the goods to be wholly obtained or sufficiently processed in Botswana, as evidenced by certificates of origin issued by the Department of Customs and Excise. Countries providing Botswana with GSP treatment include Australia, Canada, EU, Japan, New Zealand, Norway,

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[25] Botswana ratified the SADC Trade Protocol on 7 January 1998 and the SADC Amendment Protocol on 1 December 2000 (signed 10 November 2000).

[26] Resolution adopted by the ACP-EU Joint Parliamentary Assembly on 1 November 2001 (ACP-EU 3296/01/fin).

Switzerland, and the United States. These arrangements have particularly benefited craft and leather exports.

16. Botswana also has preferential access to the EU market under the Cotonou Agreement, subject to meeting certain rules of origin (Main Report, Chapter II(6)(i)).[27] Exports of hides, skins, and leather products are duty free and quota free. Beef exports to the EU are dutiable at a reduced rate of 10% of the specific element of the tariff, up to an annual quota of 18,916 tonnes, which is under-utilized. Botswana is ineligible for the EU's "Everything But Arms" (EBA) Initiative, which is available only to least developed countries.

17. While a beneficiary under the US African Growth and Opportunity Act (AGOA) (Main Report, Chapter II(6)(ii))**,** Botswana was ineligible until recently for the enhanced access afforded to "lesser developed beneficiary sub-Saharan African countries", which extends duty-free and quota-free preferential access to the U.S. market for apparel exports made of fabrics from any source until end-September 2004, subject to a specific aggregate cap on these U.S. imports from all beneficiary countries.[28] This limited preferential U.S. access for Botswana's apparel exports to garments using U.S.-made fabric, or for some clothing items, using sub-Saharan African-made fabrics, U.S.-made fabrics or sub-Saharan African yarn, subject also to the specific aggregate cap on U.S. imports. However, the United States extended from 6 August 2002 "lesser developed country status" to Botswana, despite its relatively high GNP, thereby allowing producers to use third-country fabric in qualifying clothing exports (so-called AGOA II). According to authorities, this will generate more investment in Botswana's textiles industry.

(3) INVESTMENT FRAMEWORK

18. Botswana has continued to develop a regulatory framework conducive to investment. The Government acknowledges the critical role of private, especially foreign, investment in stimulating growth, sustainable employment, and poverty alleviation. It remains committed to maintaining Botswana's position as one of the most competitive and leading developing economies in attracting foreign investment. This was reinforced by the release in 2001 of Botswana's first international credit rating by Moody's, and Standard and Poor's of "A2" and "A", respectively, putting it ahead of many countries (highest in Africa). The August 2002 rating remained unchanged; "A" for long-term and "A1" for short-term foreign currency debt, and "A+" for long-term local currency debt. Investment incentives include a reduced corporate tax rate of 15% (instead of 25%) for all registered manufacturing companies. The Minister of Finance and Development Planning may also grant tax relief for certain businesses under Development Approval Orders (Chapter III(4)(i)). Profits, dividends, and capital can be readily repatriated, and all remaining foreign exchange controls, including on capital transactions were eliminated in February 1999. No restrictions exist on portfolio investment and the Botswana Stock Exchange allows dual company listings.

[27] The Agreement permits cumulation of origin between ACP countries and the EU. Cumulation with South Africa will be permitted from 2003.

[28] Botswana's per capita gross national product in 1998 exceeded the threshold of US$1,500 set under the AGOA for "lesser developed beneficiary sub-Saharan African countries". Botswana was declared by the United States as eligible for AGOA benefits on 2 October 2000 and eligible for the apparel provisions on 3 December 2001. Also covered are non-clothing products grown or produced in sub-Saharan African beneficiary countries, subject to rules of origin requiring local materials and direct processing costs to be at least 35% of the product's appraised value when it enters the United States (the transaction value or adjusted f.o.b. price).

19. A Foreign Investment Code was released in 2001 to guide investors and to consolidate Botswana's investment policies and legislation.[29] Foreign investors are to be law-abiding and support the Government's national principles of economic diversification, non-corruption, and democracy. Foreign investment is allowed in all sectors, except in activities reserved for small and micro enterprises. These include commercial activities, such as retail functions, small general trading, petrol stations, bottle stores, butchers, fresh produce shops, village restaurants, supermarkets (but excluding chain stores), simple speciality operations (e.g. clothing and footwear boutiques); taxi and security services; government building projects, including minor maintenance and building works up to P 150,000 in value; road contracts and railway maintenance, such as fencing, road maintenance, culvert construction, bridge painting, and plant hire; and industrial activities, including school furniture, uniforms, ordinary cement and bricks, bread baking, sorghum milling, and burglar-proof security bars. Foreign investors can participate in reserved activities up to 49% equity if the investment would expand the activity to medium scale within an approved schedule.

20. Foreign investors are encouraged, but not compelled, to establish joint ventures; no foreign equity limits apply. However, minimum foreign investment levels are reduced for joint ventures by either one half, one quarter or one third, depending upon the sector. Minimum foreign investment levels are set respectively for non-joint-ventures and joint-ventures at US$100,000 and US$75,000 for manufacturing; US$150,000 and US$100,000 for trading activities; US$200,000 and US$100,000 for tourism; US$75,000 and US$50,000 for other non-financial services; US$100,000 and US$75,000, to be registered with the Public Procurement and Asset Disposal Board, for government procurement[30]; US$100,000 and US$75,000 for property and real estate; US$50,000 and US$25,000 for information technology; and invariably at US$75,000 for agriculture. For each investment proposal, two foreign directors/shareholders are permitted to reside in Botswana; additional foreign directors/shareholders wishing to live and work in Botswana require further investment of 50% of the original amount. Business licences necessary to commence activities, such as for manufacturing, trading, and tourism, are issued on proof of the minimum funds being deposited in Botswana. All foreign-owned firms, and citizen-owned companies with ten or more employees or with minimum power consumption of 20 kilowatts (or its equivalent), must be licensed. Licence applications are normally processed by the Ministry of Trade, Industry, Wildlife and Tourism within four to five weeks. Work and resident permits are issued when the investor qualifies for an operating licence.

21. The Botswana Export Development and Investment Authority (BEDIA) commenced operation in 1998 (following legislation passed in 1997) to promote foreign investment, especially in export-oriented manufacturing. The Government is especially targeting investment in export-oriented or import-substitution manufactures, including textile and garments, leather goods, electrical products and electronics, light engineering, plastic products, ceramics, pharmaceuticals, assembly operations, and printing and publishing. BEDIA operates a "one stop" Investor Service Centre designed to assist investors with pre-investment services, such as obtaining land, buildings, work and residency permits, licences and grants, and satisfying other regulatory requirements. It is preparing an IT investment guide and a customized database to link all authorities and to present licensing requirements for easy access. BEDIA also develops industrial estates with factory buildings for lease by investors.

22. Foreigners can purchase freehold land. Government land must be leased, for 50 years for business purposes and 99 years for residential use, subject to renewable options. A discriminatory

[29] Ministry of Trade and Industry (2002a). The discussion in the text is based on the Code. However, authorities indicated that although the Government had approved the Code, it had not been implemented. It is currently being reviewed.

[30] The construction industry is subject to a building code whereby smaller contracts (below P 8 million) are reserved for local or joint-venture companies.

transfer duty applies to property sales at the rate of 5% of the value, subject to an exempt threshold of P 20,000. Non-citizens, including companies with less than majority local ownership, receive no such threshold and pay a higher rate equal to 10% on rural property.

23. No performance requirements are imposed on foreign investors; while export-orientation is preferred, the Government does not distinguish between inward-orientation and outward-orientation of local production. Factors used to assess foreign investment include company registration in Botswana and transfer of technology and skills, such as developing training and localization programmes to employ citizens within periods agreed with the Commissioner of Labour. Foreign firms are encouraged to use Botswana citizens instead of foreigners, and local materials, where possible. Botswana has a relatively secure commercial legal system and the Constitution prohibits nationalization of private property. Domestic law assures the right to establish, acquire, and dispose of business interests and guarantees the right to private ownership.

24. Botswana is a member of the International Centre for the Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency. It signed a ten-year investment treaty with Germany in 2000 to protect bilateral investment against nationalization and other risks. It also has investment guarantee treaties with China (2000), Switzerland (1998), Malaysia (1997), and France (Cooperation in Tourism in 2000 and the Overseas Private Investment Corporation in 1997). It is negotiating investment agreements with the United States, Italy, Belgium/Luxemburg, the Netherlands, Egypt, the United Kingdom, Turkey, Mali, Ghana, Zimbabwe, Kenya, and Mauritius. Botswana has double taxation agreements with the United Kingdom, South Africa, Sweden, and Mauritius.

(4) TRADE-RELATED TECHNICAL ASSISTANCE

25. As with other SACU-member countries, trade-related technical assistance has a critical role in enabling Botswana to derive benefits from open trade policies and its participation in the international trading system. Botswana needs technical assistance, including capacity building, in the following areas: (i) implementation of WTO agreements (and in deriving benefits from implementation); (ii) trade negotiations; (iii) supply-side constraints; and (iv) the integration of trade into overall development strategies.

26. For a number of specific areas, notably in relation to "behind the border" issues, the delivery of technical assistance and capacity building measures to Botswana and other SACU countries has the potential, if properly coordinated, to strengthen the integration of SACU countries into the international trading system, as well as their integration, on a regional basis, into an area of shared trade policy.

(i) Implementation of WTO Agreements

27. Botswana recognizes the need to implement legislation on anti-dumping, safeguards, and countervailing measures. The WTO provided a national technical assistance activity on trade remedies in June 2002. Enhancing Botswana’s capacity to develop such rules-based trade measures may help reduce the scope for disruptions to reforms. It can also contribute to stable and predictable trade policies within the SACU region.

28. Botswana faces the challenge of diversifying away from heavy dependence on diamonds. Assistance is needed in identifying measures that are WTO-consistent, and that do not introduce inefficiency. The Government has also pointed to the need for assistance in developing a foreign direct investment strategy. As policies in regard to export promotion are currently not harmonized

across SACU, assistance in developing a WTO-consistent set of policies amongst members will contribute to strengthening SACU by ensuring that its members do not engage in practices that could cause injury to regional partners.

29. As other trade barriers are reduced, standards and sanitary and phytosanitary (SPS) measures are increasingly likely to be binding constraints on exports. Given the role of agricultural exports in Botswana's trade – notably of bovine meats and products – compliance with SPS requirements is a particular challenge. The Government has underlined the need for training in relation to equivalence, transparency, and pest-risk analysis. The shortage of trained personnel and "hard infrastructure" in relation to SPS is a characteristic of BLNS countries. Consequently, the delivery of capacity-building assistance at the regional level would provide economies of scale, and contribute to common standards across the SACU region.

30. Botswana's legislation by and large complies with the TRIPS Agreement, except for geographic indications and integrated circuits (Chapter III(4)(v)). Capacity building is mainly needed for enforcement of intellectual property rights.

31. Botswana has benefited from technical assistance delivered by the World Customs Organisation. The Government needs capacity-building assistance in customs reforms and trade facilitation in general. Botswana would like to use its relatively well developed road linkages and central position in the SACU region to become a regional transit hub. Delays at border crossings and lack of facilities have been cited as factors depressing traffic levels on the trans-Kalahari highway.

(ii) Trade negotiations

32. Botswana is involved in trade negotiations at a number of levels. These include the EU-ACP Cotonou agreement, SADC, SACU, including the SACU-US Free Trade Area, and the Doha Development Agenda. This overlapping negotiating agenda entails a need to develop and coordinate negotiating positions. Since negotiations are often a means of strengthening and "locking-in" domestic reforms, capacity building should focus on formulating negotiating positions and strategies that are anchored in the domestic reform process.

33. In relation to multilateral trade negotiations under the Doha Development Agenda, the Government has highlighted services as being a key area for technical assistance, including capacity building needs. Three priority areas for Botswana are financial services, telecommunications, and tourism. It has been identified as having a key role in Botswana's economic diversification. Assistance will be needed to craft offers that are integrated, and to reinforce the Government's strategy in these three subsectors. The strategy for tourism emphasizes the need for regional cooperation in the management of trans-frontier resources, and in the provision and marketing of tourism services. Assistance to SACU members in developing a common approach to commitments in the GATS framework could yield benefits in strengthening negotiating capacity, and also enhance the ability of SACU members to develop a common approach to tourism.

34. The Government has also indicated a need for seminars to help stakeholders understand and prepare for negotiations on: market access for non-agricultural products; trade and investment; trade and competition; transparency in government procurement; trade facilitation; trade and environment; and trade and development.

35. In 2001, Botswana opened a mission in Geneva. This reflects the increased awareness and importance attached to participation in the day-to-day work of the WTO. In common with a number of other developing countries, Botswana therefore faces a considerable challenge in dealing with the

volume of work involved in the WTO's current programme. While measures, taken by the WTO and other organizations, to assist the mission in its work are helpful, attention should also be given to strengthening links between the Geneva-based staff and staff in Gaborone involved in policy formulation.

(iii) Supply-side constraints and integration of trade into development strategies

36. Botswana suffers from range of supply-side constraints. Although its land-locked position hinders trade, it has a relatively good internal road network.

37. Botswana's participation in international trade and its adoption of relatively open trade policies have been significant factors in promoting economic growth and alleviating poverty. Some trade and trade-related policy issues are considered on a sectoral basis, and policy priorities are set out in successive national development plans. Inter-ministerial coordination exists in relation to the formulation of trade policy. However, greater collaboration between ministries and departments on integrating trade into the overall architecture of development policy would be beneficial. Botswana would also benefit from a more systematic analysis of trade policy options geared towards poverty reduction, and a more systematic integration of trade policy actions and capacity-building needs within an overall policy framework geared towards poverty reduction. The Government is currently in the process of finalizing arrangements with the Department for International Development (UK) for the implementation of a Trade and Poverty Programme, which could help to integrate trade and development policy.

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) OVERVIEW

1. Botswana is streamlining customs procedures and has amended its customs legislation to meet the U.S. requirements under the AGOA. Few significant changes have been made to its import-licensing regime since 1998. All imports must be licensed; certain products are subject to non-automatic permits and prohibitions, mainly for self-sufficiency, health, safety, and environmental reasons. Botswana standards are based on international norms, or those of its major trading partners. It has accepted the Code of Good Practice under the WTO TBT Agreement.

2. The Public Procurement and Asset Disposal Board oversees government procurement. Small-scale construction is reserved for Botswana citizens (Batswana); medium-scale projects are also open to joint ventures with majority domestic ownership. At least 30% of non-construction government procurement must be from eligible firms (domestic or foreign) that have minimum 25% local content and meet specified minimum turnover, investment or citizen employment levels. Botswana is not a member or observer of the Government Procurement Agreement.

3. In July 2002, the sales tax was replaced by a 10% VAT. There are no export taxes. Some exports (e.g. agricultural products, unpolished diamonds, and hides) are subject to non-automatic licences. Botswana has strategic reserves of grains and petroleum products. Numerous tariff exemptions and concessions apply to imported inputs used in goods exported to non-SACU markets. The Botswana Export Credit and Guarantee Company (BECI) provides export insurance; the Government reinsures the related political risk. The Botswana Export Development and Investment Authority (BEDIA) conducts export promotion.

4. The Financial Assistance Policy (FAP) was abolished and replaced with the Citizen Entrepreneurship Development Agency (CEDA) to promote industrialization and economic empowerment of citizens. Certain state-owned enterprises have *de facto* or *de jure* monopolies over utilities, among others. Some have performed poorly, relying heavily on concessional government loans. A master privatization plan is being prepared. The Government intends to introduce competition legislation to prevent anti-competitive practices. It has taken important steps to comply with TRIPS obligations. New copyright legislation has been passed and comprehensive amendments made to strengthen industrial property rights.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration, and import duties and related measures

5. Under the SACU Agreement, BLNS countries apply import duties and related measures set by South Africa. However, in practice, applied customs tariffs, excise duties, valuation methods, origin rules, and contingency trade remedies are, so far, the only trade policy measures harmonized throughout SACU. These common policy measures are covered under the Main Report (Chapter III). For import duties and related measures, differences exist among SACU members in customs procedures, import duties (other than customs tariffs and excise duties), and duty and tax concessions.

6. In Botswana, all traders must be licensed with the Ministry of Trade and Industry. Licensing is handled by the National Licensing Authority. Customs clearing agents are licensed by the Department of Customs and Excise of the Ministry of Finance and Development Planning. While it is not mandatory to use an agent to clear goods, agents need to be engaged for commercial and regular importers.

7. Botswana is streamlining its customs procedures and has adopted the ASYCUDA system. According to the authorities, it currently takes 10-45 minutes to clear commercial goods, providing that all documents are in order. Computerization through ASYCUDA has been implemented at the Gaborone Inland Office and the busiest border with South Africa (Tlokweng Border Gate). Imported goods are randomly checked. Botswana does not have a bond guarantee system. It introduced a Single Administrative Document for customs declaration from 1 May 2002. The customs legislation (the Customs and Excise Act (Cap 50:01) of 1970), was amended in July 2001 to implement the U.S. requirements for Botswana to export goods, especially textiles and clothing, preferentially to the American market under AGOA.[31] The customs legislation is being amended to update and align it with the South African Customs and Excise Act.

8. Commercial importers (and exporters) may apply to operate customs bonded warehouses. Using either storerooms, fixed vessels, tanks or other premises. Security on the bonded warehouse must cover duty liability, and the operator must maintain a stock register. Goods may be stored for up to five years, during which time duties are paid on goods released. Warehouses must be physically secure.

9. Botswana has used the possibility available to BLNS countries under the SACU Agreement to protect infant industries on three occasions.[32] These were to protect the Kgalagadi Soap Industry (KSI) during the 1970s (by an additional tariff of 100%), the Kgalagadi Breweries Ltd during the 1980s and early 1990s (by a 50% additional tariff) and Bolux Milling Pty Ltd (by quotas for the first five years, and then an additional tariff of 75% for three years). In each case, the temporary protection was provided for the maximum period of eight years permitted under the SACU Agreement. These industries still exist; Kgalagadi Soap Indstry is exporting to such countries as Malawi, Namibia, and occasionally South Africa, while Bolux Milling Pty Ltd is facing intensive competition from South African suppliers and is seeking further protection against "dumping". While no industries currently receive infant industry protection, an application from Okavango Wineries on bottled drinking water is under consideration. The general criteria and procedures for determining whether to provide such protection are being developed.

10. In July 2002, the 10% sales tax, which applied uniformly to imports and domestically produced consumer goods (but not staple foods), and some services, was replaced with a value-added tax (VAT) of 10% with few exemptions, such as petrol, diesel, paraffin, maize and sorghum meal, financial, educational, and health services.[33] Exports and fuel products are zero-rated; producers can claim tax credits for VAT paid on inputs. VAT refunds must, by law, be repaid to exporters within one month of submission of returns, and two months for other taxpayers.[34] The customs legislation is currently being amended to introduce a fuel levy on petrol and diesel.

11. The business threshold for VAT registration is annual turnover above P250,000.[35] The VAT applies uniformly to domestic and imported goods, including from SACU members. The base for levying VAT on imports varies slightly between SACU and non-SACU countries. For non-SACU

[31] Customs and Excise Duty (Amendment) Act. Accompanying regulations (Customs and Excise (Amendment) Regulations) were introduced in August 2001 requiring textile and clothing manufacturers and exporters to keep appropriate records for at least five years.

[32] Mpabanga (1997), p.377.

[33] Value Added Tax Act, 2000 (Act No.1 of 2001).

[34] Interest will be paid on overdue amounts at the rate of 1% per month. The law also permits such refunds to be offset against the taxpayer's other tax liabilities.

[35] Auctioneers must register irrespective of turnover, and voluntary registrations for lower turnover may be allowed.

countries, VAT is levied on the import's landed duty-paid price i.e. f.o.b. price and import duties, plus the value of any services relating to the good, such as commission, packaging, transportation, short-term warranty insurance, and warranty expenses. Imports from SACU members are levied VAT on the greater of their f.o.b. price plus freight and insurance costs (i.e. landed duty free-price), and their "fair market price". "Fair market" prices are used to stop under-valuation where a sale occurs between related parties. It is determined using the ruling market price of identical goods in the same market.

12. Government receipts from the SACU Common Revenue Pool are forecast to fall in 2002-03 to P 1.541 billion, down from P 1.735 billion in 2001-02 and P 2.188 billion in 2000-01. In 2000-01, SACU revenue accounted for 15% (13% in 2001-02) of total government revenue (including grants). The introduction of the VAT with its extended coverage on goods and services was expected to raise revenue substantially and thereby to reduce the share of SACU revenue in the total.

(ii) Import prohibitions and licensing

13. There have been few significant changes to Botswana's import licensing regime since 1998. Imports of certain agricultural products, such as vegetables, dairy products, meat and meat products, and poultry must be licensed on food-security grounds. The licences are usually issued by the Ministry of Trade and Industry. Imports of firearms and ammunition are also licensed for security reasons. In addition, import licences are issued for boats and aquatic apparatus by the Department of Minerals, Energy and Water Affairs, and for imports of second-hand goods, such as motor vehicles and clothing. The Ministry of Environment, Wildlife and Tourism licenses imports of endangered species covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). In general, imports of agricultural products and plants require approval from the Ministry of Agriculture in the form of a permit, for sanitary and phytosanitary reasons.

14. Imports of fresh pork are banned; import permits are granted only on processed pork products. Poultry imports are permitted only when there is a shortfall of poultry products in the domestic market. Imports of some vegetables, meat, and dairy products are seasonally banned. Import prohibitions apply to goods such as obscene material and environmentally hazardous products, such as toxic or radio-active waste, mainly to protect health, safety, and morality.

(iii) Standards and other technical requirements

15. The Botswana Bureau of Standards was established in 1997 (Standards Act No. 16, 1995) and is responsible for standardization and quality assurance, through testing, including of imports, industrial metrology, quality and environmental management systems. The Bureau, headed by a 12-member Standards Council, is a member of the International Organization for Standardization (ISO). It is the national contact point for SADC standardization programmes and the national inquiry point under the WTO TBT Agreement. The Bureau participates in international and regional standardization initiatives.

16. Technical committees, whose members represent various key stakeholders, set standards, coordinated by the Bureau. The number of technical committees has increased from eight in 1998-99 to 42 in December 2002; the number of approved standards rose from 30 to 167 over this period. In principle, all product standards that affect health, safety, and the environment are mandatory, such as on animal feeds and the handling, transportation, and storage of liquefied petroleum gas. The Bureau also maintains microbiological specifications for raw and processed milk, to protect human safety.[36]

[36] WTO document G/SPS/N/BWA/3, 29 October 1997.

All other standards are voluntary. Recent efforts have focused on formulating standards in agriculture and foodstuffs, chemicals, building and construction, electronic and electrical products, mechanical engineering, the environment, and clothing and textiles. Labelling, presentation and advertising requirements were adopted in 2000 for pre-packaged consumer goods (BOS 9: 2000).

17. The Bureau is developing Quality Management Systems, and recently introduced a Standards Mark for product certification. This relies on a combination of type testing, assessment of factory quality systems, and surveillance, including testing of samples from the factory and the market. If acceptable, the Bureau issues a licence to use the Standards Mark; a separate application is needed for each standard and factory. A Batch Certification Scheme also operates to certify that a batch of products meet the client's specifications.

18. Standards are based on international norms, such as ISO and IEC, and those of Botswana's major trading partners, especially South Africa. Botswana's conformity testing infrastructure is limited. It is developing a National Testing System comprising all testing laboratories, led by the National Testing System Advisory Committee, with the Bureau as coordinator. The National Metrology System, comprising all calibration facilities and led by the National Metrology System Advisory Committee, again with the Bureau as coordinator, is also being put in place. Botswana recognizes foreign results and standards, and uses foreign accredited laboratories to conduct testing not available domestically. It has not signed any mutual recognition agreements, but is collaborating with SADC countries to develop a regional body for accreditation of conformity assessment facilities (SADCA), which would allow mutual recognition among all members. Botswana has accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards contained in Annex 3 of the WTO TBT Agreement.[37] Under the new SACU agreement, Botswana and other members have agreed to strive to harmonize product standards and technical regulations (Main Report, Chapter II).

19. SPS provisions, handled by the Department of Agricultural Research under the Pest and Disease Act of 1959, apply to agricultural imports. Health restrictions apply to imports of seeds, bulbs, and plants. Imports of all plants and plant products require a Plant Import Permit, but there are no specific regulations governing their movement. Cereal imports must be declared free from disease e.g. grain borer and Khapra beetle. According to authorities, Botswana's compliance with the WTO SPS Agreement is very low, due to a lack of technical expertise and obsolete legislation. The Agrochemical Act, although enacted, is not yet fully implemented.

(iv) Government procurement

20. The Public Procurement and Asset Disposal Board (PPADB) was established as an independent statutory body to manage public procurement. It took over the procurement functions carried out by the Central Tender Board of the Ministry of Finance and Development Planning, and is responsible for procurement by all entities (Public Procurement and Asset Disposal Act No. 10 of 2001).[38] The Board adjudicates and awards tenders based on the evaluation report and recommendation of the procuring (or disposing) entity. The entity conducts the evaluation using "suitably qualified staff" or third-party procurement agencies. To be eligible for procurement (and disposal) contracts, parties domiciled in Botswana must be registered (section 118); this requires contractors to be licensed or incorporated under the relevant laws of Botswana (section 117). Foreign

[37] WTO document G/TBT/CS/N/109, 31 August 1999.

[38] Procurement using government funds by entities outside the scope of the legislation, such as parastatals, local authorities, private companies, non-government bodies, charities and trusts, must be in accordance with the Act's provisions (section 8).

firms can register as contractors, subject to provisions reserving certain grades of activities for citizen firms (Part VIII of the Act). In pursuing its economic and social objectives, the Government may introduce reservation and preference schemes for citizens provided they are: targeted and time bound; phased in and out; non-discriminatory between targeted groups or grades of contractors; based on competition among eligible contractors; have clear quantifiable objectives; contain benchmarks to assess progress (section 66(1)); and the costs are calculated relative to the costs of unrestricted procurement (or disposal). All tenders, irrespective of value, may be subject to such arrangements.

21. For construction, registered companies are classified into various grades based on company size and ownership. Small-scale work (below P 350,000 for grade OC contractor, P 900,000 for grade A contractor and P 1.8 million for grade B contractor) is reserved for citizens. Larger jobs (grades C and D with values up to P 4 million and P 8 million, respectively) are reserved for citizens or joint ventures with majority domestic ownership. The largest jobs (grade E, over P 8 million) are open to foreign suppliers.

22. The Local Procurement Programme (LPP) is an example of a preference scheme applied under the procurement legislation. It was introduced on a three-year pilot basis in 1997 to help local firms to access public procurement.[39] The LPP was evaluated in November 2000, and extended to include services and to cover also procurement by local authorities and parastatals. The programme requires that 30% of annual public purchases of goods and services be from eligible firms, which can be either local or foreign owned. Eligible firms must be registered annually with the Ministry of Trade and Industry (Department of Industrial Affairs) and have at least 25% local content, defined as annual sales revenue less foreign content, including imported raw materials, petroleum fuels, and services and labour supplied by non-citizens.[40] The firms must be properly licensed, and their products must meet the Bureau of Standard's requirements or any other recognized standards.[41]

23. An eligible firm must also meet at least two of the following: have an annual turnover of between P 200,000 and P 5 million; employ between ten and 200 staff; or have total machinery investment of P 50,000 to P 5 million. The procurement agency issues one tender specifying that 30% will be exclusively reserved for bidding by LPP certificate holders and 70% will be open to competition from all suppliers, i.e. both LPP certificate holders and non-LPP certificate holders. LPP bidders must submit the same price when bidding for the same product under the 70% share of the procurement that is open to competition.[42] Where there are no LPP certificate holders or when they do not satisfy the requirements on which tenders are to be evaluated, such as price, quality, timely delivery or other specifications, the tender is awarded to non-certificate holders.

24. The Local Procurement Monitoring Committee, which includes the PPADB, government departments, and private-sector representatives, monitors the procurement of all authorities to ensure that the LPP is implemented effectively and that eligibility criteria for qualifying companies are

[39] It replaced the Local Preference Scheme (LPS), which provided domestic suppliers a 40% price preference over foreign providers on their local content.

[40] Also included as foreign content are: depreciation on imported machinery, dividends, and rent paid to non-citizens, and interest and loan amortization payments to non-citizens or to institutions not registered under the Financial Institutions Act. Non-citizens include majority-owned foreign companies.

[41] The Industrial Development Act requires all firms to be licensed, except citizen companies employing less than ten people.

[42] Ministry of Trade, Industry, Wildlife and Tourism (2002b), p. 8.

enforced. It also hears disputes between procurement agencies and LPP holders and ensures that the LPP remains within the "framework of the WTO".[43]

25. Tendering procedures are being revised, including introduction of a standardized bidding package and a new computerized system of registering suppliers. The PPADB is yet to approve such proposals. The Government initiated a Quality Improvement Project designed to improve production quality of local manufacturers, especially small and medium-sized enterprises, to enable them to participate more successfully in public procurement. Two pilot sectors were selected: garments, and concrete products. Entrepreneurs are provided non-financial support. The Project is about to be extended to other industries. A four-member Independent Complaints Review Committee has been established to hear procurement complaints. The Finance Minister appoints Committee members from the public and private sector. It deals with challenges arising from any part of the procurement cycle, including complaints by contractors relating to registration classifications and awards made by the PPADB or its committees (section 103).

26. Botswana does not intend to become a member or observer of the WTO plurilateral Agreement on Government Procurement.

(v) Local-content requirements

27. A local content of at least 25% is among the criteria for firms to be eligible for a 30% share under the Local Procurement Programme (section (iv) above).

(vi) Other measures

28. Botswana has no official countertrade or offset arrangements, or agreements designed to influence the quantity or value of goods and services exported to Botswana.

29. Botswana has no trade sanctions in force.

30. Botswana has strategic reserve stocks in grains and petroleum products. The Botswana Agricultural Marketing Board holds grain reserves. Under the Government's Oil Storage Development Programme, strategic fuel storage facilities, constructed at Gaborone and Francistown, maintain stocks equivalent to 90 days of national consumption.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Registration and taxes

31. The same registration procedures apply to both importers and exporters (section (2)(i) above). All commercial exports require an Export Declaration Form.

32. An export tax applies to beef.

(ii) Export prohibitions, controls, and licensing

33. Export licences are required for all exports, including to SACU members, for "food security", sanitary and phytosanitary, and statistical reasons, and under international conventions to which Botswana is a signatory.

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[43] Ministry of Trade, Industry, Wildlife and Tourism (2002b), p. 7.

34. No government restrictions apply to the export of rough diamonds. However, such exports have, on occasions, been affected by the terms of commercial agreements governing the sale of diamonds by Debswana (currently Botswana's only diamond producer, in which the Government holds a 50% stake with De Beers) to the Diamond Trading Company (DTC), an international cartel operated by De Beers, which is the exclusive purchaser of Debswana's output. The sales arrangements provide for the stockpiling of diamonds by Debswana during periods when supply exceeds demand at ruling prices, in the form of export quotas set by the DTC. The Government does not sanction these quotas. Legislation is about to be introduced to enforce restrictions under the United Nation's Kimberley Process International Certification Scheme to control trade in "conflict" diamonds (Chapter IV(2)(ii)). This will require all rough diamonds exported from Botswana to have a valid Kimberley Process Certificate (all imports must also have a valid certificate issued by the exporting country).

(iii) Export subsidies, finance, and assistance

35. Botswana operates a number of schemes providing tariff exemptions and concessions on imported inputs used in exports to non-SACU markets.[44] A duty credit certificate scheme, introduced in 1993, provides duty credits to enable imports, at reduced customs duties, of inputs used in the manufacture and export of specified textile and clothing products, to non-SACU members; firms must have exported for a minimum of one year to be eligible. The duty credit is set at a percentage of the value of exports, and varies across products; credits are allowed against duties paid on importation of certain textile and clothing products.[45] The scheme is aimed at increasing the international competitiveness of exporters of eligible products.[46] Six firms currently benefit from the scheme; exports covered are blankets, T-shirts, jerseys, household textiles, jeans, and duvets.

36. Industrial rebates for specific exporting industries, such as food, textiles, and beverages, and general rebates of customs duties for exclusive exporters, also apply. Rebates cover components and materials used in the manufacture, processing or packaging of goods exclusively for export. The participant should intend to manufacture the material imported under the scheme as goods for export, and the imported material cannot be sold domestically or within SACU (without prior permission from the Department of Customs and Excise). All export earnings must be repatriated to Botswana. Duty drawback on capital equipment and manufactured inputs used in exports exists, mainly for irregular exports. Such claims must be made within one month from the date of export and take up to three months to be paid.

37. SACU members are to harmonize their duty and tax concessions (rebates, refunds, and drawbacks of customs duties on imports) as required by the 1969 and the 2002 SACU agreement (Main Report, Chapter II(2)).

38. The Export Credit Insurance and Guarantee Company (BECI) provides export insurance covering pre- and post-shipment credit. It was established in 1996 as a wholly owned subsidiary of the Botswana Development Corporation. It offers insurance against non-payment by foreign buyers resulting from commercial risk (default and insolvency) and political risk (transfer delays, strikes, war or import restrictions that prevent entry in the buying country). While BECI carries all insured

[44] To be eligible exporters must be registered with the Department of Customs and Excise.

[45] The percentages used to determine the amount of duty credit are 25% of the export value for clothing and accessories, 8% for yarns, 17.5% for household textiles, and 12.5% for fabrics and other textiles.

[46] The scheme covers clothing and clothing accessories (tariff headings 61.01 to 61.17 and 62.01 to 62.17); household textiles (63.01 to 63.04); fabrics and other textiles (several items in 51 to 56 and 58 to 60); and yarns (51.06 to 51.10, 52.04 to 52.07, 54.01 to 54.06 and 55.08 to 55.11).

commercial risks, the Government has reinsured its political risks since 1997 (Political Risk Reinsurance Act 1997). Goods and services are eligible. Exports covered include steel, optical and computer equipment, textiles, and motor components to countries such as South Africa, Namibia, Kenya, and the United States. Since its inception, the BECI has covered exports totalling P 174 million (to June 2002). BECI has recently extended its insurance business to cover non-payment risks on domestic credit sales. It also offers an export financing scheme to its policy holders whereby BECI guarantees their bridging finance from commercial banks. The Ministry of Trade and Industry is currently examining a proposal for government involvement in the scheme.

39. Export promotion is mainly the responsibility of the Botswana Export Development and Investment Authority (BEDIA), established in 1998. It arranges participation of manufacturing enterprises in regional and international exhibitions. It also conducts overseas market research aimed at finding export markets for Botswana-made products. BEDIA is also responsible for promoting Botswana as a viable location for foreign direct investment, and encourages joint ventures between foreign investors and citizen entrepreneurs.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Incentives

40. The Government funds a number of assistance schemes under its industrial policy of promoting export-led industrialization and the economic empowerment of Botswana's citizens. The main scheme was the Financial Assistance Policy (FAP), started in 1982, to encourage investment and employment, mainly in manufacturing, but also in agriculture (apart from cattle and dry-land farming), small-scale mining, and more recently certain services, such as tourism. Increasingly, the assistance, by way of grants based on the number of jobs created by the project, had moved from small business ventures to large-scale projects.

41. Following an evaluation of FAP in 2000, which found that there was it fraud, abuse and inadequate monitoring and administrative capacities, especially for small-scale activities, both FAP and Small Business Finance (MBF) ceased in June 2001 to be replaced by the newly established Citizen Entrepreneurship Development Agency (CEDA).[47] All approved projects financed under FAP and MBF were transferred to CEDA for monitoring and management until expiry of their agreements. CEDAs operations are designed to increase the economic empowerment of citizens by providing training, mentoring, monitoring, and concessional loans (instead of the previous FAP grants) to citizen-owned businesses to develop entrepreneurial skills. The 2002-03 budget allocation was P 250 million. CEDA provides concessional loans at 5% interest rate for small projects (loans of between P 500 and P 150,000) and 7.5% for medium-scale projects (loans from P 150,000 up to P 2 million). By end-December 2001, 126 applications, valued at P 74 million, had been approved. The Government announced several administrative procedures in the 2002-03 Budget designed to accelerate the processing processing of applications. It is also establishing a Venture Capital Fund (VCF) to provide equity and/or loans to joint ventures between citizens and foreign investors.

42. Government policy on small, medium and micro enterprises (SMMEs) was introduced in late 1998 following the recommendations of a SMME Task Force.[48] Apart from the introduction of the

[47] The review found that 75% of small-scale FAP projects failed to survive past the period of assistance. The corresponding rates for medium- and large-scale projects were 45% and 35%.

[48] There are an estimated 50,000 micro-enterprises (annual turnover of below P60,000) in Botswana; 6,000 small enterprises (annual turnover below P1.5 million); and 400 to 500 medium enterprises (annual turnover under P5 million). See BIDPA (1998).

micro-credit scheme, a credit guarantee scheme was implemented through the banks to provide partial guarantees of up to 60% for bank loans from P10,000 to P250,000. It is currently being reviewed. A new institutional framework for SMMEs was also implemented by the Small Business Act, which established the Small Business Council, an autonomous mainly private-sector-based body to advise government on policies including monitoring programmes, and identifying regulatory and licensing changes to facilitate SMMEs. The Council is supported by the Small Business Promotion Agency, a Secretariat in the Ministry of Trade and Industry. All business activities, except majority-owned citizen companies employing more than ten staff must be licensed.[49]

43. The Citizen Entrepreneur Mortgage Assistance Equity Fund (CEMAEF), a Government citizen-assistance scheme, was established to intervene and empower citizen investors in the property market. The Fund provides equity finance to eligible citizens or wholly citizen-owned property companies facing loan foreclosure by financial institutions. It operates on commercial lines to rescue financially distressed entities that hold properties (commercial, industrial, and residential). The Fund is administered by a Trust that has been managed by the Botswana Development Corporation since May 2001. The Trust purchases shares in qualifying companies for future disposal. As at December 2001, five applications had been approved, valued at P 15 million.

44. The Minister of Finance and Development Planning may also authorize Development Approval Orders granting tax relief, such as tax holidays, and/or education training grants for specific projects. Such projects must benefit the economy or contribute to the economic advancement of citizens. Applications are assessed on a case-by-case basis according to the applicants' job-creation prospects, training plans for citizens, plans to localize non-citizen positions, citizen participation in management, citizens' equity, investment location, flow on effects for other economic activities, and effects on reducing consumer prices. Registered manufacturing activities under the Manufacturing Development Order of 1996 are taxed at a reduced rate of 15% instead of the standard company rate of 25%, whether exporting or supplying the domestic market, and this was amended to include milling and bricklaying.

45. The Government also periodically provides emergency funding to firms experiencing severe financial difficulties. For example, P 145 million was provided in May 2001 and a further P 150 million in November 2001 to the copper-nickel mining company, Bamangwato Concessions Limited (BCL).[50]

46. Under the 2002 SACU agreement, members are to develop common policies on industrial development. According to the authorities, this is expected to take into account the different stages of development, economic structures, size, and resource endowments of members, as recognized in the draft industrial development policy among SADC members. Botswana believes SACU should adopt the SADC approach, to ensure steady progress towards harmonizing selected strategies.

[49] Trade and Liquor Act of 1986, as amended. Many of the recommendations of the Task Force, including especially the deregulation, de-licensing, and de-zoning proposals and opening of reserved activities to foreign participation, were not implemented. However, the Government is in the process of separating the 1986 legislation into two separate Acts aimed at liberalizing the trading system to promote competition. The Government also intends to introduce new companies legislation during 2002-03.

[50] BCL also received an emergency government loan to meet its operating costs in 1998.

47. Farmers benefit periodically from emergency drought relief and other forms of domestic support, such as the free distribution of seeds and medicines for livestock, including Green Box measures notified to the WTO.[51]

(ii) Assistance for research and development

48. The Government assists farmers with research and agricultural extension services, particularly those located in communal areas.

49. The Rural Industries Promotion Company (RIPCO) promotes industrial development and employment in rural areas by assisting in the dissemination of technology. It is aimed at achieving self-sufficiency in developing technology to reduce reliance on imports. RIPCO works closely with the Rural Industries Innovation Centre. RIPCO, for example, was involved with two plants manufacturing nails and pelletized animal feeds in 2001, and transferred technologies to the private sector for the manufacture of a maize sheller and a multi-purpose thresher. Some 18 companies participated during 2001-02 in RIPCO technologies, valued at P3 million.

50. The government-funded Botswana Technology Centre (BOTEC), established in 1979, fosters industrial and scientific development through research and technology innovation in collaboration with the private sector. The Government adopted a science and technology policy in July 1998, which involved the formation of the National Commission on Science and Technology (NCST) in 2002. It is the supreme advisory body to the Government. Specific responsibilities include providing policy guidelines for the establishment of a new Science and Technology Research Development System; promoting linkages with other sectoral programmes and policies; advising the Government on priority research areas; and encouraging business to invest in research and development. It is also intended to create a Botswana Research, Science and Technology Investment Agency as the main funding body for the recommended National Priorities Research Fund, Non-Targeted Research Fund, and the Technology Development Fund. It will also provide advisory functions for coordination between the Operational Research Fund, the Education Research Fund, and any other funds.

(iii) State-owned enterprises and privatization

51. There are a number of state-owned enterprises or parastatals in Botswana. They cover *de facto* or *de jure* monopolies that provide key utilities, including electricity and certain telecommunications, and other services, such as air and rail transport. The parastatal Botswana Meat Commission has a monopoly on beef exports; it has the only EU-approved slaughtering facility. The veterinary authority renews the Commission's export and meat-processing licences annually. Exports of live animals are sanctioned by the Minister of Agriculture. Parastatals also compete commercially with private companies, for example, in the financial services subsector. Many private firms also have indirect state ownership through equity investments by the commercially run, Botswana Development Corporation.[52] The Botswana Agricultural Marketing Board's import monopoly on sorghum was eliminated in 1992; it now engages mainly in trading grains, including maintaining grain reserves, and supplying farm inputs (imported fetilizers, seeds, and poultry feed).[53] It has 26 marketing facilities with storage capacity of 140,000 tonnes; 30,000 tonnes are earmarked for

[51] WTO document G/AG/N/BWA/5, 15 April 1997.

[52] The Corporation is the largest state-owned entity and provides long-term loans and guarantees. It is involved in various activities, including property development and hostelry. Its board comprises representatives of both the public and private sectors.

[53] Botswana notified to the WTO in 1997 that it had no state-trading enterprises within the meaning of Article XVII:4(a) of the GATT 1994. WTO document G/STR/N/1/BWA, 7 February 1997.

strategic reserves. Most cereals are sourced locally; grains are imported only when there is a shortfall in domestic production.

52. Some parastatals have performed poorly, relying on substantial government financial support, especially loans. The Public Debt Service Fund (PDSF), initially established in 1973 to service the public debt, increasingly provided informal concessional loan capital to parastatals, which submitted requests annually to the Government for capital projects. Such outstanding loans represented over 11% of GDP at end-March 1997.[54] The Government recently raised interest rates on these loans to near commercial levels, and tightened administrative and drawdown procedures to curtail new lending. Outstanding loans from this facility declined accordingly from P 2.168 billion at end-March 1994 (equivalent to almost 20% of GDP) to P 1.522 billion at end-March 2001 (5% of GDP). The Government also intends to guarantee debt servicing of outstanding PDSF loans and to sell them to private financial institutions through open tender, expecting buyers to convert the loans to marketable securities for sale on the stock exchange.[55]

53. The Government announced a Privatization Policy in April 2000 aimed at divesting partially or fully some 15 parastatals as a means of increasing efficiency and performance.[56] The autonomous Public Enterprise and Privatization Agency was established as a registered company to oversee the policy's implementation and to monitor parastatal performance. It reports to the Finance Minister and is preparing a master plan and identifying priorities for privatization. The plan will indicate the privatization methods to be used, the extent of foreign participation and any mechanisms for promoting citizen ownership. Privatization is expected to be through share listings on the stock exchange; foreign participation will be encouraged.[57] The Government may establish an investment trust fund to purchase shares for later selling to citizens in small lots.

54. Little privatization has taken place. Although it would improve the economy's efficiency, especially where accompanied by improved competition from deregulation of parastatals, the Government wishes to ensure that privatization does not result in private-sector monopolies being formed. Another setback was the suspension, in early 2002, of the privatization of Air Botswana, until the international business aviation environment improved; it was due to be completed by end 2001.

(iv) Competition policy and price controls

55. Under the new SACU agreement, members are encouraged to develop competition policies. Botswana does not have legislation on competition per se. Consumer protection regulations were gazetted in 2001, following enactment of the Consumer Protection Act, 1998 (Act No. 21). The regulations outline the procedures for consumer protection, including on lodging complaints and investigation. Consumer protection is the responsibility of the Department of Trade and Industry.

[54] World Bank (1999), p.22.

[55] Budget Speech 2002, p. 23.

[56] The Eighth National Development Plan referred to the introduction of a privatization scheme. The parastatals listed for privatization in the Government's white paper included Botswana Railways, Botswana Telecommunications Corporation, Botswana Postal Services, Air Botswana, Botswana Development Corporation, the National Development Bank, Botswana Building Society, Botswana Savings Bank, Botswana Meat Commission, and the Botswana Agricultural Marketing Board.

[57] Some reports indicate that local investors may be given preference, and that foreign equity limits may be set for strategic or other reasons on a case-by-case basis.

The Government intends to implement a Competition Law as part of its privatization policy, to prevent anti-competitive practices.[58] A competition policy is being drafted.

56. The only product prices currently set by the Government are retail levels and profit margins for petroleum products (Control of Goods, Prices and Other Charges Act). All petroleum products are imported, mainly from South Africa, and the Government believes that price controls are necessary due to the limited number of suppliers. The Petroleum Management Unit, responsible for the price controls, was transferred from Ministry of Trade and Industry to the Ministry of Minerals, Energy and Water Affairs. The Botswana Agricultural Marketing Board also sets minimum producer prices on cereals and pulses on the basis of import parity.

(v) Protection of intellectual property rights

57. Botswana has taken important steps to comply with the requirements under the WTO TRIPS Agreement. New copyright legislation was passed in March 2000 to replace the 1965 legislation, and industrial property protection provided under the Industrial Property Law of 1996 (and accompanying 1997 regulations) was amended in 1997 (Industrial property (Amendment) Act No. 19).[59] In 1998, Botswana became a member of the Berne and the Paris Conventions. It is also a member of the World Intellectual Property Organization (WIPO), and a founding member of the African Regional Industrial Property Organization. Botswana has not notified to the WTO any contact points under the TRIPS Agreement.[60] The WTO Council for TRIPS reviewed Botswana's intellectual property legislation in 2001.

(a) Copyright and neighbouring rights

58. The Copyright and Neighbouring Rights Act No. 8 of 2000 protects literary, artistic and musical works embodied in such mediums as films, sound recordings, broadcasts and published editions, by providing exclusive rights to the owner as required by the Berne Convention. Computer programs, databases or compilations of data are protected as "literary works". Performers also have exclusive rights to broadcast or communicate to the public, to make fixations and reproductions. Copyright is protected for the life of the author plus 50 years. Performers and producers of sound recordings receive the same protection. Rental rights are recognized, and specified according to the type of work, such as for phonograms, computer programs, databases, and cinematographic works. General exemptions or limitations to exclusive rights are in accordance with international conventions, such as for personal or educational purposes. Retroactive protection is provided for works protected under the previous legislation.

59. The right holder (including the licensee and the author or performer) may seek civil remedies and criminal sanctions against infringements in Botswana's standard courts. Relief may take the form of injunctions restraining illegal activity and impounding or destruction of illegal works. Imports of unauthorized reproductions of any works relating to copyright are unlawful under the copyright legislation, which requires customs officials to use their powers under the Customs and Excise Duty Act to prohibit or destroy illegal imports.[61] Copyright infringements are prescribed as criminal offences subject to penalties of imprisonment and/or fines, of up to ten years and P 20,000 for first offence, and of up to ten years and from P 30,000 to P 5 million for subsequent convictions. The Office of Registrar of Companies of the Ministry of Trade and Industry is developing the

[58] Ministry of Finance and Development Planning (2000), p.18.
[59] WTO document IP/N/1/BWA/1, 19 February 2002.
[60] WTO Document IP/N/3/Rev.6, 1 March 2002.
[61] The customs legislation also allows for exports of counterfeit goods to be suspended.

implementing regulations. The Government plans to establish a Copyright Office to administer the legislation and a Collecting Society to distribute royalties to right holders during 2002-03. The Government intended to ratify the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty during 2002.

(b) Industrial property rights

60. Industrial property legislation (Industrial Property Act No. 14 of 1996; Industrial Property Regulations, Statutory Instrument No. 78 of 1997; and Industrial Property (Amendment) Act No. 19 of 1997) provides protection for patents, trade marks, industrial designs, and utility models. The Industrial Property Office of the Ministry of Trade, Industry, Wildlife and Tourism administers the legislation. Any decision of the registrar or the Minister can be appealed to the High Court.

Patents

61. Patents specifically cover inventions, whether products or processes, provided they are new, involve an inventive step, and have an industrial application. Patent protection is for 20 years from the filing date. The legislation provides for exclusions of patents, mainly for scientific discoveries, diagnostic, therapeutic, and surgical methods for treatment of humans or animals, plants and animals and essentially biological processes for their production, and inventions contrary to public order or morality. Patent holders have exclusive rights against making, selling or importing illegal products, which are enforceable in the courts. There are specific limited exceptions to exclusive rights, such as experimental acts relating to a patented invention and right of prior use done in good faith. Under the new legislation, the Government may authorize compulsory non-exclusive licences (without the holder's consent), predominantly for domestic supply, when held to be in the public interest or to remedy anti-competitive behaviour by the right holder, subject to payment of "equitable remuneration". Public interest covers national security, nutrition, health or the development of other vital sectors. Compulsory licences can also be issued if the patent has been insufficiently used in Botswana, or is not being "supplied on reasonable terms", as determined by the High Court. Agreed remuneration, set if necessary by the High Court, must be paid to the right holder. Such action is only possible where the applicant has taken "all reasonable steps" and failed to acquire the licence "on reasonable terms", and after four years from the date of filing of the patent application or three years from when the patent was granted, whichever period expired last.[62]

62. Remedies available to the right holder include damages or profits derived from the infringement, injunctions restraining the illegal activity, and destruction of illegal works. Criminal penalties comprise fines of between P 2 million and P 5 million and/or imprisonment of six months to two years. The burden of proof is reversed (on the defendant) in civil proceedings relating to the infringement of process patents where the product is new or there is a "substantial likelihood that the product was made by the process and the patent holder has been unable, through reasonable efforts, to determine the process". The Government intends to amend the legislation to make such conditions for granting unauthorized patent use fully WTO-compliant. Imports are considered as "working a patent"; compulsory licences cannot be granted where the product is being imported since the legislation allows a licence to be granted only where the market is not being supplied on reasonable terms.

Industrial designs and utility models

[62] The legislation does not define what is "reasonable"; this is determined in each case by the courts.

63. The owner of a registered design may seek civil remedies for illegal use by way of damages, or profits derived from infringements, injunctions against illegal activity and destruction of infringing products. The legislation extends protection of industrial designs in line with the Locarno Agreement Establishing an International Classification for Industrial Designs. Textile designs are covered. The registered owner of the design has exclusive rights of use, including importation. There are no provisions for issuing compulsory licences. Registered industrial designs are protected for 15 years (five years initially, renewable twice).

64. Utility model certificates are granted to protect new and industrially applicable inventions for seven years from the date of filing.

Trade marks and other distinctive signs

65. Protected trade marks include service marks and trade names, but not sound elements. A mark is defined to cover any visible sign capable of distinguishing goods and services of an enterprise. The legislation protects well-known marks by preventing registration of identical or confusingly similar marks. However, in determining whether a trade mark is well known, it is unclear whether knowledge of it by the public in the relevant sector, including through promotion of the mark, is considered. The Government intends to address this ambiguity in the next legislative amendments. The legislation maintains the registration period of trade marks at ten years, renewable indefinitely every ten years, and a minimum period of non-continuous use of three years. The registered owner of a trade mark may take court action against unauthorized use. Civil remedies cover damages or profits derived from the infringement, injunctions against illegal use, and destruction of infringing products. Criminal penalties do not apply to illegal use of trade marks.

Other industrial property rights

66. Current legislation does not cover geographical indications, layout designs (topographies) of integrated circuits or protection of undisclosed information, including trade secrets. Amendments to the Industrial Property Act introducing these rights are expected in 2003-04. Marks are not to be registered under current legislation if "likely to mislead the public or trade circles, in particular as regards the geographical origin of goods or services concerned, or their nature or characteristics".

67. No specific protection is provided for micro-organisms, non-essentially-biological or microbiological processes. Plants, animals, and essentially biological processes are not excluded from patentability. Botswana is also developing a *sui generis* system of protection for new plant varieties.

(c) Enforcement of intellectual property rights

68. Imports of illegal products are regulated by the customs legislation, while those infringing trade marks or patents may be suspended pending legal action. Such legal action takes place in Botswana's ordinary civil courts, and may involve criminal prosecution and damages, injunctions, and destruction of illegal works. Courts may order interlocutory or temporary injunctions pending final judgement. In order to obtain evidence, the High Court may also instruct its legal officer to enter the premises of the alleged infringer to seize the offending material and equipment (the "Anton Piller Order"). Only the police have ex officio powers under the copyright and industrial property legislation.

69. There are no reported criminal prosecutions involving intellectual property enforcement or, according to authorities, any reported cases of infringement.

IV. TRADE POLICIES BY SECTOR

(1) OVERVIEW

1. Botswana is a small agrarian economy rich in minerals, especially diamonds. Diamonds account for most exports and government revenue, but much of the population relies on agriculture. Although an exporter of beef, mainly to the EU under unfilled preferential quotas, Botswana is a net food importer. While food self-sufficiency was abandoned, food security remains a cornerstone of government policy. Agricultural development is a high priority. Long-standing farm-assistance schemes and past price supports have been costly, with little effect on production. Assistance is to target "sustainable economic diversification" in agriculture and increased employment. Production and marketing functions are to be supplied privately, and prices market-determined. Insecure land title from communal farming, and a land market that is not "well-functioning" impair agricultural productivity and investment; land reforms are a high priority to address these concerns.

2. The Botswana Agricultural Marketing Board trades in cereals and manages the Government's strategic grain reserves, but it has minimal marketing, trade, and price support functions. Trade in sensitive products, such as import of cereals, are licensed. The parastatal Botswana Meat Commission has a statutory export monopoly.

3. Mineral revenue consists of dividends from government equity in some mining ventures, company tax, and royalties (10%, 5% or 3%); profit-sharing arrangements seemingly apply to diamonds. Revised mining legislation has improved investor security and reduced administrative uncertainties. The Debswana Diamond Company, which is jointly owned by the State and De Beers, mines and sells diamonds through Diamond Trading Company, the De Beers marketing arm. This is an international cartel, which controlled supply by commercially setting export quotas in 2001. The Government controls trade in diamonds. Mining of other minerals, such as copper, nickel, and soda ash, has had mixed success; one of the copper-nickel mines required emergency government funding in 2001. Government policy promotes mineral processing. Petrol, diesel and paraffin prices are controlled.

4. The 1998 Industrial Development Policy guides manufacturing policy, and is aimed at expanding exports through productivity growth. Domestic processing (e.g. of minerals, timber, and hides) is to be promoted. Temporary infant industry protection, using prohibitive tariffs, was previously provided to beer and soap producers, with limited success. The garment industry is expected to be boosted by the U.S. AGOA initiatives. Manufacturing tariffs average 11.8%, but have a high incidence of non-*ad valorem* duties.

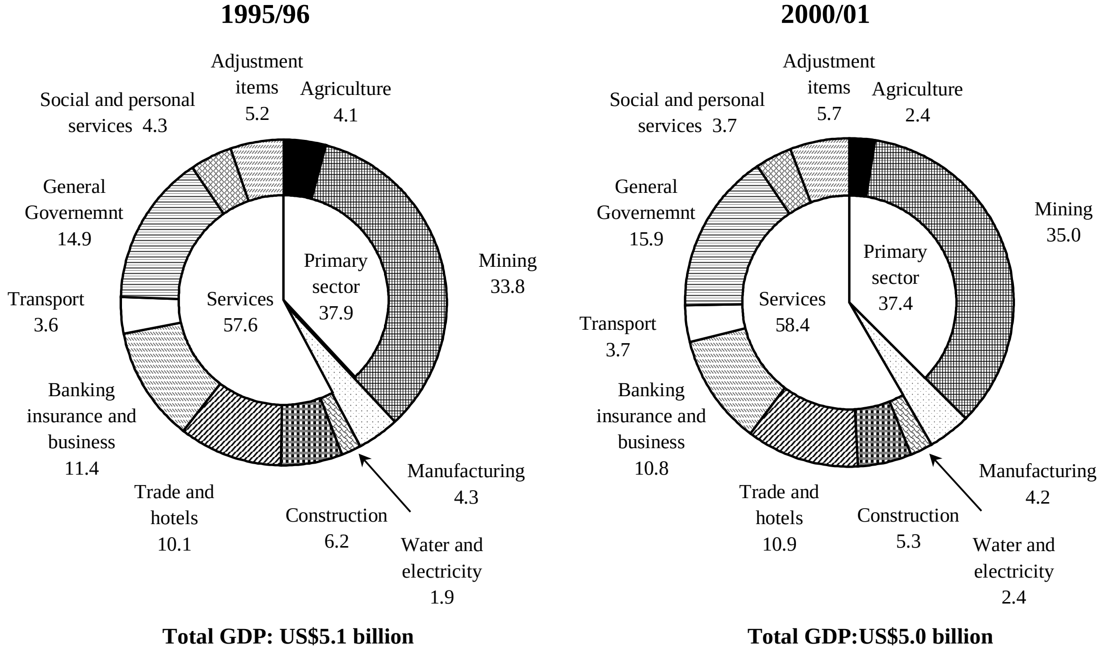
5. Services have an important bearing on the economy's performance. GATS scheduled commitments are minimal; Botswana did not participate in the WTO extended telecommunications and financial services negotiations. Although telecommunications was deregulated in 1996 and the independent Botswana Telecommunications Authority was created to safeguard competition and inter-connection to the public network, the state-owned company has a de facto monopoly as the sole licensed supplier of basic telecommunications. A second licence is being proposed. Botswana's telecommunications regime follows SADC principles. A state monopoly exists over postal deliveries. Foreign suppliers dominate the financial markets, including insurance and licences are issued on prudential merit. Prudential supervision is being strengthened. The International Financial Services Centre was created to promote international business, such as insurance. Air Botswana's privatization was deferred. Tourism is to be promoted by a Tourism Board and a Tourism Development Fund is to help finance citizen-owned projects.

(2) PRIMARY SECTOR

6. The main primary activities in Botswana are mining and agriculture. These accounted for 37% of GDP in 2000/01, compared with 38% in 1995/96 (Chart IV.1). During this period, the share of mining rose from 34% to 35%, while the share of agriculture fell from 4% to 2%. Minerals, overwhelmingly diamonds, accounted for 90% of merchandise exports in 2000/01, from 89% in 1995/96. However, the share of diamond exports rose from 77% to 85%, while that of copper and nickel declined from 11% to 3%. Although a relatively minor contributor to GDP, agriculture provides the livelihood for a substantial share of the population.

Chart IV.1
Sectoral composition of GDP, 1995/96 and 2000/01

Per cent



***Source*: Botswana authorities.**

(i) Agriculture, livestock, and forestry

(a) Main features

7. While agriculture production varies depending upon climatic conditions, the sector's share of GDP has fallen substantially over the longer term. In 1966, at independence, agriculture's GDP share was about 40%. Its decline reflected the rapid growth of other sectors, especially mining, as well as very poor performance in terms of productivity and output growth, despite considerable government support, particularly for basic products such as eggs and milk.[63] The dualistic agriculture sector consists of commercial and traditional subsistence subsectors; each unedertakes both crop and livestock activities. Productivity in traditional farming is below commercial activities.[64] Commercial

[63] Bank of Botswana (2000), p. 68.
[64] Bank of Botswana (2000), p. 69.

agriculture covers about 30% of arable land, comprising mainly cattle grazing on freehold or leased holdings. The major subsistence crops are sorghum, maize, millet, and pulses. Beans, groundnuts, sunflowers, cotton, and horticultural crops, such as cabbages, tomatoes, and potatoes, are also grown. Although the economic significance of subsistence agriculture is declining, it remains important for many people, particularly in rural areas with few alternatives.[65] While Botswana's urbanization is increasing, about half of its population still resides in rural areas, of which about half depends on agriculture for income. Agriculture also accounts for about 2% of formal and much more informal employment. Erratic rains limit rain-fed farming, and irrigation, which is restricted to a few relatively large-scale commercial horticultural farms in Tuli Block utilizing the Limpopo River, is constrained by uncertain and scattered water resources. Nevertheless, irrigated farming is seen to have potential within existing water resources.

8. Botswana is about 20% self-sufficient in grains, 15% in vegetables, 25% in fruits and 3% in dairy products. It produces almost all of its poultry requirements, and is a net exporter of beef, exporting some 90% of production, mainly of chilled and frozen beef to the EU under Cotonou preferences, and to South Africa.

9. Food security remains a cornerstone of government policy, and agricultural development is a high priority. The Government abandoned food self-sufficiency in the early 1990s[66]; it was seen as an unrealistic policy objective, given Botswana's resource endowments. The Government released a White Paper in 2002 on a National Master Plan for Arable Agriculture and Dairy Development.[67] The Government believes that long-standing schemes to promote agriculture, including the Arable Lands Development Programme (ALDEP), the Accelerated Rainfed Arable Programme (ARAP), the Service to Livestock Owners in Communal areas (SLOCA), the Bull Subsidy Scheme, and projects funded under the Financial Assistance Policy (FAP), have been costly and had minimal success in expanding output. Total government support, for example, exceeded the arable subsectors' contribution to GDP, and the cost of ALDEP was approximately twice the import parity value of production.[68] Farming subsidies have generally been inefficient, subject to abuse, and poorly targeted, often benefiting better-off farmers. Such assistance schemes encouraged farmers to retain small inefficient land plots rather than having them farmed by larger more efficient producers. Price support measures to raise farm prices significantly above import parity were also terminated because they failed to increase production and to achieve self-sufficiency.[69]

10. Other agricultural policy objectives are: diversified production; increased employment; a secure and productive environment for farmers; and conserving scarce agricultural and land resources.[70] Agricultural development is to be based on "sustainable economic diversification." Production and marketing functions are to be privately supplied and prices left to market forces. The Government aims to develop policies to promote domestic and international competition within the framework of existing trade agreements. Subsidies are to be better targeted, monitored, and evaluated

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[65] Report on the Review of the Rural Development Policy, prepared by the Botswana Institute for Development Policy Analysis for the Ministry of Finance and Development Planning, Volume 3, September 2001.

[66] Bank of Botswana (2000), p. 73.

[67] Government White Paper No. 1, 2002, *National Master Plan for Arable Agriculture and Dairy Development*. This was based on an earlier consultant's report (Ministry of Agriculture, 2000).

[68] Government White Paper No. 1, 2002, pp. 4 and 7.

[69] Ministry of Agriculture (2002), p. 3-2. According to the Bank of Botswana, the practice of generally avoiding policies to influence prices has been sound. Bank of Botswana (2000), p. 72.

[70] Government White Paper No. 1, 2002, p. 10.

to ensure that farmers in most need are assisted. Traditional rain-fed farms are uneconomical; larger and more mechanized farms of at least 40 hectares are required.

11. The Master Plan calls for substantial investment, including private, in agricultural production, of well above P 0.5 billion (at 2001 prices) over ten years, with about one third to be spent on irrigation facilities.[71] Additional public expenditure of P 423 million on infrastructure, mainly roads and telecommunications, is also envisaged. Agricultural output is to be increased: in particular, annual production of sorghum is expected to rise to 114,000-147,000 tonnes (a self-sufficiency ratio of 100%); maize to 42,000-44,000 tonnes (self-sufficiency of 20%); vegetables to 43,000-48,000 tonnes (75%); and fruits to 64,000 tonnes, with half of output to be exported. Cotton production of some 18,000 to 24,000 tonnes is also projected, mainly in the Chobe district, and the Government plans to construct a P 10 million cotton-ginning factory at Pandamatenga. Traditional farmers are to be encouraged to form groups to improve mechanization and farming techniques. The number of traditional farms is expected to fall from 63,000 to 15,000 over ten years. Total arable land suitable for rain-fed farming has been identified at 190,000 hectares. It is planned to increase irrigated land to about 5,400 hectares for horticulture, especially grapes, apples, citrus fruit, and olives (mainly for EU markets), wheat, and fodder, using wells and mainly reclaimed urban wastewater and sewerage. In addition, it is planned to increase dairy production to 25 million litres, providing some 40% self-sufficiency.

12. The Government intends to provide financial assistance to enable traditional farmers to become commercial farmers, including forming farm groups, and for commercial farmers to upgrade technology and management levels. Farmers are eligible for financial assistance, for example, through the Citizen Entrepreneurship Development Agency (CEDA) to commercialize farming practices. The Government will also encourage private insurance companies to establish comprehensive self-financing crop insurance to cover agricultural losses. The Master Plan's implementation is to be monitored by a unit specifically created in the Ministry of Agriculture. The Government also revised its 1973 rural development policy in 2002 calling for a more integrated but diversified approach to rural development in line with Vision 2016.[72] The revised policy objectives are to reduce poverty, increase income generation opportunities, create employment and achieve broad-based, balanced, sustainable development. Privatization is seen as a means of encouraging the private sector to supply goods and services, which would improve efficiency and generate sustainable rural employment. Since rural development is viewed as one of the major means of alleviating poverty, the national Strategy for Poverty Reduction in preparation will be a key instrument for rural development.

13. Land reforms are a high government priority, and a new land policy is being formulated. The Agriculture Master Plan envisages improving farm lease arrangements, including consolidation and leasing of agricultural land between farmers, to facilitate larger holdings. Property rights on land are to be clarified and strengthened for easier transfer and use as loan collateral. Market forces will allow tribal land to be sub-leased; current allocations of communal land by the Land Boards are inefficient and undermine its effective use. The Government is also reviewing the National Water Master Plan.

[71] Projected spending depends upon the option chosen to develop rain-fed and irrigation farming. The Plan has two policy options. The socially oriented policy involves intensive government intervention and support of traditional farming, while the economically oriented policy is based largely on private-sector investment and larger farms of over 1,000 hectares. The Ministry of Agriculture recommended that the socially oriented policy be applied to most of the country.

[72] Ministry of Finance and Development Planning (2002b).

14. Tariffs on unprocessed agricultural commodities average 5.5%, and are predominantly *ad valorem*, ranging from zero to 35% (Main Report, Chapter III(3)(ii)). However, since unprocessed agricultural commodities are largely non-traded (internationally), farmers in practice appropriate a share of tariff protection afforded processed foodstuffs, through higher domestic prices for non-traded farm outputs.

(b) Policy by product category

Main crops

15. Sorghum is the staple crop, but maize is also increasingly grown. A cornerstone of Botswana's agricultural policies is to allow domestic prices for food grains to be at export parity for exportable crops and import parity for importable crops.[73] The Botswana Agricultural Marketing Board (BAMB) is responsible for managing the Government's strategic grain reserves, set at about 30,000 tonnes.[74] Although the BAMB sets minimum producer prices, it has no compulsory acquisition powers over farm production.

16. Imports of maize, wheat, sorghum and related products, pulses, fresh milk, major fruits (e.g. oranges, watermelons) and vegetables (e.g. cabbages, choumollier, rape, spinach, potatoes, and tomatoes) are restricted; they require a permit from the Ministry of Agriculture. This system is designed to protect an infant horticultural industry, which meets about 20% of requirements. Import permits are withheld when there is sufficient domestic production, but this usually lasts for only up to a month. The export restrictions on castor beans, groundnuts, maize and maize products, millet, millet products, pulses, sorghum and sorghum products were lifted when the policy objective was changed from food self-sufficiency to food security. BAMB's import monopoly on sorghum was removed in 1992. It no longer has any privileges for the import or export of agricultural products.

Livestock

17. Beef processing represents some 80% of agricultural output. The parastatal Botswana Meat Commission (BMC) has a statutory export monopoly on meat, canned meat, and live cattle. Its main abattoir, located at Lobaste, includes a cannery producing corned beef for export, and a tannery. A small abattoir is also located at Francistown; the Maun abattoir is still closed. BMC's operating loss in 2000 was P 21.6 million, up from P 7.1 in 1999. Cattle-slaughter numbers in 2000 were among the lowest, but rose to 169,000 in 2001; capacity utilization increased to 88% at the Lobatse abattoir and to 54% at the Francistown abattoir. A strategic review of BMC is being considered by Government. Most beef is exported to the higher-priced EU market under Cotonou preferences, which provide access at a reduced tariff for an annual quota of almost 19,000 tonnes; this quota is rarely, but increasingly, filled (Chapter III). Botswana is implementing the Livestock Identification and Traceback System required by the EU for beef exports. The first phase was completed in August 2001, at a cost of P 29.5 million, and involved the development of a central database and identifying cattle in two pilot districts. The system is to be fully operational nationally during 2003, at a total projected cost of over P 300 million.

18. The Ministry of Agriculture's Department of Animal Health handles disease control. Imports of cloven-hoofed animals, their products, and feed from South Africa are prohibited due to foot-and-

[73] Government White Paper No. 1, 2002, p. 10.

[74] BAMB's operations are being restructured in order to reduce losses. Revised BAMB legislation is due in 2002.

mouth disease concerns. Botswana also has other quarantine bans. The Animal Disease Act and six laws on the livestock industry are under review.[75]

19. There are no quantitative restrictions, including licensing requirements, on imports of meat or cattle, and private-sector imports are unrestricted, subject to meeting quarantine and other sanitary requirements.

20. Botswana imports over 90% of its dairy requirements, including of fluid milk and milk powder. Imports of fresh milk are licensed and require a permit.

Forestry

21. Botswana has large areas of commercial forests and woodlands. Licensed private operators harvest forests and pay royalties. Deforestation is a problem. Improved inventories of timber resources are being prepared, and new concessions may not be granted. Forestry legislation and royalty payments are under review.

22. Tariffs on forestry and logging average 3%, and are all *ad valorem*, ranging from zero to 25% (Main Report, Chapter III(3)).

(ii) Mining

23. Botswana's mining industry consists mainly of diamonds; it is among the world's top producers of gem diamonds. Other minerals include copper-nickel matte, coal, soda ash, salt, and small amounts of gold (Table IV.1). Most minerals are exported. The Government is also examining the prospects of exporting coal.[76] The Ministry of Minerals, Energy and Water Resources (Department of Mines) is responsible for mineral policy, aided by the inter-ministerial Mineral Policy Committee. The Mines and Minerals Act was revised in 1999 to increase the sector's competitiveness by, *inter alia*, improving security of tenure for investors by removing ministerial discretion, lowering royalty rates, introducing retention licences that do not require immediate development and that lengthen the time period (by six years) over which an investor can hold uneconomic deposits, and streamlining licensing procedures to reduce administrative uncertainties.[77] It also facilitated exploration and production of other minerals. Other mining legislation is being revised.[78]

24. Mineral revenue, the main source of government receipts, rose from P 4.681 billion (69% of total tax revenue), in 1997-98 to P 8.368 billion (67%), in 2000-01. Almost all revenue is from diamond mining.[79] The main revenue components are dividends, company tax, and royalties. The Government holds 50% equity in diamond and soda ash mining, and 15% and 33% equity in the two copper-nickel mining companies. Where the Government's equity share exceeds 15%, the additional holding was purchased while the initial 15% equity was acquired free. However, the free equity policy has ceased. Debswana Diamond Company recently acquired the Morupule Colliery, in which

[75] *Botswana Review*, 21st Edition, p. 88.

[76] Budget Speech 2002, p. 25. Coal is used by Botswana Power Corporation to generate power.

[77] *Botswana Review*, 21st Edition, p. 60.

[78] Other legislation includes the Mineral Rights in Tribal Territories Act, which deals with exploitation of industrial minerals by various districts for domestic purposes; the Precious and Semi-Precious Stones (Protection) Act, which regulates dealings in precious and semi-precious stones; and the Petroleum (Exploration and Production) Act.

[79] The two major non-diamond mining projects, copper-nickel and soda ash, have failed to achieve their intended profitability due to technical and financial problems.

the Government had no direct equity. Mining companies are subject to the standard tax rate of 25%. Royalties on mineral production are 10% of the gross market value for precious stones, petroleum, and natural gas; 5% for precious metals; and 3% for all other minerals. Profit-sharing arrangements seemingly still have to be negotiated for diamond mining.[80] Except for diamonds, the revised legislation provides for automatic progression from exploration to mining. Retention licences also allow prospectors to defer mining of uneconomic deposits for up to six years.

Table IV.1
Mineral production, 1997-01
(P million and '000 tonnes, unless otherwise indicated)

Mineral	1997	1998	1999	2000	2001
Diamonds					
Volume (million carats)	20	20	21	25	26
Copper-nickel matte					
Value	759	456	558	801	..
Volume	42	37	39	46	31
Unit value (pula per tonne)	18,201	12,343	14,195	17,595	..
Coal					
Value	25	30	26	30	..
Volume	775	924	945	947	702
Unit value (pula per tonne)	32	32	27	31	..
Soda ash					
Value	132	137	106	122	..
Volume	200	190	229	190	177
Unit value	658	720	463	639	..
Salt					
Value	37	30	19	32	..
Volume	185	140	168	185	126
Unit value	202	212	115	175	..

.. Not available.

Source: Botswana Central Statistics Office.

25. Debswana Diamond Company Pty Ltd, currently the only diamond producer, is an equal joint venture between the Government and De Beers. Debswana has been the only company to discover commercially viable diamond deposits. There are no restrictions prohibiting other companies from mining diamonds and marketing them as they wish. Other companies are exploring for diamonds. Debswana's diamonds are sold through De Beers' marketing arm, the Diamond Trading Company (an international cartel). Exports of unpolished diamonds are subject to certification under the United Nation's Kimberley Process International Certification System, from 1 January 2003, to exclude trade in "conflict diamonds" by rebels from war-ravaged areas to finance their operations. During 2001, the diamond market was weak, and consequently De Beers reduced its purchases from Debswana and some of its other suppliers in the form of export quotas. When the market improved in 2002, De Beers purchased all of Debswana's production, including stocks accumulated in 2001. International diamond sales depend heavily on U.S. demand. Although the diamond market was depressed in 2001 and was facing an uncertain outlook depending on U.S. economic performance, Botswana maintained higher production levels of, 26 million carats, in 2001. A new Debswana mine, at Damtshaa near Orapa, is expected to commence operations in 2003, and follows expansion of other mines at Jwaneng and especially Orapa, where output has doubled in recent years.

[80] For example, Debswana has agreed to pay usual company taxes plus dividends on the State's 50% equity so that the overall government profit share is 75%.

26. Nickel and copper production has performed poorly, partly due to recent depressed world commodity prices, but also to technical problems, such as low-grade deposits for the main producer, BCL Ltd. It mines and smelts about 40,000 tonnes of copper-nickel matte annually for refining in Zimbabwe and Norway. BCL's financial position deteriorated in 2001, and emergency government funding was provided: P 145 million in May 2001 and P 150 million in November 2001.[81] Due to BCL's deteriorating financial position, shareholders commissioned an independent review of its operations with a view to identifying operational problems and strategic issues to turn around the company's performance. The review was completed in March 2002; on-going implementation of recommendations is generating encouraging results. The Tati Nickel Mining Company (15% government owned) also mines copper-nickel ore at Phoenix and Selkirk. The expanded Phoenix mine, including construction of a concentrator, commenced operations in 2002.

27. Botswana Ash mines soda ash and salt at Sua Pan. The company has had financial difficulties, and was restructured in 1995 when Soda Ash Botswana (SAB) was liquidated.[82] Its future depends heavily on exports to South Africa, which face strong competition from U.S. exports dutiable at a 10% tariff.

28. Government policy is to actively promote downstream processing of minerals, such as diamond cutting. It is also looking at the opportunities for further processing its salt and soda ash resources, for example by establishing a local glass works.[83]

29. Tariffs on imports of minerals average 0.7%, and are all *ad valorem*, ranging from zero to 10% (Main Report, Chapter III(3)(ii)). Tariffs on coal and oil imports are duty free.

(3) ENERGY

30. Energy policy objectives are to supply alternative sources of energy efficiently to households at affordable prices, and in an environmentally friendly and sustainable way. The Ministry of Minerals, Energy and Water Resources formulates and coordinates national energy policies. The Master Energy Plan is based on Integrated Energy Planning (IEP) and the collective consideration of all energy sources. Botswana's energy is dominated by wood fuel, followed by coal, petroleum, and electricity. All petroleum products are imported, predominantly from South Africa. Botswana produces virtually all of its coal requirements, mainly for electricity generation. The Government encourages the use of coal to replace firewood, but this is constrained by the low quality of domestic coal. A coal briquette plant is being considered, and the feasibility of coal beneficiation to improve quality is being examined during 2002-03.

(i) Petroleum

31. The Ministry of Trade and Industry controls the retail prices of petrol, diesel, and illuminating paraffin, along with profit margins (Control of Goods Prices and Other Charges Act). Domestic retail prices are based on the imported cost plus local taxes and levies, where applicable, and the industry and dealer margins. The Government believes that such controls are needed to safeguard consumers against unscrupulous pricing by the limited number of suppliers.

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[81] Budget Speech 2002, p. 24. BCL also received an emergency government loan in 1998 (*Botswana Review*, 21st Edition, p. 66).

[82] SAB's shareholders repaid all outstanding state guaranteed loans, including P 135 million to the Government.

[83] Eight National Development Plan, p. 273.

32. The Government requires strategic reserve stocks of petroleum products.

(ii) Electricity

33. The state-owned national electricity utility, Botswana Power Company (BPC), operates under the Ministry of Minerals, Energy and Water Resources. It has a monopoly over generation, transmission, distribution, and importation of electricity under the Botswana Power Corporations Act of 1971. The mining industry, the largest consumer of electricity, accounts for about half of consumption; BCL alone uses about one third. About 55% of Botswana's electricity is imported, mainly from the Southern African Power Pool (SAPP), but also directly from South Africa, Zimbabwe, and Zambia through regional interconnections to meet demand surges. Domestic production is mainly from a 132 MW thermal power base load station at Morupule. A diesel generating facility at Ghanzi was privately contracted in November 1999. Electricity charges have remained constant in the past five years, causing a real decline of almost 50%.[84] The Government regulates tariffs; increases are limited to 50% of the inflation rate, thereby ensuring declining real prices. Prices are based on cost-recovery and the Minister must approve increases. Cross-subsidies are likely to exist between urban and rural consumers. Some 30% of the population has access to electricity; 18% in rural areas.

34. Since 1992, the Government has not pursued self-sufficiency goals for power. The Memorandum of Understanding, signed in 1995, established the SAPP to facilitate electricity imports from neighbours to diversify Botswana's dependence on South Africa. Government policy is to continue importing cheaper power; it is expected that Botswana will import some 70% of its electricity by 2007.[85] Recent infrastructure expenditure has focused on improving cross-border interconnections and associated transmission lines, for example, at the Phokoje sub-station in Selebi-Phikwe, the main interconnection with the SAPP. Nevertheless, the authorities are examining the desirability of substantially increasing Botswana's generation capacity and assessing the longer term cost effectiveness of increasing its power self-sufficiency. Transmission projects costing P 20 million were undertaken in 1999-00. The feasibility of expanding the facilities at Morupule is being examined, and the construction of a major transmission line to Thamaga, costing an estimated P 150 million, is planned for 2003 to improve electricity supply to the country's southern parts, following opening of the Thamaga sub-station in March 2000.

35. Although the Master Energy Plan is to provide electricity at affordable prices, the government increasingly requires parastatals, including BPC, to behave commercially. Electricity demand has increased substantially, as BPC's customer base has expanded in line with government policies to improve power access, especially in rural areas. About 25% of the population uses electricity, but this drops to 3% in rural areas. The state-funded Rural Electrification Project to connect 72 villages to the grid, was due to be completed by end-2001. In addition, rural consumers benefit from easier payment terms on electricity connections under the Rural Electrification Collective Scheme.[86] Electricity is mainly supplied in remote rural areas by centralized power supply systems (CPSS) run by the Ministry of Works, Transport and Communications (the Department of Electrical and Mechanical Services) based on stand-alone diesel generators. BPC connects them to the grid where public demand is sufficient.

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[84] *Botswana Review*, 21sr Edition, p. 143.

[85] Morupule's small capacity prevents it from realizing the economies of scale of larger stations, such as South Africa's Matimba Station. It has a long run cost of electricity of US$0.037 per kWh compared with US$0.005 per kWh at Matimba. See Eight National Development Plan , p. 219.

[86] Individuals connecting pay 5% of the fee upfront and repay the rest to the Government over 15 years. The scheme is administered by BPC on behalf of the Government.

36. The Government has no plans to deregulate the electricity market. However, it is undertaking a preliminary study into restructuring the industry and investigating the creation of an independent regulator. There are no immediate plans to privatize BPC.

37. The Government is examining the prospects of using solar energy. The National Photovoltaic Rural Electrification Programme establishes village installations, and the Photovoltaic Master Plan provides a framework for promoting solar energy.

(4) MANUFACTURING

38. Manufacturing has remained at about 4-5% of GDP since the mid 1990s, and has had relatively slow growth overall, following higher growth in earlier decades. The structure of the sector has changed substantially. For example, the share of meat (mainly beef) products has fallen from 95% at independence (and 78% in 1972), to below 15%.[87] At the same time, the share of other foodstuffs, mainly dairy and bakery products and beverages has expanded, along with textiles, chemical products, metal products, paper and paper products. Food and beverages now account for about half of manufactured output. Other major exports have been vehicles and textiles. However, Botswana's motor vehicle production was set back in 2000 when the Hyundai motor plant, which assembled imported semi-knocked down (SKD) kits, mainly for export to South Africa, closed.[88] Other vehicle assemblers continue to import SKD kits from Scandia and Volvo.

39. The Industrial Development Policy (IDP), 1998, encourages greater productivity through using skilled workers and modern technology, so as to expand efficient export industries. It foresees downstream processing possibilities in areas such as diamonds, salt, soda ash, timber, hides, and skins, facilitated by the expansion of small-scale component manufacturers, including in rural areas, to efficiently supply inputs. The IDP also shifts the provision of incentives away from location-specific to location-neutral measures. It allows firms to establish their own capital-labour mix, without government intervention. Skill development and training are a key priority of the IDP, and a Botswana Training Authority is foreseen. IDP also provided for exclusive manufacturing licences to be eliminated by amending the Industrial Development Act, 1998; a draft amendment has been prepared and will be presented to Cabinet after consultations with stakeholders.

40. Botswana has used infant industry tariff protection allowed under the SACU Agreement on three occasions: for beer, soap and milled products (Chapter III(2)(i)). The tariffs were set at high levels, and accompanied by price controls to protect the consumer by linking the domestic price to that of former imports from South Africa. Infant industry protection has not proved effective in creating new industries in Botswana, although the industries concerned, except milled products, have generally adjusted to the removal of temporary protection.[89]

41. The textiles industry has developed on the basis of exports. Although exporters lost competitiveness in Zimbabwe during the early 1990s, after its dollar depreciated and an origin

[87] Bank of Botswana (2000), p. 100.

[88] It has been suggested that a major reason behind the plant's closure was a decision in 1998 by South Africa that required Hyundai to change its assembly operations from using imported semi-knocked-down (SKD) kits, subject to low tariffs under a special provision of the Common External Tariff, to using imported completely-knocked-down (CKD) kits, dutiable at a much higher tariff of 75%. Hyundai agreed to change its operations, and subsequently closed. See. Mpabanga (1997), p.377. The Company also produced only 7,000 units over two years, well under the annual break-even level of 15,000 units. Loans and interest arrears were not repaid to the Botswana Development Corporation.

[89] See Clark Leith (1997), p.537.

criterion in the bilateral agreement was increased from 20% to 25% (due to the waiver ending), they were able to penetrate the South African market. AGOA initiatives appear to be benefiting the apparel industry.[90] At least nine Botswana firms are eligible to export apparel to the United States under these provisions; five are currently exporting. These firms are expected to expand employment by at least 2,000 by end 2002, as well as production, and involve new investment of US$1.5 million from Sri Lanka.[91] Also, AGOA benefits to Botswana may increase following the U.S. decision to "narrowly expand" trade opportunities and to extend from 6 August 2002 "lesser developed beneficiary country" status to Botswana (AGOA II), despite its relatively high GNP, thereby allowing its producers to use third-country fabric in qualifying clothing.[92]

42. Tariffs on manufactured imports average 11.8%; *ad valorem* duties generally range up to 60% (Main Report, Chapter III(3)). Relatively high average tariffs (above 20%) apply to tobacco (36%), clothing (35%), carpets (30%), knitted and crocheted fabrics (28%), leather products (26%), and footwear (21%).

(5) SERVICES

43. Services (including electricity and water, and construction) accounted for 58% of Botswana's GDP in both 1995/1996 and 2000/01. They comprised mainly central government services (16% of GDP in 2000/01), trade and hotels (11%), banking, insurance, and business services (11%), construction (5%), and transport (4%).

44. Botswana made minimal commitments on services under the General Agreement on Trade in Services (GATS). They covered mainly a few professional business services, such as architecture, engineering, medical, dental, and veterinary services; computer and related services, such as consultancy, software implementation, and data-base services; research and development; and real estate. It committed to having no limitations to market access and national treatment on these services for consumption abroad and also made commitments on two tourism-related activities: hotels and restaurants, and travel agencies and tour operators.[93] Measures affecting supply of computer services through commercial presence were generally either unbound, or subject to the requirement that foreign companies must be allowed to practice in their home country, and that qualifications of foreign nationals must be recognized by the appropriate Botswana body. Botswana made no commitments on supply of services by temporary movement of people, and generally on cross-border trade, requiring in some instances that the service be supplied through commercial presence by a supplier who meets all residency requirements, such as for real estate services.

45. Botswana did not participate in the extended GATS negotiations on basic telecommunications (Fourth Protocol) or on financial services (Fifth Protocol). It made commitments in only one telecommunications subsector, courier services, but made no commitments on financial services. While the regulatory authority (BTA) has prepared draft WTO commitments on basic

[90] It has been estimated that AGOA will raise the level of non-oil exports from sub-Saharan Africa to the United States by between 8% and 11%, depending on how restrictive the rules of origin in the non-apparel sector are in practice. However, these trade benefits would have increased by up to fivefold if no products had been excluded from AGOA, and if less stringent rules of origin (the multifibre or MFA rules) had been applied. Such gains from the AGOA represent losses for other suppliers due to trade diversion. See Mattoo, Roy and Subramanian (2002). The trade diversion in favour of sub-Saharan African countries may be at the expense of other, including developing countries.

[91] USTR (2002), p. 77.

[92] U.S. Trade Act of 2002, 6 August.

[93] WTO document GATS/SC/109, 30 August 1995.

telecommunications, these have not been submitted to the Government; BTA is not convinced that joining the WTO Basic Telecommunications Agreement would offer immediate benefits to Botswana.[94]

46. The Government's 1998 industrial policy reinforces efforts to reduce the cost of utilities, but to ensure also that the full costs of such services are covered. Any cross-subsidies from business to consumers are to be removed where possible, and appropriate mechanisms established to regulate public monopolies, whether operated privately or by the public sector.

(i) Communications

(a) Telecommunications

47. Botswana has relatively well developed telecommunications. Its all-digital microwave and fibre-optic network links 12 main processors, with a switching capacity of 150,000 lines. Botswana's teledensity increased to 9 at end-2002, with 145,852 fixed-line customers. A new 7-digit numbering system is being implemented. Mobile use has expanded rapidly, and at end-October 2002, there were 387,643 subscribers, corresponding to some 23% of the population. However, Internet use is very limited, slow, and expensive, mainly because there is no formal national Internet exchange point. All Internet traffic must pass through the parastatal Botswana Telecommunications Corporation (BTC) network, which has very low capacity, and the lines leased by the majority of Internet providers are slow. However, the Internet and National and International data gateway markets have been liberalized, with the aim of promoting competition and improving efficiency.

48. The telecommunications market was liberalized in 1996 following the adoption of the Telecommunications Policy of 1995 and enactment of the Telecommunications Act (Act No. 15 of 1996), which abolished BTC's monopoly in some segments of the market and established the independent regulator, the Botswana Telecommunications Authority (BTA).[95] However, BTC still has a *de facto* monopoly as the only licensed provider of fixed-line voice services, including international calls. BTA is examining the possible introduction of a second licensed operator of the fixed-line network. Voice-over Internet Protocol (VoIP) is not allowed (except over private networks); this prevents licensed Internet providers, as well as suppliers of international data transmission through very small aperture terminals (VSATs), from offering voice services in competition with BTC.

49. BTA aims to facilitate entry of service providers and a competitive market by guaranteeing their interconnection to the public network at "fair and reasonable" cost (section 47), and ensuring that telecommunication services are provided on a "competitive and non-discriminatory basis" (section 48). Interconnection charges are to be agreed between the parties, but set by the Authority if in dispute. Certain anti-competitive conduct, such as collusion between providers, forming price-fixing cartels and using a dominant market position to restrict, prevent or defer another provider from entering the market or to eliminate a competitor, is illegal and subject to a fine of between P 10,000 and P 5 million (section 48). All service providers, including BTC, must be licensed by the BTA, which has almost complete freedom in deciding the number of licences and associated conditions. BTA must approve tariffs in accordance with its published principles for national, including mobile,

[94] International Telecommunications Union (2001), p. 4.

[95] The agreement for Cable and Wireless to manage BTC as the sole provider of telecommunication services was terminated in November 1995.

telephony services.[96] Draft "Guidelines and Principles for the Pricing of the Telecommunications Services", which focused mainly on telephony services and interconnection charges, were released by BTA for comment in late 2000. Final pricing guidelines are being prepared. BTA also sets rules on matters such as numbering, property access, radio communications equipment and testing, and type approval (Telecommunication Regulations, 1997).[97]

50. Although there are no universal service provisions in the Telecommunications Act, BTA is responsible for implementing government policy on such services and on special tariffs for disadvantaged users. The Government is currently formulating a new universal service policy to replace existing subsidies paid annually to BTC, under the Rural Telecommunications Programme, to provide basic services to rural users. BTA is developing a programme based on a universal service fund, and is proposing legislative changes.

51. BTA has issued licences for a range of telecommunication services. During 2001, it issued four private network telecommunications licences and six licences for the provision of national and international data services. Market segments liberalized so far are mobile telephones, data communications, payphones, sale of telecommunications equipment, and Internet services. The first Internet (ISP) licence (excluding VoIP) was issued in August 1999, and in 1998 BTA issued two 15-year GSM mobile service licences to majority-owned domestic joint ventures Mascom Wireless Pty Ltd and Vista Cellular Pty Ltd.[98] No restrictions apply to foreign ownership in mobile services. The licences stipulated that no additional national mobile licences would be issued for five years, and indicate certain coverage and roll-out requirements.[99] The duopolists have exceeded these requirements, although commissioning of some base stations is awaiting BTC transmission, and they were granted permission by BTA to cross over into each other's mandatory coverage areas so as to increase cellular penetration.[100] Both operators referred an interconnection dispute with BTC to the BTA. Its ruling, valid for two years, expired in February 2000. BTA rulings need not be made public, and interconnection agreements between parties (copies are provided to the BTA) remain confidential. BTA intervenes only when there is a dispute between the parties. Almost 80% of BTA's budget is financed from telecom operators licence fees of 5% of their net annual turnover (mobile operators also pay an annual radio licence fee of P 300,000 and were required to pay an initial one-off fee of P 1 million). Most other revenue is from radio licence fees based on the number of transmitters. BTA's tariff decisions may be appealed to the Ministry and all other decisions to the High Court.[101]

[96] Charging tariffs that are not in accordance with the applicable tariff structure or charging unreasonable prices for telecommunications equipment is also outlawed (section 48). Charges for international calls as well as for other services, such as packet switched data services, e-mail and paging, are not regulated.

[97] Type approval is required for switching equipment, VSAT, and fixed line handsets to protect the public network. However, BTA does not require type approval for network equipment used by licensed operators. Mobile networks are also excluded from type approval.

[98] Mascom is domestic-owned by DECI investments; foreign interests include Portugal Telecom and T.S. Masiyiwa Holdings of Zimbabwe. Vista is 51% domestic-owned, mainly by Mosokelatsebeng Cellular; its foreign partner, France Telecom, was replaced by Orange SA.

[99] The criteria used to award the licences were coverage (45%), overall experience (10%), experience outside country of origin (5%), level of local ownership (15%), roll-out speed (10%), and creativity, including strategic ownership, local employment policy, training, technology transfer, and service innovation (15%).

[100] BTA also suspended national roaming, a licence condition for the mobile operators, in October 2001 because it felt that this would discourage both operators from rolling out their network.

[101] For example, BTC is disputing, in the High Court, BTA's ruling directing it to provide leased line capacity to two Internet service providers.

52. Telecommunications liberalization has provided a number of "best practices", including the crafting of a regulatory environment suited to its own circumstances, and BTA's high level of independence from political interference.[102] BTC operates commercially and manages the public network under a performance contract with the Government. It is the only licensed operator to provide fixed-line voice services, and is also licensed to provide value-added services, but not mobile services.[103] BTC must run any new telecommunications services as subsidiaries or associated entities to allow sufficient accounting separation from its fixed-line operations (BTC Act and 1996 amendments). BOTSNET, a BTC subsidiary, for example, is competing in Internet services with nine other licensed providers. BTC's privatization remains a priority policy objective, and it favours a strategic partnership. However, the Government has not set any dates for privatization. Competition in telecommunication services has reduced tariffs.[104]

53. Botswana is a founding member of The Telecommunication Regulators' Association of Southern Africa (TRASA), inaugurated in September 1997 among SADC nations.[105] It aims to harmonize telecommunications policies, especially regulatory practices, in the region. TRASA has five committees covering licensing and universal service; interconnection and competition; numbering and standards; human resource development and empowerment; and radio frequency planning, technology, and advanced services. Each committee is responsible for developing agreed regulatory guidelines. TRASA adopted a five-year Strategic Business Plan in 2000. Model guidelines and regulations have been developed for a SADC Regional Frequency Based Plan and on interconnection tariffs. These provide for mandatory interconnection, time limits for negotiations, cost-based pricing, unbundling of services, non-discriminatory terms, publication of terms, arbitration by regulator and approval of interconnection agreements.

(b) Postal and other services

54. Postal services are provided by the parastatal, BotswanaPost, which was restructured in 2000 (previously called the Botswana Postal Services). It is expected to operate commercially and must meet certain universal service obligations, such as maintaining loss-making rural post offices. BotswanaPost still has a monopoly in mail delivery; there are no plans to privatize BotswanaPost structure. The objective is to provide high quality postal services and Cabinet influences its price. Competition only exists in the courier market where foreign companies also operate. Greater private competition has increased BotswanaPost's services. It introduced a next-day delivery service to all urban areas within Botswana, and built three mail-sorting centres, in Gaborone, Francistown, and Palapye.

55. There are two private commercial radio stations, both operating in Gaborone, and both majority domestic owned, and the national state-owned broadcaster, Radio Botswana. The state-owned Botswana Television commenced operations in July 2000. There is no commercial television service or cable TV, but parties have approached BTA to obtain a cable licence.[106] Both Radio

[102] International Telecommunications Union (2001), p. 13. See also statements by ITU's Secretary-General, Mr Yoshio Utsumi, that "BTA's level of independence and effectiveness may develop as a world model", *Accra Mail*, 8 September 2002, "Botswana Telecommunications Authority May Develop as a World Model".

[103] BTC's joint venture with Vodacom of South Africa was unsuccessful in bidding for a mobile licence.

[104] BTA (2002), p. 11.

[105] Other founding members are Mozambique, Namibia, South Africa, Tanzania, and Zambia.

[106] ITU (2001), p. 4.

Botswana and Botswana Television are the responsibility of the Department of Information and Broadcasting, under the Ministry of the State President.

56. The Broadcasting Act, 1998, established an independent National Broadcasting Board (NBB), formed in August 2000. Before July 2001, BTA licensed and regulated broadcasting. NBB is also responsible for supervising broadcasting activities and allocating radio spectrum frequencies for the broadcasting portion of the National Radio Frequency Plan, which remains BTA's responsibility. It awarded the tender for developing the National Radio Frequency Plan to an international firm in November 2000. BTA is the NBB's technical adviser. NBB is preparing a draft government national broadcasting policy.

(ii) Financial services

57. Botswana's financial subsector is relatively well developed. There are five commercial banks, three stockbrokers, four life insurance companies and seven non-life insurers. The merchant/investment bank, Investec Bank (Botswana) Ltd, was incorporated in 2000, and there were 159 pension funds at end 2000. The Stock Exchange was established in late 1995.

58. The financial subsector has been substantially reformed since the mid 1980s. Commercial bank licences were liberalized in 1990 and relevant legislation was updated in the mid 1990s, for example, the Banking Act, 1995, and amendments to the Bank of Botswana Act (1975) in 1996 and 1999 (Table IV.2). Private institutions, including foreign owned, dominate the financial subsector. The main parastatals are the Botswana Savings Bank (BSB), the Botswana Building Society (BBS), the National Development Bank (NDB), and the Botswana Development Corporation (BDC). Both the NDB and the BDC were heavily restructured during the 1990s following substantial losses. The State has indirect ownership in some private institutions through BDC holdings, such as its equity in Investec Bank, and 25% shareholding in the life insurance company, Metropolitan Life. The Government's direct lending facility to parastatals, the Public Debt Service Fund (PDSF), which was the largest lender, is being terminated. The Government is developing an International Financial Services Centre, through the BDC.

(a) Banking

59. Commercial and investment/merchant banks are prudentially regulated by the Bank of Botswana (the central bank), under the Banking Act, 1995. This replaced the Financial Institutions Act, 1986, and provides a legal framework for the ownership, establishment, licensing, and prudential supervision (based on the Basel Core principles) of banks. The Bank conducts on-site examinations, off-site monitoring, and meets with licensed banks. While it now also supervises the BSB and collective investment undertakings (CIUs), the Ministry of Finance and Development Planning continues to regulate the NDB and the BBS. The Government is examining shifting their regulation to the central bank. Banks cannot provide non-bank financial activities, either directly or indirectly.

60. Since 1990, the Bank processes licence applications on prudential merit. It no longer determines whether the domestic market can absorb a new bank. The number of foreign bank licences is unrestricted. Foreign banks must operate as locally incorporated subsidiaries; foreign bank branches are not allowed. Some local ownership is encouraged in each financial institution.[107] The

[107] See K. S. Masalila, Banking Supervision and Regulations: The Case of Botswana, in *Aspects of the Botswana Economy, Selected Papers*, edited by J.S. Salkin, D. Mpabanga, D. Cowan, J. Selwe and M. Wright, Gaborone, 1997, p.278.

role of commercial banks has increased substantially. In 2000, they accounted for 60% of total institutional lending, up from 41% in 1990. In 1998, they surpassed the PDSF as the largest lenders; PDSF's share declined from 50% to 26% over this period. Government policy has encouraged parastatals to rely on commercial credit, partly as a forerunner to privatization.

61. The payments system is being modernized by establishing a legal and regulatory framework to support an efficient and sound system. Botswana has actively participated in the SADC payments system reform process. The Botswana National Payments System Framework and Strategy Document, completed in 2001, provides a five-year programme to develop a payments system compliant with international standards, and is to be overseen by the National Payments Council and the National Payments Task Force. New legislation, The National Clearing and Settlement Systems (NCSS) Act is being drafted. Other relevant legislation, such as the Bills of Exchange Act, the Criminal Procedures and Evidence Act, the Companies Act and the Insolvency Act, are also being reviewed.

Table IV.2
Main financial services legislation

Legislation	Content
The Bank of Botswana Act, 1975 and Amendment Acts, 1996 and 1999	• Establishes the bank of Botswana as a central bank and mandates it to ensure efficiency and soundness of financial markets
The Banking Act, 1995 and banking Regulations, 1995	• Applies to the banking industry, including commercial banks, credit institutions, investment banks and discount houses. Provide for the prudential regulation and supervision of banks, as well as timely exit of failing institutions • Banks are generally prohibited from engaging, directly or indirectly, in the merchandise wholesale or retail business, including import or export trade; acquiring or holding, directly or indirectly, any part of the share capital of any financial, commercial, agricultural, industrial or other undertaking, acquiring or taking a lease, whether directly or indirectly, on immovable property
The Botswana Savings Bank Act, 1992	• Establishes the Botswana savings bank and regulates the conduct of its operations. While the Act empowers the bank to issue financial instruments, such as bonds, certificates and notes, or offer other viable banking and financial services, it is silent on specific prohibitions
The Building Societies Act, 1961	• Provides for the establishment of building societies, such as the Botswana Building Society (BBS). It empowers the BBS to invest in bills, bonds, certificates, debentures, stock and municipal loans. The Act is under review
The National Development Bank Act, 1964	• Establishes the National Development Bank and governs its operations. The Act empowers the bank to borrow money as necessary to meet its obligations, including bond insurance. It further empowers the bank to lend to and own equity in business undertakings across all economic sectors; manage, operate or control any property, enterprise or undertaking on behalf of any person in connection with any loan or guarantee given by it; and to operate any savings scheme or any combined life assurance and savings scheme approved by its board. However, the bank may not provide financial assistance for buildings or public works
The Botswana Development Corporation	• Set up under the Companies Act, 1959, as amended in 1995. Its memorandum and articles of association guide its operations. It has the widest investment and borrowing mandate. It can engage in any business as sole proprietor, in partnership or joint venture, with local or foreign investors, in all kinds of activities across all economic sectors; can provide financial and management assistance to subsidiaries and associated companies; can borrow in any manner it considers necessary, which could include issuing all kinds of securities

Table IV.2 (cont'd)

Legislation	Content
The Collective Investment Undertakings Act, 1999 and Regulations, 2001	• Apply to Collective Investment Undertakings, which include investment companies and unit trusts or mutual funds. The Act and regulations compare favourably with modern legislation overseas for such undertakings
The International Financial Services Centre	• Provides for the establishment of IFSC companies in the following activities: exempt companies, trusts, registries of ships and aircraft, international banking and financial services (includes deposit-taking, foreign exchange services, custodial functions), and investment business (including collective investment undertakings, personalized investment or private banking management and captive insurance
Insurance Industry Act, 1987	• Applies to insurance business (life and non0-life) and reinsurance. The Act prohibits simultaneous transacting of both types of insurance business by a single company
Pension and Provident Funds Act, 1987	• Applies to approved private pension and provident funds
Botswana Stock Exchange Act, 1994 and Regulations, 1995; Botswana Stock Exchange Listing Requirements, 1999, and Botswana Stock Exchange Members' Rules, 1996	• Apply to the Botswana Stock Exchange

Source: Bank of Botswana (2002), *Annual Report 2001*, pp. 75-76.

(b) Insurance and other financial services

62. The Ministry of Finance and Development Planning regulates insurance companies and pension funds. Companies are prohibited from offering both general (short term) and life (long term) insurance (Insurance Industry Act, 1987, effective 1992). All insurers and insurance brokers must be registered with the Ministry's Registrar of Insurance. Only resident registered insurers can be licensed. The minimum paid-up capital for an insurer is P 2 million. New regulations were introduced on registration renewals (Insurance Industry (Amendment) Regulations, 2000). Residents (including companies, but not insurers) require the Registrar's written approval to buy insurance from overseas companies. The Government operates an Employees Motor Vehicle Advance Scheme and a Local Authorities Self Insurance Fund. Third-party motor-vehicle injury is covered by the Motor Vehicle Accident Fund, which is funded from petrol levies.

63. Most insurance companies are foreign owned. Investment of insurance funds abroad is limited to 70% of the assets of the company, and must be cleared through the Registrar, although adherence is reportedly weak.[108] Most reinsurance is placed overseas.

64. The core of the capital market is the stock exchange. It trades in corporate equities and company bonds, such as BTC's publicly traded long-term bond issue in 1999. At end 2000, there were 16 listed domestic companies, covering finance, wholesale, retail, and brewing. Total capitalization was P 5.245 billion. Dual listings are accepted for foreign registered public companies. Foreign portfolio investors can purchase shares within limits.[109] Pension funds have grown rapidly; total assets were P 4.4 billion at end 2001. In April 2001, the civil service pension arrangements were changed from a non-funded defined benefit scheme to a defined contribution scheme. At least 30% of pension funds are to be invested locally.

[108] Report of the Registrar of Insurance for the Year Ended 31 December 2000, p.11.

[109] Individual non-residents cannot own more than 5% of a company's shares, and foreign ownership of any company is limited to 49% of its "free" share capital (that not controlled by the parent company).

65. The International Financial Services Centre (IFSC) commenced in 2001. Incentives for IFSC investors include a corporate tax rate of 15% and no withholding tax.[110] Ten IFSC projects operate. Legislation is being drafted on IFSC insurance services to help Botswana to become a centre for conducting international insurance business.

(iii) Transport

66. Transport policy is formulated by the Ministry of Works, Transport and Communications. Government policy is being increasingly directed at rationalizing transportation services to ensure a balanced system that promotes competition among the various modes.

(a) Road

67. Road transport is the main mode in Botswana. The road network is 18,000 kilometres of mainly bitumen and gravel roads. Cost-recovery construction and maintenance programmes are being implemented. A road fund is to be established to finance road maintenance; it will be funded by vehicle licence fees and the fuel levy. Road transport fees and other related charges were increased in June 2000. Road tolls are being considered, such as for the Kazungula bridge, and for some heavily used roads.

68. All commercial vehicles operating in Botswana must have an annual (BA) permit (Road Transport (Permits) Act). Foreign registered vehicles are issued such permits on the condition that they do not engage in cabotage. Single Trip (BS) permits and Transit Single Trip (TS) permits are issued to enable vehicles registered in neighbouring countries to conduct return and transit trips in Botswana. SACU permits are also issued to vehicles registered in Botswana for entry into South Africa.

69. Freight rates are market determined. The Government does not regulate entry, except for setting safety standards.

70. All passenger vehicles (e.g. combies and buses) require a route-specific (P) permit. Taxis also require a permit; their area of operation is not defined, only their location. The Government controls passenger bus fares and, in the case of long-distance services, prescribes time schedules. Government subsidies, limited to two return trips per week per customer, are paid on a performance basis to bus operators to encourage operators to provide rural services. For passenger transport, the Government restricts entry by new operators to safeguard the interests of existing firms and to avoid "unhealthy competition" in the thin transport market.

71. Botswana has transport agreements with South Africa and Zimbabwe. An agreement with Zambia is due to be concluded in 2003. Botswana, Namibia, and South Africa are negotiating a trilateral agreement covering the Trans-Kalahari Highway Corridor, which is scheduled to be signed in mid-2003.

(b) Rail

72. The main rail network is the line between Ramalabama and Vakaranga, with its various branch lines that service predominantly mining operations at Selebi-Phikwe, Morupule, and Sua Pan. The parastatal, Botswana Railways (BR), established in 1987, was substantially restructured during

[110] Financial entities pay the general company tax rate of 25%. Specified CIUs and the BBSs are exempt from company tax.

the late 1990s following operational and financial difficulties. A Regional Rolling Stock Information System is being implemented to improve freight services. BR continues to operate under adverse commercial conditions, including uneconomical traffic volumes, especially following the diversion of north-south-bound transit traffic to Zimbabwe in 1999. To provide an alternative route for north-south-bound transit traffic, BR is examining the feasibility of constructing a railway line from Mosetse to Kazungulato, to link with Zambia. It has established two dry container ports, in Gaborone and Francistown.

73. Botswana Railways is keen to create an enabling environment for private-sector participation in the railway subsector. It is reviewing the legislative and regulatory framework to establish clear guidelines for reform, expected to start after May 2003. The current Botswana Railways Act of 1986 does not allow private operators unless clearly agreed with Botswana Railways, which is recognized as the statutory monopolist. Users, such as mining companies, are prohibited from building and operating their own rail services. Botswana railways has standing arrangements on a haulage basis with Blue Train and Roves Rail from South Africa to use lines in Botswana.

74. Freight rates set by Botswana Railways require ministerial approval. Discount rates are periodically negotiated with major customers.

(c) Air

75. The Department of Civil Aviation regulates air transport, including air safety, aviation infrastructure, including airports, and licensing of private aerodromes. There are six government-operated international airports, and 28 licensed private aerodromes. Aviation policy is directed towards increased cost recovery and providing safe and efficient services. The Government has approved the Department's restructuring into a parastatal semi-autonomous Civil Aviation Authority, and draft legislation is being prepared. It is proposed to upgrade Francistown, Kasane, Maun and Sir Seretse Kharma Airports, starting in April 2003.

76. The national carrier, Air Botswana, is to be privatized; its privatization was deferred in 2001 due to the depressed global aviation industry. The Government is currently finalizing the necessary legislative instruments for this to proceed. Air Botswana operates scheduled air services from Gaborone to Maun, Francistown, Kasane, and Mahatu (through Johannesburg), as well as to Harare and Johannesburg. A few regional carriers, mainly South African Express and Air Namibia, operate international services to Botswana under bilateral air service agreements. These allow only single entry into Botswana. However, according to authorities, the Yamoussoukro Decision of SADC members will transform the bilateral regime into an open skies policy.

(iv) Tourism

77. Tourism is Botswana's second largest foreign exchange earner, after minerals, accounting for an estimated 5% of total exports of goods and services in 1996/97. Tourism is currently estimated to contribute 5% of GDP. Visitor expenditure in 2001 was estimated at P 3.8 billion, of which 40% was spent in Botswana, compared with P1.1 billion in 1997.[111] The lack of international flights servicing Botswana constrains tourist development. Tourism development has been Government led and private-sector driven.

78. The Department of Tourism, within the Ministry of Environment, Wildlife and Tourism, oversees tourism development. Its primary objective is to maximize the sustainable use of the

[111] Department of Tourism, Visitor Expenditure Survey 2001.

country’s tourism resources and to promote tourism. The Government’s tourism policy was enunciated in 1990. The National Advisory Council of Tourism advises the Government on all matters relating to the formulation, planning, development, and administration of tourism policy. The Tourism Industry Licensing Board licences, grades, and regulates facilities (Tourist Act, 1992 and Tourism Regulations, 1996). A training levy on tourist facilities finances the Tourism Industry Training Fund (Finance (Tourism Industry Training Fund) Order, 1996), which is aimed at improving the skills of tourism employees. Following the two-year Botswana Development Tourism Programme, in February 1999 the Government released an Outline of Marketing and Promotion Plan and Strategy, and a Tourism Master Plan in May 2000. A National Ecotourism Strategy supplemented this in March 2002 to support product diversification and community involvement. A Tourism Board is planned, to promote tourism, as well as a Tourism Development Fund to provide technical and financial support to community and citizen-owned projects.

79. The Master Plan shifted the emphasis from "low volume, high cost" to "modified high volume, mixed price" tourist development. Net foreign exchange earnings are projected to increase from P 495 million in 1996/97 to P 800 million in 2010, and formal employment from approximately 10,000 to almost 17,000 employees. Bed numbers are projected to rise from 4,000 to 8,000, and occupancy rates from 40% in 1997 to 57% in 2010. Tourist arrivals increased by 15% in 2000 to 969,497. Most came from South Africa (46%), Zimbabwe (30%), Zambia (3%) and Namibia (2%). Non-African visitors were mainly from the EU (in particular the United Kingdom, 2%) and the United States (2%). Total number of beds was 3,972 in 2000; bed occupancy rates fell sharply in 2000 from 51.4% to 29.4%.

80. Tourism became eligible for government support under the Financial Assistance Policy (FAP) in 1996 (Financial Assistance Policy (FAP-Tourism), 1996). However, this scheme has recently been discontinued and replaced by the Citizen Entrepreneurship Development Agency (CEDA), which also covers tourism.

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