

ANNEX 4
SOUTH AFRICA

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I. THE ECONOMIC ENVIRONMENT**(1) Major Features of the Economy**

1. With a surface area of over 1.2 million square kilometres, a coastline of nearly 3,000 kilometres, and a population of around 44 million, the Republic of South Africa is the biggest country in southern Africa. South Africa's 2001 per capita income of around US\$2,800 (Table I.1) places it in the ranks of upper middle income countries.

Table I.1
Main economic indicators, 1997-01

	1997	1998	1999	2000	2001
Miscellaneous					
GDP at market price (US\$ billion - year beginning April 1)	144.9	126.5	130.3	121.3	102.3
GDP per capita (US\$)	3,600	3,154	3,023	2,871	2,793
Real GDP (annual percentage change)	2.5	0.8	2.1	3.1	2.2
Unemployment rate (official definition; %) ^b	..	25.2	23.3	26.3	28.8
Consumer price index (end of period - percentage change)	6.0	9.1	2.2	2.3	4.6
U.S. dollar exchange rate (end of period)	4.9	5.9	6.2	7.6	12.1
Real effective exchange rate ^c	7.0	-8.9	-5.2	-3.0	-17.0
Monetary sector					
	(percentage change)				
Money supply (M2 - end of period)	17.2	14.6	10.1	7.5	17.0
Share of real GDP					
	(per cent)				
Agriculture ^d	4.0	3.6	3.4	3.2	2.8
Industry ^e	32.8	31.9	30.8	30.9	..
- Manufacturing	19.9	19.3	18.8	18.8	18.6
Services	63.2	64.4	65.8	65.9	..
Government finance					
	(percentage of GDP)				
Overall balance ^f	-3.8	-2.3	-2.0	-2.0	-1.5
National accounts					
	(percentage of GDP)				
Private final consumption	63.1	63.4	63.0	62.9	62.4
Government final consumption	19.3	19.1	18.4	18.0	18.0
Gross fixed capital formation	16.6	17.1	15.5	14.9	14.8
Net increase in inventories	0.1	-0.4	0.5	1.1	0.5
Exports of goods and services (XGS)	24.6	25.9	25.6	28.6	31.0
Imports of goods and services	-23.5	-24.7	-22.9	-25.7	-27.1
Memorandum					
Current account balance (percentage of GDP)	-1.5	-1.7	-0.5	-0.4	0.1
External debt/XGS (%)	107.3	109.0	115.4	100.7	96.4
Gross official reserves (US\$ billion)	..	5.4	7.4	7.5	7.5
Gross official reserves (months of imports)	..	2.0	2.9	2.7	2.9
Trade in goods and services (percentage of GDP)	48.1	50.3	48.6	54.4	58.5
Terms of trade (percentage change)	-1.2	-1.1	-3.0	-1.7	1.2

.. Not available.

a Estimates.

b Excludes individuals who have not taken active steps to look for work or short self-employment in the four weeks prior to the interview.

c In U.S. dollars, annual percentage change. Negative sign indicates depreciation.

d Agriculture includes forestry, hunting, and fishing, as well as cultivation of crops and livestock production.

e Industry includes mining, manufacturing, construction, electricity, water, and gas.

f Fiscal year beginning 1 April. Public deficit (-) or surplus (+).

Source: IMF, *International Financial Statistics*, various issues; IMF, *Staff Country Report* N° 00/42; and World Bank, *2002 World Development indicators*, CD-ROM.

2. South Africa's economy is relatively diversified, with manufacturing and services contributing a sizeable share of total GDP (Table I.1); mining and quarrying account for a large part of South Africa's total exports (section (3) below); while agriculture remains an important provider of employment, especially in the rural areas.

3. This picture masks a striking dualism due to several decades of apartheid, which led to very distorted and unequal income distribution. At one extreme, about 13% of the population is "first world", with high-school education, low childhood mortality rates, and minimal poverty. At the other extreme, is about 53% of the population, half of which have less than a primary school education, over a third suffer from chronic malnutrition, and poverty is maximal.¹

4. Dualism, poverty, and unemployment in South Africa are inextricably linked. Unemployment, which increased from 25.2% in 1998 to an estimated 28.8% in 2001 (Table I.1), is among the highest in the world. A range of factors have contributed to South Africa's persistently high unemployment rate, including the legacy of the apartheid capital-intensive production structure, chronic skilled labour shortages, low investment, rigidities in the labour market, and the increase in urban population since the 1994 political change. The HIV/AIDS pandemic has compounded South Africa's development challenges.

5. The import-substitution approach of the apartheid era also had high social, economic, and environmental costs. Since the mid 1990s, this has been transformed into an outward-oriented strategy, with trade and investment liberalization at the core, making the economy more productive and efficient.

(2) RECENT ECONOMIC DEVELOPMENTS

6. Empirical evidence suggests that trade liberalization was the major source of total factor productivity growth in the 1990s, which in turn has accounted for virtually all of South Africa's economic growth since 1994.² South Africa has enjoyed positive but modest rates of economic growth since its last Review. Real GDP grew at an average of 2.6% a year during 1997-01. In 2002, real GDP growth was projected to be just over 3%. This GDP growth is, however, well short of the 4-5% per year required to substantially reduce the country's unemployment rate.³ The central policy challenge facing South Africa seems to be to increase the level of economic activity in a manner that raises living standards across the country.

7. One of the positive features of the South African economy in recent years has been the Government's commitment to monetary and fiscal discipline. As a result, year-end inflation decreased from 9.1% in 1998 to 4.6% in 2001 (Table I.1). The South African Reserve Bank (SARB) adopted an inflation-targeting strategy in February 2000. Inflation is targeted at 3-6% for 2002 and 2003, and at 3-5% for 2004 and 2005.⁴ A depreciation of the real effective exchange rate of about 40% took place over 1995-01⁵, partly because the SARB pursued a freely floating exchange rate regime during most of this period.⁶ Since mid-December 2001, the SARB has taken a number of policy steps, including increases in interest rates, to strengthen the rand and contain the inflationary impact of its depreciation. Nevertheless, year-end inflation in 2002 is estimated at 7-8%, well above the target rate.

8. The overall budget deficit of South Africa was reduced from a peak of 9% of GDP in 1993/94 to 1.5% of GDP in 2001/02. Of this reduction, around 5 percentage points of GDP reflected lower

¹ World Bank (2000).

² See IMF Staff Country Report No.00/42.

³ See IMF Staff Country Report No.00/42.

⁴ In October 2002, the SARB slightly relaxed the inflation-target range for 2004 from 3-5% to 3-6%. (*Financial Times*, 30 October 2002).

⁵ IMF (2001b).

⁶ In nominal terms, the rand/U.S.dollar exchange rate increased (depreciation) from 4.68 at the end of 1996 to 12.09 at the end of 2001, and then decreased (appreciation) to 8.9 at mid-December 2002.

expenditure and the rest higher revenue.⁷ In 2002/03, a moderately expansionary budget deficit of 2.1% of GDP is projected, which may put more pressure on the inflation rate. According to the authorities, the rationale behind this expansionary budget deficit is that sufficient fiscal consolidation has taken place since 1994 (particularly improvements in tax collection, and in expenditure monitoring and control) to warrant relaxing earlier constraints in government expenditure, in an attempt to boost economic growth.⁸

9. South Africa has made major strides in reducing macroeconomic imbalances since its last Review. Trade liberalization efforts have contributed to eliminate the current account deficit of South Africa's balance of payments. The current account shifted from a deficit of 1.7% of GDP in 1998 to a surplus of 0.1% of GDP in 2001 (Table I.1), the first since 1994. The main factor driving this shift in the current account has been the increase in the total trade surplus (section (3) below). However, in 2002 this trade surplus decreased, resulting in a current account deficit estimated at 1.4% of GDP, due in part to higher oil prices.

10. South Africa has also made steady progress in reducing its external debt exposure, a key source of external vulnerability in the past. Total external debt as percentage of total exports of goods and services decreased from 107.3% in 1997 to an estimated 96.4% in 2001. South Africa's net international reserve position has also improved considerably, from US\$5.4 billion at the end of 1998 to US\$7.5 billion at the end of 2001, equivalent to 2.0 and 2.9 months of total imports, respectively (Table I.1).

(3) TRADE PERFORMANCE AND INVESTMENT

(i) Trade in goods and services

11. Extensive trade liberalization undertaken since the mid-1990s and the lifting of trade sanctions, supported by real effective exchange rate depreciation, have rendered the South African economy more competitive and efficient, contributing to a strong trade performance. Since its last Review, South Africa has run an increasing goods and services trade surplus, which rose from US\$1.7 billion in 1997 to US\$4.4 billion in 2001. It is estimated that the total trade surplus decreased to around US\$4 billion in 2002. Despite an increase in the share of total trade to GDP from 48.1% in 1997 to 58.5% in 2001, South Africa has recently been falling in terms of classification of world traders. In 2001, South Africa ranked 27th in terms of world merchandise exporters (considering the EU countries together and excluding intra-EU trade)⁹, and 28th among importers, compared with 25th and 27th, respectively, in 1999.¹⁰ For world trade in commercial services, South Africa ranked 41st both as an exporter and as an importer in 2001, down from 39th and 40th, respectively, in 1999.

12. South Africa has a relatively diversified export base; food and other primary products, and manufacturing (particularly machinery and transport equipment, iron and steel, and chemicals), represent a sizeable share of total merchandise exports (Chart I.1). However, the share of minerals and mineral products, dominated by diamonds, gold, and more recently by platinum group metals, is increasing. The share of diamond exports in total goods exports rose from 14.7% in 1997 to 18.6% in 2001, whereas gold exports declined from 17.9% of total merchandise exports in 1997 to 11.1% in 2001. By destination, the EU, led by the United Kingdom (6.5% of total merchandise exports in 2001, up from 6.2% in 1997), is still the major export market for South Africa. South Africa's goods exports to other African countries declined from 16.3% of its total merchandise exports in 1997 to 14.4% in

⁷ IMF (2001b).

⁸ IMF (2001b).

⁹ WTO (2002).

¹⁰ WTO (2000).

2001. Similarly, South African merchandise exports to the United States fell from 9.6% to 7.5% (Chart I.2).

13. Despite its positive rates of economic growth since the last Review, South Africa's merchandise imports decreased from a peak of US\$30.9 billion in 1997 to US\$24.2 billion in 2001. The leading merchandise imports are electrical and non-electrical machinery whose share in the total increased from 27.9% in 1997 to 28.5% in 2001 (Chart I.1); followed by chemical products with 12.2% of total goods imports in 2001 (up from 10.7% in 1997); and other semi-manufactured goods with 8% in 2001 (down from 8.2%). South Africa's goods imports are largely from the EU, particularly Germany, which accounted for 10.5% of total merchandise imports in 2001 (Chart I.2). Merchandise imports from other African countries went up from 2% in 1997 to 2.9% in 2001, while those from the U.S. declined slightly from 11.2% in 1997 to 11.0% in 2001.

14. South Africa remains a net importer of services, although the deficit on the services account declined slightly from US\$0.7 billion in 1997 to US\$0.5 billion in 2001. Total import-related services are estimated to have decreased from US\$6 billion in 1997 to US\$ 4.7 billion in 2001, whereas total export-related services went down from US\$5.3 billion to US\$ 4.7 billion in the same period.¹¹ Tourism constitutes the main component of services exports, while net payments of investment income are the principal source of deficit in the services account.

(ii) Investment

15. Despite improvements in macroeconomic conditions, and South Africa's advantages in terms of natural resources and market size, foreign investors have shown limited interest in acquiring, creating, or expanding domestic enterprises. Foreign direct investment (FDI) inflows into South Africa peaked at about 2.5% of GDP in 1997 (largely due to the partial sale of Telkom (Chapter IV(5)(i)), but averaged just under 1% of GDP during 1994-01, against 3-5% in countries at comparable levels of development.¹² As private investment has been inhibited by South Africa's low saving rates¹³, foreign investment could help address the saving deficiency of the economy, promote higher rates of economic growth, and contribute to poverty reduction through increased employment.

16. FDI has been inhibited in South Africa by a number of factors, including the slow implementation of the privatization programme (Chapter III(4)(ii)); insecurity problems, mainly urban crime; the HIV/AIDS pandemic; the political situation in some neighbouring countries; and the persistence of some foreign exchange restrictions (Box I.1). Moreover, although considerable progress has been made in promoting industrial development in the country, relatively high protection of some industries, such as textiles (Chapter IV(4)(iii)(b)), might have played their part.

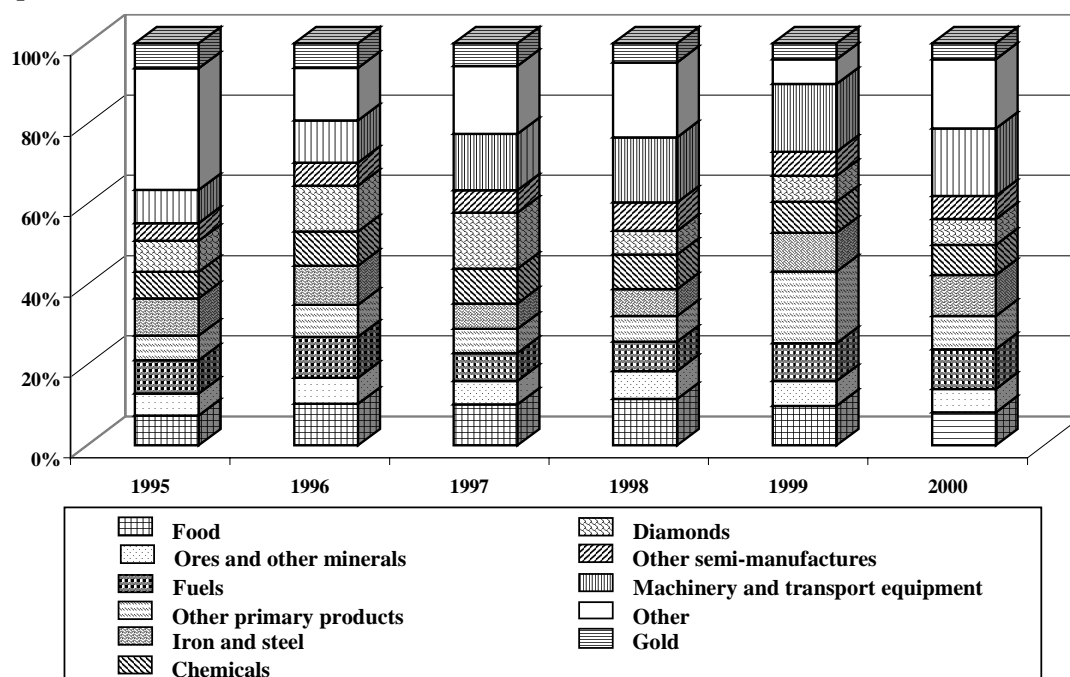
¹¹ IMF (2002b).

¹² Egypt, Thailand, and Mexico are some of the countries considered as comparable to South Africa. See IMF (2002a).

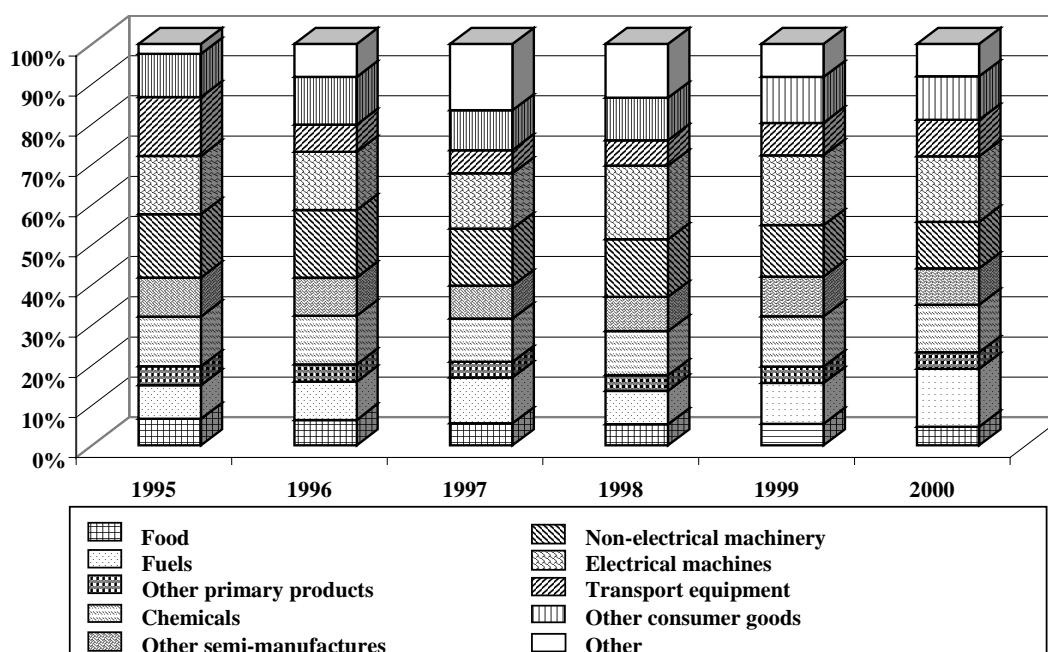
¹³ Private domestic savings declined from 16% of GDP in 1998 to under 14% in 2001 (IMF, 2002).

Chart I.1
Structure of exports and imports, 1995-00

(a) Exports



(b) Imports

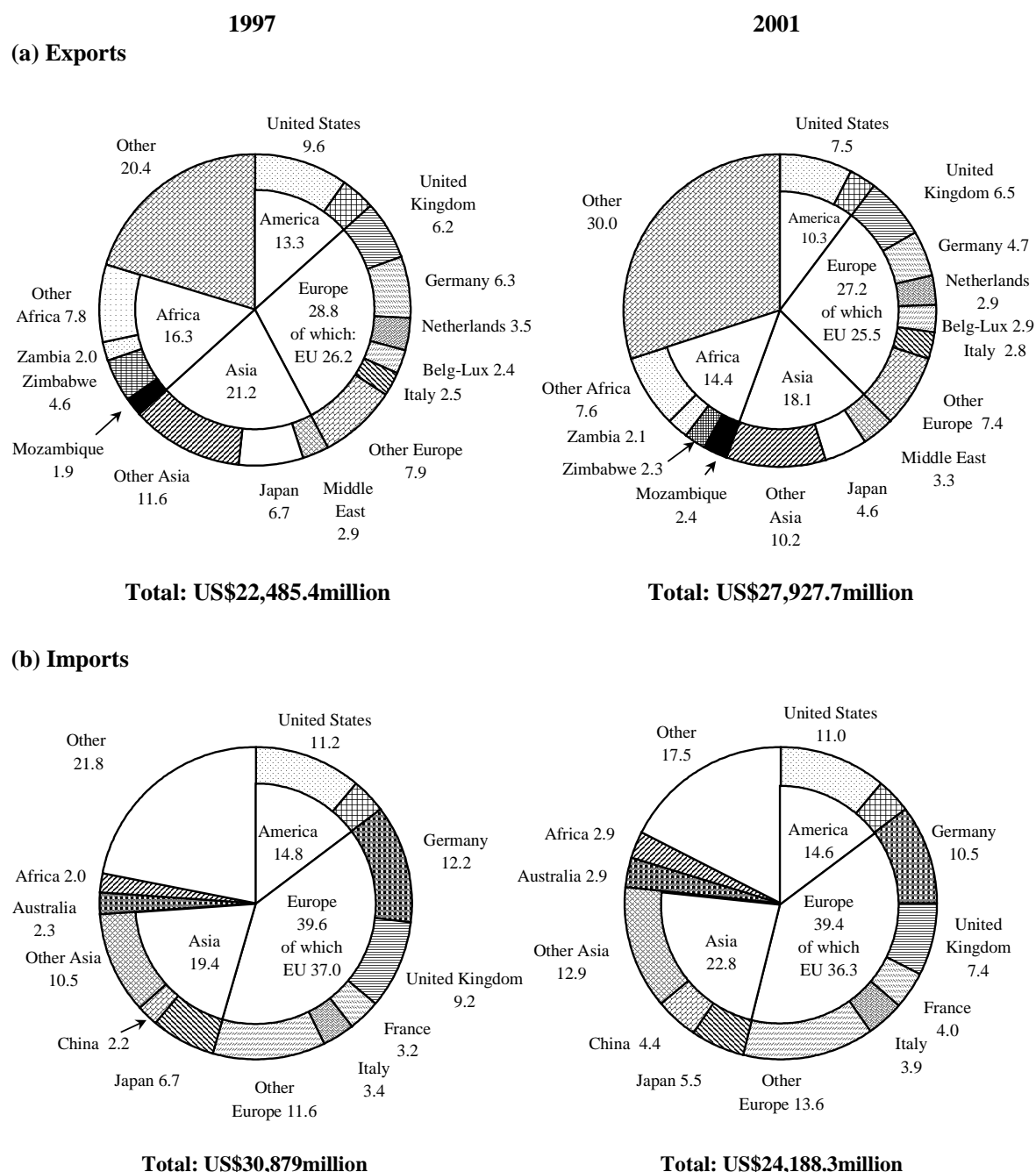


Source: WTO Secretariat calculations, based on UNSD, Comtrade database; and IMF Staff Reports.

Chart I.2

Direction of merchandise trade, 1997^a and 2001

Per cent



^a 1997 data are for the Southern African Custom Union as a whole.

Source: WTO Secretariat calculations, based on UNSD Comtrade database.

Box I.1: Foreign exchange control in South Africa

Exchange control in South Africa is administered by the Exchange Control Department of the South African Reserve Bank (SARB), and through commercial banks that have been designated "authorized dealers" in foreign exchange.

There are no restrictions on foreign firms wishing to invest in share capital. However, investors are advised to ensure that the share certificates are endorsed "non-resident" by an authorized dealer in order to return disposal proceeds and dividends to their country of origin. A record of funds introduced to South Africa should be kept. Completion of a form that discloses the sources and the purpose of the funds is also required for all remittances to South Africa that exceed R50,000.

There are no controls over the removal of investment income or capital gains by non-residents. However, repayment of foreign loans by South African residents requires prior approval. Dividends may be paid to non-residents without the approval of the SARB. Dividends paid to non-residents pursuant to deregistration or liquidation are transferable against documentation confirming this fact.

Loans from foreign residents to South African residents require the prior approval of the SARB. The approval procedures take two to three weeks. All loans from outside the Common Monetary Area (SACU countries except Botswana), require prior exchange control approval. Approval is normally granted provided the loan is for a minimum of one month, and a market interest rate is charged.

A South African company that is 75% or more foreign owned, is known as an "affected company" and the amount that it may borrow or have access to from South African lenders is restricted. The borrowing or facility limit, known as the local financial assistance limit, is based on a formula. For companies that are 100% foreign owned, the local financial assistance limit is 100% of the effective capital of the South African company. Effective capital includes paid-up equity capital, preferences shares, undistributed earned profits, shareholders' loans from abroad, and in certain instances, the hard core shareholders' trade credit.

The SARB does not permit the remittance of profits or repayments of loans where, as a result of the remittance, the local financial limit will be exceeded, and will require local financial assistance to be reduced before remittance.

Royalties, licence and patent fees to non-residents, where no local manufacturing is involved, require the approval of the SARB. Manufacturing royalties (as opposed to sales/marketing royalties) are subject to approval by the Department of Trade and Industry (DTI); the DTI communicates its decision to the licensee or the Executive Control Department where applicable, which will enable a bank to directly transfer the royalty payments. Current account payments (e.g. management fees and other fees for services provided), may be paid by authorized dealers on production of an invoice, provided that such payments are not calculated as a percentage of sales, profits, purchases or income.

Source: DTI (2000), The Investor's Handbook.

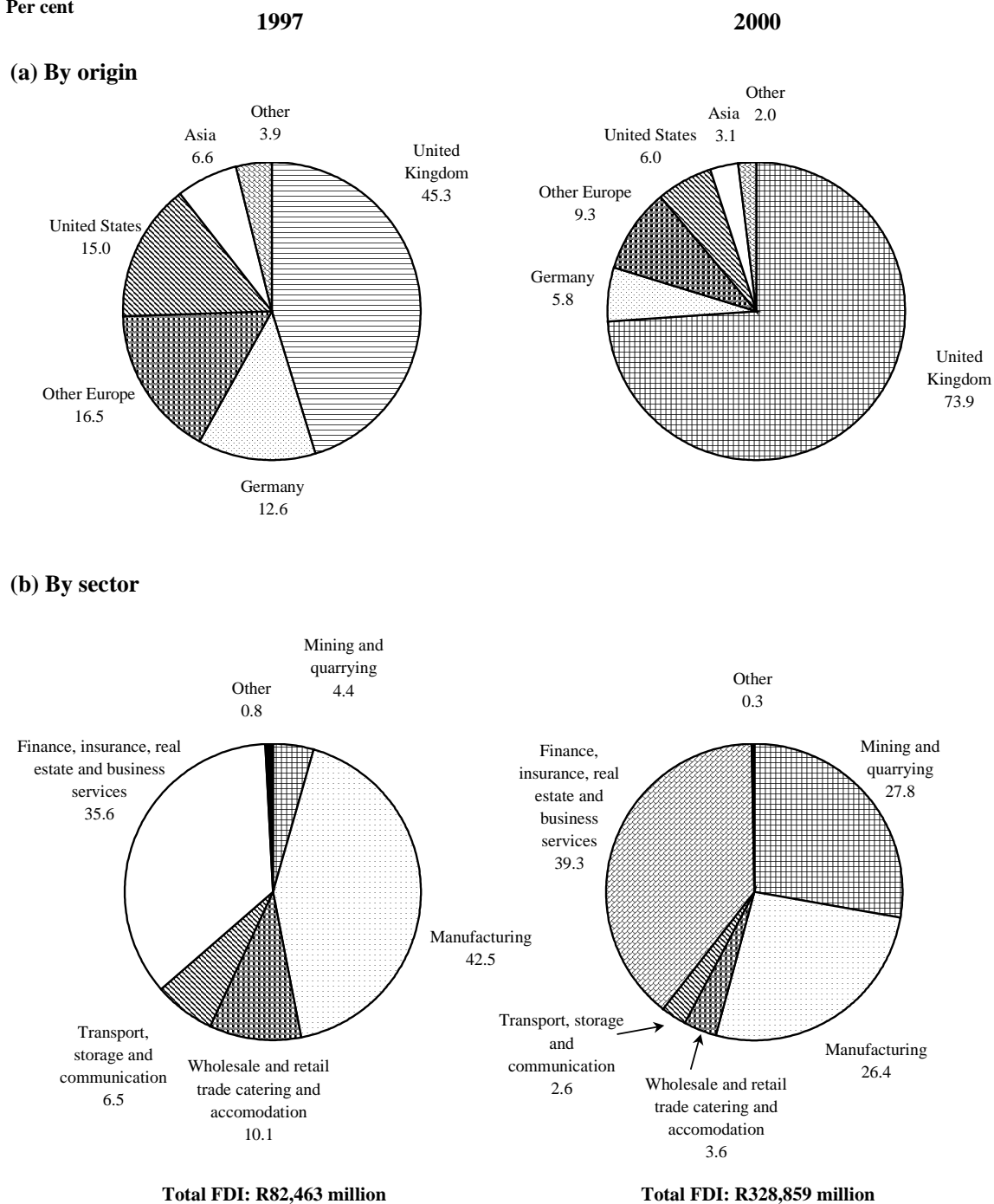
17. FDI inflows have been relatively diversified in terms of sectoral distribution. Despite South Africa's large mineral reserves (Chapter IV(3)), non-mining activities drew more than 70% of FDI inflows in 2000, with finance and services receiving almost 40% of total FDI, and manufacturing accounting for 26.4% (Chart I.3). This suggests that natural resources are not as important in attracting FDI as other factors, such as access to regional markets (e.g. SACU and SADC), which play a key role.¹⁴

¹⁴ IMF (2002a).

Chart I.3

Foreign direct investment into South Africa, 1997 and 2000

Per cent



Source: South African Reserve Bank, *Quarterly Bulletin*, June 1999 and June 2002.

18. The EU has been by far the largest investor in South Africa, accounting for about 90% of total FDI inflows in 2000 (Chart I.3). Investment from the UK accounts for almost three-fourths of the total. The United States and Asian countries complete the list of investors.

19. In terms of the forms of FDI, a large part is investment in existing assets. Cross-border mergers and acquisitions are increasingly prominent, representing more than 60% of the total.¹⁵ The restructuring and divestiture of state assets continue to be important levers to attract FDI, as evidenced by the partial sales of Telkom in 1997, and South African Airways in 1999. "Greenfield" investment is relatively uncommon in South Africa.¹⁶

20. Outward FDI by South Africa, particularly to other African countries, has increased in recent years. The Government is encouraging South African firms to invest in the SADC countries, in an effort to foster industrialization within the region (Chapter IV(4)). Total outward direct investment by South Africa more than doubled between 1997 and 2000, from R 113.2 billion to R 244.7 billion.

(4) OUTLOOK

21. Based on recent performance and despite the global slowdown, the Government revised its forecast for GDP growth for 2002 from 2.3% to just over 3%, and expects growth to accelerate to 3.5% in 2003, 3.7% in 2004, and 3.9% in 2005.¹⁷ The economy's greater resilience to external shocks reflects in part the improvement of its competitiveness that has resulted from liberalization undertaken since the early 1990s. Yet, South Africa needs to move to a higher level of GDP growth in order to reduce unemployment. To this end, it needs to continue its reform process, which includes the restructuring of state-owned enterprises (Chapter III(4)(ii)).

22. Relatively high real interest rates and the prospect of rising inflation also pose risks to growth in the short and medium terms. The higher-than-expected inflation rate in 2002 forced the SARB to raise interest rates four times during the year, and the inflation targets of 3-6% for the coming years seem very difficult to attain without jeopardizing growth performance. Maintaining a prudent fiscal stance and persevering with efforts to reduce inflation could help preserve gains in external competitiveness, stabilize the exchange rate, and ease pressure on interest rates. In addition, the economy would be more efficient if further trade liberalization efforts were made to, *inter alia*, simplify the tariff structure, and reduce the high level of tariff protection for certain labour-intensive industries, most notably textiles and clothing.

23. The HIV/AIDS pandemic will continue to have far-reaching economic and social consequences.¹⁸ In 2000, 4.2 million individuals, or about 10% of the total population, were infected with this disease.¹⁹ It is estimated that South Africa now accounts for about 12% of the world's HIV-positive individuals.²⁰ The high prevalence of this pandemic has seriously affected the age

¹⁵ Some recent mergers took place, and acquisitions were made by Petronas' in Engen, Dow Chemicals' in Sentrachem, and Coca Cola's in SA Bottling.

¹⁶ Greenfield investment refers to investment in an area where no other company or production operations currently exist.

¹⁷ *Financial Times*, 30 October 2002.

¹⁸ Based on the current demographic projections, South Africa's labour force will decline by about 18% over the next 20 years. Recent empirical studies project that, by 2010, real GDP will be between 8% and 17% below the level that would be attained in a no-HIV/AIDS scenario (IMF, 2001b).

¹⁹ In 1999, around 20% of the most economically active segment of South Africa's population (ages 15-49) were infected. This is the fourth highest in the world; Botswana was first (35.8%), followed by Swaziland (25.2%), and Lesotho (23.6%); Namibia was fifth (19.5%). The adult HIV prevalence rate for the world as a whole was 1.1% in the same year. UNAIDS (2001).

²⁰ UNAIDS (2001).

structure, and has reduced the annual growth rate of the population from 1.9% in 1997 to 1% in 2001, and life expectancy from 54.7 years in 1997 to 47.8 in 2001.²¹ The South African Government strategy to slow the spread of HIV/AIDS encompasses prevention, treatment, legal assistance, and monitoring. Efforts to educate the young are bearing fruit, with the prevalence among pregnant women under 20 dropping from 21% in 1998 to 15.4% in 2001. However, infection levels are rising among the over-20s.²² The 2002/03 budget foresees an increase in direct HIV/AIDS-related expenditure from 0.1% of GDP in that fiscal year to nearly 0.2% of GDP in 2004/05.²³ Furthermore, in mid-April 2002, the authorities initiated a major policy shift by announcing that anti-retroviral drugs would be made generally available, via the South African public health system.²⁴

24. South Africa's economic outlook is to be linked with the goals and objectives contained in the New Partnership for Africa's Development (NEPAD), led jointly by South Africa and other African partners. Indeed, NEPAD, released in October 2001, is an African-led initiative that proposes solutions, such as good governance, macroeconomic stability, curbing corruption, and promotion of intra-African trade "to eradicate poverty and place African countries, both individually and collectively, on a path of sustainable growth and development, and thus halt the marginalization of Africa in the globalization process". NEPAD is also a call for a new "relationship of partnership between Africa and the international community". Some of NEPAD's main goals are: to achieve and sustain an average GDP growth rate of 7% per annum for the next 15 years; to reduce the proportion of people living in extreme poverty by half between 1990 and 2015; to enrol all children of school age in primary schools by 2015; to make progress towards gender equality and empowering women by eliminating gender disparities in the enrolment in primary and secondary education by 2005; to reduce infant and child mortality ratios by two thirds between 1990 and 2015; to reduce maternal mortality ratios by three quarters between 1990 and 2015; to provide access for all who need reproductive health services by 2015; and to implement national strategies for sustainable development by 2005, so as to reverse the loss of environmental resources by 2015.

²¹ World Bank (2002).

²² *The Guardian*, 27 November 2002.

²³ *The Guardian*, 27 November 2002.

²⁴ *Financial Times*, 18 April, 2002.

II. TRADE AND INVESTMENT REGIMES

(1) POLICY FORMULATION AND IMPLEMENTATION

1. There have been no major changes to the institutional framework related to trade policy in South Africa since its last Trade Policy Review in 1998. The Department of Trade and Industry (DTI) continues to formulate and coordinate the country's trade and industrial policies.²⁵ Initiatives on trade and investment may also come from other departments and agencies, such as the Departments of Finance, Agriculture, Health, Mineral and Energy Affairs, as well as from the South African Reserve Bank. Proposals and recommendations to the DTI may also come from the private sector, including through the National Economic Development and Labour Council (NEDLAC), the Board on Tariffs and Trade (BTT), and the Industrial Development Corporation (IDC). The IDC and Parliamentary Committees assist the DTI in carrying out periodic reviews and assessments of trade policies.

2. During the past few years, the DTI has been transformed with a view to, *inter alia*, modernizing and streamlining South Africa's trade and industrial development institutions, and achieving the following key strategic objectives²⁶:

- developing the economy;
- contributing to the international competitiveness of manufacturing industries;
- promoting small, micro, and medium-sized enterprises (SMME);
- promoting economic empowerment of previously disadvantaged persons ("black economic empowerment" (BEE));
- reducing inequality and poverty;
- promoting organizational efficiency and efficacy; and
- contributing to the development of the SADC region and Africa as a whole.

3. To this end, the DTI has implemented the modernization of the BTT through the newly created International Trade Administration Commission (ITAC). The ITAC will align the BTT with the provisions of Article 11 of the 2002 SACU Agreement, which lays down the functions and powers of the new SACU Tariff Board.²⁷ The DTI has also created new institutions such as The Enterprise Organisation (TEO), Trade and Investment South Africa (TISA), and Companies and Intellectual Property Registration Office (CIPRO). TEO was launched in January 2001; its central function is to provide incentives and support for sustainable enterprises in South Africa, with particular emphasis on new entrants, SMMEs, and high growth activities (aqua-culture, tourism, agri-processing, information and communication technology, cultural industries, high-value agricultural projects and bio-technology).

4. TISA replaced Investment South Africa (ISA) in August 2000, as the country's trade and investment promotion agency. TISA's core functions are to promote investment, particularly foreign direct investment (FDI), and export development in South Africa. It also has the mandate to coordinate investment promotion in collaboration with the provinces, to act as a one-stop shop for potential investors, and to market projects to both domestic and foreign investors.

5. CIPRO was formed in July 2002 by the merging of the South African Companies Registration Office (SACRO), and the South African Patents and Trademarks Office (SAPTO). Its purpose is to

²⁵ South Africa's overall institutional framework was described in detail in the previous TPR of SACU (WTO, 1998).

²⁶ DTI(2001a).

²⁷ DTI(2001a).

regulate and service business entities effectively in order to gain investor confidence, and to stimulate economic growth. CIPRO is in charge of the registration of companies, business information, formulation of policy relating to companies, and protection and registration of intellectual property rights (IPR) in four domains: trade marks, patents, copyright, and design (Chapter III(4)(iv)). CIPRO is also responsible for creating awareness of IPR in South Africa, and harmonizing the country's IPR legislation with international laws.

6. The International Trade Administration Commission (ITAC) will replace the Board on Tariffs and Trade (BTT), in accordance with the International Trade Administration Act. This Act was signed into law in January 2003, and will come into effect during the first half of 2003. ITAC will continue BTT functions on issues such as customs duties, duty and tax concessions, import and export controls, and administering anti-dumping, safeguard, and countervailing measures. However, ITAC (as South Africa's National Body in terms of Article 14 of the 2002 SACU Agreement), will also be responsible (on the South African side) for SACU-related issues, such as customs, import and export control, and contingency trade remedies.

7. At the national level, DTI chairs a sub-committee on economic development, which included representatives from the Ministry of Foreign Affairs and other relevant departments. The sub-committee formulated a global economic strategy, and identified five programmes covering investment, exports, tourism, finance, and global economic relations.

(2) TRADE AGREEMENTS

8. South Africa is an original Member of the WTO. Table II.1 summarizes South Africa's notifications to the WTO. South Africa attaches great importance to the Doha Development Agenda (DDA), which, in its view, offers WTO Members an opportunity to amend the imbalances and inequities existing in current WTO Agreements, and gives fresh impetus to addressing developmental issues (Main Report, Chapter II(5)).

Table II.1
Status of South Africa's selected notification requirements to WTO, as of January 2003

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
Agriculture (Article 18.2)	Domestic support	Annual	G/AG/N/ZAF/44 21 October 2002	Domestic support commitments for 2000.
Agriculture (Articles 10 and 18.2)	Export subsidies	Annual	G/AG/N/ZAF/43 8 October 2002	Export subsidies during 2001.
Agriculture (Article 18.2)	Tariff quotas	Once, then changes	G/AG/N/ZAF/45 15 January 2003	Tariff and other quota commitments during 2002.
Agriculture (Article 5.7)	Special safeguard provisions	Annual	G/AG/N/ZAF/41 20 September 2002	No special agricultural safeguards were invoked in 2001.
Agriculture (Article 16.2)	Decision on possible negative effects of the reform programme on LDC-NFIDC	Not specified	G/AG/N/ZAF/42 20 September 2002	Technical and financial assistance was provided to the Democratic Republic of Congo, Malawi, Angola, Zambia, Algeria, and Cuba.
Implementation of Article VI of the GATT 1994 (Article 18.5)	Laws and Regulations	Once, then changes	G/ADP/Q1/ZAF/1 14 November 2000	Copies of the relevant Acts.
Implementation of Article VI of the GATT 1994 (Article 16.4)	Anti-dumping actions taken	Semi-annual	G/ADP/N/92/ZAF 8 August 2002	Anti-dumping actions taken during 1 January-30 June 2002.
Import Licensing Procedures (Article 7.3)	Questionnaire on import licensing procedures	Annual	G/LIC/N/3/ZAF/4 17 September 2002	No changes in import licensing procedures since previous year.

Table II.1 (cont'd)

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
Sanitary and Phytosanitary Measures (Article 7, Annex B)	SPS to be notified promptly	Once, then changes	G/SPS/N/ZAF/13 1 July 2002	Microbiological specifications for honey bush and rooibos teas, and changes to the total viable colony count for bottled water.
Safeguards (Article 11.2)	Phasing out of safeguards under Article 11.1(B)	End of June 1995	G/SG/N/5/ZAF 18 June 1996	Timetables for phasing out.
Safeguards (Article 12.6)	Laws and Regulations	Once, then changes	G/SG/N/1/ZAF/1 6 December 1995	Copies of the relevant Acts.
Safeguards (Article 12.7)	Pre-existing Article XIX measures	February 1995	G/SG/N/2/ZAF 27 March 1995	No measures were maintained.
Safeguards (Article 12.7)	As Article 11.1 measures	February 1995	G/SG/N/3/ZAF 25 April 1995	A list of products was provided.
Subsidies and Countervailing Measures (Article 25.1) and GATT 1994 (Article XVI:1)	Specific subsidies	Annual	G/SCM/N/25/ZAF 23 June 1997	List of notifiable subsidies.
Subsidies and Countervailing Measures (Article 25.11)	Countervailing actions taken	Semi-annual	G/SCM/N/87/ZAF 26 September 2002	Countervailing duty actions during 1 January- 30 June 2002.
Subsidies and Countervailing Measures (Article 32.6)	Laws and Regulations	Once, then changes	G/SCM/N/1/ZAF/1 8 December 1995	Copies of the relevant Acts.
Technical Barriers to Trade (Article 10.6)	Information about technical regulations, standards, and conformity assessment	Once, then changes	G/TBT/N/ZAF/10-21 April-November 2002	various regulations.
Textiles and Clothing (Articles 2.8 and 2.11)	Transitional safeguards	1997	G/TMB/N/307 24 November 1997	A list of products to be integrated in Stages I and II was provided.
GATT 1994 (Article XVII:4(a) and Understanding on the interpretation of Article XVII:1)	State trading enterprises	Annual	G/STR/N/8/ZAF 18 March 2002	No state-trading enterprises.
GATT 1994 (Article VII - 22.2) Customs Valuation	Laws and regulations	Once, then changes	G/VAL/N/1/ZAF/1 30 August 1996	Laws and regulations to conform with the Customs Valuation Agreement.
GATS (MFN exemptions)	Review of MFN exemptions	Not specified	S/C/W/187 14 December 2000	MFN exemptions by South Africa on road transportation and financial services.
TRIMs (Article 6.2)	Publications about TRIMs	Not specified	G/TRIMS/N/2/Rev.9 28 September 2001	TRIMs notified in 1995 under Article 5.1 have been phased out.
TRIPS (Article 27.3(b))	Patentability	Not specified	IP/C/W/125/Add.16 and Corr.1 21 April and 25 May 1999	Plant and animal inventions; and plant varieties.
TRIPS (Articles 41 to 61)	Enforcement of intellectual property rights	Not specified	IP/Q4/ZAF/1 30 April 1999	Review of legislation on enforcement.
TRIPS (Article 63.2)	Laws and Regulations	Once, then changes	IP/N/1/ZAF/1 16 April 1996	Copies of the relevant Acts.

Source: WTO documents.

9. South Africa participates in the Southern African Development Community (SADC), of which all SACU countries are members (Main Report, Chapter (II)(4)). South Africa has trade surpluses within both SACU and SADC. It considers such growing trade surpluses as economically

unsustainable in the longer term.²⁸ South Africa, therefore, in partnership with the other SADC members seeks to promote industrialization in the region. Elements of this strategy include: implementing the SADC Trade Protocol to foster rapid and significant market access to regional exports; linking regional trade, development, and industrial restructuring to reflect current and dynamic comparative advantages across the region; promoting coordinated infrastructure and resource-based industrial development through spatial development initiatives (SDIs) (Chapter III(3)(iv)); encouraging South African firms to invest regionally through the relaxation of foreign exchange controls on capital destined for the region; and promoting regional trade facilitation, strengthening customs control and administration, and eliminating non-tariff measures.²⁹

10. In addition to its regional agreements, South Africa is involved in a series of bilateral trade arrangements, including the Trade, Development, and Cooperation Agreement (TDCA) with the European Union.

11. South Africa's membership of overlapping regional and bilateral arrangements with different geographical coverage, trade liberalization agenda, trading rules (such as on non-tariff measures, phase-in periods, and rules of origin), and goals, makes its trade regime very complex. South Africa's trading partners receive different access conditions to its market depending upon which agreement they are in, and the stage of implementation of the agreement by the partners. The same applies to South Africa's exports to these markets. This may distort trade and incentive patterns in an unpredictable manner, and could result in South Africa taking inconsistent obligations at the regional level. A similar situation seems to apply to other SACU members.

(i) The Trade, Development, and Cooperation Agreement (TDCA)

12. Europe has historically been South Africa's dominant trading partner (Chapter I(3)(i)). Furthermore, much of the FDI into South Africa comes from the EU (Chapter I(3)(ii)). This motivated the conclusion of the Trade, Development and Cooperation Agreement (TDCA) between South Africa and the EU in October 1999. The agreement will continue to be implemented provisionally until its ratification by all fifteen member states of the EU.³⁰ The TDCA provides for asymmetrical trade liberalization between the two parties to form a free-trade area by 2012. South Africa will liberalize around 86% of its imports from the EU during a 12-year transitional period, while the respective figures for the EU are 95% in ten years, starting from 1 January 2000, when the TDCA came into force. Within these transitional periods, the bulk of industrial products will be liberalized during the first part of the tariff phase-down period. The EU is scheduled to complete most of its obligations after 3-6 years. In the case of South Africa, sensitive products, comprising 16% of its imports from the EU, will be fully liberalized only at the end of the phase-down period.

13. To complement the TDCA, a Wines and Spirits Agreement was signed on 28 January 2002, and entered into force provisionally on 1 January 2002, subject to ratification by South Africa. The objective of this agreement is to create favourable conditions for "the harmonious development of trade and the promotion of commercial cooperation in the wines and spirits sector". The agreement applies to wines and spirits under HS headings 22.04 and 22.08. The TDCA will be complemented by a fisheries agreement, which remains pending due to "irreconcilable mandates between South Africa and the EU".³¹

²⁸ DTI (2001b).

²⁹ DTI (2001b).

³⁰ As at January 2003, the Agreement had been ratified by Denmark, Finland, Germany, Ireland, Netherlands, and Sweden.

³¹ Department of Foreign Affairs of South Africa, *Press Release*, 3 June 2002.

14. The TDCA covers around 83% and 86.5% of South Africa's agriculture and industrial sectors, respectively (based on 1994-96 trade volumes); the corresponding figures for the EU are 61.4% and 99.98%. To protect vulnerable and sensitive sectors on both sides, and also within the Southern African region, a number of products (at the HS eight digit level) have been kept outside the ambit of the free-trade agreement, and are to be reviewed periodically. On the South African side, 10.9% of total imports from the EU in terms of average 1994-96 trade figures have been excluded. Products include beef and beef products, some pork and pork products, wheat and wheat products, barley and barley products, sugar, some dairy products, petroleum oil, motor components, and passenger vehicles. On the EU side, 3.4% of total imports from South Africa in terms of average 1994-96 trade figures have been excluded. These cover some live animals, meats, dairy products, sugar, rice, some cut flowers, fresh and preserved fruits and vegetables, cereal, some fish, and unwrought aluminium.

15. Certain products are subject to only partial liberalization (i.e reduced customs tariffs rather than the zero rate, or preferential tariff quotas). In addition to South Africa's commitment to liberalize 86.5% of its industrial imports from the EU, 2.9% will be partially liberalized. Product categories include footwear and leather (end rate 10%-20%), some automotive parts (end rate 6%-11%), several textiles and clothing items (end rate 5%-20%), and tyres (10%-15%). On the EU side, an additional 13% of agricultural products will be partially liberalized, on top of the 61.4% subject to full liberalization. These include several cut flowers such as roses, orchids, chrysanthemums, proteas (2,400 tons per year, 50% of the duty); strawberries (250 tons per year, 50% of the duty); several canned fruits (60,000 tons per year, 50% of the duty); several fruit juices (1,400 tons per year, 50% of the duty); and wines (32 million litres per year, 50% of the duty). A further 11 tariff lines covering cheese and curd are to be partially liberalized (5,000 tons per year, 50% of MFN duty); they represented less than 1% of total imports from the EU in 2000. These partial liberalizations will be reviewed at a later date.

16. The TDCA provides for detailed rules of origin. Products are of South African or EU origin if they are "wholly obtained" or have been sufficiently worked or processed in these countries. An annex to the protocol on the rules of origin lists the rules for determining whether a product has been sufficiently worked or processed. While they differ from product to product, the rules fall into six broad categories: (i) the material used must undergo a change of tariff heading under the Harmonized System; (ii) there must be sufficient value added in the EU or South Africa (percentages involved may vary from product to product); (iii) for some products (e.g. textiles), the rules define the production process to be followed (a double transformation must be effected; (iv) in some cases the rules require that only originating materials are used; (v) in certain situations a combination of several of the above conditions apply; and (vi) for several products, two alternative rules are given.

17. Bilateral cumulation is applied between South Africa and the EU.³² Diagonal cumulation is applied for materials originating in the ACP States. When diagonal cumulation is applied, the allocation of origin is based upon the value added.³³ Working or processing carried out in the SACU is considered as having been carried out in South Africa, when further worked or processed there (full

³² When applying the value added rule to a South African product, the value of any EU materials used is counted to determine whether it meets the origin criteria. The same rule applies when defining the origin of EU products that include South African inputs.

³³ Goods that include material from other ACP countries are also defined as originating in South Africa, and therefore eligible for preferential access to the EU market, provided the value added in South Africa exceeds the value of the ACP materials.

cumulation).³⁴ As a result, the market for BLNS components in South African production is likely to increase.

18. The TDCA also includes a value tolerance rule, which allows for exceptions to be made to the normal rules of origin. Products are considered as originating in South Africa even if the origin criteria have not been met for some of the material used. A tolerance of 15% was agreed for South Africa³⁵, with the exception of fishery products, tobacco products, alcohol and spirits, for which the maximum is 10%, and textile products, which have specific tolerance rules. South Africa has the right to ask for a derogation from rules of origin requirements that it finds difficult to comply with; such derogation is limited in time as well as in quantity.³⁶

19. With regard to the possible impact of the TDCA on South Africa's SACU partners, some studies suggest that BLNS exporters to the EU could face increased competition since the TDCA will improve access to the EU market for South African exporters. Products of interest to BLNS that are most likely to be affected by the TDCA are, *inter alia*, preserved fish, grapes, textiles and clothing.³⁷ A safeguard clause can be invoked in case increased imports from the EU would seriously threaten the economic situation in BLNS countries. On the other hand, as South Africa reduces duties and tariffs on EU goods, consumers and companies in the BLNS countries will have access to lower-cost products and inputs. Botswana, Namibia, and Swaziland have special trade protocols with the EU on beef and sugar. This will remain unaffected, since beef and sugar are excluded from the TDCA. These trade protocols will be renegotiated within the Cotonou framework.

20. The SADC trade protocol makes it clear that member countries cannot offer trade benefits to a third country without extending them immediately to all SADC members. Thus, any trade concessions granted by South Africa to the EU under the TDCA have to be extended to all SADC members. In market segments where SADC states have a particular interest in the South African market, South Africa offered to open its market first to its SADC neighbours before extending similar preferences to the EU (the so-called SADC preference built into the TDCA). SADC countries, other than the BLNS, retain their own customs tariffs, which apply fully to products coming from the EU: SADC is to be a free-trade area and not a customs union, thus customs revenue for SADC members will not be substantially and directly affected by the TDCA.

(ii) Other trade agreements

21. South Africa has a bilateral trade agreement with Zimbabwe, and grants non-reciprocal preferential treatment to Malawi, and to a list of products from Mozambique.³⁸ The arrangement with Malawi, a member of both COMESA and SADC, was concluded in 1990. Under the arrangement, South Africa allows duty-free import to its market of all goods grown, produced or manufactured in Malawi, subject to a minimum domestic value-added content of 25%. Preferential quotas apply to

³⁴ Products are defined as being of South African origin if the final stage of processing is undertaken in the country, regardless of the value added. Final processing carried out in Botswana, Lesotho, Namibia, and Swaziland (BLNS) is not regarded as conferring origin. South African clothing manufactures can use fabrics from BLNS countries and still claim the South African origin for the final product.

³⁵ Under standard EU rules, a tolerance of up to 10% of the value of the final product is allowed to other preferential partners, with the exception of the textile sector, which has its own rules. See European Commission (1999).

³⁶ Many of the EU's other preferential agreements do not provide for such derogation (European Commission, 1999).

³⁷ UK Institute of Development Studies and Botswana Institute for Development Policy Analysis (1998).

³⁸ For a description of the preferential tariff treatment that South Africa gives to certain products from Mozambique see WTO (1998).

some products, such as tea (10,000 tonnes annually). The arrangement may be terminated by either party with 12-months written notice. It contains anti-dumping and countervailing provisions. The arrangement raised some concerns recently, when Malawian garment and bed linen exporters faced difficulties on the South African market based on allegations that manufacturers were not meeting the 25% rule of origin; this rule had become onerous for them to prove.³⁹

22. South Africa's trade agreement with Zimbabwe, a member of both COMESA and SADC, dates from 1964, and is subject to various conditions: the duty-free regime or preferential tariff quotas apply to items including dairy products, potatoes, birds, eggs, some cereals, oil seeds and oleaginous fruits; and live horses, asses, mules, cotton waste, metal bedsteads are also duty-free; and specified types of woven fabrics of cotton, for example, are subject to concessional tariff rates, when they meet specified levels of Zimbabwean content: 75% in most cases. Concessional customs duties are granted by Zimbabwe on certain products exported by South Africa.

(3) INVESTMENT FRAMEWORK

23. The institutional framework governing investment in South Africa has not changed since 1998. South Africa does not have a specific investment law; sector-specific acts establish the conditions for foreign and domestic investment (Table II.2). A variety of schemes provide incentives to investors (Chapters III(3) and IV(4)). South Africa actively encourages investment by non-resident persons and companies. According to the authorities, national treatment applies to all foreign investors, who can repatriate the proceeds and earnings of their investments after payment of taxes. In an effort to foster FDI inflows into the country, South Africa has recently announced a policy framework for accelerating the privatization process through the restructuring of state-owned enterprises (Chapter III(4)(ii)).

24. Some restrictions still apply to foreign companies in South Africa. For example, a foreign bank establishing a branch may be required to employ a minimum number of local residents to obtain a banking licence, and may be obliged to have a minimum capital base (Chapter IV(5)(ii)). Foreign companies are required to register as external companies before immovable property can be registered in their name.⁴⁰ Although significant progress has been made in the liberalization of exchange controls in South Africa since 1994, some foreign exchange restrictions remain (Chapter I, Box I.1).

³⁹ More specifically, at least 25% of the production cost of goods must be Malawian materials and labour, and the last production or manufacturing process must have been in Malawi (Articles 2 and 6 of the Malawi/South Africa Trade Agreement). The definition of "value added" used excludes profit, as well as administrative, general, and other expenses. See Coughlin and Undenge (2001), p.3. However, because Malawi's clothing and bed linen rely substantially on imported inputs from Asia, rules of origin can be an important constraint on its exports under the bilateral agreement.

⁴⁰ A company incorporated outside South Africa is classified as an external company and its local business is colloquially known as a branch. A branch is in most respects subject to the same regulations as a South African company (U.S. Department of State, 2002).

Table II.2
Trade-related legislation in South Africa, 2002

Area	Legislation	Entry into force
Foreign trade; customs and excise duties and other charges; contingency measures; tariff and tax concessions; rules of origin; clearance of goods; and customs valuation	Customs and Excise Act (Act 91), and various amendments	1964
Trade and industry; customs duties and contingency measures; tariff and tax concessions	Board on Tariffs and Trade Act (Act 107), as amended	1986
Value-added tax	Value-added Tax Act	1991
Import and export controls	Import and Export Control Act (Act 45)	1963
	Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act 36)	1947
	Explosives Act and Regulations (Act 26)	1956
	Agricultural Pests Act (Act 36)	1983
	Meat Safety Act (Act 40)	2000
	Diamonds Act (Act 56)	1986
Government procurement	State Tender Board Act (Act 86)	1968
	Public Finance Management Act (Act 1)	1999
	Preferential Procurement Policy Framework Act (Act 5)	2000
Technical standards and regulations	Standards Act (Act 29)	1993
	Occupational Health and Safety Act (Act 85)	1993
	Liquor Products Act (Act 60)	1989
	Genetically Modified Organisms Act (Act 15)	1997
	Agricultural Products Amendment Act (Act 63)	1998
	Tobacco Products Control Amendment Act (Act 12)	1999
	Meat Safety Act (Act 40)	2000
	Animal Disease Act (Act 35)	1984
Competition	Competition Act (Act 89)	1998
Intellectual property rights	Merchandise Marks Act (Act 17)	1941
	Performers' Protection Act (Act 11)	1967
	Patents Act (Act 57)	1978
	Copyright Act (Act 98)	1978
	Trade Marks Act (Act 194)	1993
	Designs Act (Act 195)	1993
	Counterfeit Goods Act (Act 37)	1997
	Intellectual Property Laws Amendment Act (Act 38)	1997
	Copyright Amendment Act (Act 9)	2002
Agriculture	Agricultural Products Standards Act (Act 119)	1990
	Liquor Products Act (Act 60)	1989
	Livestock Improvement Act (Act 25)	1977
Mining	Mineral and Petroleum Resources Development Act (Act 28)	2002
	Minerals and Energy Laws Rationalization Act (Act 47)	1994
Telecommunications	Telecommunications Act	1996
	Telecommunications Amendment Act (Act 64)	2001
Financial services	Banks Act (Act 94)	1990
	Financial Services Board Act (Act 97)	1990
	Unit Trusts Control Act (Act 54)	1981
	Financial Markets Control Act (Act 55)	1989
	Stock Exchange Control Act (Act 1)	1985
	Mutual Banks Act (Act 124)	1993
	SARB Act (Act 90)	1989
	Financial Institutions (Protection of Funds) Act (Act 28)	2001
	Anti-Money Laundering Act	2001
Transport	South African Maritime Safety Authority Act (Act 5)	1998
	South African Civil Aviation Authority Act (Act 40)	1998
	National Roads Act (Act 54)	1971
	National Land Transport Transition Act (Act 22)	2000
Tourism	Tourism Act (Act 72), as amended	1993

Source: Information provided by the South African authorities.

25. Foreign investors require a business permit to establish a company in South Africa.⁴¹ The permit is issued to prospective investors after the Department of Home Affairs (DHA) has received documentary motivation and evidence of the applicant's intention to invest in South Africa. Processing times range from six to eight weeks.

26. Under the authority of DTI, the TISA is in charge of promoting South Africa as an investment destination. TISA focuses on activities with greatest growth potential: chemicals-fine and speciality chemicals, polymers, and pharmaceuticals; minerals, and ferrous and non-ferrous metals; agri-processing, meat, fruit, and vegetables; textiles and clothing, and leather; auto industry; technology and research; and information and communication technology. TISA has set a target of R 4.7 billion (US\$470 million) in foreign direct investment (FDI) for 2003, up from R 4 billion (US\$ 400 million) in 2002.

27. At the same time, South Africa is promoting outward investment, particularly in the SACU and SADC areas, in an effort to promote industrialization in the region. With this aim, the Government is encouraging South African firms to invest regionally through the relaxation of foreign exchange controls on capital destined for the region.

(4) TECHNICAL ASSISTANCE

28. As SACU's most diversified economy, South Africa's technical assistance needs are different from those identified for the other members. South Africa benefits from a relatively sophisticated trade policy formulation process, and a strong understanding of the mechanics of WTO Agreements. Therefore, its needs regarding implementation of the WTO Agreements, and trade negotiations are limited.

(i) Implementation of WTO Agreements

29. In tariff reforms, capacity building could focus on helping the Government to assess the degree of anti-export bias resulting from the current tariff structure, and identifying the path of future tariff cuts. In certain subsectors, notably the automotive subsector, tariff reforms will be necessary to avoid the creation of anti-export biases through a combination of high tariffs and reduced export incentives: the degree of anti-export bias decreases as tariff protection is lowered⁴²; and tariff reductions to date have been associated with improvements in dynamic efficiency.⁴³ In incentive schemes, assistance would focus on developing a phase-out strategy, which should avoid the welfare-reducing effects associated with their entrenchment.

30. South Africa's training needs regarding implementation of sanitary and phytosanitary regulations include: pest risk analysis for import of plants, plant products, and regulated articles; conducting surveys for the interception and control of quarantine pests, which will harmonize phytosanitary control in the region; competencies on good agricultural practices (GAP), good manufacturing practices (GMP) and hazard analysis and critical control point (HACCP) auditing; and laboratory techniques relating to food safety. Systems and infrastructure needs include developing systems for monitoring of mycotoxins (which tend to affect grains, the main product of poor rural households), and an integrated system to reduce and address the possibility of contamination; and

⁴¹ Nationals of the United States, European Union, and Canada do not require visas for business purposes. All other foreign nationals who apply for a business visa must apply through South Africa's missions abroad (DTI, 2000).

⁴² Tsikata (1999).

⁴³ Subramanian and Jonsson (2001).

equipment for residue analysis for food safety reasons. Such assistance will contribute to improving the quality of South and southern Africa's agricultural exports and to alleviate poverty.

31. The South African Government has also noted to the need for assistance to develop harmonized phytosanitary measures and risk management to ensure effective regulatory and control services in the SADC region. The Government sees such region-wide capacity building as important for strengthening regional trade integration.

(ii) Trade negotiations

32. South Africa has had long experience of participation in the WTO. However, the interaction between negotiations at various levels (regional, sub-regional, bilateral, and multilateral) will be a challenge to its capacity to deal with them all, including negotiations under the Doha Development Agenda.

33. Expanded export opportunities in certain services subsectors, through negotiated commitments, could contribute to the diversification of the country's export base. The main subsectors of interest include financial services, telecommunications, and energy. Capacity building for negotiators in these subsectors at the regional level would enable the development of strategies and coordinated positions for negotiations.

34. A large part of the capacity-building agenda in relation to negotiations would include efforts to strengthen the linkage between the domestic policy reform process and the negotiations process, so that negotiated commitments could serve to put domestic reforms on a predictable and stable footing. This applies most particularly to various services subsectors, where reforms have already been initiated or are about to be initiated, including those referred to as being of export interest.

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

35. South Africa faces a lower incidence of supply-side constraints than many of its regional neighbours. In the context of its current Medium Term Expenditure framework, South Africa has undertaken efforts to improve the provision of key infrastructure-related services such as roads and electricity to certain rural areas. The Government established industrial development zones for export-oriented industries, which combine the provision of infrastructural facilities with export incentives. Nevertheless, overall investment rates in South Africa are lower than might be expected. One major constraint identified by respondents to business surveys is the relatively narrow pool of employees with modern managerial skills. Partly as a result of decades of exclusionary policies, which limited the access of large sections of the population to training and education, there appears to be a mismatch between the type of skills required by firms and those offered. Assistance in developing appropriate labour-market policies, including the provision of training skills, could therefore simultaneously promote trade, investment and employment.⁴⁴

36. While the vast majority of South African firms are involved in export activity, most export a very small proportion of their overall output.⁴⁵ This applies particularly to small, micro and medium enterprises (SMMs), which have been identified as potential sources of job creation, and which, in contrast to SMMs in a number of other emerging markets, appear to have a low degree of integration into world markets. One survey showed that only 22% of SMMs were involved in international trade. One possible area of assistance would be to help the government to identify and implement actions – such as access to market information, information on standards compliance – to support

⁴⁴ Lewis (2001).

⁴⁵ Rankin (2001).

smaller firms.⁴⁶ This seems particularly applicable to firms exporting electronics and electrical products, which tend to export primarily to SADC countries and other low-income markets, rather than the more industrialized markets.⁴⁷

37. The development of regulatory capacity to accompany liberalization and privatization efforts in areas such as energy, transport and telecommunications, which have key supply-side linkages, is a priority if such reforms are to generate positive welfare and developmental effects. Continuation of efforts to promote competition in the delivery of information and communications technology (ICT) services, for instance, is likely to benefit small and medium enterprises.

38. Key government priorities include increasing economic growth to reduce high unemployment and to help integrate into the mainstream economy sections of the population that have hitherto been excluded. Trade policy reform to date has helped simultaneously to increase the integration of the South African economy into the global economy and to increase its resilience towards external shocks. Significant reduction of unemployment and poverty remains to be made. It is likely that sustained growth will be contingent on the pursuit of further policy reform addressing also state-owned enterprises, the labour market, and regulatory issues. These actions will need to be sequenced, and incorporated into a comprehensive development framework, with a clear identification of poverty linkages. South Africa has the advantage of being able to draw on its relatively advanced consultative policy formulation process in order to elaborate poverty-reducing trade policies.

⁴⁶ Lewis (2001).

⁴⁷ Rankin (2001).

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) OVERVIEW

1. Since its last Trade Policy Review, in 1998, South Africa has continued to liberalize its trade regime, with a focus on export promotion. A wide variety of incentives are available to local producers in general, and exporters in particular; some incentives are subject to local-content requirements. South Africa has also initiated the Industrial Development Zones Programme to foster international competitiveness, particularly of its small, medium, and micro enterprises. It maintains export controls on certain products.

2. With a few exceptions, import permits are maintained on health, sanitary, phytosanitary and environmental grounds, or under international conventions to which South Africa is a signatory. South Africa has redrafted or amended legislation in many areas, including intellectual property rights, and has continued to reform its government procurement system, with a view to increasing local content of purchases, and promoting "black economic empowerment" throughout the economy.

3. A new Competition Act was enacted in South Africa in 1998. The new Act aims to further address the high levels of concentration present in the economy, and anti-competitive business practices. South Africa has also launched a programme to complete the restructuring of state-owned enterprises by 2004, in order to increase efficiency, while attracting foreign investment, technology, and expertise through full or partial privatization. The programme centres on the four major public enterprises (Telkom, Transnet, Eskom, and Denel), which still operate under *de jure* or *de facto* monopoly, or hold exclusive rights.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration, import duties, and related measures

4. Under the SACU Agreement, import duties and related measures are to be set by South Africa on behalf of the common customs area. 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). As regards 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 (Main Report, Chapter III(3)).

5. Trading activities in South Africa are open to nationals and foreigners. All importers and exporters are required to register with the Commissioner for the South African Revenue Service.⁴⁸ Upon registration, applicants are issued with a customs code number, which must be entered on all commercial documents. The registration process takes on average one day; traders are permitted to use a general code number issued by Customs in order to begin importing or exporting immediately if required.

6. Import clearance generally takes a maximum of 24 hours for air freight, and two to three days for sea freight, depending on the port of entry.⁴⁹ All required documentation must be submitted to the customs offices at the port of entry before goods can be cleared. Shipments may be cleared through customs prior to arrival at a South African port. In the case of sea freight, once customs has been cleared, the importer pays dues to Harbour Revenue, and receives a wharfage order. The importer

⁴⁸ Form DA163 covers importers and exporters, as well as clearing agents and warehouse licensees.

⁴⁹ Certain goods, such as liquor products, may take longer because laboratory analysis is required.

then pays the operator, receives a release, and collects the goods.⁵⁰ The larger district customs offices accept electronic documentation to expedite the clearance process; however, it must be accompanied by a paper version, since a paper document is still regarded as the legal declaration.⁵¹

7. In addition to preferential tariff treatment provided by all SACU members, exceptions to MFN tariff treatment include preferential access under South Africa's trade arrangements: the Trade, Development, and Cooperation Agreement (TDCA) with the EU (Chapter II(2)(i) above); the bilateral trade agreement with Zimbabwe; and the non-reciprocal preferential treatment granted to Malawi, and to a list of products from Mozambique (Chapter II(2)(ii)).

8. A specific fuel levy is applied on certain petroleum oils and oils obtained from bituminous minerals. The levy is the same on imported and domestic goods: R 0.766 per litre of leaded petrol; R 0.704 per litre of unleaded petrol; and R 0.661 per litre of distillate fuels (e.g. gas oil and diesel oil), or mixtures of illuminating or heating kerosene. Other specific levies are charged on certain imported and domestically produced agricultural goods, such as sorghum, oil seeds, lucerne seed, dried fruit, meat, mohair, and milk. They are collected to promote research on the goods concerned. These levies comprise two components, which together range from R 0.02 per kg. of meat, to R 0.342 per kg. of mohair (Table III.1).

Table III.1
Levies on agricultural products

Products	Domestic		Imported	
	Levy	Special levy	Levy	Special levy
Sorghum	R 7.98/tonne	R 3.97/tonne	R 7.98/tonne	R 3.97/tonne
Oilseeds:				
Shelled edible groundnuts	R 5.80/tonne	R 12.50/tonne	R 1.45/tonne	R 3.13/tonne
Unshelled edible groundnuts	R 4.20/tonne	R 9.06/tonne	R 1.05/tonne	R 2.27/tonne
Shelled crushing groundnuts	R 5.80/tonne	R 12.50/tonne	R 1.45/tonne	R 3.13/tonne
Unshelled crushing groundnuts	R 4.20/tonne	R 9.06/tonne	R 1.05/tonne	R 2.27/tonne
Sunflower seed	R 5.80/tonne	R 1.10/tonne	R 1.45/tonne	R 0.28/tonne
Soy beans	R 5.80/tonne	R 9.10/tonne	R 1.45/tonne	R 1.11/tonne
Lucerne seed	R 0.32/tonne	R 0.18/tonne	R 0.32/kg.	No special levy
Dried fruit:				
Currants	2.50 ¢/kg.	1.50 ¢/kg.	1.50 ¢/kg.	1.50 ¢/kg.
Raisins	2.50 ¢/kg.	1.50 ¢/kg.	1.50 ¢/kg.	1.50 ¢/kg.
Seedless raisins	2.50 ¢/kg.	1.50 ¢/kg.	1.50 ¢/kg.	1.50 ¢/kg.
Prunes	3.00 ¢/kg.	2.00 ¢/kg.	2.00 ¢/kg.	2.00 ¢/kg.
All other kinds of dried fruit	3.40 ¢/kg.	5.00 ¢/kg.	5.00 ¢/kg.	5.00 ¢/kg.
Deboned meat cuts of beef	No levy	No levy	1 ¢/kg.	1 ¢/kg.
Meat of animals slaughtered at abattoirs in South Africa				
Beef	209 ¢/carcass	352 ¢/carcass	n.a.	n.a.
Calf	54 ¢/carcass	74 ¢/carcass	n.a.	n.a.
Sheep	38 ¢/carcass	34 ¢/carcass	n.a.	n.a.
Goat	38 ¢/carcass	34 ¢/carcass	n.a.	n.a.
Pork	65 ¢/carcass	334 ¢/carcass	n.a.	n.a.
Meat imported into South Africa or introduced from an area in South Africa where the scheme does not apply				
Beef	n.a.	n.a.	1 ¢/kg.	1 ¢/kg.

Table III.1 (cont'd)

⁵⁰ Use of freight forwarder is strongly recommended by Customs to clear goods more quickly. *Ibid.*

⁵¹ The South African Revenue Service is upgrading its technology and information systems. Plans in the near future include a move to electronic data interchange (EDI) technology to facilitate the clearance process. Moving to electronic customs procedures is expected to increase revenue collection, by reducing human error, by identifying fraudulent invoices, and through improved data dissemination.

Products	Domestic		Imported	
	Levy	Special levy	Levy	Special levy
Calf	n.a.	n.a.	1 ¢/kg.	1 ¢/kg.
Sheep	n.a.	n.a.	2 ¢/kg.	1 ¢/kg.
Goat	n.a.	n.a.	2 ¢/kg.	1 ¢/kg.
Pork	n.a.	n.a.	0 ¢/kg.	2 ¢/kg.
Deboned meat cuts of beef	n.a.	n.a.	1 ¢/kg.	1 ¢/kg.
Mohair	23.9 ¢/kg.	10.3 ¢/kg.	23.9 ¢/kg.	10.3 ¢/kg.
Milk	0.163 ¢/litre	0.297 ¢/litre	0.163 ¢/litre	0.297 ¢/litre

n.a. Not applicable.

Source: Information provided by the National Agricultural Marketing Council.

9. South Africa imposes a value-added tax (VAT), at 14%, on goods and services, whether locally produced or imported.⁵² The VAT on imports is levied on the added-tax value (i.e. the sum of the customs value, plus 10% of the customs value, plus any non-rebated customs duty). According to the authorities, the additional 10% of the customs value corrects for the use of f.o.b. rather than c.i.f. prices for customs duty purposes. The VAT is levied on the open-market value of domestic supply of goods and services.⁵³

10. Exports and the supply of certain goods and services, such as agricultural inputs (e.g. animal feed, seed, fertilizers, pesticides, and animal remedies), certain basic foodstuffs (e.g. brown bread, maize meal, eggs, milk, fruit, and vegetables), and international transport services, are zero-rated for VAT refund purposes.⁵⁴ The VAT is not payable on temporary imports and imports for export-processing. Interest on loans, superannuation fund interest, residential rents, passenger transport by road or rail, and educational services are exempt from VAT. Revenue collected from VAT almost doubled from R35.9 million in 1996/97 to R70.6 million estimated for 2002/03.

11. In addition to VAT concessions, and to concessions granted by all SACU countries (Main Report, Chapter III(3)(v)), South Africa may provide rebate facilities, on a selective basis, to industrialists who demonstrate that the import tariff on their raw materials and/or components has a substantial effect on their production costs, and that they need the rebate to compete with like imported products.⁵⁵ South Africa also has a duty drawback scheme, which provides refunds for import duties paid on materials used in the production of export goods. Secure bonded warehouse facilities are available in designated areas (listed in the schedule to the Customs and Excise Rules) and may be used to store imported goods without payment of duties for a maximum of two years until required for use or re-export. Goods withdrawn from a bonded warehouse are liable for the duty applicable only if cleared out of bond for home consumption.

⁵² A 10% VAT replaced the 13% general sales tax on 1 October 1991. The VAT standard rate was increased from 10% to 14% on 7 April 1993.

⁵³ The open market value of any goods and services is the consideration in money that the goods and services would generally fetch if their supply were freely offered and made, in similar circumstances, between persons who are not connected persons, in South Africa (Section 3 of the 1991 Value-Added Tax Act).

⁵⁴ Capital goods qualify for import tax deductions.

⁵⁵ The Board on Tariffs and Trade considers applications for tariff protection, exemptions, rebates and refunds, and related permits. WTO (1998).

(ii) Import prohibitions and licensing

12. The importation of certain goods (Table III.2) is subject to import permits under the 1963 Import and Export Control Act. Applications for import permits must be made by importers at least two weeks prior to the date of shipment. Import permits are issued free of charge by the Import and Export Control Directorate of the Department of Trade and Industry (DTI).⁵⁶ The average time taken to issue of a permit is three days. Permits are valid for a calendar year, and they are non-transferrable. They may prescribe conditions for import, or the use of the goods to be imported; these may include the quantity or value/price and the origin of the goods. Failure to produce the permit may result in a fine of up to R 40,000 and/or imprisonment for a period not exceeding ten years.⁵⁷

Table III.2
Goods subject to import control, January 2003

Description	Tariff heading	Purpose of control
All used goods, waste and scrap	Various	Health, environmental reasons and in terms of the Basel Convention
Fish, fresh or frozen, crustaceans and molluscs	03.01 to 03.07	Health reasons, no quantitative restrictions
Sugar and coffee from Malawi	0901, 17.01	In terms of the trade agreement between South Africa and Malawi
Mineral fuels, mineral oils and products of their distillation	27.07 to 27.15	Strategic reasons
Radioactive chemical elements and radioactive isotopes	28.44, 28.45	Health and environmental reasons
Chemicals used in drug manufacturing	2806.10, 2807.00, 2841.61, 2902.30, 2909.11, 2914.11, 2914.12, 2914.31, 2915.24, 2916.34, 2922.43, 2932.92, 2932.93, 2932.94, 2933.32, 2939.42, 2939.61, 2939.62, 2939.63	1998 Convention against chemicals used in illegal drug manufacturing
New pneumatic tyres	40.11	Monitoring for quality specification
Gold and coins	71.08	Monetary policy
Cobalt, cadmium antimony, manganese, diromium, germanium, vanadium, gallium, hafnium, indium, rhenium, and thallium	81.05; 81.07; 81.10; 81.12	Health and environmental reasons
Revolvers and pistols, other firearms, parts, ammunition and parts	93.03 to 93.06	Security reasons
Gambling machines	ex 9504.30	Quality specifications and public interest
Ozone-depleting substances	ex 2903.10, 2903.30.10, 2903.45.90, ex 2903.49.10, 2903.41-2903.44, 2903.45.05, 2903.46, 3824.71.10, 3824.71.90	Montreal Protocol

Source: WTO document G/LIC/N/3/ZAF/3/Rev.1, 20 August 2001, and information provided by the authorities.

13. Since its last TPR, South Africa has phased out import permits on four categories of products: dairy products (HS 04.01 to 04.06); oats and maize (HS 10.04, and 10.05); wine, vermouth, fermented beverages, ethyl alcohol vinegar, and substitutes ((HS 22.04 to 22.06, ex22.07, ex22.08, and 22.09); and vulcanized rubber thread and cord, plates and strip (HS 40.07, and 40.08). It temporarily introduced an import permit on black tea (HS 0903.30 and 0902.40), but according to the authorities, this was abolished in 1998. Some chemicals likely to be used in illegal drug manufacturing are subject to import controls in accordance with international conventions (Table III.2).

⁵⁶ For a limited range of goods, applications are also considered by the Departments of Agriculture, Health, and Environmental Affairs.

⁵⁷ WTO (1998).

14. The 1983 Agricultural Pests Act (Act No. 36) provides for importation, by means of a permit or following publication in the *Government Gazette*, of controlled goods such as plants and plant products, pathogens, insects, exotic animals, growth mediums, honey, beeswax or used apiary equipment. The importation of such goods may also be subject to specific phytosanitary conditions as indicated on the permit or as published in the *Government Gazette*. The importation of other controlled goods – fresh and dried fruits, vegetables and cut flowers, as well as certain types of plant material – also requires a permit to be issued in terms of Articles 3 and 4 of the Agricultural Pests Act, 1983.⁵⁸ The 1947 Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act No. 36) covers a list of agricultural products subject to import control for health, sanitary and phytosanitary reasons (section (c) below). Pursuant to the 2000 Meat Safety Act, a permit is necessary to import any meat into South Africa. Import controls are also applied to products such as medicines, mainly for reasons of compliance with approved standards. South Africa prohibits imports of certain used goods, waste, and hazardous materials. Pesticides such as aldrin, dieldrin, mercury compounds, and certain mixtures of isomers are banned from import, while imports of others (e.g. inorganic arsenic compounds, chlordane, DDT) are severely restricted. These measures apply to all imports, including from other SACU countries.

15. Preferential tariff quotas apply to a list of imported goods from Mozambique.⁵⁹

(iii) Local-content schemes

16. Exporters qualify for credit facilities (granted by the Industrial Development Corporation (IDC)) by using a minimum of 70% South African products and services (section (3)(iii)), and there are certain restrictions on loans from South African banks to foreign companies, depending on the percentage of foreign capital participation (Chapter I, Box I.1). Also, local-content considerations are taken into account when comparing tenders for government procurement purposes (section (v) below).⁶⁰ The South African Music and Television Local Content Regulations, published in April and May 1997⁶¹, which came into effect in November 1997, establish minimum local-content requirements for TV and sound broadcasters.⁶²

(iv) Standards and other technical regulations

(a) Standardization, testing, and certification

17. The South African Bureau of Standards (SABS), established in 1945, continues to be the national institution for the promotion and maintenance of standardization in industry and commerce in South Africa. SABS is also the official WTO/TBT enquiry point for South Africa.⁶³ The principal

⁵⁸ WTO document G/SPS/N/ZAF/4, 21 October 1998.

⁵⁹ See WTO (1998).

⁶⁰ In 2001, South Africa informed the WTO that the TRIMs it notified in 1995 had been phased out, and that no other measures inconsistent with the provisions of the TRIMs Agreement were maintained. The 1995 TRIMs related to the motor vehicle industry, telecommunication equipment, and tea and coffee (WTO document G/TRIMS/N/2/Rev.9, 28 September 2001).

⁶¹ Regulations No. R. 622, 25 April 1997, Relating to the Imposition of Sound Broadcasting Licence Conditions Regarding South African Music; and Regulations No. R. 661, 2 May 1997, Relating to the Imposition of Specific Broadcasting Licence Conditions Regarding Local Television Content for Public and Private Television Broadcasting Services.

⁶² The Independent Broadcasting Authority regulations apply to the holder of any category of sound broadcasting licence that devotes 15% or more of its broadcasting time between 5:00 a.m. and 11:00 p.m. to the broadcast of music.

⁶³ The core business units of SABS are financed under the "science vote", administered by the Department of Arts, Culture, Science and Technology of South Africa. Inspections and tests, which are carried

activities of SABS include preparing specifications, codes of practice and standard methods, setting up test and inspection facilities, and the administration of product and system certification schemes, such as the SABS mark, for which varying fees are charged depending on the product and tests involved. The Agricultural Product Standards Act (Act No. 119 of 1990) and the Liquor Products Act (Act No. 60 of 1989) cover the setting of norms and standards for agricultural products. According to the authorities, standards setting under these acts is in consultation with the agricultural industry, consumer groups, and international standards setting bodies.

18. SABS develops standards at the request of interested parties. It forms a committee including representatives of parties with an interest in the standard. Once finalized and commented on by the public, standards are published in the *Government Gazette* as national standards. The use of SABS standards is voluntary, although in some cases where public health and safety are a concern, the Minister of Trade and Industry has declared their use obligatory.

19. Under the Standards Act (Act No. 29 of 1993, administered by the DTI), a voluntary standard becomes compulsory once referenced; any Department may reference and make compulsory any standard that addresses health, safety or environmental concerns. Compulsory standards apply equally to products from all origins. Section 23 of the Standards Act gives SABS the authority to ensure that products that are subject to compulsory South African specifications comply with these requirements. By mid 2002, South Africa had 6,980 standards, of which 72 were declared compulsory by the Minister of Trade and Industry (up from 3,500 and 54, respectively, in mid-March 1997).⁶⁴ The departments of Agriculture, Health, Minerals and Energy, among others, meet some regulatory needs through referencing standards.

20. While Telkom is still largely responsible for setting and approving telecommunication standards applicable to telephone equipment, the SABS is responsible in general for setting broadly applicable telecom standards.

21. South Africa generally sets its standards following international norms, and continues to be active in a number of standardization organizations, such as the FAO/WHO Codex Alimentarius Commission, the various special advisory commissions under the auspices of the Office International des Epizooties (OIE), and the United Nations Economic Commission for Europe (UNECE) Working Party on Vehicle Safety.⁶⁵ SABS is party to the International Organization for Standardization (ISO), the International Organization for Legal Metrology (OIML), the International Electrotechnical Commission (IEC), and it has accepted the Code of Good Practice of the WTO Technical Barriers to Trade (TBT) Agreement. South Africa is represented in the Metre Convention, and in the Bureau international des poids et mesures, by the National Metrology Laboratory (NML). The South African National Accreditation System (SANAS) is a member of the OECD Good Laboratory Practice Panel. South Africa also plays a leading role in regional technical infrastructure initiatives; SANAS, SABS, and NML, host regional secretariats in their respective fields, following the May 2000 Memorandum of Understanding establishing cooperation between national institutions within SADC. According to

out for the private sector, industry, national government, provincial, and local authorities, as well as the certification of products and systems, are funded on a commercial basis by fees charged for services rendered (South Africa Bureau of Standards, 2001).

⁶⁴ All SABS standards from 1992 are now available electronically via print-on-demand, and the aim is to have all standards available electronically as soon as possible. *Ibid.*

⁶⁵ According to SABS (2001), the UN ECE 1958 and 1998 agreements, essential for the harmonization of motor vehicle regulations worldwide, have been prepared for signature by the Government. Once South Africa becomes a contracting party to these agreements, the automotive industry is expected to benefit through increased international recognition.

the authorities, South Africa complies with the WTO SPS Agreement for import of animals, plants and agricultural products.

22. The South African National Accreditation System (SANAS), launched in 1996, became fully operational in 1998 with two divisions in place: one for accreditation of laboratories and inspection bodies, and one for the handling of accreditation of all certification bodies. SANAS operates an internationally recognized accreditation system for calibration and testing laboratories, quality and environmental management systems, and product and personnel certification and inspection. SANAS has mutual recognition agreements with the European Accreditation of Laboratories Co-operation (EAL) in respect of calibration and testing facilities, and with the Chinese National Laboratory Accreditation (CNLA) in respect of calibration facilities.⁶⁶ SANAS has been assessed by the National Association Testing Authority of Australia (NATAA) for mutual recognition agreements with NATAA, and by the Testing Laboratory Registration Council (TELARC) in respect of calibration and testing facilities. In the absence of a mutual recognition agreement, it is the responsibility of the supplier to prove the compatibility of its products with South African standards. SANAS participates in the International Laboratory Accreditation Co-operation (ILAC) and the International Accreditation Forum (IAF). SANAS maintains a list of accredited civil engineering test facilities whose technical competence meets South African standards; it has not so far accredited foreign test facilities.

(b) Health, sanitary, phytosanitary, and environmental regulations

23. There have been no major changes to the laws that regulate trade, production, and manufacture of agricultural commodities and goods destined for human or animal consumption since the last Review, except: the Agricultural Products Amendment Act (Act No. 63 of 1998), which provides, *inter alia*, for quality control, the control over sale of imported products, the charging of certain fees, and further regulates provisions relating to powers of entry, investigation, sampling, and seizure; and the Meat Safety Act (Act No. 40 of 2000), which provides for measures to promote meat safety and the safety of animal products⁶⁷, to establish and maintain essential national standards in respect of abattoirs, to regulate the importation and exportation of meat, and establishes meat safety schemes, which may be made compulsory.⁶⁸ Any person who contravenes or fails to comply with measures related to assignment of powers, the operation of slaughter facilities, restrictions on importation or exportation of meat, and inspections, is liable to a fine or to imprisonment for up to four years, or both. The Tobacco Products Control Amendment Act, No. 12 of 1999⁶⁹, provides for the prescription of maximum yields of tar, nicotine, and other constituents in tobacco products. Accordingly, the Minister of Health has declared the allowed maximum amount of tar and nicotine in tobacco products.⁷⁰

24. All imports of live animals (including exotic animals) and animal products, plants, pathogens, insects, growth medium, any infectious item, honey, beeswax used as apiary equipment, and genetically modified organisms, continue to be subject to import permits issued by the Directorates of

⁶⁶ The mutual recognition agreement with the EU also applies to electrical and electronic systems and components.

⁶⁷ The Abattoir Hygiene Act, Act No. 121 of 1992, is thereby repealed, except for its Section 23.

⁶⁸ As a general rule, meat can only be imported through a permit, and meat can only be introduced to South Africa following the prescribed procedures, *inter alia*: storage at an approved facility until the prescribed veterinary procedures or other acts are performed, and availability for inspection, sampling and testing (*Meat Safety Act*, Section 13).

⁶⁹ It amends the Tobacco Products Control Act, Act No. 83 of 1993.

⁷⁰ Department of Health, Government Notice No. R. 974 of 2000: the amount of tar is not to be greater than 15 mg per cigarette, and the nicotine yield not greater than 1.5 mg per cigarette, as from 1 December 2001; they shall not exceed 12 mg and 1.2 mg per cigarette, respectively, as from 1 June 2006.

Animal Health, Plant Health and Quality of the National Department of Agriculture; such imports remain under continuous review due to changes in disease status. A list of other agricultural products subject to import control, is determined by the Minister of Agriculture.⁷¹

25. The sale of foodstuffs containing more than prescribed levels of aflatoxin and other fungus-induced toxins, and the sale of cereals in which, *inter alia*, the datura seed content exceeds certain specified limits are prohibited.⁷² The importation of live animals susceptible to "mad cow" disease from all countries infected with Bovine Spongiform Encephalopathy (BSE) has been suspended since 22 March 1996. However, imports of semen from BSE-infected countries are still allowed if accompanied by a health certificate issued in accordance with international guidelines. South Africa and other countries have harmonized their import requirements for certain diseases; for example, South Africa has mutual acceptance of pathogen-reduction programmes for diseases, such as salmonella enteritidis, with the other members of SADC.

26. Food products are routinely analysed in specialized laboratories in South Africa to determine their composition, microbiological contamination, and pesticide residue levels. A cost-related fee of R 60 (per import permit) is charged for issuing import permits by the Directorate of Veterinary Public Health. Inspection fees range from R 35 per 30 minutes to R 104 per hour or portion thereof; fees payable for testing range from R 12 to R 122 per test or sample.

27. For over ten years, South Africa has been active in the application of genetic engineering techniques in sectors including agriculture, food, and pharmaceuticals. Herbicide tolerant (RR) soybeans, insect resistant (Bt) cotton, and two types of corn (RR and Bt) have been issued general release permits.⁷³ The regulatory framework governing the use of these products is the 1997 Genetically Modified Organisms Act, which came into force on 1 December 1999. This Act aims to ensure that all activities involving the use of genetically modified biotechnology are carried out in such a way as to limit possible harmful consequences to the environment. South Africa intends to stimulate the growth of biotechnology industries, given their important contribution to human health, food security, and environmental sustainability. However, some SADC countries have criticized South Africa for breaking ranks with the regional opposition to GM crops⁷⁴, while South Africa's parliament has called for an urgent discussion on whether the country needs to amend its laws in this regard.⁷⁵ Also, some consumer groups have urged the Ministry of Health of South Africa to introduce compulsory biotechnology labelling.⁷⁶

28. The Animal Disease Act (Act No. 35 of 1984) is soon to be replaced with the Animal Health Act (Act No. 7 of 2002), which has been promulgated, and will be proclaimed some time in 2003. The new Act retains the basic provisions of the Animal Disease Act, regarding animal disease control and import control for animals and animal products, and adds provisions for the designation of provincial executive officers, for the assignment (and the suspension) of executive authority to provinces, abolishing the need for a warrant to conduct powers of entry, search and seizure for the

⁷¹ The list includes: seeds for planting purposes; fresh and dried fruit, vegetables, flowers and foliage; bark, cork, rattan, bamboo, timber and fibres for manufacturing; organisms for research, bio-control agents, infected plant material for laboratory analysis; leaf tobacco, tobacco stalks and dust; and fresh water fish for aquariums and fresh water crayfish for research.

⁷² See WTO (1998) for permissible levels.

⁷³ Other genetically modified (GM) crops have also been granted permits for "trial release plantings".

⁷⁴ South Africa is the only SADC member to produce genetically modified (GM) crops. Zambia, Zimbabwe, Malawi, and Mozambique have been hesitant to accept GM grains even in the face of a threatening regional famine (*Reuters*, 15 October, 2002).

⁷⁵ *Reuters*, 15 October, 2002.

⁷⁶ *Reuters*, 15 October, 2002.

purpose of achieving the objects of the Act, and providing for control of the export of animals and animal products to protect the animal health status of the importing country. In addition, the Animal Health Act stipulates that all exports of animals or animal products from South Africa are subject to a Valid State Veterinary Expert health certificate, confirming that the import requirements of the country of destination have been met. The obligation to obtain such a certificate will be waived only if the exporter is able to furnish written proof that the importing country does not require such certification.

29. South Africa is a member of the three standard-setting bodies referred to in the WTO SPS Agreement: FAO/WHO Codex Alimentarius, the Office international des epizooties (OIE), and the International Plant Protection Convention of 1991.

(c) Marking, labelling, and packaging

30. The 1990 Agricultural Products Standards Act remains the legal basis for packaging and marking of agricultural products (including imported goods) for local sale and for export. The Directorate of Plant Health and Quality of the National Department of Agriculture, and the Directorate of Food Control of the National Department of Health, are responsible for regulating, and setting certain standards for agricultural products. This includes the composition, quality, packaging, marking, and labelling of products, as well as physical, physiological, chemical, and microbiological analyses. The requirements are published, in accordance with the 1998 Agricultural Product Standards Amendment Act, and the 1989 Liquor Products Act, as regulations governing the sale of products in the local and export markets (Table III.3). Local and export quality standards apply to: fruit, flowers, grains, processed animal and plant products, animal products, and liquor products derived from wine.

Table III.3
Agricultural products to which quality standards apply

Product description	Quality standards
Animal products	
Dairy products	local & export
Eggs	local & export
Fat spreads	local
Mohair	local
Imitation dairy products	local
Meat (carcasses)	local & export
Poultry meat	local & export
Processed products	
Apricot and peach kernels	export
Canned fruit	local & export
Canned mushrooms	local & export
Canned vegetables	local & export
Dehydrated vegetables	local
Dried fruit	local & export
Frozen fruit and vegetables	local & export
Fruit juices	local
Honey	local
Canned Pasta	local & export
Rooibos tea	local & export
Vinegar	local
Deciduous fruit	
Apples	local & export
Apricots	export
Cherries	export
Grapes	local & export
Peaches and nectarines	local & export
Pears	local & export
Plums and prunes	local & export

Table III.3 (cont'd)

Product description	Quality standards
Subtropical crops and flowers	
Avocados	local & export
Chinkerinchees	export
Citrus fruit	local & export
Flowers	export
Green bananas	local
Kiwifruit	export
Litchis	export
Mangoes	export
Melons and watermelons	export
Pineapples	export
Strawberries	export
Subtropical fruit	export
Cereals and vegetables	
Buckwheat	export
Dry beans	local & export
Feed products	export
Grain sorghum	export
Grass seeds	export
Groundnuts	export
Leguminous seeds	export
Lesser known types of maize	export
Maize	export
Maize products	local & export
Oilseeds	export
Onions	local & export
Potatoes	local & export
Tobacco	export
Tomatoes	local
Vegetables (other than potatoes and onions)	export
Wheat	export
Wheaten products	local
Liquor products	
All liquor products (excluding beer and sorghum beer)	local & export

Source: Information provided by the South African authorities.

31. The country of origin must be identified on imported products. Marks and labels are to provide consumers with accurate and relevant information for their personal choice of products: for example, full-fat yoghurt is differentiated from low-fat yoghurt; class A (tender) meat is contrasted with class B or C (less tender); pure orange juice contains a minimum of 90% juice, orange nectar contains a minimum of 50%, orange drink contains a minimum of 6%, and orange flavour drink less than 6%; and real vinegar is differentiated from imitation vinegar (acetic acid). The quality of potatoes in a sealed bag or the contents of a tin are indicated by a mark or label.

32. Special labelling requirements also apply to products such as drugs, wine, mouthwashes, foodstuffs, cosmetics, and textile goods containing sheep's wool. Packaging made from natural materials and fibres must be accompanied by an official certificate stating that the material has been fumigated. South Africa has a compulsory standard specification relating to the manufacture, production, processing or treatment of canned meat products (Standards Act of 1993). The import of irradiated meat from any source is still banned on public health grounds.

33. The National Economic Development and Labour Council (NEDLAC) has recently launched the "Proudly South African" campaign to promote South African companies, products, and services. At the heart of the campaign is a logo that can only be used if certain criteria are met, including fair labour and employment practices, sound environmental standards, and local content. For example, a

company's products or services must be substantially transformed, and incur in at least 50% of their production costs, including labour, in South Africa.⁷⁷

(v) Government procurement

34. South Africa is not a member of the WTO Plurilateral Government Procurement Agreement (GPA). According to the authorities, joining the GPA could limit South Africa's objectives towards promoting small, micro, and medium-sized enterprises (SMMEs), and the "black economic empowerment" (BEE) programme.

35. The government procurement framework has remained basically the same since the previous TPR; it is regulated through the State Tender Board Act (Act No. 86 of 1968). However, South Africa is trying to align the buying procedures of national, provincial, local, and state-owned companies. As part of the Public Finance Management Act Regulations of 1999, the state and provincial tender boards ceased to exist on 31 March 2002, in order to devolve accountability to accounting officers. The accounting officers are now allowed to approve government purchases depending on their level of responsibility and the amount. For instance, for amounts greater than R 500,000 three quotations must be submitted to the Tender Committee and services must be procured to the best advantage of the State (i.e. the lowest quotation). For purchases greater than R 4 million, the Director-General of DTI is authorized to approve. Also, an independent ombudsperson was appointed to provide an interim mechanism for quick and effective intervention on complaints from businesses.

36. The basic principles for government procurement in South Africa, in terms of socio-economic objectives, are set out in the Constitution: procurement by an organ of State or any other institution identified in national legislation must, on the one hand, be "in accordance with a system which is fair, equitable, transparent, competitive and cost-effective", and, on the other hand, allow for categories of preference and the protection, or advancement, of persons disadvantaged by unfair discrimination, within a framework to be prescribed by national legislation.⁷⁸ Other principles on which procurement must be based in South Africa are accountability, and the just in time delivery principle.

37. Price preferences are taken into account for comparison of tenders purposes: the preferences are deducted from the tender price after the tenders have been evaluated and brought to a comparative basis. Price preferences, aimed at promoting local manufacture are based on, *inter alia*, local content, use of the SABS mark, and of locally manufactured electronic systems and components. The preference is up to 10% if local content is more than 80%; up to 10% for the use of locally manufactured electronic systems and components plus a minimum of 5% for local design, provided that the two together do not exceed 10%; and 2.5% for the use of products that carry the SABS mark.⁷⁹ Price preferences are generally cumulative.

38. The Preferential Procurement Policy Framework Act, No. 5 of 2000, and the related regulations promulgated in July 2001, stipulate that preferences will apply to all tenders, irrespective of the amount. Preference points, calculated on the basis of comparative and not tendered prices⁸⁰, may be allocated within the following limits: an 80/20 point system for tenders up to R 500,000. A maximum of 80 points is allocated to the lowest acceptable tender in terms of price; higher price tenders receive fewer points. A maximum of 20 points is awarded to historically disadvantaged

⁷⁷ Online information available at: www.proudlysa.co.za.

⁷⁸ Constitution of the Republic of South Africa, Act 108 of 1996, Section 217, Subsections (1), (2) and (3), respectively.

⁷⁹ For more details on these price preferences, see WTO (1998).

⁸⁰ Comparative prices are those obtained after comparison of tenders (WTO, 1998).

tenderers, and for achieving specified developmental goals. For tenders above R 500,000, a 90/10 point system is used on the same basis. The contract must be awarded to the tenderer who scores the highest points, unless other developmental objective criteria justify the award to another tenderer. An organ of State may be exempted from provisions of the Framework Act if public or national security interests justify such exemption, or if the likely tenderers are international suppliers. Foreign firms can only bid through a local agent.

39. Parastatals also generally follow the government's procurement policy; Eskom and Transnet have no preference system, while Telkom grants preferences based on local content. Any bidder for a parastatal contract whose bid contains imported content worth over US\$10 million, must submit an "industrial participation" (IP) plan showing that the bidder will invest in a new or incremental business in South Africa.

40. Under the National Industrial Participation Programme (NIPP), the seller must invest in a South African business to the value of at least 30% of the value of the imported content of the tender. The industrial policy of the Ministry of Defence and the Armaments Corporation of South Africa (ARMSCOR) imposes an IP obligation on all defence purchases exceeding US\$2 million; this obligation is known as "Defence Industrial Participation" (DIP). Defence purchases exceeding US\$2 million but less than US\$10 million require a DIP obligation of up to 50%, and defence purchases exceeding US\$10 million require a DIP obligation of at least 50%, and an IP obligation of at least 30%.

(vi) Countertrade

41. The countertrade regime has not changed since 1998. The NIPP, which became mandatory on 1 September 1996⁸¹, resembles a countertrade contract in the sense that goods and/or services imported under the tender contract are partially offset by exports of services, and, to a certain extent, goods, during the period of fulfilment of the Industrial Participation Obligation (the IP obligation). This applies to all public sector procurements where the imported content exceeds US\$10 million (section (v) above).

(vii) Other measures

42. According to the authorities, South Africa has no agreements with foreign governments or enterprises designed to influence the quantity or value of goods and services exported. Furthermore, there are no such agreements between companies operating in South Africa and foreign enterprises.

43. According to the authorities, South Africa applies no trade sanctions, either nationally or internationally, except those endorsed by the United Nations (UN) Security Council, the African Union (AU), or the Southern African Development Community (SADC). Such trade restrictions include those dictated by international conventions to which South Africa is a signatory, for example the trade restrictions on ivory as stipulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

⁸¹ The Cabinet approved the policy and operating guidelines on 30 April 1997.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Registration and taxes

44. Similar registration and documentation requirements apply to exporters and importers in South Africa (section (2)(i) above). In addition, in order to be eligible for export incentives, firms must be registered with the Department of Trade and Industry (DTI).

45. South Africa imposes an export levy of R 0.05 per litre of exported wine (Chapter IV(2)(ii)), and a 15% export tax on unpolished diamonds (Chapter IV(3)(ii)).

(ii) Export prohibitions, controls, and licensing

46. Export prohibitions are applied on only a few products such as crude or unprocessed tiger's eye. The export prohibition on fertile ostriches, and hatching eggs was lifted in 1997, in accordance with the Livestock Improvement Amendment Act (Act No. 60 of 1997). The number of products subject to export control and licensing has been reduced since 1997. Single-export markets disappeared in early 1998 with the abolition of agriculture control boards, which were the sole exporters of fifteen categories of products. However, a number of products are still subject to export control and licensing in South Africa, as provided for by the 1963 Import and Export Control Act (Table III.4).

47. Exports of explosives are controlled under the Explosives Act (Act No. 26 of 1956) and its Regulations. Only the South African Reserve Bank (SARB) and Rand Refined Limited are authorized to export gold; all other exports of gold must be approved in advance by the Exchange Control Department of the SARB. The export of diamonds is controlled in terms of the Diamonds Act. Some other minerals, such as manganese, molybdenum, and tantalum, are also subject to export control by the Department of Environmental Affairs and Tourism, and DTI. South African residents are permitted to export currency coins and numismatic items within an overall limit of R300 per applicant per calendar year; exports of currency coins above this amount must be approved by the SARB. Emigrants from South Africa may export motor vehicles within the overall insured value of R100,000, as well as household and personal effects to the value of R100,000. The South African Sugar Association (SASA) is no longer the sole sugar exporter; however, raw sugar can only be exported through a single channel industry arrangement (Chapter IV(2)(ii)). For quality control purposes, exports of wine are still subject to an export certificate under the Liquor Products Act.

Table III.4
Products subject to export control, January 2003

Tariff heading	Description of goods	Code letter ^a
Ex 12.09	Wattle seed being:	W
	- Acacia mearnsii de Willd (formerly known as Acacia mollissima Willd) (commonly known as Black Wattle	
	- Acacia decurrens (Wendl. Willd) (commonly known as Green Wattle)	
	- Acacia dealbata Link (commonly known as Silver Wattle)	
	- Acacia psycnantha Benth	
	- Acacia cyanophylla Lindl	
2530.90.20	Lithium ore	M
2530.90.90	Sugilite (also known as lavulite or lazulite): unworked or simply sawn or roughly shaped	M
2607.00	Lead ores and concentrates	H
26.11	Tungsten ores and concentrates	H
26.13	Molybdenum ores and concentrates	H
Ex 2615.90	Tantalum ores and concentrates	H
2710.00.12	Petrol	M
2710.00.13	Aviation spirit	M

Table III.4 (cont'd)

Tariff heading	Description of goods	Code letter ^a
2710.00.14	Aviation kerosene; power kerosene; illuminating or heating kerosene	M
Ex 2710.00.16	Diesel oil	M
2710.00.17	Residual fuel oils	M
2711.12	Petroleum gas: propane	M
2711.13	Petroleum gas: butane	M
2806.10	Hydrochloric acid	..
2807.00	Sulphuric acid	..
2841.61	Potassium permanganate	..
2902.30	Toluene	..
2903.19.10	Trichloroethane (methyl chloroform)	..
2903.30.10	Bromomethane (Methyl Bromide)	..
2903.41	Trichlorofluoromethane (CFC11)	..
2903.42	Dichlorodifluoromethane (CFC12)	..
2903.43	Trichlorotrifluoroethanes (CFC 113)	..
2903.44	Dichlorotetrafluoroethanes (CFC 114) and chloropentafluoroethane (CFC 115)	..
2903.45.05	Chlorodifluoromethane (CFC 22)	..
2903.45.90	Other derivatives perhalogenated only with fluorine and chlorine: other	..
2903.46	Bromochlorodifluoromethane (Halon 1211), bromotrifluoromethane (Halon 1301) and dibromotetrafluoroethanes (Halon 2402)	..
2903.49.10	Derivatives of methane, ethane or propane, halogenated only with fluorine and chlorine	..
2909.11	Diethyl Ethyl Ether	N
2914.11	Acetone	N
2914.12	Methyl ethyl ketone	N
2914.31	1-phenyl-2-propanone	N
2915.24	Acetic anhydride	N
2916.34	Phenylacetic acid	N
2922.43	Anthralinic acid	N
2924.22	N-Acetylanthranilic acid	N
2932.91	Isosafrole	N
2932.92	3,4, Methyleneedioxyphenyl-2-propanone	N
2932.93	Piperonal	N
2932.94	Safrole	N
2933.32	Piperidine	N
2939.41	Ephedrine	N
2939.42	Pseudoephedrine	N
2939.61	Ergometrine	N
2939.62	Ergotamine	N
2939.63	Lysergic acid	N
Ex 30.02	Human blood and preparations thereof	N
	Medicaments containing other antibiotics being:	
300.20.90	Invomec inj-cattle (reg. Ny G541, Act 36/1947)	L
	Invomec inj-sheep (reg. Ny G782, Act 36/1947)	L
	Invomec liquid-sheep (reg. Ny G590, Act 36/1947)	L
	Eqvalan paste for horses (reg. Ny G667, Act 36/1947)	L
3824.71.10	Mixtures containing dichlorodifluoromethane or trichlorofluoromethane (CFC 500)	..
3824.71.90	Other (CFC 502)	..
Ex 44.03	Saw logs of yellowwood (Podocarpus Falcatus, Podocarpus Henkelii, Podocarpus Latifolius); stinkwood (Ocotea Bullata) and blackwood (Acacia Melanoxylon)	W
Ex 44.07	Sawn yellowwood (Podocarpus Falcatus, Podocarpus Henkelii, Podocarpus Latifolius); stinkwood (Ocotea Bullata) and blackwood (Acacia Melanoxylon)	
47.07	Waste and scrap of paper or paperboard	H

Table III.4 (cont'd)

Tariff heading	Description of goods	Code letter ^a
Ex 7103.10.10 Ex 7103.10.20	Tiger's-eye including its related varieties and also any articles consisting wholly or partly of tiger's-eye or its related varieties but excluding properly finished and finally and completely polished cabochons, beads, eggs, spheres, tumbled stones and carvings cut therefrom or otherwise processed or tumbled Definitions (1) "Cabochon" shall mean a stone of which the top forms: - a symmetrically curved convex or concave surface; or - a flat surface, provided the stone is either round or oval or crescent, heart, cross or tear shaped; the base may be convex, concave or flat. (2) "Bead" shall mean a stone of any shape of a mass not exceeding 50 grammes which has been drilled in such a way that it can be strung in a necklace. (3) "Egg" shall mean a symmetrically egg-shaped stone. (4) "Sphere" shall mean a symmetrically sphere-shaped stone. (5) "Tumbled stone" shall mean an uncut, unsawn stone or irregular shape of a mass not exceeding 50 grammes which has been properly tumbled to such an extent that it has a pebble-like appearance. (6) "Carving" shall mean a cabochon, bead, egg, sphere or tumbled stone as defined in these regulations which has been artistically carved or sculptured. (7) "Polish" shall mean the process commonly accepted in the lapidary trade whereby fine abrasives and polishing powders are used to smooth a stone to a perfect mirror-like appearance without applying any lacquer or varnish.	M
Ex 7103.10.10 Ex 7103.10.20	Sugulite (also known as lavulite or lazulite): unworked or simply sawn or roughly shaped	M
72.04	Ferrous waste and scrap; remelting scrap ingots or iron or steel	H
7403.12	Refined copper: wirebars	H
7403.13	Refined copper: billets	H
7403.19	Refined copper: other	H
7403.21	Copper-zinc base alloys (brass)	H
7403.22.90	Copper-tin base alloys (bronze) other	H
7403.23	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver)	H
7404.00	Copper waste and scrap	H
7503.00	Nickel waste and scrap	H
7602.00	Aluminium waste and scrap	H
7801.10.10	Lead ingots	H
7802.00	Lead waste and scrap	H
7803.00	Lead bars, rods, profiles and wire	H
78.04	Lead plates, sheets, strip and foil; lead powders and flakes	H
7805.00	Lead tubes, pipes and tube or pipe fittings (for example, couplings, elbows, sleeves)	H
7806.00	Other articles of lead	H
7902.00	Zinc waste and scrap	H
8002.00	Tin waste and scrap	H
81.01	Tungsten (Wolfram) and articles thereof, including waste and scrap	H
81.02	Molybdenum and articles thereof, including waste and scrap	H
81.03	Tantalum and articles thereof, including waste and scrap	H
8104.20	Magnesium waste and scrap	H
81.07	Cadmium and articles thereof, including waste and scrap	O
8110.00	Antimony and articles thereof, including waste and scrap	O
8111.00	Manganese and articles thereof, including waste and scrap	O
Ex 81.12	Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium) and articles of these metals, including waste and scrap	O
Ex 8479.89.90 Ex 8479.90.90	Automatic pool cleaners and parts thereof	H
Ex 87.02 Ex 87.03 Ex 87.04	Motor cars and other motor vehicles principally designed for the transport of persons and goods but excluding vehicles exported by diplomatic and foreign representatives and new vehicles exported by local manufacturers or their appointed agents	H

.. Not available.

a The code letters indicate the Government Department that controls the exportation of the product in question:

- H Department of Trade and Industry.
- L Department of Agriculture.
- M Department of Mineral and Energy Affairs.
- N Department of National Health and Population Development.
- O Department of Environment Affairs.
- W Department of Water Affairs and Forestry.

Source: Information provided by the South African authorities.

48. Export licences are valid for exports to any country, including other SACU members. Exporters should apply for a licence directly to the Directorate of Import and Export Control of DTI, or to the government agency that controls the specific permit in question. The application procedure and time required for obtaining export permits is the same as for import permits.

(iii) Export subsidies, finance, and assistance

49. Several types of incentive scheme are available to South African exporters for the promotion and development of exports and export markets. Trade and Investment South Africa (TISA) of the DTI, is responsible for the Export Marketing and Investment Assistance Scheme (EMIA). Assistance under the EMIA scheme is to partially compensate South African exporters or enterprises for costs in respect of activities aimed at attracting new FDI into South Africa, and developing export markets for South African products and services, particularly in the black economic empowerment (BEE), historically disadvantaged businesses, and small, medium and micro-sized exporters (SMME) segment markets.⁸²

50. The EMIA has nine components: (i) primary export market research to partially compensate exporters for costs incurred in developing new export markets, through personal contact with potential foreign clients; (ii) foreign direct investment research to partially compensate exporters for costs incurred in attracting new FDI into South Africa, through personal contacts by visiting potential investors in foreign countries; (iii) national pavilions to assist exporters to introduce their products into foreign markets by participating in foreign exhibitions in a cost-effective manner; (iv) individual exhibitions to assist individual exporters to exhibit products at exhibitions abroad where TISA does not provide for a national pavilion; (v) outward selling trade missions to provide assistance to exporters who wish to contact foreign buyers with a view to concluding new export orders; (vi) outward investment recruitment missions to assist enterprises participating in outward investment missions; (vii) inward buying trade missions to assist organizers of inward buying trade missions to enable prospective buyers to contact South African exporters to conclude export orders; (viii) inward investment missions to provide assistance to organizers of inward investment missions to facilitate FDI into South Africa; and (ix) sector specific assistance is provided to specific industrial sectors to develop new export markets, broaden the export base, increase the participation and development of BEE companies in the export process, and of SMME's in the export process with specific regard to backward linkages.⁸³

51. The Industrial Development Corporation (IDC), a self-financing, state-owned, development finance institution, established in 1940, continues to provide credit facilities to South African exporters. Aimed at enabling them to offer competitive terms to foreign purchasers, the credit facilities are still subject to a South African local-content requirement of at least 70%, and the availability of export credit insurance cover from the Credit Guarantee Insurance Corporation (CGIC).⁸⁴

52. Under the Duty Credit Certificate Scheme, DTI offers duty credit certificates to exporters of textiles and clothing, with a view to enhancing their international competitiveness (Table AIII.1). The

⁸² For a business to qualify as historically disadvantaged, it must be an SMME with at least 51% of the business owned by a South African black person(s), women, or disabled person(s). SMME must comply with at least two of the following quantitative criteria: total annual turnover must be less than R 15 million; total assets, excluding fixed property, must be less than R 5 million; and there must be less than 200 full time employees (EMIA, 2002).

⁸³ EMIA (2002).

⁸⁴ For a description of the credit facilities provided by IDC (the Life Scheme, and the Low Interest Rate Scheme for the Promotion of Exports), see WTO (1998).

South African Primary Steel Industry also continues to promote exports of secondary steel products by means of financial assistance through the Fund of the Committee for Secondary Manufacture, and price rebate schemes.⁸⁵ Other incentives are available for the promotion of manufacturing exports (Chapter IV(4)).

53. The General Export Incentive Scheme (GEIS), introduced in 1990 to provide financial assistance to any legal or natural person engaged in the export of certain categories of goods, ceased operations on 11 July 1997.

54. Rebates, refunds, and drawbacks of import duties remain the same as at the time of the previous Review, and are available to all manufacturing industries producing for export. The concessions are granted on imported inputs, including raw materials and components used in production of goods solely destined for export. Full rebates or refunds of customs duties are also granted on goods temporarily admitted for processing, repair, cleaning and reconditioning, or for specific purposes (e.g. goods used at exhibitions and fairs), and on goods imported and then re-exported in the same condition or state. The number of applications for drawbacks is relatively low, apparently because of delays related to refunds. Exports are zero-rated, and therefore exporters qualify for VAT refunds for all goods and services incorporated in their products.

55. The Short-Term Export Finance Guarantee Facility is still available to SMMEs exporters in all sectors.⁸⁶ Foreign exchange cover is provided by the South African Reserve Bank through CGIC to exporters of capital goods. According to the authorities, the cover is at rates higher than market rates. Export Credit Reinsurance Schemes are available to South African exporters. The schemes consist of reinsurance with the Government for insurance contracts in connection with export transactions, and loans or similar facilities for such transactions; they are available at market rates.

(iv) Other measures

56. Since its Review, South Africa has Spatial Development Initiative (SDIs) programme. The SDIs aim to, *inter alia*, generate sustainable economic growth and development in relatively under-developed areas, and exploit the under-utilized locational and economic advantages for export-oriented growth. They are located mainly in South Africa but some include part of a neighbouring country (e.g. the Libombo Initiative between South Africa, Swaziland, and Mozambique). An integral part of the SDI programme is the concept of industrial development zones (IDZs), a specialized industrial area within an SDI. IDZs have been conceived as a shift from traditional export processing zones strategies, to the development of leading-edge industrial development zones with a close integration with the local productive sector (Chapter IV(4)).

57. According to the authorities, South Africa does not have any export quotas, nor does it maintain voluntary export restraints.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Incentives

58. Many changes have been made to the incentive schemes since or shortly before the last Review. Eighteen incentive schemes have been eliminated⁸⁷; eleven have remained in place⁸⁸; and

⁸⁵ For more details about the eligibility criteria for this Fund, see WTO (1998).

⁸⁶ WTO (1998).

⁸⁷ General Export Incentive Scheme (GEIS); Tax Holiday Scheme; Small-Medium Manufacturing Development Programme (SMMDP); Regional Industrial Development Programme (RIDP); Simplified

21 have been introduced.⁸⁹ Table AIII.1 presents a summary of the 32 incentive schemes currently available to South African producers.

59. The incentives are managed by the Directorate of Trade and Industry (DTI), or by Khula or the Industrial Development Corporation (IDC) two of its statutory institutions. Founded in 1966, Khula is registered as an insurer, specialized in enhancing availability of loan and equity capital to small, medium, and micro enterprises (SMME). IDC continues to provide financing facilities (medium to long-term low interest loans in general) for the establishment and expansion of economically viable activities undertaken by industries in South Africa. It may also take equity in industrial enterprises and provide buildings for general factory purposes to industrialists on a lease basis.

(ii) State-owned enterprises and privatization

60. The restructuring of state-owned enterprises (SOEs), and of the privatization programme in South Africa has been slow since the early 1990s. For example, the sale of the Government's controlling interest in Telkom, the state telecommunications company, was originally scheduled for the second half of 2001 but was held up because of weak international market conditions, and delays in formulating an appropriate regulatory framework (Chapter IV(5)). Moreover, a number of other public companies identified for divestiture remain in state hands. In 2000, South Africa notified the WTO that it had abolished all agricultural marketing boards, and that it did not maintain any state trading enterprises as defined by Article XVII of the GATT 1994.⁹⁰ Table III.5 shows the SOEs to be restructured.

61. In August 2000, South Africa launched a programme to accelerate the restructuring of SOEs.⁹¹ The programme is in line with previous policy frameworks on the matter⁹², and is aimed at increasing SOE efficiency through improved governance and competition, while seeking to attract foreign investment, technology, and expertise through full or partial privatization. South Africa expects that most restructuring activities will be completed by 2004. In terms of contribution to the

Regional Industrial Development Programme (SRIDP); Medium-Term Loan Financing; Job Scheme; Multi-Shift Scheme; Orchards Scheme; World Player Scheme; Normal Finance; Eco-Tourism Scheme; General Tourism Scheme; Standard Leased Factory Building Scheme; Economic Empowerment Scheme; Accelerated Depreciation; Business Loans for Retail Financial Intermediaries; and the Venture Capital Scheme, WTO (1998).

⁸⁸ Competitiveness Fund; Sector Partnership Fund; Import Finance; Support Programme for Industrial Innovation (SPII); Rebate Provisions; Motor Industry Development Programme (MIDP); Standard Credit Guarantee Scheme; Emerging Entrepreneur Scheme; Seed Loans for Retail Finance Intermediaries (RFIs); Capacity Building Support for RFIs; Duty Credit Certificate Scheme for Exporters of Textiles and Clothing (DCCS); and Work Place Challenge, WTO (1998).

⁸⁹ Small and Medium Enterprise Development Programme (SMEDP); Skill Support Programme (SSP); Critical Infrastructure Programme (CIP); Industrial Development Zones Programme (IDZ); Foreign Investment Grant (FIG); Strategic Investment Programme (SIP); Agro-industries Development Finance; Bridging Finance Scheme; DANIDA Business to Business Programme; Empowerment Finance; Entrepreneurial Mining and Beneficiation Finance; Equity Fund; Export Finance; Finance for the Expansion of a Manufacturing Sector; Khula Start; Finance for Textiles, Clothing, Leather, and Footwear Industries; Standard Credit Guarantee Scheme; Techno-Industry Development Finance; Technology and Human Resources for Industry Programme (THRIP); Technology Transfer Guarantee Fund; Tourism Development Finance; and Wholesale Finance.

⁹⁰ WTO document G/STR/N/4-6/ZAF, 14 November 2000.

⁹¹ Ministry of Public Enterprises of South Africa (2000).

⁹² For example, the Reconstruction and Development Programme, the Growth, Employment and Redistribution (GEAR) strategy, and the National Framework Agreement (NFA). These are described in WTO (1998).

Budget, it is expected that the privatization of SOEs will generate at least R 40 billion, or about 5% of GDP over the period 2002-04.⁹³ The programme consists of, *inter alia*, redesigning business management principles within enterprises, attracting strategic equity partnerships, divesting equity either in whole or in part, and improving the restructuring process (through strategic analysis, planning for enterprise restructuring, transaction management, and post-restructuring management).⁹⁴

Table III.5
State-owned companies (SOCs) to be restructured, January 2003

Company	Activity	Publicly owned share (per cent)	Likely restructuring scenario
Category 1^a			
Eskom	Electricity supply	100	30% disposal of generation to private sector
Telkom	Telecommunications	70	IPO of 20%
Spoornet	Rail transport	100	Continued public ownership of freight service Concessioning of luxury rail service
S.A. Post Office	Postal services	100	Undetermined
SABC ^b	Broadcasting	100	Undetermined
South African Port Operations	Ports	100	Concessioning of terminal operations
SARCC	Rail commuting	100	Public ownership to be retained
Airports company	Air transport services	100	IPO considered after 2004
Air traffic and navigational services	Air transport control	100	Undetermined
Agricultural boards	Agricultural assistance	100	Undetermined
IDC	Industrial development	100	Undetermined
Category 2^c			
Denel	Manufacturing	100	30% to SEP
Petronet	Oil/petrol pipeline	100	Undetermined
Nuclear Energy Corporation of SA	Atomic research	100	Undetermined
Armcor	Armament procurement	100	Public ownership to be retained
Mossgas, Soeker (pty) Ltd	Oil exploration	100	Merged into Petrosa (Pty) Ltd
SAA	Air transport	95	Undetermined
Strategic fuel fund	Fuel procurement	100	Undetermined
Foskor	Mining	100	Undetermined
Category 3^d			
Sun Air	Air transport	100	Privatized before end of 1997
Autonet	Road transport	100	Restructured into new Transnet owned entity
Safcol	Forestry	100	Presently undergoing disposal to private sector
Alexkor	Alluvial diamond mining	100	51% be sold to SEP
Transkei Airways ^e	Air transport	100	Liquidated in December 1996
Px ^e	Parcel express	100	Liquidated
Abakor ^e	Abattoirs	100	Liquidated
Aventura ^e	Holiday resorts	100	Privatized by 2003

a Company with clear public policy.

b Six SABC radio stations have already been privatized to the value of R 516 million.

c Company with public policy dimensions/strategy.

d Company with no public policy.

e Unprofitable company.

Source: Information provided by the South African authorities.

62. The programme focuses on the four major public enterprises that still operate under monopoly, or hold exclusive rights: Telkom (telecommunications), Transnet (transport), Eskom (electricity), and Denel (defence).⁹⁵ Telkom will be divested, if possible before the end of the financial year 2003/03, while the authorities try to finalize the necessary regulatory changes. In the case of

⁹³ WTO (1998).

⁹⁴ Ministry of Public Enterprises of South Africa (2000).

⁹⁵ These four companies account for about 91% of assets, provide 86% of turnover and generate 94% of net income, while employing 77% of employees of the top 30 SOE (Ministry of Public Enterprises of South Africa, 2000).

Denel, plans to bring in a strategic equity partner have been completed, and some progress has been made in divesting, or preparing for sale, a number of non-core public assets. Eskom will be corporatized, with generation, transmission, distribution, and non-core activities each forming a separate entity. Different generation companies will be formed out of the existing 20 power stations. Once competition among them has been established, private-sector participation in Eskom will be introduced. Some of the nine divisions that comprise Transnet, such as Spoornet and Petronet, will be corporatized and restructured prior to seeking a strategic equity partner and an eventual initial public offering (IPO); whereas other divisions such as Coallink, Orex, Luxrail and Linkrail will be concessioned. The airports regulatory framework is being revised; once it has been completed, and subject to shareholder approval, an IPO will be processed.

(iii) Competition policy, and price controls

63. South Africa enacted a new Competition Act (Act No. 89 of 1998), which replaced the 1979 Maintenance and Promotion of Competition Act.⁹⁶ The substantive and enforcement provisions of the 1979 legislation were weak. Weak competition law partly accounts for the high levels of concentrations in the South African economy, and for the existence of business practices out of step with the requirements of a competitive economy.⁹⁷

64. The 1998 Competition Act aims to promote and maintain competition in South Africa in order to: promote the efficiency, adaptability and development of the economy; provide consumers with competitive prices and product choices; promote employment and advance the social and economic welfare of South Africans; expand opportunities for South African participation in world markets and recognize the role of foreign competition in South Africa; ensure that SMMEs have an equitable opportunity to participate in the economy; and promote a greater spread of ownership, in particular to increase the stakes of historically disadvantaged persons.⁹⁸ The Act prohibits anti-competitive practices between firms in vertical and horizontal relationships; prohibits abuse of a dominant position; provides for restrictive practices to be exempted on specified grounds; and requires notification of merger transactions above a specified threshold and of the regulation thereof. The Act applies to all economic activities, although the Minister of Finance has the right to exclude the jurisdiction of the Competition Commission if (s)he deems that it is not in the interests of financial stability to look at competitive effects. Banks, however, still have to notify any merger that meets specified thresholds. These thresholds are standard for all mergers.

65. The Act also further restricts anti-competitive behaviour of state-owned enterprises, especially when they compete unfairly with the private sector. Three institutions were created to achieve the above objectives of the Act: the Competition Commission, the Competition Tribunal, and the Competition Appeal Court, which replaced the Competition Board.

66. The Competition Commission (CC), established in October 1998, is a statutory body responsible for investigating complaints made against firms about restrictive practices, and abuse of dominant positions (defined as a market share of 35% or more)⁹⁹; and for evaluating, approving or prohibiting mergers and acquisitions. In addition, the CC conducts research, provides policy inputs, educates and informs stakeholders, and conducts regulatory and legislative reviews. In undertaking

⁹⁶ Certain provisions of the Act entered into effect in October 1998, and others in September 1999.

⁹⁷ Competition Tribunal (2001), p.4.

⁹⁸ Section 2 of the Act.

⁹⁹ In terms of market dominance, outright dominance is determined if a firm has 45% of the market, whereas a firm that has between 35% and 45% of the market has the right to prove that it is not dominant. If a firm has less than 35% of the market, it may still have market power if it is a market leader amongst numerous smaller firms.

these functions, the CC must balance issues related to compliance with the broader social and economic goals outlined in the Act, such as employment, international competitiveness, efficiency and technology gains, as well as the ability of SMMEs owned or controlled by historically disadvantaged persons to compete. In order to ensure the consistent application of the Act across sectors, the CC may negotiate agreements with other regulatory authorities¹⁰⁰, participate in their proceedings, and advise or receive advice from any regulatory authority. The Commissioner is the Chief Executive Officer of the CC; she/he is appointed for a five-year term, and is accountable to the Minister of Trade and Industry and Parliament. The six divisions of the CC reflect its core activities: enforcement and exemptions; mergers and acquisitions; compliance; legal services; policy and research; and corporate services. Proceedings may be initiated ex officio, or at the request of an interested party. The decisions of the CC may be appealed to the Competition Tribunal and the Competition Appeal Court.

67. The Competition Tribunal (CT), established in September 1999, is the court of first instance, independent from the other competition institutions. It has jurisdiction throughout South Africa, and adjudicates cases referred to it by the CC, or brought directly by an aggrieved party. In respect of mergers, the CT authorizes or prohibits large mergers (with or without conditions); and adjudicates appeals from the CC's decisions on intermediate mergers. In respect of anti-competitive practices, the CT adjudicates complaints of prohibited conduct; grants or denies an order for interim relief; and grants or denies an order for costs. Members of the CT, including the Chairperson, are appointed by the President; they serve for a five-year term, but may be re-appointed for a second term. The Chairperson may not serve for more than two consecutive terms.

68. The Competition Appeal Court (CAC), established in September 2000, has a status similar to that of a High Court. It has jurisdiction throughout South Africa and is a court of record. Any person convicted of an offence in terms of section 73(1) of the Competition Act, or who fails to comply with an order of the CT or the CAC, is liable, to a fine not exceeding R 500,000 or to imprisonment for a period not exceeding ten years, or to both; or in any other case, to a fine not exceeding R 2,000 or to imprisonment for a period not exceeding six months, or to both. The CT can also impose an administrative fine, which may not exceed 10% of its annual turnover in South Africa and its exports from the country during its preceding financial year.¹⁰¹

69. When the Act first took effect, private companies were not satisfied with the stricter merger control. They argued that the threshold applicable to mergers was too low, and that the fees charged by the CC for its investigations were unnecessarily high. Since 1 February 2001, the lower threshold for a compulsory notification was raised from R 50 million to R 200 million of combined assets and/or turnover; and, for the target firm, from R 5 million to R 30 million of turnover assets. As a consequence, fewer mergers will require compulsory notification. Also, the filing fees for large mergers have been reduced from R500,000 to R250,000; and for intermediate mergers from a maximum of R 125,000 to R 75,000.

70. During the financial year 1 April 2000 to 31 March 2001, the CC was notified of 407 mergers, against 331 the previous year. Most of the mergers were horizontal, largely taking place in the manufacturing sector, involving firms that competed in identical markets; 55 involved acquisitions by foreign firms¹⁰²; a sample of 19 cases reviewed anticipated a total of 1,518 job losses due to

¹⁰⁰ For example, the Competition Commission interacts closely with the NER (National Electricity Regulator) and ICASA (Independent Communications Authority of South Africa), and is investigating setting up relations with the Financial Services Board (FSB), and the South African Reserve Bank.

¹⁰¹ Section 61(2) of the Act.

¹⁰² A recent survey noted that South Africa had recorded US\$7.6 billion of cross-border inward and outward mergers and acquisitions since June 2000. Competition Commission of South Africa (2001).

mergers, with 450 jobs created; and three mergers were prohibited (related to pharmaceutical, sugar, and oil companies). Regarding prohibited practices, the CC dealt with 176 complaints, of which 123 were resolved, and 53 are still being investigated. Of the concluded cases, 24% belonged to the manufacturing sector, 19% to retail, and 9% to the motor industry. Nine requests for exemption from the application of Chapter 2 of the Act (horizontal, vertical, and abuse of dominant position) were lodged, all relating primarily to restrictive horizontal practices: four to manufacturing; three to pharmaceutical firms, and two to health care services. Four exemption applications were concluded.

71. During 2000/01 the CT issued 50 orders, up from 14 in the seven months to 31 March 2000. Decisions were reached on 35 large mergers¹⁰³, of which 29 were approved without conditions, four with conditions, and two, regarding sugar and retail companies, were prohibited. Some 83% of the cases comprised horizontal mergers (i.e. competing firms selling the same products or providing the same services), 11% were conglomerate mergers (i.e. firms conducting unrelated activities), and 6% were vertical mergers (i.e. firms operating at different stages of production).¹⁰⁴ Eleven of the 19 complaints on restrictive practices were referred by the CC; six were settled by consent orders, and five are pending. Complaint referrals were filed by complainants, following a non-referral by the CC; these are pending. There were also 17 applications for interim relief, of which six were withdrawn, three were taken off the roll, two were granted, three were denied and three are pending.

72. The Price Control Act (Act No. 25 of 1964) provides for a Price Controller who, *inter alia*, may determine, control or regulate the maximum prices of goods and services at both the manufacturing and retail levels. Since the last Review, the producer prices of several agricultural products such as meat, oil seeds, wheat, canned fruit, mohair, and sorghum, have been liberalized after the marketing boards ceased to exist (Chapter IV(2)). However, the retail price of petroleum products, such as coal, paraffin, petroleum, and the wholesale price of diesel are still controlled by the Department of Mineral and Energy Affairs; and the producer price of sugar is controlled by the Sugar Association under the Sugar Act (Act No. 9 of 1978) administered by the DTI. The pricing of services supplied by parastatals operating in various areas, such as telecommunications and transportation, remains subject to Cabinet approval.¹⁰⁵

(iv) Protection of intellectual property rights

73. In 2002, the South African Companies Registration Office (SACRO), and the South African Patents and Trademarks Office (SAPTO) were merged to form the Companies and Intellectual Property Registration Office (CIPRO) of the DTI, which became the administering organ for intellectual property in South Africa. The intellectual property legislation of South Africa mainly consists of four acts: the Patents Act (Act No. 57 of 1978, as amended), the Trade Marks Act (Act No. 194 of 1993), the Designs Act (Act No. 195 of 1993), and the Copyright Act (Act No. 98 of 1978). Other relevant laws include the Merchandise Marks Act (Act No. 17 of 1941), the Cinematographic Films Act (Act No. 62 of 1977), the Performers' Protection Act (Act No. 11 of 1967), and the Plant Breeders' Rights Act (Act No. 15 of 1976). Although geographical indications may be protected under

¹⁰³ All large mergers having an effect within South Africa have to be approved by the CT. A merger is considered large if the combined turnover or combined assets of target and acquiring firms exceed R3.5 billion; and the assets or turnover of the target firm exceed R 100 million.

¹⁰⁴ 23% of the mergers adjudicated formed part of multinational mergers, which were notified with several competition authorities in the world. All were approved by the CT.

¹⁰⁵ The pricing policies of parastatals are determined by the regulatory bodies such as ICASA and the NER, as well as by regulatory bodies set up by the Department of Transport in specific areas such as roads, rail, maritime, and aviation. The rail regulator appears to be more focused on the safety aspects. These authorities are approved by Cabinet.

the 1993 Trade Marks Act, there is no specific legislation in South Africa dealing with such protection.¹⁰⁶

74. The 1978 Patents Act covers all fields of technology; it provides for a patent term of 20 years from the date of filing the application, without extension. The 1993 Trade Marks Act, provides for a registration system, an opposition procedure within three months, and a term of protection of ten years, renewable indefinitely for periods of ten years. The 1993 Designs Act, affords protection for a 15-year term in the case of an aesthetic design, and a ten-year term in the case of a functional design. The 1978 Copyright Act, among others, protects creative works and expressions; the term of copyright protection is generally the lifetime of the author plus 50 years; protection for performers is for 20 years, non-renewable.

75. In order to address the enforcement weaknesses of the South African intellectual property framework¹⁰⁷, there have been three major legislative changes since the last Review: the adoption of the Counterfeit Goods Act (Act No. 37 of 1997), the Intellectual Property Laws Amendment Act (Act No. 38 of 1997), and the Copyright Amendment Act (Act No.9 of 2002).

76. The Counterfeit Goods Act was adopted to further protect owners of trade marks, copyright, and certain marks under the 1941 Merchandise Marks Act. The new Act covers offences in regard to certain acts in relation to counterfeit goods, and to the possession of such goods. It provides for inspectors and certain members of the South African Police Service to be granted the power to enter premises, search for, and if found, seize and remove, counterfeit goods, or suspected counterfeit goods; it also provides the Commissioner for Customs and Excise with the power, upon application by the owner of the intellectual property right, to seize and detain counterfeit goods or suspected counterfeit goods, imported into or entering South Africa. The 1997 Counterfeit Goods Act has not yet been notified to the WTO.¹⁰⁸

77. According to the authorities, the Intellectual Property Laws Amendment Act, amending the 1941 Merchandise Marks Act, the 1967 Performers' Protection Act, the 1978 Patents Act, the 1978 Copyright Act, the 1993 Trade Marks Act, and the 1993 Designs Act, is aimed at bringing South African intellectual property legislation in line with the TRIPS Agreement. The Copyright Act of 1978 was amended so as to provide, *inter alia*, for the adjustment of the term of copyright in a cinematography film, and for the extension of the scope of copyright in computer programs. Amendments to the 1967 Performers' Protection Act include provision for the protection of performances in WTO Member countries, and for the extension of the application of the Act to performances that took place before its commencement. Amendments to the Patents Act of 1978 aim to bring it in line with the TRIPS Agreement, and provide for the implementation of the Patent Cooperation Treaty (PCT), to which South Africa became a party in March 1999. Amendments to the 1993 Trade Marks Act concern marks that may not be registered as trade marks, and the protection of well-known trade marks. In amending the 1993 Design Act, the 1997 Act adjusts the provisions regarding compulsory licences in respect of certain registered designs, and further regulates the effect of the registration of a design and the amendment of an application for registration, and of a

¹⁰⁶ WTO (1998).

¹⁰⁷ The Business Software Alliance of South Africa estimates that the level of pirated software (such as counterfeiting, CD copying, hard disk loading, internal copying by business, and internet piracy) could be as high as 47%. The Motion Pictures Association estimates video and optical disc piracy to be 16% (USTR, 2002).

¹⁰⁸ The Act is mentioned in WTO documents IP/N/6/ZAF/1 of 23 February 1998, and IP/Q4/ZAF/1 of 30 April 1999.

registration of a design. South Africa has still to notify the WTO of its Intellectual Property Laws Amendment Act.¹⁰⁹

78. The Copyright Amendment Act (Act No. 9 of 2002), was adopted in June 2002. It further amends the 1978 Copyright Act, by providing, *inter alia*, for the substitution of the Minister of Trade and Industry for the Minister of Economic Affairs, as the competent authority to make regulations on any matter required or permitted by the Act, and on any matter considered necessary or expedient to prescribe in order for the Act to achieve its objectives. The 2002 Copyright Amendment Act also makes further provision regarding the nature of copyright in sound recording, conferring additional rights to its owner. South Africa has not yet notified the WTO of its Copyright Amendment Act.

79. In April 2001, after a three-year protracted legal battle with the South African Government, 39 drug companies, represented by the Pharmaceutical Manufacturers Association (PMA) of South Africa, dropped its court challenge to South Africa's Medicines and Related Substances Control Amendment Act. The case concerned the right of the South African Government to permit parallel imports, or to grant compulsory licensing of patented drugs. In the agreement with the PMA, the authorities agreed that the implementation of the country's Medicines Control Act would be consistent with both the South African Constitution and South Africa's WTO TRIPS obligations.

80. The Counterfeit Goods Act (Act No. 37 of 1997) and the Copyright Act (Act No. 98 of 1978) provide the overall legislative framework regarding sanctions for the various offences under intellectual property rights in South Africa. The maximum fine for first time violations of counterfeit goods is R 5,000 per item and/or imprisonment for three years. For second time offences, the maximum fine is R 10,000 and/or imprisonment for five years. Civil suits relating to damages may also be brought. Proceedings are conducted in the High Court, or the Court of the Commissioner of Patents in the case of patents. Failure by a defendant to comply with an order of the High Court or the Court of the Commissioner of Patents amounts to contempt of court, a criminal offence in South Africa. Appeals may be made to the Supreme Court of Appeal.

81. South Africa is a member of the World Intellectual Property Organization (WIPO), and a signatory to the Paris Convention for the protection of industrial property, the Berne Convention on Copyright, and the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms. South Africa signed both the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT), in December 1997, and the Patent Cooperation Treaty in March 1999.

¹⁰⁹ The Act is mentioned in WTO documents IP/Q3/ZAF/1 of 2 October 1998, and IP/Q2/ZAF/1 of 12 May 1997.

IV. TRADE POLICIES AND PRACTICES BY SECTOR

(1) OVERVIEW

1. In 2001, the South African authorities announced an action plan to move the economy to a high growth path, increase competitiveness and efficiency, raise employment levels, and reduce persistent poverty and inequality.¹¹⁰ These objectives are expected to be best achieved by giving special attention to five economic activities demonstrating a high potential for growth and job creation: agriculture, tourism, cultural industries, certain "export activities" (e.g. autos, textiles, chemicals, and mining), and the information and telecommunication industry.¹¹¹ At the same time, there are plans to liberalize, and make more efficient, three critical input subsectors still dominated by state-owned enterprises: energy, telecommunications, and transport.

2. Agriculture remains an important sector in the economy despite its small, decreasing share of total GDP, at 2.8% in 2001¹¹², from 3.5% in 1996. Agriculture has strong economic and employment linkages with the other sectors of the economy, contributing 8.2% of total merchandise exports in 2001 down from 9.4% in 1996. In 2001, agriculture employed about 11% of the labour force, from 7% in 1996. Since the last Review, the sector has undergone substantial market reforms, including the elimination of all marketing boards. As a result, agriculture is protected mainly by tariffs (5.5% average MFN rate), though some non-tariff measures still exist.

3. The mining industry remains a key activity for growth and development in South Africa. The direct contribution of the sector to GDP rose from 6.9% in 1996 to 7.5% in 2001.¹¹³ In 2001, minerals and mineral products accounted for 34.3% of South Africa's total exports of goods. Platinum group metals have overtaken gold as South Africa's largest export. Tariff protection for the sector is relatively low (0.7% on average).

4. Manufacturing accounted for 18.6% of South Africa's GDP in 2001, compared with 20.2% in 1996. The share of manufacturing exports to total exports increased from 39% in the first half of the 1990s to over 50% in 2001.¹¹⁴ Labour productivity in the sector has increased by 26% since 1994, with the consequent decline in employment.¹¹⁵ Tariff protection in the sector has decreased since the previous TPR (from 15.6% in 1997 to 11.8% in 2002), but high rates still apply to certain manufactured products: textiles, clothing and related products remain the most protected, with the *ad valorem* components of certain tariffs ranging up to 60% (Chart IV.1).

5. The share of services (excluding wholesale and retail) in GDP rose from about 34.2% in 1996 to 38.5% in 2001. Three state-owned enterprises, Telkom (telecommunications), Transnet (transport), and Eskom (energy), continue to dominate services activities, and still operate under monopoly, or hold exclusive rights in several branches of the sector. Liberalization of services should improve the efficiency of other economic activities and the competitiveness of South Africa's exports, especially by reducing costs related to telecommunications, transport, and energy.

¹¹⁰ State to the Nation Address by the President, 9 February 2001.

¹¹¹ DTI (2002).

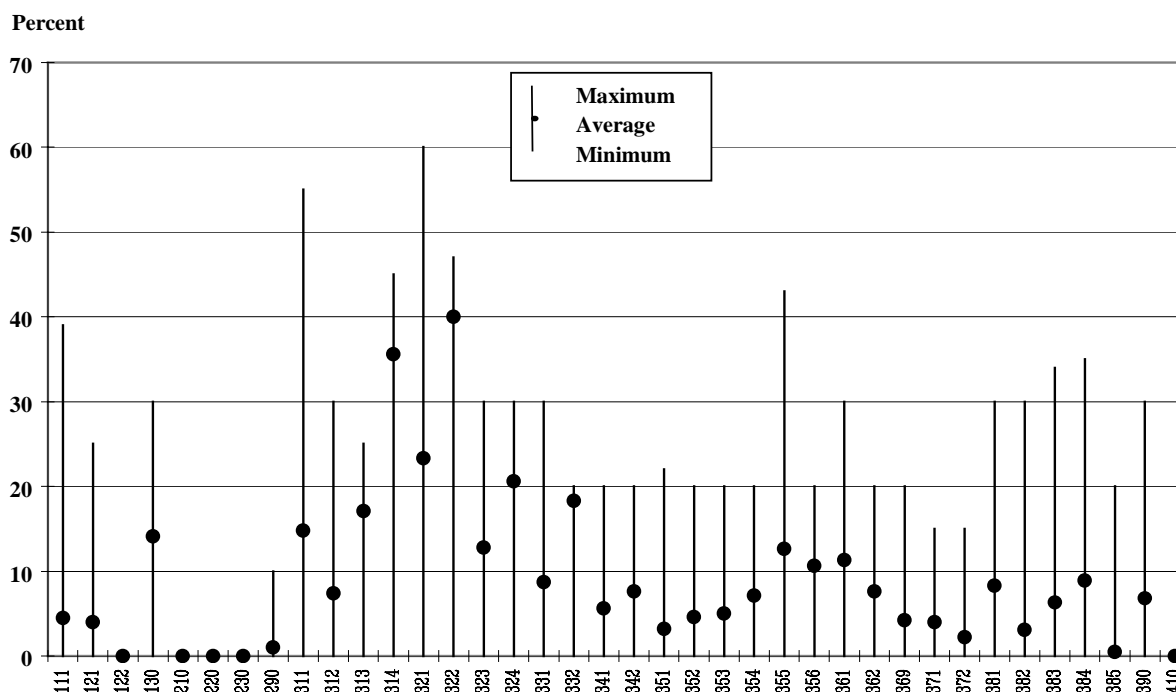
¹¹² The agri-food complex, which consists of primary production plus input and agri-processing activities, accounted for about 14% of GDP in 2000 (DTI, 2002).

¹¹³ With the indirect multiplier effects of the mining industry (e.g. about 30% of South Africa's liquid fuels and 90% of electricity are produced from coal), the overall contribution of the sector to GDP rises to about 10% in 2000 (DTI, 2002).

¹¹⁴ DTI (2002).

¹¹⁵ DTI (2002).

Chart IV.1
SACU's tariff by ISIC classification, 2002



International Standard Industrial Classification, Revision 2

Description	Description
111 Agricultural and livestock production	352 Other chemicals, including pharmaceutical
121 Forestry	353 Petroleum refineries
122 Logging	354 Manufacture of miscellaneous petroleum and coal products
130 Fishing	355 Manufacture of plastic products n.e.s.
210 Coal mining	356 Rubber products
220 Crude petroleum and natural gas production	361 Manufacture of plastic products n.e.s.
230 Metal ore mining	362 Pottery and china
390 Other mining	362 Manufactur of glass and glass products
311 Food production	369 Other non-metallic mineral products
312 Other food products and animal feeds	371 Iron and steel basic industries
313 Beverages	372 Non-ferrous metal basic industries
314 Tobacco manufacturing	381 Fabricated metal products, except machinery and equipment
321 Textiles	382 Non-electrical machinery including computers
322 Manufacture of wearing apparel, except footwear	383 Electrical machinery apparatus, appliances and supplies
323 Leather products, except footwear and wearing apparel	384 Transport equipment
324 Footwear, except vulcanized rubber or plastic footwear	385 Professional and scientific equipment
331 Wood and wood products, excwepit furniture	390 Other manufacturing industries
332 Manufacture of furniture and fixture, except primary of metal	410 Electrical energy
341 Paper products	
342 Printing and publishing and allied industries	
351 Industrial chemicals	

Source: WTO Secretariat calculations, based on data provided by South Africa.

(2) AGRICULTURE AND RELATED ACTIVITIES

6. More than 85% of South Africa's total surface is used for agriculture and forestry. Agriculture is very diverse, due to conditions ranging from temperate to sub-tropical. The sector remains dualistic: large modern farms, the commercial branch of the sector, coexist with small-scale units whose owners rely largely on traditional farming methods and farm on a subsistence basis. There are approximately 50,000 large-scale commercial farmers employing about 1 million workers, or 11% of total formal-sector employment.¹¹⁶ More than half of South Africa's provinces, and about 40% of the to be population, are dependent on agriculture and related activities.

7. About one fourth of South Africa's small-scale farmers earn income from livestock production.¹¹⁷ Livestock farming in the small sector is technically inefficient¹¹⁸, while that of commercial farmers is "first-world". South Africa is also endowed with abundant fishing resources, as well as natural forests and plantations that play an important role in rural development. Commercial forestry covers around 1.5 ha., about 1% of the land area, while fishing provides livelihood for many communities (including some of the most impoverished) along the 3,000 km of coastline.

(i) Policy developments

8. Agriculture has undergone substantial market reforms since the last Review of South Africa, and some progress has been achieved in eliminating inefficiencies, in particular the distortions in price and other market signals. By early 1998, all marketing boards had ceased operation.¹¹⁹ The Government also abolished the Agricultural Credit Board (ACB), which provided cheap credit to commercial farmers and support through rollovers of loans to indebted farmers. Virtually all price controls were removed and single-channel markets disappeared with the abolition of control boards.

9. Since the last Review, an agricultural futures market was created, allowing farmers to manage risk in the sector. The Agro-industries Development Finance, a medium-term finance scheme, has also been made available to local producers who wish to develop agricultural, food, beverage, and marine activities (Table AIII.1).

10. One of the main problems of the agriculture sector is the inequality that persists in land-ownership. Land distribution in South Africa is among the most highly skewed in the world, with large capital-intensive farms dominating much of the rural areas.¹²⁰ Following the slow progress with

¹¹⁶ According to the authorities, commercial farms provide livelihood and housing to about 6 million family members. There are also 240,000 small farmers who provide livelihood to more than 1 million of their family members. Furthermore, there are an estimated 3 million household farmers, who are located mainly in the communal areas of the former homelands, and almost all rural towns are dependent on primary agriculture and related activities, such as agri-tourism and game-farming activities (Ministry of Agriculture and Land Affairs, 1998).

¹¹⁷ Cattle account for between 80% and 90% of the asset value of livestock in the small-scale sector (Ministry of Agriculture and Land Affairs, 1998).

¹¹⁸ Reproduction rates are low, the control of important parasites is patchy, supplementary feeding is virtually unknown, and livestock and cultivation are practised in isolation from each other, even though many households have their own stock and produce crops (Ministry of Agriculture and Land Affairs, 1998).

¹¹⁹ Control boards existed for, *inter alia*: citrus fruit; dairy products; deciduous fruit; dried fruit; meat; lucerne seed; maize; oilseeds; tobacco; winter cereals; canning fruit; wool; cotton; sorghum; eggs; and mohair. These state-trading enterprises were abolished as notified in WTO document G/STR/N/4-6/ZAF, 14 November 2000. Assets of these marketing boards were transferred to industry trusts, which provide services such as market information, export advice, and product development.

¹²⁰ The result is that only 28% of South Africa's rural population, a large proportion of whom are farm workers and their dependants, live on about 88% of the agricultural land. Thus, the remaining 12% of

land redistribution since 1994, the programme of land reform has been recently redesigned.¹²¹ The Land Reform for Agricultural Development (LRAD) is a "market-based programme of state directed land restitution and land redistribution", which aims to expand the range of support measures that will enable previously disadvantaged South African citizens to access land and agricultural services, specifically for agricultural development.¹²² Land restitution seeks to compensate and restore land to dispossessed people. The Government is trying to ensure that the land restitution is dealt with speedily and efficiently. Land redistribution is based on a willing buyer-willing seller principle with financial support from Government, and has been moving slowly. This reflects the limited supply of land coming onto the market, and a much smaller number of restitution claims than had initially been expected. In 2001, there was a shift of emphasis towards fast-track land redistribution. The policy is being criticized for not addressing the problem of the landless rural poor.¹²³ Another controversial issue is the communal land system in the former homelands, where administration is in the hands of both unelected tribal and elected local authorities.

11. The Strategic Plan for South African Agriculture¹²⁴, released on 27 November 2001, recognizes that the sector is still plagued by a host of policy and institutional constraints that prevent it from operating at full potential: constrained competitiveness and low profitability; skewed participation; low investor confidence in agriculture; inadequate, ineffective and inefficient support and delivery systems; and poor and unsustainable management of natural resources. In addressing these constraints, the Plan consists of three core strategies: (i) enhance equitable access and participation in the agricultural sector; (ii) improve global competitiveness and profitability; and (iii) ensure sustainable resource management.¹²⁵

12. Import and export controls are maintained on agricultural products (by means of permits issued by the Director of Imports and Exports under the DTI on the recommendation of the Department of Agriculture). Import controls apply to fish, crustaceans, and molluscs (Table III.2). Export controls on coffee and wattle seeds have been eliminated, but some other goods are still subject to export controls (Table III.4). Veterinary permits are required for the importation of live animals, and imports of plants and plant products are subject to authorization and certification (Chapter III(2)(iv)(b)).

13. By ISIC (Revision 2), the simple average MFN tariff in agriculture decreased slightly from 5.6% in 1997 to 5.5% in 2002 (Main Report, Chapter III(3)(ii)). Imports of agricultural products, such as live animals, and products of animal origin are duty free; whereas rates on beverages, tobacco

agricultural land supports 72% of the rural population in the overcrowded former homelands, which lack the infrastructure for successful agriculture (Ministry for Agriculture and Land Affairs, 1998).

¹²¹ At the end of apartheid in 1994, the authorities set a target to redistribute 30% of farmland by 1999. However, by then, only 3% of agricultural land had been redistributed, and the process has been dogged with administrative delays. The Government's land restitution programme has only gained momentum recently: 48 of the 69,000 claims were dealt with in 1998, compared with 29,000 in 2001. A recent report by the University of Western Cape indicates that most of these were settled in cash rather than land, and that the remainder would take 150 years to complete at current budgetary levels (EIU, 2002).

¹²² The LRAD states that all possible options to secure rapid and sustainable land reform will be pursued, beginning with the disposal of publicly owned agricultural land. This will be complemented by measures such as equity sharing schemes, contract farming, rental farming, tenure reform, and private land acquisition.

¹²³ EIU (2002).

¹²⁴ The Plan was drafted jointly by the Department of Agriculture of South Africa, the National African Farmers' Union, and Agri South Africa (industry representatives).

¹²⁵ The following supporting actions, which are cross-cutting to the core strategies, are identified in the Plan: good governance, integrated and sustainable rural development, knowledge and innovation, international cooperation, and safety and security.

products, meat, and fishery products are more than twice the mean. Moreover, mixed, specific, compound, and formula duties apply, mainly to agricultural products.

14. Tariff quotas apply to a range of agricultural products, under the minimum market-access commitments, at maximum tariffs of 20% of the bound rates (Main Report, Chapter III(3)(i) and Table AIII.1).

15. In the on-going WTO agriculture negotiations, South Africa believes that developed countries must substantially and progressively reduce distorting domestic-support measures, and eliminate export subsidies in the shortest possible time, while the multilateral trading system should maintain the necessary flexibility for developing nations to address developmental issues. South Africa has also indicated that further market access commitments by developing countries can only be agreed to once developed countries have agreed to substantial reductions in trade and production-distorting domestic support.

(ii) Policy by key product category

(a) Maize

16. Maizes continue to be South Africa's most important field crop, and white maize is the staple food for the majority of the population. Over the past five years, there has been a swing towards the production of white maize. The present ratio of production is 57% white and 43% yellow maize.¹²⁶ In 2001, maize contributed 38.5% to the gross income from all field crops, the average annual gross value of maize for the past five years amounts to R 5,481 million; it accounted for 3.4% of total agricultural exports. Maize is produced by both commercial and small-scale farmers in most parts of South Africa. Since 30 April 1997, after the termination of the Maize Board, no statutory levies have been applicable, and the marketing of maize is free from government intervention.¹²⁷ Producers negotiate, according to market forces, spot, contract or future prices. If the 21-day moving average f.o.b. price of maize in the United States deviates more than US\$7/ton from the reference price of US\$92.07/ton, a new tariff will be triggered.¹²⁸ Table IV.1 provides data on production, consumption, producer prices, and trade of maize from 1997/98 to 2001/02. The import duty for maize is calculated according to a formula incorporating a world price with the relevant exchange rate. Table IV.1 provides data on production, consumption, producer prices, and trade in maize from 1997/98 to 2002/03.

Table IV.1
Maize production, consumption, prices, and trade, 1997-03
(’000 tonnes)

Year	Imports	Exports	Production	Consumption	Producer prices (R/ton)
1997/98	109	1,921	9,732	6,594	584.5
1998/99	98	1,388	7,256	7,500	592.5
1999/00	569	652	7,311	7,327	644.9
2000/01	0	1,483	10,409	7,619	622.9
2001/02 ^a	395	1,335	7,936	7,690	984.7
2002/03 ^a	844	1,165	8,436	7,481	1,500.0

a Preliminary.

Source: Information provided by the South African authorities.

¹²⁶ Yellow maize is mainly cultivated for animal consumption. National Department of Agriculture of South Africa (2001).

¹²⁷ Before 30 April 1997, the Maize Board administered various arrangements relating to the marketing of maize. The various marketing functions were funded by means of statutory levies.

¹²⁸ National Department of Agriculture of South Africa (2001).

(b) Wheat

17. Most of the wheat produced in South Africa is bread wheat, with a little durum wheat produced in certain areas; there are almost no exports. The wheat market has been deregulated since 1 November 1997, and wheat can now be traded freely. No statutory levies are applicable to the marketing of wheat in South Africa. The duty for wheat is calculated using a formula incorporating a world price and a relevant exchange rate. Import tariffs on products from milling industries, starches, inulin, and wheat gluten range up to 20%. Table IV.2 provides data on production, consumption, producer prices, and trade in wheat from 1997/98 to 2002/03.

Table IV.2
Wheat production, consumption, prices, and trade, 1997-03
('000 tonnes)

Year	Imports	Exports	Production	Consumption	Producer prices (R/ton)
1997/98	469	79	2,449	2,421	817.8
1998/99	484	75	1,884	2,406	808.2
1999/00	624	72	1,725	2,450	960.6
2000/01	308	84	2,282	2,522	1,165.4
2001/02 ^a	408	137	2,281	2,620	1,421.6
2002/03 ^a	686	130	2,322	2,742	1,550.0

^a Preliminary.

Source: Information provided by the South African authorities.

(c) Sugar

18. In 2001, sugar cane represented 22% of gross income from field crops. The most important development in the South African sugar industry over the past decade has been the substantial growth of the small-scale sugar-cane grower sector. The area under cane planted by small-scale producers increased to 85,418 hectares, on which 15% of the total cane crop was produced. The proportion of exports in total sugar production increased from 53% in 1999/00 to 55% in 2000/01, due in part to the decreasing share of Zimbabwe in the SACU market. In 2001, sugar exports represented 56% of agricultural exports. Import tariffs range from zero on cane molasses, and fructose syrup to 25% on sugar and sugar confectionery (down from 27.5% in 1997). Table IV.3 provides data on production, consumption, producer prices, and trade in sugar from 1997/98 to 2001/02.

Table IV.3
Sugar production, consumption, prices, and trade, 1997-02
('000 tonnes)

Year	Imports	Exports	Production	Consumption	Producer prices (R/ton)
1997/98	59	1,204	2,240	1,335	119.7
1998/99	57	1,485	2,646	1,220	125.5
1999/00	42	0,990	2,532	1,195	122.2
2000/01	52	1,420	2,729	1,231	132.2
2001/02 ^a	52	1,257	2,396	1,240	161.0

^a Preliminary.

Source: Information provided by the South African authorities.

19. The South African Sugar Association (SASA) has no statutory marketing powers, and is no longer the sole sugar exporter. However, the Sugar Agreement of 2000 allows raw sugar to be exported only through a single channel industry arrangement. Individual milling companies are

responsible for the exportation of their own refined and direct consumption of raw sugar. Apart from pest and disease control, production is not controlled in terms of government regulation. SASA still provides financial assistance through the Small Cane Grower's Financial Aid Fund. The two-tier price system introduced in the 1985/86 season remains in operation.¹²⁹ Sugar was excluded from the TDCA between the EU and South Africa (Chapter II(2)(i)).

(d) Wine

20. South Africa is the seventh-largest wine producer, having contributed 2.8% of the world's wine in 2001, despite ranking 16th in the world in terms of area under vines (105,566 hectares). The wine industry is labour intensive¹³⁰, and from 1996, there was a shift from white to red wines, causing a big increase in the production of red wine varieties. In 2000, Europe accounted for 82.7% of South African wine exports. However, the Wines and Spirits Agreement between South Africa and the EU prevents South African producers from using, *inter alia*, the terms "port", "sherry", "ouzo", and "grappa".

21. During 2001, the Wine Industry Forum (WIF) requested the continuation of the following statutory measures related to the Marketing of Agricultural Products Act (Act No. 47 of 1996): registration, records and returns, information levy, research and development levy, and wine export generic promotion levy. The information levy is used to fund the registration of industry role-players and ensure the collection and dissemination of information relating to various products in the wine industry; it amounts to R 7.00/ton of grapes, R0.01 per litre of grape juice concentrate, and R 0.01 per litre of drinking wine.

22. The objectives of the Research and Development Levy are to support the wine industry with expertise, enabling it to be cost effective while producing quality wines and other grape-based products through the application of environmentally friendly technologies, training and education, a culture of technological innovation and the dissemination thereof to all sectors of the industry, the development of resources for the poor and previously disadvantaged farmers, and the establishment of world leadership in selected niche markets. The levy amounts to R 8.40/ton of grapes, R 0.012 per litre of grape juice concentrate, R 0.012 per litre of drinking wine, and R 0.01 per litre of distilling wine and wine spirit.

23. The wine export generic promotion levy (R0.05 per litre of exported wine) is aimed at increasing the profit margin for the industry in each focus market. The statutory measures came into effect 24 December 2001 and will lapse on 31 October 2005. The South African Wine Industry Information and Systems (SAWIS) administers the implementation, inspection, and the enforcement of statutory measures. According to the authorities, wines and spirits are no longer subject to import controls or minimum prices; and the Cooperative Wine Growers Association (KWV) no longer has statutory powers.

24. In general, beverages, spirits, and vinegar are subject to specific tariffs and excise duties; *ad valorem* tariff rates on these products range up to 25%. The 1989 Liquor Products Act provides for control, over the sale, production, import and export of alcoholic products, excluding beer and medicines, mainly for quality control purposes. For quality control purposes, certain liquor products are subject to export certification to most destinations.

¹²⁹ See WTO (1998).

¹³⁰ In 2001, the wine industry provided a living to approximately 345,000 workers and dependants, and employed 3,500 wine cellar personnel. Wine is mainly produced in the Western Cape, and along the Orange River in the Northern Cape. There are estimated to be around 4,500 primary wine producers. National Department of Agriculture of South Africa (2001).

(e) Livestock

25. Approximately 60% of the total area of South Africa consists of natural grazing and is suitable only for cattle, sheep, goats, donkeys, and wildlife. Cattle farms range from less than 50 head of cattle to more than 1,000. The red meat industry is one of the most important in the agriculture sector; it contributed 12.7% to the gross value of agricultural production in 2000/01. Following the abolition of the Meat Board in 1997, the South African Meat Industry Company (SAMIC) manages four of the functions previously performed by the Board: liaison, industry information, R&D, and food standards. The outbreak of foot-and-mouth disease in South Africa in September 2000 threatened the red meat industry, but according to the authorities, it was under control by November 2000. Imports of live animals are duty free, while import tariffs range to 40% on meat and edible meat offal, and to 50% on preparations of meat.

26. Milk production is the fourth largest agricultural industry in South Africa. Local production has decreased since 1999, due to a fall in the price caused by an oversupply in 1998/99, followed by severe shortages in 2000/01. To make up for the shortages, imports of dairy products have increased since 2000/01. Imports of dairy products are mostly subject to specific tariffs; *ad valorem* rates range to 22%.

27. Wool, mainly apparel wool, is produced throughout South Africa. Since 1 September 1997, wool marketing in South Africa is free of statutory intervention. In 2001, South Africa had a 63% share in world production of mohair, which it exports mainly to the United Kingdom, the Republic of Korea, and Turkey. Imports of silk are duty free, while imports of wool and fine or coarse animal hair, are subject to rates up to 24%. The export prohibition on live ostriches and their fertilized eggs was lifted in 1997 with the Livestock Improvement Amendment Act (Act No. 60 of 1997).

(f) Fishing

28. Annual earnings of the fishing subsector are estimated at R 2.5 billion. Fishing provides 25,000 direct jobs and 60,000 indirect and casual jobs. Seafood caught in South Africa's waters include pelagic fish, hake, abalone, rock lobster, squid, shark, and seaweed. Import tariffs range from zero on live fish to 30% on meal and pallets of cooked lobster, with an average of 20.8% on fishing products. Specific tariffs apply to a large variety of seafood; certain fishery products are subject to mixed tariffs. MFN tariffs on fishery products are not bound (Main Report, Chapter III(3)(ii)). The South African Bureau of Standards has set compulsory production standards for the seafood processing industry.

29. In 1998, the Department of Environmental Affairs and Tourism (DEAT) promulgated the Marine Living Resources Act (MLRA), stipulating broad policy guidelines on fisheries management, access rights, transformation, and empowerment issues. However, the MLRA did not define clear guidelines for allocation of fishing rights, which has caused continual litigation, and in general a fishing industry in crisis.¹³¹ Moreover, many fishing activities are overexploited, and over-fishing has given rise to strict catch quotas since 1983. The Government determines annually the "total allowable catch" of species such as pilchards, anchovy, abalone, lobster, sole, and hake on the basis of scientific surveys; catches of other species of seafood in South Africa's waters are not subject to quotas. In an attempt to redress the inequalities in the fishing industry, the DEAT has been trying to improve the process of allocating fishing rights. One of its main concepts is self-regulation of the industry, and it is envisaged that each individual fishing activity will develop a set of guidelines to govern its operation.¹³² The aim of DEAT is to issue long-term rights for most, if not all fisheries, by 2002. The

¹³¹ Department of Environmental Affairs and Tourism (2000).

¹³² Department of Environmental Affairs and Tourism (2000).

DEAT has also been trying to promote "black economic empowerment" (BEE) in the South African fishing industry, both in terms of asset ownership and employment equity.¹³³

(g) Forestry

30. Forestry contributes 0.6% to South Africa's nominal GDP. South Africa is endowed with both indigenous forests and plantations. The main products of the forestry subsector are pulpwood, sawlogs, and veneer logs. Tariffs range from zero on pulp of wood, to 30% on wood and its products. Tariffs on paper and paper products range to 20%. Tariff escalation is present on wood products, and paper products (Main Report, Chapter III(3)(ii)).

31. Since its last Review, South Africa's forestry has continued its transformation. In 1998, the Department of Water Affairs and Forestry, promulgated the National Forests Act (Act No. 84 of 1998) to ensure that the country's forest resources are protected, used, developed, conserved, managed, and controlled in a sustainable manner.¹³⁴ In terms of the 1996 Forestry White Paper, the Government should have ceased to manage plantations and forests in 2001, but it continues to do so. The South African Forestry Company Limited (SAFCOL), which has been earmarked for privatization for several years, remains state-owned. South Africa participates in the SADC Forests Protocol, which was concluded in October 2001, and aims to promote the development, conservation, management, sustainable utilization, and trade of all types of forests and trees throughout the region.

(3) MINING AND QUARRYING

(i) Overview

32. The mining and quarrying sector remains at the heart of South Africa's economy, despite a decline in gold production in the last few years. In 2001, platinum group metals (PMGs) overtook gold as South Africa's largest export. The sector continues to be a major magnet for investment, accounting for more than 30% of total market capitalization of the Johannesburg Securities Exchange (JSE); it contributed 10.1% to gross fixed capital formation in 2001.¹³⁵ The South African mining industry is to undertake capital projects for R 53 billion during 2000-04.¹³⁶

33. In 2001, South Africa had the world's largest known reserves of gold, manganese, platinum metals, chromium, vanadium, and aluminosilicates; second largest reserves of vermiculite, zirconium minerals, titanium minerals; third largest of fluor spar; fourth largest of antimony, uranium, and phosphate rock; fifth largest reserves of coal and lead; and sixth of nickel. Other industrially important metals, minerals and rocks found in South Africa include granite, copper, and iron-ore. South Africa is also the world largest supplier of ferro-alloys and a leading producer of steel.

34. On 10 October 2002, South Africa enacted the Mineral and Petroleum Resources Development Act (Act No. 28 of 2002), replacing the 1991 Minerals Act. The new Act seeks to put an end to the historic system of private ownership of mines, and the existing monopoly over economic control of the industry in South Africa, by promoting "black economic empowerment" (BEE), and security of tenure of mining rights. The Chamber of Mines, which represents all the major mining companies, expressed concerns about: the vagueness of the mechanisms and criteria for promoting

¹³³ In the hake longline fishery, for example, 80.4% of fishing rights have been allocated to companies that are majority-owned by "historically disadvantaged individuals".

¹³⁴ An Amendment to the National Forests Act is in process to provide for the creation of a trust to hold rental income for land reform beneficiaries.

¹³⁵ Department of Mineral and Energy of South Africa (2001).

¹³⁶ Department of Mineral and Energy of South Africa (2001).

BEE; the delegation of powers to the Minister of Minerals and Energy in respect of BEE regulations; and the security of tenure under the transitional arrangements, under which existing (old order) mining and prospecting rights may "securely" be converted into 30-year "new order" rights.¹³⁷

35. Since the last Review of South Africa, the Entrepreneurial Mining and Beneficiation Finance, a medium-term finance scheme, has been made available to local producers for the development of small, and medium-sized mining and jewellery activities (Table AIII.1). Mineral products subject to export control include aluminium waste and scrap; iceland spar; iron and steel in unworked or semi-worked form; lead ores, concentrates, powders, and flakes; sugulite; tin, scrap and tin-bearing residues; tiger's-eye; and zinc in the form of virgin zinc, remelted zinc, old zinc, cuttings, hard zinc and zinc ashes. Controls are exercised by means of permits. Exports of unprocessed tiger's-eye are prohibited. Mineral products subject to import controls, including by means of licences, include mineral fuels, mineral oils and products of their distillation, radioactive chemical elements and radioactive isotopes, gold and coins, cobalt, cadmium, antimony, manganese, niobium, germanium, vanadium, gallium, hafnium, indium, rhenium, and thallium. Tariffs average 0.7% in mining and quarrying (down from 1.4% in 1997), and range from zero on, *inter alia*, crude petroleum oils and oils obtained from bituminous minerals, natural gas, coal, electricity, nickel, lead, zinc, tin, and other base metals such as silver, gold, platinum and precious and semi-precious stones, not further worked than semi-manufactured, to 10% salt and pure sodium chloride. Petroleum products are subject to specific duties; specific excise duties also apply to some mineral products; and tariff escalation is mixed in petroleum, coal, and basic metal industries (Main Report, Chapter III(3)(ii)).

(ii) Policy by type of product

(a) Gold

36. There have been no major changes in terms of either policy or organization of the gold subsector since the last Review. Following a European Central Bank agreement on gold price in September 1999, the uncertainty regarding central bank sales and lending that characterized the market in the preceding two years, ceased to be key factors. Nevertheless, during the last few years there has been ongoing restructuring in the gold mining subsector (e.g. acquisitions, mergers, and the closing of some mines) in response to cost and price pressures. Production declined by 19% due to depletion of reserves and low gold prices during 1997-01. Over the past decade, the number of employees in gold mines has more than halved, from 432,656 in 1991 to 203,577 in 2001.¹³⁸ However, South Africa still accounts for 15% of global mine supply and remains the world's largest producer. Gold mining contributed 0.3% to government revenue in 2001. Assistance continues to be provided to "marginal" mines within approved guidelines.¹³⁹

37. The taxation system on the profits earned by gold mining companies is still based on two different formulae: one is for companies that opted to remain outside the dual-tax system when the Government introduced the Secondary Tax on Companies (STC) and the other is for companies subject to the STC. Gold mining companies that are exempt from the STC and that have profitability ratios lower than 32.38% are liable to a tax rate of 43.125%, which is lower than the combination of the standard rate of corporate tax of 35% and the STC rate of 12.5%.¹⁴⁰ A minimum profitability ratio over which profits of gold mining companies become taxable has been set at 5% since 1992.

¹³⁷ Oxford Analytica (2002).

¹³⁸ Much of the decline can be attributed to natural attrition as the industry has moved from unskilled labour to skilled labour.

¹³⁹ See WTO (1998).

¹⁴⁰ For a comprehensive description of these two formulae and their implications see WTO (1998).

(b) Diamonds

38. The slowdown of the world economy has resulted in a weakened diamond market since the end of 2000. Yet, the diamond mining industry has become one of the most important foreign exchange earners of the South African economy. Diamonds also contribute 0.2% to government revenue through direct taxes.

39. There have been no major changes in the organization of the diamond subsector since the last Review. A recent important event in the diamond industry was the termination of the listing of De Beers in the Johannesburg Stock Exchange (JSE) on 1 June 2001 (South Africa's longest listed company, i.e. listed since August 1893). De Beers, a world leader in the marketing of diamonds, now operates as a private company held by DB Investments (DBI).¹⁴¹ The Diamond Board, established under the 1986 Diamond Act, regulates the possession, buying, selling, processing, import, and export of rough and polished diamonds. There is an export tax of 15% on unpolished diamonds. Export prohibitions apply to crude or unprocessed tiger's-eye, with the exception of samples of a mass not exceeding 114 grams and tiger's-eye of a mass not exceeding one kilogram, which foreign guests of local mineral clubs are allowed to carry out of South Africa. South Africa participates in the Kimberly Process, which was established to protect the legitimate diamond industry.

(c) Platinum-group metals

40. Platinum group metals (PGM) produced in South Africa comprise platinum, palladium, rhodium, and ruthenium. In 2001, South Africa produced 50% of the world supply of PGM, up from about 47% in 1996. Exports of PGM have increased because of higher production; they became the country's largest export in 2001. Local sales have also increased because of the rise in the manufacturing of auto catalysts and jewellery.

41. To improve their performance, South Africa's largest PGM producers have continued the restructuring of their shareholdings, mergers of companies, and cost-reduction measures. However, the level of employment increased from 93,223 persons in 1996 to 99,571 persons in 2001.

(d) Coal and energy

42. South Africa is the world's second largest coal exporting country, and the sixth largest producer. Coal exports represented 12% of total exports in 2001, and the coal industry employed an average of 50,771 workers, down from 60,500 in 1996. Coal provides about 70% of South Africa's primary energy, followed by crude oil (around 17%).¹⁴² South Africa produces one of the world's cheapest electricity supplies and generates over half of all electricity in Africa. The energy subsector contributes around 15% to South Africa's GDP¹⁴³, and employs about 250,000 people.¹⁴⁴ Eskom¹⁴⁵, the state-owned company, supplies electricity to households at higher average prices than to industries

¹⁴¹ DBI has three shareholders: a company representing the Oppenheimer family interests (45%), Anglo American plc (45%), and Debswana (10%), which is a joint venture partnership between De Beers and the Botswana Government.

¹⁴² Around 95% of crude oil is imported" (Energy Research Institute of the University of Cape Town, 2001).

¹⁴³ This figure included energy-related taxes and levies (Government of South Africa, 1998).

¹⁴⁴ This figure included energy-related taxes and levies (Government of South Africa, 1998).

¹⁴⁵ Eskom produces over 90% of all electricity (the rest is generated by industries for their own use).

and mining companies; prices of electricity supplied by about 400 local distributors, including local authorities, vary widely.¹⁴⁶

43. Eskom still operates as a monopoly, and is in the process of being restructured. It will be corporatized, with generation, transmission, distribution, and non-core activities each forming a separate entity; competition among generation companies is to be established, and private participation is to be introduced (Chapter III(4)(ii)).

44. South Africa's energy policy is being transformed on the basis of the 1998 White Paper on Energy Policy, which establishes five main objectives: increasing access to affordable energy prices (the aim is to give access to some 40% of South Africans who are still without electricity¹⁴⁷); improving governance (including the restructuring of Eskom and Mossgas¹⁴⁸, and establishing independent regional electricity distributors); stimulating economic development (by removing distortions and promoting competition); managing energy-related environmental impacts (by establishing broad national targets for the reduction of harmful energy-related emissions); and securing supply through diversity (e.g. the SADC energy cooperation strategy).

(4) MANUFACTURING

(i) Main features

45. The major branches of the manufacturing sector include: the motor industry; textiles, clothing and related products; food processing and beverages; mineral-based industries; machinery and equipment; and pulp and paper. Manufacturing sales by some of the main subsectors during 1997-02 are described in Table IV.4. The manufacturing sector has grown relatively slowly during the period under review: on average output increased by 1.8% per year.¹⁴⁹ Growth has been particularly slow in clothing, food and footwear; resource-intensive sectors such as metal products; and capital goods and equipment. Subsectors that have performed better than the average are: autos, chemicals, radio, television and communications equipment.¹⁵⁰ Much of the growth is from increased exports: manufacturing now contributes about half of total South African exports. This growing export orientation of South African manufacturing is present in all industries.

Table IV.4
Manufacturing sales, 1997-02
(R million)

	1997	1998	1999	2000	2001	2002 ^a
Food and food products	52,649	54,940	57,202	59,693	67,448	75,257
Motor vehicles	35,948	35,373	42,731	53,843	54,735	74,187
Paper and paper products	17,508	18,281	20,415	23,306	25,147	27,340
Textiles and apparel	21,201	20,402	20,756	20,721	21,911	23,451
Electrical machinery	11,778	11,579	11,899	13,221	13,974	15,342
Total manufacturing production	368,283	373,569	397,609	448,106	502,499	656,374

a January to November.

Source: Information provided by the South African authorities.

¹⁴⁶ WTO (1998).

¹⁴⁷ WTO (1998).

¹⁴⁸ Mossgas, a parastatal, processes offshore natural gas into liquid fuels, equivalent to about 5% of the total produced in South Africa.

¹⁴⁹ DTI (2002).

¹⁵⁰ The expansion of the auto assembly industry has favoured local industries, such as leather, glass, rubber, and platinum group metals, in its supply side chain. The Motor Industry Development Plan (MIDP), in operation since 1996, has been key in this transformation.

46. Small, medium, and micro enterprises (SMMEs) currently contribute 35% to GDP, and 54% to formal private-sector employment. Within manufacturing their share of employment has risen from 39% in 1988 to about 45% in 2001, which may be related in part to outsourcing trends. However, the survival rate of small businesses remains low by international standards, and few are effectively integrated into the mainstream operations.¹⁵¹

(ii) Policy developments

47. Tariff protection for manufacturing has diminished since the last Review. The simple average MFN tariff rates went down from 15.6% in 1997 to 11.8% in 2002. However, some manufactures such as articles of apparel, and textile and clothing products, are still subject to an average tariff of 30% or above. Formula duties apply to preserved tomatoes; specific excise duties are collected on, *inter alia*, prepared foodstuffs, beverages and spirits, and products of the chemical or allied industries; and *ad valorem* excise duties on certain manufactured products, such as tractors, motor vehicles, and chassis, range up to 20% (Main Report, Chapter III(3)(ii), and Chart IV.1 above).

48. The authorities recognize that despite the structural reforms undertaken since 1994 to open up the economy and enhance competitiveness, a coherent industrial policy framework has not been clearly articulated.¹⁵² Special programmes have been introduced for manufacturing industries undergoing severe structural changes. The programmes have contributed to the rise of some industries, for example the auto industry (section (iii)(a) below), but also to the decline of others, such as the textile and clothing industry (section (iii)(b) below), which is the most heavily tariff protected subsector (Main Report, Chapter III(3)(ii)). In general, this piece meal approach to manufacturing has not had the desired impact on the growth rate, employment creation, small business development, income distribution and equity. In addition, investment in manufacturing has grown more slowly than in most other sectors, and job losses have tended to accelerate.¹⁵³ BEE throughout the economy, mainly in manufacturing, has also not developed at the desired rate.

49. Some of the few manufacturing industries that are experiencing robust investment growth are: plastic products, leather, motor vehicles and parts, paper and paper products, and basic chemicals. According to the authorities, the decline in investment in manufacturing was stopped in 2001.

50. The Government's response to these problems is contained in two basic documents that were made public in early 2002: the Microeconomic Reform Strategy (MRS), and the Integrated Manufacturing Strategy (IMS). The Government's objective is to substantially achieve the structural changes needed by 2014. The MRS seeks to positively affect key performance areas: growth, competitiveness, employment, SMMEs, BEE, and the geographic spread of economic activity. Amongst the industries that are considered to have considerable potential for increased output, exports, and employment creation, and that will receive focused attention from the State are: minerals and metals; textiles and clothing, automobiles, agri-processing, and chemicals. Also, the MRS aims to liberalize, and improve efficiency in three critical input subsectors: transport, energy, and telecommunications, which are still dominated by parastatals.

51. As a complement of the MRS, the IMS contains specific actions for achieving structural changes in areas such as: market access (increased access to developed markets, and new trade links with key developing countries); regional production (basically within SADC); value added (fostering

¹⁵¹ DTI (2002).

¹⁵² DTI (2002).

¹⁵³ Growth is less rapid in the labour-intensive than the non-labour-intensive subsectors. Labour demand has increased, however, in a few subsectors: leather and leather products, plastic products, wood and related products, some chemicals, and TV, radio and communications equipment (DTI, 2002).

exports of higher value-added goods); equity and economic participation (increasing the economic participation of historically disadvantaged individuals); knowledge-intensity and services integration (developing and integrating information and communication technologies into manufacturing); and integrated value matrices (improving the interconnectivity of enterprises).

52. Since the last Review of South Africa, manufacturing support schemes have been replaced with the "Six Pack" of incentives announced by the DTI in September 2000.¹⁵⁴ The Six Pack consists of:

- Small Medium Enterprise Development Programme (SMEDP), which offers manufacturing¹⁵⁵, and tourism enterprises with "significant expansions of their operations", tax-free cash grants for two years, based on the cost of the investment in land, buildings, machinery, equipment, and vehicles.¹⁵⁶ A maximum of R 3.05 million per year for enterprises with an investment in qualifying assets of up to R 100 million.
- Skills Support Programme (SSP) offers a cash grant to cover 50% of the training costs of enterprises under the SMEDP, in order to encourage them to introduce new and advanced skills to their workforce. The maximum assistance an enterprise may receive is 30% of its actual costs.
- Critical Infrastructure Facility (CIF) supplements the existing public or private sector infrastructure, by funding a top-up grant between 10% and 30% of actual costs.
- Industrial Development Zones (IDZ) consist of two zones of operation: customs secured area (CSA), and industries and services corridor (ISC). A CSA is a delimited area with entrance and exit points controlled by Customs personnel. Each CSA has a dedicated customs office providing inspection and clearance services, and one-stop administrative centre to facilitate the approval and permit processes. CSA-based enterprises are eligible for: duty-free import of production-related raw materials and inputs; zero rate on VAT for supplies procured from South Africa; and right to sell into South Africa upon payment of normal imported duties on finished goods. ISCs are industrial and office park environments adjacent to CSAs, occupied by service providers to CSA enterprises. The Government will first designate areas suitable for IDZs. Prospective IDZ companies will then have to apply for permits to develop and operate an IDZ.¹⁵⁷
- Foreign Investment Grant (FIG) is open to foreign investors (i.e. at least 50% foreign shareholding) located outside SACU and/or SADC, and participating in the SMEDP.

¹⁵⁴ DTI (2002).

¹⁵⁵ The SMEDP targets: food products and beverages; textiles, clothing and leather goods; wood and products of wood and cork, except furniture; articles of straw and plaiting materials; paper and paper products; publishing, printing and reproduction of recorded media; coal, refined petroleum products and nuclear fuel; chemicals and chemical products, including cosmetics and hair products; rubber and plastic products, non-metallic mineral products (e.g. glass, and ceramics); basic metals (e.g. iron and steel, and machinery and equipment); electrical machinery and apparatus; radio, television and communication equipment; apparatus of medical precision and optical instruments; watches and clocks; transport equipment (e.g. motor vehicles, ships, and aircrafts); furniture; jewellery, musical instruments, sports goods, etc.; and recycling (DTI, 2002).

¹⁵⁶ Enterprises with high labour costs may receive an extension of the cash grant for a third year.

¹⁵⁷ The first IDZ is the Coega project. In Gauteng, an IDZ is under review for Johannesburg International Airport (linked to Durban for the transshipment of cargo).

It offers up to 15% of the value of new machinery and equipment (a maximum of R 3 million per entity), based on accepted relocation costs.

- Strategic Investment Programme (SIP) offers a tax allowance of up to 100% (a maximum allowance of R 600 million per project) on the cost of buildings, plant and machinery, for strategic investments of at least R 50 million in manufacturing of food products (excluding tobacco and tobacco-related products), and consultancy in computer hardware and software, data processing and data base activities.

(iii) Selected product categories

(a) Motor industry

53. The Motor Industry Development Programme (MIDP), introduced in September 1995, has led to rapid structural changes in the automotive industry.¹⁵⁸ Under the MIDP, import duty on completely built-up light vehicles was reduced from 61% on 1 January 1996 to 40% on 1 January 2002, and from 46% to 30% on original equipment components over the same period. Total domestic production of light vehicles increased by 11.7% during 1997-01 (from 348,234 units in 1997 to an estimated 392,991 in 2001), while total exports of light vehicles shot up by 484% (from 18,458 units in 1997 to 107,828 in 2001).¹⁵⁹

54. The MIDP was to be terminated in 2000 for medium and heavy commercial vehicles, and in 2002 for motor cars and light commercial vehicles.¹⁶⁰ However, the DTI, together with manufacturers, instead amended the MIDP, effective 17 July 2000, by, *inter alia*, extending its duration until 2007, with further gradual reduction in import duties on light motor vehicles (from 47% on 1 January 2000 to 30% by 1 January 2007), and original equipment components (from 35% to 25% over the same period); and introducing a productive asset allowance (PAA) to manufacturers that have invested in productive assets for the assembly of light vehicles, or in the manufacture of automotive components. Besides the MIDP, manufacturers in the motor industry are eligible for other incentives (section (ii) above, and Chapter III(4)(i)).

55. In December 2002, the Minister of Trade and Industry formally announced the intention to extend the MIDP for light commercial vehicles from 2008 to 2012, with further gradual reductions in import duties on light motor vehicles from 40% on 1 January 2002 to 25% by 31 January 2012, and original equipment component from 30% to 20% over the same period. A review of the MIDP for medium and heavy vehicles is expected to be completed by June 2003.

56. Import controls on vulcanized rubber thread and cord, plates and strip, have been eliminated, but remain on new pneumatic tyres (Chapter III(2)(ii)). Export controls continue to apply to motor vehicles (Chapter III(3)(ii)). Tariffs on tyres range up to 43%, with an average of 9.4% (down from 11.6% in 1997). Motor vehicle duty rates range up to 35%, with an average rate of 12.5%. A progressive excise duty applies to locally produced and imported motor vehicles and their components: the rate is calculated on the basis of a formula and increases with the value for *ad valorem* excise duty purposes, to a maximum of 20% (Main Report, Chapter III(3)(ii)).

¹⁵⁸ For a comprehensive description of the MIDP, see WTO (1998).

¹⁵⁹ TISA (2002).

¹⁶⁰ See WTO (1998).

(b) Textiles, clothing, and related products

57. The textiles, clothing and related products industry contributed 0.9% to GDP in 2001, compared with 1.4% in 1996; and employed about 204,814 people, down from 260,000. Exports of clothing amounted to R 1.9 billion in 2001 (up from R 626 million in 1996). The Wool Board and the Cotton Board were abolished in 1998, and wool and cotton marketing in South Africa are now free from government intervention. In addition to incentive schemes available to all manufacturers, textiles and clothing producers are eligible for the Finance for Textiles, Clothing, Leather and Footwear Industries (Table AIII.1), and the Duty Credit Certificate Scheme.¹⁶¹ The World Player Scheme has been abolished.

58. According to a sectoral restructuring plan, introduced in 1995¹⁶², most tariff rebate concessions will be phased out by the end of 2002; all tariffs applying to the products will become *ad valorem*; and the final phased-down tariff rates (the base minimum rates of duty to be completed by 2002) will be 40% on all clothing products, 30% on household textiles, 22% on all textile fabrics, 15% on yarn, and 7.5% on some synthetic fibres (polyester) and polypropylene fibres. However, import tariff rates currently range up to 60% for some textile products (worn clothing and other worn articles (HS 6309 items)).

(5) SERVICES

59. Services accounted for more than half of South Africa's GDP in 2001. Administrative services continues to be the largest subsector, followed by financial services, and transport services. Two main state-owned companies operate in the sector: Telkom (telecommunications), and Transnet (transport). South Africa is a net importer of services (Chapter I(3)). Under the General Agreement on Trade in Services, South Africa scheduled commitments in several service categories¹⁶³, and adopted the Reference Paper for basic telecommunications on pro-competitive and transparency practices. Table AIV.1 provides details on South Africa's commitments under the GATS.

60. South Africa took part in the WTO GATS negotiations on financial services, and accepted the GATS Fifth Protocol, on 27 January 1999 (section (ii) below).¹⁶⁴

(i) Telecommunications

61. South Africa continues to be the leading African country in terms of its telecommunications market, network, and traffic. The mobile networks have grown rapidly (Table IV.5). In 2002, there were 13 million mobile phone subscribers and 5 million fixed lines, indicating that there are more than twice as many mobile phones as fixed phones: in 2000, 62.6% of telephone subscribers were cellular subscribers, that is 19.02 mobile subscribers per 100 inhabitants, compared with only 2.35 in 1996. However, a major problem is the large disproportion between areas: teledensity (numbers of phones per 100 inhabitants) ranges from below 1 to 64. The national teledensity is 12%. Moreover, some half million fixed lines were disconnected in 2000 because of fraud or non-payment, causing a

¹⁶¹ The Duty Credit Certificate Scheme was scheduled to be phased out as from March 2000. Yarns and fabrics manufactured in the BLNS countries are regarded as locally manufactured inputs. In consequence, only exports outside the SACU area qualify for the scheme. For a comprehensive description of the Duty Credit Certificate Scheme, see WTO (1998).

¹⁶² The plan was introduced after an investigation by a Textile and Clothing Panel, comprising representatives of business/industry, labour and Government. See WTO (1998).

¹⁶³ WTO (1998).

¹⁶⁴ WTO document WT/LET/288 of 18 February 1999.

decline in the fixed density, for which South Africa ranks fifth highest in Africa.¹⁶⁵ This decline casts a shadow over the future expansion of the Internet in South Africa.

62. In recent years, the subsector has undergone moves towards privatization and liberalization. However, Telkom, South Africa's telecommunications parastatal, has not yet been fully privatized. The privatization process in telecommunications began in May 1997, when 30% of Telkom, the fixed-line operator and until then wholly owned by the Government, was sold for US\$1.26 billion to the Thintana consortium, which includes the U.S. company SBC, and Telekom Malaysia. The second stage of the privatization, an initial public offering of shares in Telkom, was postponed to the fiscal year 2002/03, because of adverse market conditions and delays in finalizing the policy framework.¹⁶⁶ With the exception of the mobile market, where three joint-ventures between South African and foreign companies operate¹⁶⁷, Telkom still enjoys monopoly powers over basic public switched telecommunication services.¹⁶⁸ Licensees and private value-added network services (VANS) suppliers are required to use Telkom infrastructure. Tariffs charged by the cellular companies must be approved by the Independent Communications Authority of South Africa (ICASA).

63. A second network operator (SNO) should have been operational by May 2002, when the monopoly licence of Telkom ended, but the process has been delayed. Equity interests from foreign investors in the SNO will be limited to 51%. BEE Groups will hold 19%, and the remaining 30% will be allocated to the parastatals Transnet and Eskom. The SNO will have to provide 80% national geographic coverage within ten years. Also, a multimedia licence and a carrier of carriers (international gateway) has been issued to Sentech, a state-owned company.

64. Under the 1996 Telecommunications Act, as amended in 2001, the Minister of Communications formulates policies in the subsector, including postal services. The 1996 Act regulates licences, mobile cellular telecommunications services, and private telecommunications networks.

Table IV.5
Selected telecommunication indicators, 1996-00 (year beginning 1 April)

	1996	1997	1998	1999	2000
Main telephone lines ('000)	4,259	4,645	5,075	5,493	4,962
Main lines per 100 inhabitants	10.49	11.27	12.05	12.76	11.36
Percentage of digital main lines	74.00	82.00	92.50	99.00	99.60
Public payphones ('000) ^a	94.9	127.3	153.5	173.1	178.1
Cellular mobile subscribers ('000)	953	1,574	2,600	5,269	8,308
Cellular subscribers per 100 inhabitants	2.35	3.82	6.17	12.24	19.02
Full-time telecommunication staff ('000)	57.5	56.9	61.2	49.1	43.8
Telecommunication revenue as % of GDP	3.37	4.01	4.31	4.94	5.39
Telecommunication investment as % of GFCF ^b	3.70	6.32	9.24	6.91	6.60
Televisions per 100 inhabitants	12.89	13.10	12.94	12.77	12.70
Number of personal computers ('000)	1,430	1,800	2,100	2,400	2,700
Estimated Internet users ('000)	618	800	1,266	1,820	2,400

a Coin phones, card phones and table-mounted renter's payphone.

b Gross fixed capital formation (GFCF).

Source: ITU (2001), *African Telecommunication Indicators*, Geneva.

¹⁶⁵ ITU (2001).

¹⁶⁶ ITU (2001).

¹⁶⁷ A third mobile licence was issued to Cell C in November 2001. The other two date from 1994: Mobile Telephone Networks, and Vodacom. See WTO (1998), Trade Policy Review of SACU, Geneva.

¹⁶⁸ During the period, Telkom has the "primary" role in universal access/service provision. National long-distance services, local access telecommunications services and public pay-telephone services, international services, as well as switching networks will exclusively be provided by Telkom.

65. Under the ICASA Act (Act No. 13 of 2000), the Independent Communications Authority of South Africa (ICASA), replaced the Independent Broadcasting Authority (IBA) and the South African Telecommunications Regulatory Authority (SATRA), in 2000 as the new telecommunications regulatory body. The move has been criticized as more institutional than real, since decisions taken by ICASA are often challenged, particularly by Telkom, which has delayed implementation of ICASA's rulings.¹⁶⁹ ICASA grants licences to VANS providers, sets standards for telephone equipment, and approves telecommunication tariffs, subject to regulations approved by the Minister for Communications. ICASA, in cooperation with the Competition Commission, also addresses issues such as unfair competition, and cross-subsidization.

(ii) Financial services

66. Financial services in South Africa are characterized by extensive interlocking shareholding relationships between the major banks and the large insurance companies. The securities markets are well developed. Total assets held by the financial subsector represented the equivalent of about 370% of GDP in 1999, with banks accounting for roughly 27% of total assets.¹⁷⁰ Non-residents' participation in the securities and stock markets has increased sharply.

67. South Africa made further commitments during the 1997 WTO financial services negotiations.¹⁷¹ For all financial services (excluding insurance services), South Africa made commitments only with respect to commercial presence on: national treatment, under which branches of banks not incorporated in South Africa must maintain a minimum balance of R 1 million on the deposit accounts of natural persons; and market access, under which companies need to be incorporated as public companies in South Africa, and registered with the Registrar of Banks in order to carry on business in the country. With respect to insurance services, commitments on market access and national treatment were made for consumption abroad and commercial presence. The acquisition of shares or any other interest (by a resident or non-resident) in a registered insurer resulting in the holding of 25% or more of the value of all shares, requires the written approval of the Registrar of Insurance.

68. South Africa still maintains MFN exemptions to allow the other members of the Common Monetary Area (Lesotho, Namibia, and Swaziland) to enjoy preferential access (exemption from exchange controls) to its capital and money markets, and transfers of funds.¹⁷²

(a) Banking services

69. From 1996 to 2001, the banking structure went from: 40 to 41 registered (equity) banks; 4 to 2 registered mutual banks¹⁷³; 6 to 15 local branches of foreign banks; and 58 to 55 representative offices of foreign banks. In 2001, the four largest banks (ABSA, FirstRand, Nedcor, and Stanbic) had 69.5% of total bank assets and deposits (down from 78% in 1996).¹⁷⁴ Overseas exposures of South

¹⁶⁹ Oxford Analytica (2002).

¹⁷⁰ IMF (2001a).

¹⁷¹ WTO documents GATS/SC/78/Suppl.3 of 26 February, 1998, and S/L/67 of 15 February 1999.

¹⁷² WTO document GATS/EL/78, 15 April 1994.

¹⁷³ Mutual banks are community-based, and are owned by their depositors.

¹⁷⁴ In May 2002, FirstRand bought the Saambou bank, which was the seventh largest bank. An important element of the deal was a solvency guarantee from the SARB. In 2002, Nedcor bought BOE, South Africa's sixth largest bank, for R 7.3 billion. The deal will create South Africa's largest banking group, and will lead to a greater concentration of the banking sector. With this take-over, the four largest banks will have around 85-90% of the assets and deposits. South Africa is among the countries with relatively high bank concentration; it had a Herfindhal-Hirschman Index (HHI) of 0.15 for 1999. As a rule of thumb, an HHI of 0.18 or higher is

African Banks have grown steadily since 1994. There are no state-owned commercial banks, but several development financial institutions exist, the largest being the Development Bank of Southern Africa.

70. The banking system is regulated by the Bank Supervision Department (BSD) of the South African Reserve Bank (SARB). The 1990 Banks Act provides the legislative framework for banking, and has been regularly amended, *inter alia*, as a way to foster greater compliance with the Basel Core Principles (BCP), and strengthen the supervision of the subsector. Some of the main changes in legislation made since the last Review are: Unit Trusts Control Act (Act No. 12 of 1998) to deregulate the method of calculation of charges; Financial Markets Control Act (Act No.13 of 1998) and Stock Exchange Control Act (Act No. 14 of 1998) to further regulate the management of investments; Mutual Banks Act (Act No. 54 of 1999) to achieve effective supervision by the Registrar of Banks; Banks Amendment Act (Act No. 36 of 2000) to allow banks greater flexibility in the utilization of their liquid assets; Financial Institutions (Protection of Funds) Act (Act No. 28 of 2001) to consolidate the laws relating to the investment, safe custody, and administration of funds and trust property by financial institutions; and the 2001 Anti-Money Laundering Act to further combat money laundering activities.

71. Any person, whether South African or foreigner, may control a bank. There are three alternatives for conducting banking operations in South Africa (all of which require prior approval of the Registrar of Banks, who heads up the BSD): a separate banking company, a branch of an international bank or banking group, and a representative office of an international bank. The criteria for the registration of a bank has not changed since the last Review, and are the same for domestic or foreign investors. However, foreign banks are required to include additional information with their application, such as: foreign bank holding company resolution approving proposed formation of the bank; letter of "comfort and understanding" from the foreign bank holding company, and letter of no objection from the foreign bank's home regulatory authority.¹⁷⁵

(b) Insurance

72. In 2001, there were 63 long-term insurance companies (such as life, home, industrial, and funeral businesses) in South Africa, and 89 short-term (including fire, motor, and personal accident), up from 52 and 62, respectively, in 1997. Contractual savings institutions, which comprise pension funds and life insurance companies, mobilize resources in excess of 120% of the GDP in 2000.¹⁷⁶ Life insurance companies are particularly large by international standards, and are properly funded and capitalized.¹⁷⁷ Life companies are linked to group pension plans, but there is also a large subsector of company-based pension plans. Short-term insurance business is less developed.

73. The Financial Services Board (FSB), an independent institution established under the 1990 Financial Services Board Act, regulates and supervises the financial markets, as well as non-bank institutions, which must register with it. Registration criteria have not changed since the last Review. Any person, whether South African or foreigner, may control an insurance company in South Africa. However, foreign insurers cannot open branches in South Africa, but may register subsidiaries.

perceived as an indication of very high concentration. In a pure monopoly, the value of the HHI is one. IMF (2001a).

¹⁷⁵ DTI (2000).

¹⁷⁶ IMF (2001).

¹⁷⁷ South African insurers receive some 80% of all premiums paid in Africa in terms of life insurance (IMF, 2001).

(iii) Transport

74. In 2001, transport, storage, and related services employed about 48,000 persons, and contributed about 10% to South Africa's GDP. Transport infrastructure in South Africa, while advanced for mainstream business, is still very unequally developed, resulting in very poor service for rural areas. The Government's main policy goals are to improve infrastructure and encourage private investment, particularly in minibus-taxi, bus, and rail transport¹⁷⁸; to pursue greater safety in the transport system¹⁷⁹; and to redefine the current public transport subsidies schemes.¹⁸⁰ Through its infrastructure projects, the "spatial development initiatives" (SDIs)¹⁸¹, the Government aims to develop the economic potential of specific regions in South Africa, by attracting private investment.¹⁸²

75. The National Department of Transport (DoT) formulates and implements transport policies: it sets guidelines, as well as service and safety standards, and promotes transport planning. It has moved certain elements of its operational activities to four newly established commercial agencies: the South African National Roads Agency (SANRAL), the South African Maritime Safety Authority (SAMSA), the Cross-border Road Transport Agency (CBRTA), and the South African Civil Aviation Authority (SACAA).¹⁸³ Transnet Limited, a wholly government-owned public company¹⁸⁴, is a holding parastatal made up of eight businesses and related services: Spoornet (rail transport); Metrorail (commuter rail services); Petronet (liquid petroleum transport); Portnet Port Authority (port infrastructure and marine related services), and Portnet Port Operations (terminal and cargo operations); Propnet (property services); Transtel (telecommunications network operator)¹⁸⁵; Transwerk (engineering); and South African Airways. Restructuring of the Transnet Group includes finding strategic equity partners for some units, and consolidating the rail-passenger entities.

(a) Maritime transport

76. South Africa's seven commercial ports (Saldanha Bay, Cape Town, Mossel Bay, Port Elizabeth, East London, Durban, and Richards Bay), form by far the largest and best equipped network in Africa. A major port is being developed at Coega. These ports serve as conduits for trade between South Africa and its partners in the SACU and in the SADC, but also as hubs for traffic to and from the rest of the world. The South African Marine Corporation (Safmarine), and Unicorn and Griffin Shipping are the largest shipping lines. Maritime transport is playing an increasing role in international trade (158.9 million tonnes of South Africa's exports and imports in 2001, up from 126.4 million tonnes in 1995).

77. Portnet holds the largest share of maritime transport services in South Africa: it controls the seven largest ports. Until recently, Portnet has been a natural and legally structured monopoly and its own regulator. The landowner and operations functions are currently being split between a Ports Authority and SA Port Operations, with an Independent Ports regulator. In future, SA Port Operations

¹⁷⁸ Government of South Africa (1999).

¹⁷⁹ Government of South Africa (2001).

¹⁸⁰ Currently about 35% of the commuting public is subsidized, and the major allocations are for bus and rail subsidies; the Department of Transport envisages designing a subsidy scheme to be driven by socio-economic factors for targeted commuters (National Department of Transport, 2002b).

¹⁸¹ The SDIs are Lubombo, West Coast, Fish River, Maputo Development Corridor, Wild Coast, Platinum, Phalaborwa, and Richards Bay.

¹⁸² EIU (2001), p. 26.

¹⁸³ Government of South Africa (2002).

¹⁸⁴ The entire issued share capital is controlled by the Minister for Public Enterprises on behalf of the South African Government.

¹⁸⁵ Transtel is currently bidding for a share of South Africa's second network operator.

will have to compete with other operators for concession of port operations. South Africa's maritime safety and pollution administration and legislation are controlled by SAMSA on behalf of the DoT, in accordance with the SAMSA Act (Act No. 5 of 1998). Among SAMSA's main responsibilities are: introduction and maintenance of international standards set by the International Maritime Organization, certification of seafarers, promotion of safety at sea, and pollution prevention. Local and foreign-owned vessels on international trade-routes to and from South Africa may carry South African coastal cargoes and purchase fuel free of duties or other charges. South Africa is a member of the International Maritime Organization, and a signatory to several international maritime agreements, including the 1974 International Convention for the Safety of Life at Sea and its 1978 Protocol, the 1966 International Convention on Load Lines, the 1976 Convention on the International Maritime Satellite Organization, and the 1969 International Convention on Tonnage Measurement of Ships. South Africa has also concluded bilateral shipping agreements with, *inter alia*, the Netherlands, Madagascar, Malaysia, and Mozambique.

(b) Air transport

78. In 2001, South Africa's airports network included nine state airports, and 195 provincial, municipal, and private airports. South African Airways (SAA) has a fleet of 55 Boeing aircraft, serving both domestic and international routes. They are currently being replaced by an Airbus fleet. Due to the rapid growth of both tourism and business travel, there has been a steep increase in airline traffic since 1994 at the three major international airports (Johannesburg, Durban, and Cape Town). The South African air transport market was deregulated in 1991; the parastatal SAA has since operated in the domestic market in competition with private airlines such as British Airways/Comair, and Nationwide, and has established a partnership with SA Express and SA Airlink. South Africa's major airports have been commercialized, but not yet privatized.

79. The Airport Company of South Africa (ACSA) is responsible for the planning, construction, and operations of the state airports, including the three international airports.¹⁸⁶ Domestic air service licences are issued by the Air Service Licensing Council (ASLC). As a general principle, 75% of the domestic services of eligible applicants must be owned by South Africans, and they must use South African aircraft to provide air services.¹⁸⁷ Licensing fees range up to R5,000. On 1 October 1998, the SACAA was established as a stand-alone authority charged with promoting, regulating, and enforcing civil aviation safety and security, as provided for by the SACAA Act (Act No. 40 of 1998). The DoT negotiates bilateral air transport agreements, and controls and manages South Africa's obligations in terms of ratified aviation conventions with international organizations. South Africa is a signatory to several international air transport agreements, including the 1944 Convention on International Civil Aviation, the 1944 International Air Transport Agreement, and the 1929 Convention for the Unification of Certain Rules relating to International Carriage by Air.

(c) Land transport

80. Land transport includes passenger, and merchandise transport services by road and rail; there are around 7,000 km of national roads (750,000 km in total) and about 34,000 km of rail track. In

¹⁸⁶ The Airport Company is undertaking major capital developments totalling R 1.7 billion at the Johannesburg, Cape Town, and Durban international airports. Half of this sum is allocated to Johannesburg International Airport, the busiest in Africa. Construction of a new domestic terminal at a cost of R 350 million is expected to be completed by 2003. Cape Town International Airport is expected to spend about R 2.8 billion on developments over the next five years (Government of South Africa, 2002).

¹⁸⁷ There are, however certain exceptions. For example, foreign aircraft may be allowed to provide air services for a limited period of time.

addition, South Africa has a pipeline network of 3,000 km, which is managed, operated, and maintained by Petronet.

81. Overall policy in road transport is the responsibility of the DoT. The planning, construction, and maintenance of roads and bridges, other than those under SANRAL or local governments, are the responsibility of the provincial governments. Streets are the responsibility of metropolitan, district or local communities. The bulk of the road and street system is financed by national and local taxes, but SANRAL operates 600 km of state toll roads, and has concessioned 1,300 km to private consortia which toll those roads. While legislative and executive powers for public transport are a provincial competency, the DoT is responsible for policy formulation, monitoring, and strategic implementation. The DoT is currently working on redesigning the subsidies scheme for public transport, so as to redress the current practice of paying subsidies to buses and commuter rail¹⁸⁸, to the exclusion of the taxi industry, and of subsidizing only about 35% of the commuting public. The National Land Transport Transition Act (Act No. 22 of 2000)¹⁸⁹, provides for a new system of 'permissions' to replace permits for taxi and bus transport, and is meant to lay the foundation for a fully integrated, long-term, user-orientated land transport system. Both DTI and DoT are engaged in a major initiative to recapitalize the taxi fleet.

82. Spoornet has 80% of Africa's rail infrastructure.¹⁹⁰ It is the largest railroad and heavy haulier in Southern Africa. Spoornet is trying to identify the most efficient mode of internal operations.¹⁹¹ The DoT has embarked on a comprehensive recapitalization programme in order to improve rail safety and revive rail transport as a viable public alternative. An amount of R 545 million is provided for in the 2002/2003 budget for capital expenditure to refurbish rolling stock and upgrade train stations.¹⁹²

83. South Africa is an important transit point for merchandise going to and from the southern African region, in particular the landlocked countries. The Governments of Mozambique and South Africa are implementing the Maputo Development Corridor, which includes transport and communication projects in the 550 km corridor from Johannesburg to Maputo (Mozambique). The SADC Protocol on Transport, Communications and Meteorology provides a framework for regional integration in the transport subsector, while cross-border transport within SACU is undertaken in terms of the SACU Memorandum of Understanding, which facilitates transport between member countries through, *inter alia*, the use of the single permit system. On road transportation, South Africa still maintains MFN exemptions for the SACU countries (except Namibia), Malawi, Zimbabwe, and other sub-Saharan African countries. Transport rights are granted on a preferential basis through a permit, which regulates the transport of passengers and goods.¹⁹³

(iv) Tourism

84. South Africa's main tourist attractions include: the Great Limpopo Trans-frontier Park (part of which constitutes the Kruger National Park); the Cape Peninsula and the fauna of Table Mountain; the Garden Route (200 km of beaches, forests, and mountains); Kwazulu-Natal parks and mountains, including the Drakensberg range; the Sterkfontein Caves (the home of the ancestors of humankind); Robben Island; Blyde River Canon; Cango Caves Western Cape; and the Wine Route.

¹⁸⁸ In the Department's budget for 2002/2003, the allocation for buses and rail amounts to R 37 million (National Department of Transport, 2002b).

¹⁸⁹ This has been amended by the National Land Transport Transition Amendment Act (Act No. 31 of 2001).

¹⁹⁰ Metrorail and the South African Rail Commuter Corporation also operate in the country.

¹⁹¹ Government of South Africa (2002).

¹⁹² National Department of Transport (2002a).

¹⁹³ WTO document GATS/EL/78, 15 April 1994.

85. South Africa was the world's 24th tourist destination in terms of international arrivals in 2001 (25th in 1995). Although South Africa has increased its share in the international tourism market since the early 1990s, tourism accounted for just over 2% of GDP in 2001, employing almost one million people, up from 550,000 in 1995. In 2001, South Africa's reception capacity was 1,566,930 rooms, compared with 46,435 rooms in 1996. Annual arrivals have doubled since 1994 to around 6 million, an annual average increase of 6.4% during 1995-00. BLNS countries accounted for 51.2% of total arrivals in South Africa in 2000, compared with 49.9% in 1995. The growth in tourism since the end of apartheid has been far less than the authorities and the industry hoped for, mainly because of concerns about personal safety, due to both crime and health problems.¹⁹⁴ According to the World Tourism Organization, the persisting lack of aggressive promotion of tourism investment and of tourism investment incentives, constitutes another major problem for the industry in South Africa.¹⁹⁵

86. The Industrial Development Corporation (IDC) currently provides medium-term finance in the form of loans, suspensive sales, equity and quasi-equity for the development and expansion of the tourism industry (Table AIII.1). Also, the Department of Trade and Industry (DTI) provides the subsector with the Small and Medium Enterprise Development Programme (SMEDP)(Chapter III(4)(ii)). According to the authorities, other than exchange control and immigration regulations, there are no barriers to foreign entry.

87. In 2000, two Amendment Acts to the 1993 Tourism Act were passed: Act No. 8 introduces further provisions concerning the organization of the South African Tourism Board (SATOUR), and Act No. 70 emphasizes the training and registration of tourist guides, and a code of conduct and ethics for tourist guides; regulates the procedures for lodging complaints; and criminalizes certain conduct.

88. In May 2000, South Africa launched the Tourism Growth Strategy. In addition to the international marketing of South Africa as a top world tourism destination, this strategy is aimed at, *inter alia*, increasing tourism arrivals in South Africa; broadening the geographical spread of arrivals; increasing the length of stay; and increasing investment, both foreign and domestic, in the tourism industry. The strategy focuses on Africa, the United States, Europe (particularly, United Kingdom, Germany, France, the Netherlands, and Italy), and Asia (China, Japan, India). The Department of Environmental Affairs and Tourism (DEAT), in partnership with the private sector, has also formulated a three-year strategy aimed at transforming the industry by, *inter alia*, ensuring that all government departments support BEE in the tourism industry. In July 2002, Lesotho and South Africa signed a grant agreement with the World Bank for the Maloti-Drakensberg Transfrontier Conservation and Development Project.¹⁹⁶ The two countries are expected, *inter alia*, to establish a sustainable eco-tourism destination in their border region.

¹⁹⁴ More new hotels have been built in the last three years than in the previous 20, but almost half of their beds remain unoccupied (*The Economist*, 16 December 2000).

¹⁹⁵ World Tourism Organization (2001).

¹⁹⁶ The agreement will bring US\$15.2 million to the project from the World Bank's Global Environment Facility (GEF); Lesotho will take US\$7.3 million, and South Africa US\$7.9 million.

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APPENDIX TABLES

Table A1.1
Balance of payments, 1990-01
 (US\$ million)

	1990	1995	1996	1997	1998	1999	2000	2001
Overall balance	355.0	907.0	-1,272.0	4,595.0	920.0	4,215.0	400.0	2,158.0
Current account balance	2,134.0	-2,205.0	-1,880.0	-2,273.0	-2,157.0	-640.0	-575.0	-166.0
Balance on goods, services and income	2,455.0	-1,560.0	-1,127.0	-1,549.0	-1,414.0	287.0	351.0	573.0
Balance on goods and services	6,726.0	1,315.0	1,990.0	1,655.0	1,742.0	3,440.0	3,492.0	4,419.0
Trade balance	7,056.0	2,667.0	2,695.0	2,324.0	2,056.0	4,073.0	4,316.0	4,966.0
Exports	24,336.0	30,071.0	30,263.0	31,171.0	29,264.0	28,627.0	31,636.0	30,642.0
Imports	-17,279.0	-27,404.0	-27,568.0	-28,848.0	-27,208.0	-24,554.0	-27,320.0	-25,677.0
Balance on services	-331.0	-1,351.0	-705.0	-668.0	-314.0	-633.0	-824.0	-546.0
Credit	3,406.0	4,618.0	5,028.0	5,334.0	5,281.0	5,074.0	4,895.0	4,662.0
Debit	-3,737.0	-5,969.0	-5,733.0	-6,002.0	-5,595.0	-5,707.0	-5,719.0	-5,208.0
Transportation (net)	..	-1,226.0	-1,340.0	-1,389.0	-1,205.0	..	..	..
Travel (net)	..	277.0	821.0	808.0	809.0	..	..	..
Other services (net)	..	-402.0	-185.0	-87.0	83.0	..	..	..
Balance on income	-4,272.0	-2,875.0	-3,117.0	-3,204.0	-3,156.0	-3,153.0	-3,140.0	-3,846.0
Credit	657.0	1,136.0	1,077.0	1,298.0	1,307.0	1,568.0	2,261.0	2,168.0
Debit	-4,929.0	-4,011.0	-4,194.0	-4,502.0	-4,463.0	-4,721.0	-5,401.0	-6,014.0
Current transfers	-321.0	-645.0	-753.0	-724.0	-744.0	-927.0	-927.0	-739.0
Credit	298.0	196.0	54.0	138.0	60.0	66.0	106.0	126.0
Debit	-619.0	-841.0	-807.0	-862.0	-804.0	-993.0	-1,033.0	-865.0
Balance on capital account	-56.0	-40.0	-47.0	-193.0	-56.0	-62.0	-52.0	-32.0
Credit	27.0	22.0	25.0	29.0	24.0	20.0	19.0	15.0
Debit	-84.0	-62.0	-72.0	-222.0	-80.0	-82.0	-71.0	-47.0
Balance on financial account	-1,619.0	4,003.0	3,018.0	8,131.0	4,852.0	5,305.0	99.0	501.0
Direct investment abroad	-28.0	-2,494.0	-1,048.0	-2,324.0	-1,634.0	-1,584.0	-277.0	3,686.0
Direct investment In South Africa	-76.0	1,248.0	816.0	3,811.0	550.0	1,503.0	969.0	7,162.0
Portfolio investment	6.0	2,490.0	2,446.0	6,687.0	4,294.0	8,686.0	-1,865.0	-8,302.0
Financial derivatives assets and liabilities	..	..	..	53.0	97.0	-122.0	-142.0	..
Other investment	-1,521.0	2,760.0	804.0	-96.0	1,543.0	-3,179.0	1,413.0	-2,046.0
Net errors and omissions	-104.0	-852.0	-2,363.0	-1,070.0	-1,719.0	-389.0	928.0	1,855.0

.. Not available.

Source: IMF, *Balance of Payments Statistics* and International Financial Statistics, various issues.

Table AI.2
Merchandise imports, 1997-00^a
(US\$ million and per cent)

Description	1997	1998	1999	2000
Total imports (US\$ million)	30,879.0	26,624.1	24,092.5	26,606.7
	(Per cent)			
Total	100.0	100.0	100.0	100.0
Total primary products	20.9	17.5	19.7	23.3
Agriculture	7.3	6.8	6.9	6.2
Food	5.5	5.2	5.4	4.7
Agricultural raw material	1.7	1.5	1.5	1.5
Mining	13.6	10.7	12.7	17.0
Ores and other minerals	1.4	1.4	1.4	1.7
2852 Alumina(aluminium oxide)	0.9	0.9	0.9	1.2
Non-ferrous metals	0.8	0.9	1.2	1.0
Fuels	11.4	8.4	10.1	14.4
3330 Crude petroleum	10.5	6.8	8.7	13.1
Manufactures	62.6	69.2	72.1	68.7
Iron and steel	1.1	1.3	1.3	1.2
Chemicals	10.7	11.0	12.6	11.8
5429 Medicaments, nes	1.0	1.3	1.6	1.5
Other semi-manufactures	7.1	7.2	8.5	7.9
6672 Diamonds.excl.industrial	1.1	1.0	1.7	1.7
Machinery and transport equipment	33.7	39.0	38.3	37.0
Power generating machines	1.2	1.4	1.2	1.3
Other non-electrical machinery	13.0	12.9	11.6	10.3
7284 Mach.appl.spcl indus nes	0.8	0.8	0.7	0.6
Agricultural machinery and tractors	0.8	0.7	0.5	0.5
Office machines & telecommunication equipment	10.3	14.6	13.5	12.6
7641 Line telephone etc.equip	1.3	2.6	2.4	2.2
7599 Parts,data proc. etc.mch	1.2	1.0	1.6	1.2
7764 Electronic microcircuits	0.7	0.7	0.7	0.8
7649 Parts,telecommun. equipt	0.9	1.0	0.9	0.7
7523 Digtl proc,storage units	0.5	0.8	0.8	0.7
7526 Input or output units	0.8	0.8	0.7	0.6
7643 TV,radio transmitts etc	1.8	3.9	2.3	2.7
7522 Digital computers	0.4	0.5	0.5	0.6
Other electrical machines	3.4	3.8	3.9	3.6
7725 Switch.apparatus,<1000v	0.6	0.6	0.7	0.6
Automotive products	3.0	3.6	4.1	5.5
7812 Pass.transport vehicles	1.1	1.8	2.0	3.1
7843 Other parts,motor vehicl	1.0	1.0	1.2	1.2
Other transport equipment	2.8	2.7	4.0	3.6
7924 Aircrft etc.ULW >15000kg	0.4	0.9	1.7	1.4
Textiles	2.2	2.2	2.3	2.1
Clothing	0.6	0.7	0.8	0.8
Other consumer goods	7.1	7.7	8.3	7.8
8987 Other recorded media	0.7	0.7	0.8	0.6
8722 Othr.medical instruments	0.5	0.5	0.6	0.6
Other	16.5	13.4	8.2	8.1
9310 Special trans not classd	16.5	13.4	8.1	8.1
Gold	0.0	0.0	0.0	0.0

a 1999 and 2000 data refer to South Africa only, while 1992 to 1998 refer to SACU.

Source: UNSD, Comtrade database based on SITC Rev.3 data.

Table A1.3
Commodity exports, 1997-00^a
(US\$ million and per cent)

Description	1997	1998	1999	2000
Total exports	22,485.4	19,586.1	23,188.6	26,075.3
	(Per cent)			
Total	100.0	100.0	100.0	100.0
Total primary products	30.7	33.7	45.1	33.5
Agriculture	15.3	16.6	14.0	12.5
Food	10.8	12.1	10.2	8.6
1121 Wine of fresh grapes	0.8	0.9	0.9	0.9
Agricultural raw material	4.5	4.5	3.8	4.0
2513 Chem.wood pulp,dissolvng	1.2	1.2	1.0	1.4
Mining	15.4	17.1	31.1	21.0
Ores and other minerals	6.2	7.3	6.5	6.1
2878 Ore etc.molybdn.niob.etc	0.5	1.5	1.7	1.3
2816 Iron ore agglomerates	1.7	1.9	1.5	1.2
2892 Prec.metal waste,scrap	0.5	0.5	0.6	0.8
Non-ferrous metals	1.9	2.2	14.7	4.6
6841 Alum.,alum.alloy,unwrgh	0.0	0.0	3.2	2.8
Fuels	7.3	7.7	9.8	10.2
3212 Oth.coal,not agglomeratd	6.7	7.0	5.8	5.0
3344 Fuel oils, nes	0.0	0.0	1.3	1.7
3343 Gas oils	0.0	0.0	0.7	1.3
Manufactures	57.3	53.1	54.1	53.7
Iron and steel	6.7	7.1	10.0	10.6
6715 Other ferro-alloys	0.0	0.0	4.0	3.8
6753 Flat,hot-rolled s.steel	1.3	1.3	1.2	1.5
6732 Flat,hot-rolld,prod.iron	1.0	1.0	0.8	1.0
6714 Ferro-manganese	0.0	0.0	0.7	0.8
Chemicals	9.2	9.0	8.1	7.9
5225 Zinc,chrom.iron etc.oxid	1.4	0.7	0.7	0.8
Other semi-manufactures	20.7	13.6	13.0	12.6
6672 Diamonds.excl.industrial	14.7	6.2	6.7	6.7
Machinery and transport equipment	14.8	17.0	17.5	17.5
Power generating machines	0.3	0.2	0.2	0.2
Other non-electrical machinery	4.8	5.3	4.9	5.6
7436 Machs.filter gas,liquids	0.9	1.5	2.0	2.8
Agricultural machinery and tractors	0.1	0.1	0.1	0.1
Office machines & telecommunication equipment	1.4	1.8	1.8	1.6
Other electrical machines	1.3	1.5	1.3	1.3
Automotive products	3.7	4.8	6.7	6.5
7812 Pass.transport vehicles	1.1	1.4	3.8	4.0
7843 Other parts,motor vehicl	1.3	2.0	1.9	1.6
Other transport equipment	3.3	3.5	2.6	2.4
Textiles	1.2	1.2	1.0	0.9
Clothing	0.8	0.8	0.8	0.8
Other consumer goods	4.0	4.4	3.8	3.4
8211 Convertible seats,parts	1.4	1.7	1.4	1.1
Other	12.0	13.2	0.8	12.8
9310 Special trans not classd	12.0	13.1	0.0	12.7
Gold	0.1	0.1	0.1	0.1

a 1999 and 2000 data refer to South Africa only, while 1992 to 1998 refer to SACU.

b 1994 figure includes re-exports.

Source: UNSD, Comtrade database based on SITC Rev.3 data.

Table AI.4
Imports by origin, 1997-00^a
(US\$ million and per cent)

Description	1997	1998	1999	2000
Total imports	30,879.0	26,624.1	24,092.5	26,606.7
	(Per cent)			
World	100.0	100.0	100.0	100.0
America	14.8	15.4	16.8	15.3
United States	11.2	12.5	13.8	12.0
Canada	1.1	1.0	0.8	0.9
Other America	2.5	2.0	2.2	2.4
Brazil	1.0	0.8	0.9	1.1
Europe	39.6	44.2	46.2	43.4
EU(15)	37.0	41.0	42.6	39.8
Germany	12.2	13.5	14.7	13.2
United Kingdom	9.2	9.1	9.5	8.5
France	3.2	4.0	4.0	4.3
Italy	3.4	3.7	3.7	3.4
Netherlands	2.3	2.3	2.3	1.9
Sweden	1.3	1.6	1.5	1.6
Belgium ^b	1.6	1.6	1.7	1.5
Finland	0.6	1.0	1.2	1.4
Ireland	0.9	1.3	1.5	1.3
Spain	0.9	1.5	1.1	1.1
EFTA	2.1	2.5	2.8	2.6
Switzerland	2.0	2.4	2.6	2.5
Eastern Europe	0.4	0.5	0.6	0.8
Former USSR	0.2	0.2	0.3	0.4
Other Europe	0.2	0.3	0.3	0.3
Asia	19.4	21.4	31.0	35.9
Middle East	0.9	1.0	8.9	13.8
Saudi Arabia	0.1	0.1	4.1	7.6
Iran Islamic Rep.	0.1	0.0	2.8	4.4
East Asia	17.2	19.1	21.0	20.9
Japan	6.7	7.3	7.8	8.0
China	2.2	2.8	3.4	3.7
Chinese Taipei	2.5	2.2	2.5	2.3
Korea, Rep. of	1.4	1.7	1.9	1.9
Malaysia	0.9	1.2	1.2	1.1
South Asia	1.2	1.2	1.2	1.2
Oceania	2.4	2.4	2.4	2.8
Australia	2.3	2.2	2.2	2.5
Africa	2.0	1.7	2.9	2.2
Sub-saharian Africa	1.9	1.6	2.8	2.2
Other Africa	0.1	0.1	0.1	0.1
Other	21.7	14.9	0.7	0.3

a 1999 and 2000 data refer to South Africa only, while 1992 to 1998 refer to SACU.

b Figures before 1999 include Luxembourg exports.

Source: UNSD, Comtrade database based on SITC Rev.3 data.

Table A1.5
Exports by destination, 1997-00^a
 (US\$ million and per cent)

Description	1997	1998	1999	2000
Total exports	22,485.4	19,586.1	23,188.6	26,075.3
	(Per cent)			
World	100.0	100.0	100.0	100.0
America	13.3	16.2	15.0	12.3
United States	9.6	12.3	12.0	9.2
Canada	0.7	1.1	0.9	0.8
Other America	3.0	2.8	2.0	2.2
Europe	28.8	36.8	40.6	35.4
EU(15)	26.2	33.8	38.0	33.1
United Kingdom	6.2	7.8	10.9	8.8
Germany	6.3	8.5	9.5	7.3
Netherlands	3.5	4.4	4.4	3.9
Belgium ^c	2.4	2.9	3.8	3.7
Italy	2.5	3.2	3.1	3.2
France	1.7	2.3	2.4	2.2
Spain	1.4	2.1	2.2	1.9
EFTA	1.4	1.7	1.5	1.3
Switzerland	1.2	1.5	1.3	1.2
Eastern Europe	0.6	0.7	0.6	0.5
Former USSR	0.3	0.3	0.4	0.3
Other Europe	0.5	0.6	0.5	0.5
Asia	21.2	19.6	25.1	20.2
Middle East	2.9	2.9	3.8	3.6
Israel	1.0	1.1	2.1	2.0
East Asia	17.1	15.2	19.2	14.9
Japan	6.7	7.6	7.9	5.2
Korea, Rep. of	2.0	1.4	3.0	2.3
Chinese Taipei	2.7	2.0	2.5	2.1
China	0.8	0.8	1.2	1.3
Hong Kong	1.8	1.4	1.7	1.3
South Asia	1.3	1.4	2.0	1.7
India	0.9	1.0	1.7	1.4
Oceania	1.8	1.8	2.0	2.0
Australia	1.6	1.7	1.9	1.8
Africa	16.3	16.8	15.7	15.3
Sub-Saharan Africa	15.9	16.3	15.3	14.9
Mozambique	1.9	2.0	2.8	2.7
Zimbabwe	4.6	4.5	3.6	2.6
Zambia	2.0	1.9	1.7	2.5
Other Africa	0.4	0.5	0.5	0.4
Other	18.6	8.8	1.5	14.8
Areas n.e.s	0.0	0.0	0.0	14.8

a 1999 and 2000 data refer to South Africa only, while 1992 to 1998 refer to SACU.

b 1994 figure includes re-exports.

c Figures before 1999 include Luxembourg exports.

Source: UNSD, Comtrade database based on SITC Rev.3 data.

Table AIII.1
Incentive schemes, January 2003

Name of scheme	Objective	Access criteria	Description
Agro-industries Development Finance	Development and expansion of the agricultural, food, beverage, and marine sectors.	An economically viable business plan. Minimum financing requirement of R 1 million.	Medium term finance in the form of loans, suspensive sales, equity and quasi-equity to: - establish permanent infrastructure in the agricultural sector and aquaculture; - establish new or expand existing undertakings in the food and beverage sector. Interest rates are competitive and risk related and based on the prime bank overdraft rate. Short term loans (maximum 18 months). Interest rates are competitive and risk related and based on the prime bank overdraft rate.
Bridging Finance Scheme	Addressing the short term financing needs of entrepreneurs who have secured firm contracts (except construction contracts) with Government and/or the private sector	Entrepreneurs who have been awarded tenders by gov. Entrepreneurs who have secured contracts to supply services/products to established big, blue chip companies. Entrepreneurs with an annual turnover greater than R 1 million. Minimum financing requirements of R 500 000.	
Capacity Building Support for Retail Finance Intermediaries (RFIs)	To provide capacity building support to new RFIs to initiate a loan portfolio and to assist existing RFIs to expand their loan portfolios.	To qualify, an RFI must: - be legally constituted; - have clearly defined SMME target markets; - have sound accounting and financial systems; - have sound internal organizational guidelines, policies and procedures; - have capacity to carry out current and proposed projects; - have clear and achievable short and medium term objectives.	Support will be structured around the capacity needs to the RFIs. The grants range from R 10 000 to R 500 000.
Competitiveness Fund	The fund is a cost-sharing grant scheme run by the DTI, using funds sourced from the World Bank. It provides financial support for improving the competitiveness of private-sector South African firms.	Available to South African private firms of all sizes. Funds allocated on a first-come, first-served basis. Firms should submit a realistic plan for the development of its business activities.	The Fund will support the introduction of technical and marketing expertise to firms. The Scheme will insist on a 50% contribution by the firm itself and grants will be paid on a reimbursement basis.
Critical Infrastructure Facility (CIF)	Critical Infrastructure Programme.	Available to local authorities or the private sector or in partnership between the two parties.	Supplements the infrastructure provided by existing public or private sector providers by funding a top-up grant between 10% and 30% of actual costs.
DANIDA Business to Business Programme	To develop and strengthen business opportunities and create jobs for eligible entrepreneurs from previously disadvantaged communities.	Support will be given to commercially viable businesses for development, based on formation of business partnership between South Africa and Danish companies. The long-term objective is for private partners to continue with the partnership when the supports is discontinued.	The support will cover expenses connected with the transfer of management, business skills, and technology from Danish to South African companies and provide access to financing for the SA company. A 100% Khula Guarantee to a financial institution will be considered for loans aimed exclusively at procurement of shares, purchasing of machinery and capital equipment essential for the business to succeed.
Duty Credit Certificate Scheme for exporters of textiles and clothing (DCCS)	To improve export awareness, productivity and training to achieve international competitiveness.	To exporters of certain prescribed textile and clothing products.	A temporary kick-start measure to enhance export competitiveness by offering duty credit certificates to qualifying exporters.
Emerging Entrepreneur Scheme	To increase access to finance for SMMEs through banks.	Accessible to independently owned SMMEs, with assets of R 2 million before financing. SMMEs must meet the bank's no-lending criteria.	To enable an entrepreneur to access funding from his/her bank for the establishment, expansion or acquisition of a new or existing business. The maximum indemnity is 60-70% and the maximum facility is R75 000.

Table AIII.1 (cont'd)

Name of scheme	Objective	Access criteria	Description
Empowerment Finance	Assistance to emerging industrialists/entrepreneurs to acquire a stake in formal business.	Emerging industrialists interested in small to medium sized ventures who comply with the following criteria: - the business must be acquired as a going concern; - the business must have economic merit (i.e. be profit-making and cash generative); - the entrepreneur should play a meaningful role in the management of the concern; - the minimum deal size is R 5 million and the maximum R 100 million; - a minimum cash contribution of 10% of the purchase price is required from the entrepreneur.	Medium term finance in the form of loans, equity and quasi-equity for: - management buy-ins, management buy-outs or leverage buy-outs; - strategic equity partnerships.
Entrepreneurial Mining and Beneficiation Finance	Development of small, and medium-sized mining and beneficiation activities and jewellery manufacturing.	An economically viable business plan. Minimum financing requirement R1 million.	Medium term finance in the form of loans, suspensive sales, equity and quasi-equity to: - establish or expand junior mining houses; - acquire mining assets by HDPs; - undertake mining related activities such as contract mining; - establish or expand jewellery manufacturing activities. Interest rates are competitive and risk related and based on prime bank overdraft rate.
Equity Fund	To fund joint ventures, expansion re-capitalization of company and buying out of existing shareholders.	Accessible to SMMEs with a net asset value of not less than R500 000. Applicants must be able to demonstrate that they are viable in the medium to long term, and that the investors can anticipate an adequate rate of return.	Provides for SMMEs that need to expand their activities, enter into joint ventures, re-capitalise the company, or buy out the existing shareholders.
Export Finance	To assist the promotion of exports of capital goods and services by providing competitive U.S. dollar and Rand financing to prospective foreign buyers of equipment.	All industrialists/exporters.	Credit facilities for capital goods and services exported from SA (enabling exporters to offer competitive terms to foreign purchasers). Payment terms at market related interests rates for facilities denominated in U.S. dollars or rand.
Finance for the Expansion of a Manufacturing Sector	Development and the expansion of the manufacturing sector by providing finance for the creation of new or additional capacity.	An economically viable business plan. A meaningful financial contribution of at least 33% by the promoters (10% to 20% for HDPs). Minimum financing requirement of R1 million.	Medium term finance in the form of loans, suspensive sales, equity and quasi-equity or creation of new or additional production capacity. Interest rates are competitive and risk related and are based on the prime bank overdraft rate.
Finance for Textiles, Clothing, Leather and Footwear Industries	Development and expansion of the sectors by providing finance for: - the creation of new or additional production capacity; - setting up distribution channels; - working capital, pre-and post shipment trade finance for exports (see Export Finance)	An economically viable business plan. A meaningful financial contribution of at least 35-50% (depending on the nature of the business) by the promoters (10% to 20% for HDPs). Minimum financing requirement of R 500 000.	Medium term finance in the form of loans, suspense sales, equity and quasi-equity. Interest rates are competitive and risk related and based on the prime bank overdraft rate.
Foreign Investment Grant	To promote foreign investment	Will be available to foreign investors with a shareholding of at least 50%.	A foreign investment grant to overseas companies investing in new machinery and equipment to establish projects in South Africa.
Khula Start	To promote greater access to micro-credit in rural areas	Accessible to existing NGO/CBO in rural areas involved in SMME activities such as business training and advice.	A group-lending scheme for the lower end of the micro enterprise market. It targets historically disadvantaged communities, particularly women in rural areas and informal sectors. Khula Start will be initiated through existing NGOs or CBOs who have to apply to become Micro-Credit Outlets (MCOs).
Import Finance	Provision of medium to long dated import credit facilities to local importers of capital goods.	All industrialists/importers.	Credit and guarantee facilities available in U.S. dollars and other foreign currencies to local industrialists for the medium to long term financing of imported capital goods and services.
Industrial Development Zones Programme (IDZ)	To encourage international competitiveness of the SA-based manufacturing sector.	Available to all industries (zones have to be designated first).	Quality infrastructure. Expedited customs procedures. Duty-free operating environments.

Table AIII.1 (cont'd)

Name of scheme	Objective	Access criteria	Description
Motor Industry Development Programme (MIDP)	To increase competitiveness and productivity.	Available to motor vehicle assemblers and component manufacturers and exporters.	MIDP enables local vehicle and component manufacturers to increase production runs and encourages rationalization of the number of models manufactured by way of exports and complementing imports of vehicles and components.
Rebate Provisions	Promotion of manufacturing and exportation of goods.	Available to all manufacturing industries.	Provisions exist for rebated or drawback of certain duties applicable to imported goods, raw material and components used in manufacturing, processing or for export.
Sector Partnership Fund (SPF)	To promote collaborative projects that will enhance the productivity and competitiveness of the manufacturing and agro-processing industries.	Available to any partnership of five or more organizations within the South African manufacturing and agro-processing industry that puts forward a qualifying project.	The fund is available to groups of five or more firms in preparation and execution of marketing and production related projects with the aim of improving competitiveness and productivity. The Fund will cover 65% of costs of projects up to a maximum of R 1.5 million.
Seed Loans for Retail Finance Intermediaries (RFIs)	To provide initial capital to new organizations to initiate their portfolio, and to fund operational expenses over a predetermined period.	To qualify and RFI must: - be legally constituted; - have clearly defined SMME target markets; - have sound accounting and financial systems; - have sound internal organizational guidelines, policies and procedures; - have capacity to carry out current and proposed projects; - have clear and achievable short and medium term objectives; - have matching funds of at least 15% of envisaged operating expenses.	The amount ranges between R 50 000 and R 20 million. Seed loans are converted to grants once mutually agreed upon performance criteria are met.
Skills Support Programme (SSP)	To encourage greater investment in training, improve industrial training systems, create opportunities for introduction of new advanced skills. Facilitates employment promotion.	Available countrywide to local and foreign firms for training grants under the Skills Support.	A cash grant for skills development to enable investors and large expansions to prepare their work force. The following ceiling will apply: 50% of training costs will be subsidized, with a ceiling of 30% of actual costs.
Small and Medium Enterprise Development Programme (SMEDP)	To create wealth, generate employment, develop entrepreneurship, promote empowerment, utilise local raw material, ensure sustainability of projects receiving incentives in the long run, reduce investment lost for small and medium investors.	Available countrywide to local and foreign firms investing not more than R 100 million in land, buildings, plant and equipment in new projects or expansion of existing projects. Legal entities as well as sole proprietors and partnerships (excluding trusts) engaged in qualifying manufacturing, high value agricultural projects and agro-processing, aqua culture, bio-technology, tourism information and communication technology investments, recycling, culture industry, and business service may apply.	The incentive package provides for: - an investment grant for two years on approved qualifying assets calculated as follows: first R5m investment – 10% pa; next R10m investment – 6% pa; next R15m investment – 4% pa; next R20m investment – 3% pa; next R25m investment – 2% pa; next R25m investment – 1% pa; an additional investment payable in the third year based on the ratio of human resource remuneration expressed in terms of manufacturing cost must be a minimum of 30%; The incentives are tax-exempted in terms of Act 10 of Income Tax Act No.58 of 1982 as amended.
Standard Credit Guarantee Scheme	To increase access to finance for SMMEs through banks.	Accessible to SMMEs that are independently owned, with assets less than R 2 million before financing. SMMEs must meet the banks' normal lending criteria.	To enable an entrepreneur to access funding from his/her bankers for the establishment, expansion or acquisition of a new or existing business. The maximum indemnity is 60-70%. The maximum facility is R 600,000.
Strategic Investment Support for Programme (SIP)	Support for strategic investments in manufacturing.	Available countrywide.	Tax allowance of up to 100% (a maximum of R 600 million per project) of the cost of buildings, plant and machinery, for investments of at least R50 million in manufacturing of food products (excluding tobacco and related products), and consultancy in computer hardware, software and data based processing.

Table AIII.1 (cont'd)

Name of scheme	Objective	Access criteria	Description
Support Programme for Industrial Innovation (SPII)	Support for SA based products or process developments that represent a significant technological advance and have a commercial advantage over existing products, and thus have a potential to be successfully marketed.	All private sector entrepreneurs in industry submitting a meritorious project proposal. Applicants are assessed on the following criteria: - management's ability for product or process development; - financial ability for successfully complete the proposed development and commercialization thereof; - ability to manufacture and market products or implement a process.	Support of innovative products or process development in the form of a grant of 50% of actual costs incurred in development activities. The Matching Scheme supports product/process development up to a maximum grant amount of R 1.5 million per project. The Partnership Scheme support large-scale innovation and product/process development by providing a conditional grant with no upper limit that is repayable in the form of a levy on sales if the project is successfully commercialized. Equity, equity-related and loan finance for: - techno business that are expanding; - new techno ventures with strong local or foreign technology partners and proven technology; - takeovers, buy-ins and management buy-outs. Interest rates are competitive and risk related and based on the prime bank overdraft rate. Contributions provided by industry and Government to finance the research efforts of the academic partners provided that research projects involve training of students. R 1 for every R 2 from industry, and if certain criteria are met R 1 for every R 1 from industry could be granted.
Techno-Industry Development Finance	Development and expansion of technology intensive business in the IT, telecommunication, electronic and electrical industries.	An economically viable business plan. Minimum financing requirement of R 1 million.	Equity, equity-related and loan finance for: - techno business that are expanding; - new techno ventures with strong local or foreign technology partners and proven technology; - takeovers, buy-ins and management buy-outs. Interest rates are competitive and risk related and based on the prime bank overdraft rate. Contributions provided by industry and Government to finance the research efforts of the academic partners provided that research projects involve training of students. R 1 for every R 2 from industry, and if certain criteria are met R 1 for every R 1 from industry could be granted.
Technology and Human Resources for Industry Programme (THRIP)	Enhancing the competitiveness of South African industry through the development of appropriate skilled people and of technology and encouraging long-term strategic partnerships between industry, research and educational institutions and government.	Research groups in natural sciences, engineering, and technology within educational institutions can participate in collaboration with any private company or consortium of companies.	Contributions provided by industry and Government to finance the research efforts of the academic partners provided that research projects involve training of students. R 1 for every R 2 from industry, and if certain criteria are met R 1 for every R 1 from industry could be granted.
Technology Transfer Guarantee Fund	To provide loan guarantees for SMMEs for the sole purpose of acquiring manufacturing technology, from South Africa or international/foreign country.	Available to SMMEs with an approval certificate from CSIR for a technology evaluation on the proposed technology to be transferred before applying to a financial institution for a TTGF guarantee.	The TTGF will guarantee 90% of the technology transfer transaction expenses to a maximum of R 1 million. The maximum term for guarantee will be five years. Khula will levy the standard indemnity fee of 3% per annum on the facility as guaranteed, payable annually in advance. Medium term finance in the form of loans, suspensive sales, equity and quasi-equity for the creation or upgrading and renovation of tourist facilities including hotels, conference and convention centres. Interest rates are competitive, risk related, and are based on the prime bank overdraft rate. Medium term loan (maximum 6 years). Interest rates are competitive and risk related and based on the prime bank overdraft rate.
Tourism Development Finance	Development and expansion of the tourism industry by providing finance for commercial projects in the medium to large sector of the tourism industry.	An economically viable business plan. Minimum financing requirement of R 1 million.	Medium term finance in the form of loans, suspensive sales, equity and quasi-equity for the creation or upgrading and renovation of tourist facilities including hotels, conference and convention centres. Interest rates are competitive, risk related, and are based on the prime bank overdraft rate. Medium term loan (maximum 6 years). Interest rates are competitive and risk related and based on the prime bank overdraft rate.
Wholesale Finance	Wholesale funding to intermediaries for on-lending to individual entrepreneurs.	Franchises and other applicants must have: - a good record of business development; - a strong financial position; - developed/acquired a training and mentorship programme; - require financing for on-lending to at least ten projects (at least 60% HDPs); - minimum financing requirement of R 1 million.	Medium term loan (maximum 6 years). Interest rates are competitive and risk related and based on the prime bank overdraft rate.
Work Place Challenge	To improve the country's competitiveness and employment creation.	Available to South African firms of all sizes.	To enhance cooperation between workers and management to boost the country's competitiveness and employment creation by improving industrial performance and productivity.

Source: Department of Trade and Industry online information. Available at: http://www.dti.gov.za/review.asp?iSDivID=143&iEvent_ID=172

Table AIV.1
Summary of South Africa's sector-specific commitments under the GATS

Sector or subsector	Modes of supply			
	Cross-border supply	Consumption abroad	Commercial presence	Presence of natural persons
	Market access / National treatment			
1. BUSINESS SERVICES				
A. Professional Services				
(a) Legal services (advisory services in foreign and international law only) (CPC 861 +)	U/U	U/U	NL/NL	Uex/Uex
Legal services (domestic law only) (CPC 861 +)	U/U	U/U	OP/NL	Uex/Uex
(b) Auditing (CPC 862 +)	U/U	U/U	NL//OP	Uex/Uex
(c) Taxation services (excluding legal services) (CPC 863)	NL/NL	NL/NL	NL/NL	Uex/Uex
(d) Architectural services (CPC 8671)	OP/NL	OP/NL	NL/NL	Uex/Uex
(e) Engineering services (CPC 8672)	NL/NL	NL/NL	NL/NL	Uex/Uex
(f) Integrated engineering services (CPC 8673)	NL/NL	NL/NL	NL/NL	Uex/Uex
(g) (i) urban planning services (CPC 8674)	NL/NL	NL/NL	NL/NL	Uex/Uex
(ii) landscape architectural services (CPC 8674)	NL/NL	NL/NL	NL/NL	Uex/Uex
(h) Medical and dental services (CPC 9312)	NL/NL	NL/NL	NL/NL	Uex/Uex
(i) Veterinary services (CPC 932)	NL/NL	NL/NL	NL/NL	Uex/Uex
(j) Services provided by:				
(i) midwives and nurses (CPC 93191)	Ud/Ud	NL/NL	NL/NL	Uex/Uex
(ii) physiotherapists and paramedical personnel	Ud/Ud	Ud/Ud	NL/NL	Uex/Uex
B. Computer and Related Services				
(a) Consultancy services related to the installation of computer hardware (CPC 841)	NL/NL	NL/NL	NL/NL	Uex/Uex
(b) Software implementation services (CPC 842)	NL/NL	NL/NL	NL/NL	Uex/Uex
(c) Data processing services (CPC 843)	NL/NL	NL/NL	NL/NL	Uex/Uex
(d) Data base services (CPC 844)	NL/NL	NL/NL	NL/NL	Uex/Uex
(e) Maintenance and repair services of office machinery and equipment including computers (CPC 8450)	NL/NL	NL/NL	NL/NL	Uex/Uex
D. Real Estate Services				
(a) Involving own or leased property (CPC 821)	NL/NL	NL/NL	NL/NL	Uex/Uex
(b) On a fee or contracting basis (CPC 822)	NL/NL	NL/NL	NL/NL	Uex/Uex
E. Rental/Leasing Services without Operators				
(a) Relating to ships (CPC 83103)	NL/NL	NL/NL	NL/NL	Uex/Uex
(b) Relating to aircraft (CPC 83104)	NL/NL	NL/NL	NL/NL	Uex/Uex
(c) Relating to other transport equipment (CPC 83101 +) (CPC 83102 +) (CPC 83105)	NL/NL	NL/NL	NL/NL	Uex/Uex
(d) Relating to other machinery and equipment (CPC 83106) (CPC 83107) (CPC 83108) (CPC 83109)	NL/NL	NL/NL	NL/NL	Uex/Uex
F. Other Business Services				
(b) Market research and public opinion polling services (CPC 864)	NL/NL	NL/NL	NL/NL	Uex/Uex

Table AIV.1 (cont'd)

Sector or subsector	Modes of supply			
	Cross-border supply	Consumption abroad	Commercial presence	Presence of natural persons
	Market access / National treatment			
(c) Management consulting services (CPC 865)	NL/NL	NL/NL	NL/NL	Uex/Uex
(d) Services related to management consulting (CPC 8676)	NL/NL	NL/NL	NL/NL	Uex/Uex
(e) Technical testing and analysis services (CPC 8676)	NL/NL	NL/NL	NL/NL	Uex/Uex
(f) Services incidental to agriculture, hunting and forestry (CPC 881)	U/U	U/U	NL/NL	Uex/Uex
(g) Services incidental to fishing (CPC 882)	U/U	U/U	NL/NL	Uex/Uex
(h) Services incidental to mining (CPC 883)	U/U	U/U	NL/NL	Uex/Uex
(i) Services incidental to manufacturing (CPC 884)	U/U	U/U	NL/NL	Uex/Uex
(k) Placement and supply services of personnel (CPC 872)	NL/NL	NL/NL	NL/NL	Uex/Uex
(l) Investigation and security (CPC 873)	NL/NL	NL/NL	NL/NL	Uex/Uex
(m) Engineering related scientific and technical consulting services (CPC 8675)	NL/NL	NL/NL	NL/NL	Uex/Uex
(n) Maintenance and repair of equipment (CPC 633)	NL/NL	NL/NL	NL/NL	Uex/Uex
(o) Building-cleaning services (CPC 874)	Ud/Ud	NL/NL	NL/NL	Uex/Uex
(p) Photographic services (CPC 875)	NL/NL	NL/NL	NL/NL	Uex/Uex
(s) Convention services (CPC 87909)	NL/NL	NL/NL	NL/NL	Uex/Uex
2. COMMUNICATION SERVICES				
B. <u>Courier Services</u> (CPC 7512)	NL/NL	NL/NL	NL/NL	Uex/Uex
C. <u>Telecommunication Services</u>				
Facilities based and public switched telecommunication services:				
(a) Voice services, except over value-added network	OP/NL	NL/NL	OP/NL	Uex/Uex
(b) Packet-switched data transmission services	OP/NL	NL/NL	OP/NL	Uex/Uex
(c) Circuit-switched data transmission services	OP/NL	NL/NL	OP/NL	Uex/Uex
(d) Telex services	OP/NL	NL/NL	OP/NL	Uex/Uex
(f) Facsimile services	OP/NL	NL/NL	OP/NL	Uex/Uex
(g) Private leased circuit services	OP/NL	NL/NL	OP/NL	Uex/Uex
(h) Electronic mail (CPC 7523)	OP/NL	OP/NL	OP/NL	Uex/Uex
(i) Voice mail (CPC 7523)	OP/NL	OP/NL	OP/NL	Uex/Uex
(j) On-line information and data base retrieval (CPC 7523)	OP/NL	OP/NL	OP/NL	Uex/Uex
(k) Electronic data interchange (EDI) (CPC 7523)	OP/NL	OP/NL	OP/NL	Uex/Uex
(l) Enhanced/value-added facsimile services, including store and forward, store and retrieve (CPC 7523)	OP/NL	OP/NL	OP/NL	Uex/Uex
(m) Code and protocol conversion	OP/NL	OP/NL	OP/NL	Uex/Uex
(n) On-line information and/or data processing (including transaction processing) (CPC 743)	OP/NL	OP/NL	OP/NL	Uex/Uex
(o) Other:				
(i) paging services	OP/NL	NL/NL	NLa/NL	Uex/Uex
(ii) personal radio communication services	OP/NL	NL/NL	NLa/NL	Uex/Uex
(iii) trunked radio system services	OP/NL	NL/NL	NLa/NL	Uex/Uex
(iv) mobile cellular, including mobile data	OP/NL	NL/NL	OP/NL	Uex/Uex
(v) satellite-based services	OP/NL	NL/NL	OP/NL	Uex/Uex
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES				

Table AIV.1 (cont'd)

Sector or subsector	Modes of supply			
	Cross-border supply	Consumption abroad	Commercial presence	Presence of natural persons
	Market access / National treatment			
A. <u>General Construction Work for Buildings</u> (CPC 512)	U/U	NL/NL	NL/NL	Uex/Uex
B. <u>General Construction Work for Civil Engineering</u> (CPC 513)	U/U	NL/NL	NL/NL	Uex/Uex
C. <u>Installation and Assembly Work</u> (CPC 514 +) (CPC 516)	U/U	NL/NL	NL/NL	Uex/Uex
D. <u>Building Completion and Finishing Work</u> (CPC 517)	U/U	NL/NL	NL/NL	Uex/Uex
4. DISTRIBUTION SERVICES				
B. <u>Wholesale Trade Services</u> (CPC 622)	NL/NL	NL/NL	NL/NL	Uex/Uex
C. <u>Retailing Services</u> (CPC 631) (CPC 632) (CPC 6111) (CPC 6113) (CPC 6121)	NL/NL	NL/NL	NL/NL	Uex/Uex
D. <u>Franchising</u> (CPC 8929)	NL/NL	NL/NL	NL/NL	Uex/Uex
6. ENVIRONMENTAL SERVICES				
A. <u>Sewage Services</u> (CPC 9401)	NL/NL	NL/NL	NL/NL	Uex/Uex
B. <u>Refuse Disposal Services</u> (CPC 9402)	NL/NL	NL/NL	NL/NL	Uex/Uex
C. <u>Sanitation and Similar Services</u> (CPC 9403)	NL/NL	NL/NL	NL/NL	Uex/Uex
D. <u>Other</u> Cleaning services of exhaust gases, noise abatement services and landscape protection services)	NL/NL	NL/NL	NL/NL	Uex/Uex
7. FINANCIAL SERVICES				
A. <u>All Insurance and Insurance Related Services</u>				
(a) Direct life insurance (CPC 8121 +)	U/U	NL/NL	OP/NL	Uex/Uex
(b) Direct non-life insurance (CPC 8129 +)	U/U	NL/NL	OP/NL	Uex/Uex
(c) Reinsurance (CPC 81299 +)	U/U	NL/NL	OP/NL	Uex/Uex
(d) Insurance intermediation and auxiliary services (CPC 8140)	U/U	NL/NL	OP/NL	Uex/Uex
B. <u>Banking and other Financial Services</u> (Excluding Insurance)				
(a) Accepting of deposits and other repayable funds from the public (CPC 81115 to 81119)	U/U	Ub/U	OP/OP	Uex/Uex
(b) Lending of all types, including, inter alia, consumer credit mortgage credit, factoring and financing of commercial transactions (CPC 8113)	U/U	Ub/U	OP/OP	Uex/Uex
(c) Financial leasing (CPC 8112)	U/U	Ub/U	OP/OP	Uex/Uex
(d) All payments and money transmission services, including credit, charge and debit cards, travellers cheques and bank drafts (CPC 81339 +)	U/U	Ub/U	OP/OP	Uex/Uex
(e) Guarantees and commitments (CPC 81199 +)	U/U	Ub/U	OP/OP	Uex/Uex
(f) Trading for own account or for account of customers the following:	U/U	Ub/U	OP/OP	Uex/Uex
(i) money market instruments (CPC 81339 +)				
(ii) foreign exchange (CPC 81333 +)				
(iii) derivative products (CPC 81339 +)				

Table AIV.1 (cont'd)

Sector or subsector	Modes of supply			
	Cross-border supply	Consumption abroad	Commercial presence	Presence of natural persons
	Market access / National treatment			
(iv) exchange rate and interest rate instruments (CPC 81339 +)				
(v) transferable securities (CPC 81321 +)				
(vi) other negotiable instruments (CPC 81339 +)				
(g) Participation in issues of all kinds of securities, including underwriting and placement as agent (CPC 8132 +)	U/U	Ub/U	OP/OP	Uex/Uex
(h) Money broking (CPC 81339 +)	U/U	Ub/U	OP/OP	Uex/Uex
(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services (CPC 8119 + and 81323 +)	U/U	Ub/U	OP/OP	Uex/Uex
(j) Settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments.	U/U	Ub/U	OP/OP	Uex/Uex
(k) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services (CPC 8131 +)	U/U	Ub/U	OP/OP	Uex/Uex
(l) Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/150 (CPC 8131 + and 8133 +)	U/U	Ub/U	OP/OP	Uex/Uex
9. TOURISM AND TRAVEL RELATED SERVICES				
A. <u>Hotels and Restaurants</u> (including catering) (CPC 741)	Uc/NL	NL/NL	NL/NL	Uex/Uex
B. <u>Travel Agencies and Tour Operators Services</u> (CPC 7471)	NL/NL	NL/NL	NL/NL	Uex/Uex
C. <u>Tourist Guide Services</u> (CPC 7472)	Ud/Ud	NL/NL	NL/NL	Uex/Uex
11. TRANSPORT SERVICES				
F. Road Transport Services				
(a) Passenger transportation (CPC 7121) (CPC 7122)	U/U	U/U	NL/NL	Uex/Uex
(b) Freight transportation (CPC 7123)	U/U	U/U	NL/NL	Uex/Uex
(d) Maintenance and repair of road transport equipment (CPC 6112)	Ud/Ud	NL/NL	NL/NL	Uex/Uex
12. OTHER SERVICES INCLUDED ELSEWHERE				
Washing, cleaning and dyeing services (CPC 9792)	Ud/Ud	NL/NL	NL/NL	Uex/Uex
Hairdressing and other services (CPC 9702)	Ud/Ud	NL/NL	NL/NL	Uex/Uex

Symbols:

- NL No limitations, i.e., South Africa agreed to place no constraints on the item in question.
U Unbound, i.e., South Africa made no engagements with respect to the item in question.
Uex Unbound except as provided by South Africa's horizontal commitments.
OP Other provisions apply.

- a Except that foreign investment in suppliers permitted up to a cumulative maximum of 30%.
b Except for provision and transfer of financial information and financial data processing.
c Except for catering: no limitations.
d Due to lack of technical feasibility.

Source: WTO document GATS/SC/78, 15 April 1994 and its supplements (1, 2, and 3).

