

TRADE POLICY REVIEW

Report by the Secretariat

SOUTHERN AFRICAN CUSTOMS UNION

This report, prepared for the third Trade Policy Review of the Southern African Customs Union (SACU), has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the SACU Secretariat and its members on their trade policies and practices.

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SUMMARY OBSERVATIONS

(1) ECONOMIC ENVIRONMENT

1. The five member states of the Southern African Customs Union (SACU) – Botswana, Lesotho, Namibia, South Africa, and Swaziland – continue to show substantial differences in levels of economic development. Botswana and South Africa are classified as upper middle-income countries, while Namibia and Swaziland are considered lower middle-income countries, and Lesotho is a least developed country. Nonetheless, SACU countries face common challenges, notably unemployment, income inequality, poverty, and HIV/AIDS.

2. Since 2003, SACU economies have collectively expanded at an average annual rate of about 4% in real terms. In some SACU countries the growth performance has been somewhat erratic mainly reflecting infrastructure constraints, electricity supply shortages, cyclical mining output, and exchange rate adjustments, as well as the impact of the global financial crisis.

3. Monetary policy within SACU is to a large extent directed by South Africa. Lesotho, Namibia, and Swaziland form a common monetary area with South Africa, and have pegged their currencies to the South African rand at par. Botswana applies a crawling band exchange rate mechanism based on a basket of currencies comprising the rand and the SDR. There is no formal harmonization of fiscal policy in SACU. Botswana, Lesotho, Namibia, and Swaziland have relatively narrow tax bases; customs and excise duties constitute a major source of public revenues but make up a negligible portion of South Africa's fiscal receipts.

(2) INSTITUTIONAL FRAMEWORK

4. A new Southern African Customs Union Agreement (the 2002 SACU Agreement) entered into force on 15 July 2004. It provides for further harmonization of policies in a number of areas,

including customs procedures, standards, technical regulations, SPS measures, competition, and unfair trade practices, but alignment in these areas has not yet taken place. The only trade policies so far harmonized in SACU are the applied customs tariff; excise duties; duty rebates, refunds, and drawbacks; customs valuation; non-preferential rules of origin; and contingency trade remedies.

5. The 2002 SACU Agreement established a new revenue-sharing formula under the Common Revenue Pool. The change has contributed to an increase of public revenues in Botswana, Lesotho, Namibia, and Swaziland. South Africa continues to manage the Common Revenue Pool.

6. In the WTO, SACU countries pursue the common objective of ensuring that the development concerns of developing and least developed countries are taken into account in the outcome of the DDA negotiations. They are also seeking a substantial reduction or the elimination by developed WTO Members of all tariff and non-tariff barriers, particularly those on products of interest to developing and least developed countries.

7. SACU countries are generally having difficulties in meeting WTO notification obligations, particularly in agriculture; numerous notifications remain outstanding.

8. SACU countries are members of the Southern African Development Community (SADC) and have preferential trade agreements with EFTA and MERCOSUR. Swaziland is also a member of the Common Market for Eastern and Southern Africa (COMESA). SACU countries are eligible for non-reciprocal preferential treatment under the Generalized System of Preferences (GSP), and the U.S. African Growth and Opportunity Act (AGOA). Some SACU countries have bilateral trade agreements. To further harmonize trade policy, SACU members have agreed to negotiate new preferential trade

agreements as a group. They are finalizing negotiations on economic partnership agreements with the EC.

9. The investment regimes of SACU countries are not harmonized, with the exception of certain duty concessions, the Motor Industry Development Programme, and the Textile and Clothing Industry Development Programme. Other incentive schemes are country-specific, with the most developed country being the most generous. SACU countries are generally open to foreign investment; some members maintain restrictions on foreign investment in small-scale industries and services.

(3) TRADE POLICY INSTRUMENTS

10. South Africa continues to set the applied MFN Common External Tariff (CET) in consultation with its SACU partners. In some cases, it appears that the structure of the CET does not adequately reflect the needs of the individual economies of the other SACU members.

11. The simple average rate of SACU's applied MFN CET decreased from 11.4% in 2002 to 8.1% in 2009. The pattern of protection has shifted in favour of agricultural products, with an average rate for agricultural products (WTO definition) of 10.1% in 2009, up from 9.6% in 2002, against an average rate for non-agricultural products (WTO definition) of 7.8% in 2009, down from 11.6% in 2002. Using ISIC (revision 2), average tariff protection for manufacturing is the highest at 8.5%, compared with 3.7% for agriculture, and 0.8% for mining and quarrying.

12. The tariff structure has been somewhat simplified. In 2009, 96.8% of all tariff lines carry *ad valorem* rates, up from 75% in 2002. The number of tariff lines with mixed duties has been reduced from 1,774 in 2002 to 98 in 2009; those with specific duties have been reduced from 195 to 109. Mixed duties apply to agricultural products, coal, textiles, and footwear. Specific duties apply mainly to agricultural products (94 tariff lines), coal, and

some textiles; their *ad valorem* equivalents range from zero to 60%. Compound duties are no longer applied by SACU but there remain five tariff lines with formula duties.

13. Tariff bindings by all SACU members are at *ad valorem* rates. The imposition of non-*ad valorem* rates on some tariff lines creates a risk of non-compliance by SACU Members with their individual tariff bindings, and the use of formula duties based on reference prices does not ensure conformity with obligations under the WTO Agreement on Customs Valuation.

14. South Africa has WTO tariff-quota commitments on textiles and clothing, and certain agricultural products; some agricultural tariff quotas have not been opened where the applied out-of-quota tariffs have been equal to, or lower than corresponding bound in-quota tariffs.

15. Non-tariff barriers such as (seasonal) import quotas and prohibitions, or additional duties on imports of certain agricultural products from all countries, including other SACU members, are aimed at encouraging domestic production of certain agricultural goods.

16. Botswana, Lesotho, Namibia, and Swaziland apply the anti-dumping, countervailing, and safeguard measures determined by South Africa, a leading initiator of anti-dumping actions among WTO Members. Botswana, Lesotho, Namibia, and Swaziland are in the process of establishing their own legal and institutional framework to enable them to initiate trade remedies. In the areas of standards, technical regulations, and SPS measures, some SACU countries have adopted South Africa's regimes.

17. Incentives aimed at export-oriented industries, services, and SMEs include duty and tax exemptions, some of them subject to local-content requirements or contingent on export performance. The Motor Industry Development Programme, and the Textile and Clothing Industry Development Programme

are export incentive schemes available throughout SACU, but not utilized by all of the member countries. Namibia and South Africa also provide incentives in designated export processing or industrial development zones.

18. Some SACU countries apply export taxes (on rough diamonds by Namibia and South Africa; on sugar by Swaziland). Botswana maintains a statutory export monopoly on beef exports.

19. Progress has been made at national level towards implementing competition policies. South Africa's competition legislation has been strengthened, while Swaziland has established a Competition Commission to enforce its new competition law. Namibia has also recently adopted competition legislation. Overall, little progress has been made in restructuring public enterprises in SACU countries.

20. Some SACU countries have taken steps to strengthen intellectual property laws, notably in the area of copyright.

21. None of the SACU countries is party to the WTO plurilateral Agreement on Government Procurement. Botswana, Namibia, and South Africa apply price preferences in their government procurement regimes, or "reservation schemes" to support the economic empowerment of their citizens.

(4) SECTORAL POLICIES

22. The 2002 SACU Agreement calls for common agricultural and industrial policies with the aim of fostering economic integration and achieving a more balanced development of the customs area, but little progress has been made in this regard.

23. SACU countries have a narrow export base, with the exception of South Africa. The principal policy imperative remains diversification away from their key export products (diamonds and other minerals in Botswana and Namibia, textiles in Lesotho,

and sugar in Swaziland). Some labour-intensive manufacturing activities, particularly textiles and clothing, have been seriously affected by increased competition on foreign markets.

24. Services play a crucial role for diversification of the SACU economies. Export opportunities, however, remain largely untapped by SACU (with the exception of South Africa). In tourism, for example, constraints in infrastructure, marketing and promotion, and finance, and lack of skilled labour have impeded the development of the subsector. Further liberalization and investment in services should generally improve the efficiency of other economic activities and the competitiveness of SACU's exports, especially by reducing costs for telecommunications, transport, and energy.

25. In Botswana, the challenge lies in reducing its heavy reliance on diamond mining as the main driver of economic growth and development. There is also a need to accelerate structural reforms to improve the economy's productivity and competitiveness. Agricultural policy is aimed principally at achieving food security and diversification away from beef production. The small agriculture sector receives substantial government support through tariff protection, import quotas (for some products), and input subsidies. To promote cross-border financial services, Botswana has established an International Financial Services Centre. The licensing regime for telecommunications services has been reformed, to encourage competition in the subsector. The transport infrastructure has been further developed but restrictive transport rules pose a considerable constraint for competitiveness of the land-locked economy.

26. Lesotho is in the process of implementing the National Action Plan for Food Security 2007-17 which is also aimed at reducing poverty in rural areas by, *inter alia*, improving farm productivity through intensification, diversification, and commercialization of farming systems; and

promoting sales of agricultural produce. The private sector is expected to be the main engine of growth within the framework of the implementation of the Industrialization Master Plan 2007-10, and the Lesotho Government is creating an enabling environment. The development of the services sector is also promoted, and some state-owned enterprises have been privatized.

27. Namibia's third National Development Plan and "Vision 2030 Namibia" set out ambitious objectives for economic and social development. One of the main policy tools for industrial development is the extensive set of tax incentives to encourage investment in manufacturing, particularly through export processing zones. Farming, fishing, and mineral extraction industries are excluded from these incentives. In agriculture, Namibia has applied import restrictions to encourage domestic production of some basic products. Namibia has a well developed and regulated financial sector and a growing tourist industry based on its landscape and wildlife.

28. South Africa's economy is relatively diversified. The importance of agriculture in the economy, including in trade, has declined since the previous Review of SACU, but the sector remains crucial for absorbing unskilled labour. Government intervention in agricultural markets appears to have declined but its involvement in manufacturing, mining,

energy, and services sector remains important. The manufacturing sector benefits from a range of incentive schemes, some contingent on export performance. Several state-owned enterprises operate in the mining and energy subsectors. These policies have contributed to low profitability in the manufacturing sector, electricity shortages due to a lack of investment in electricity generation, and inefficient and costly supply of key services. South Africa's shortage of electricity is also having a negative spill-over effect on its SACU partners dependent on imported electricity.

29. In Swaziland, food security and agricultural productivity are promoted through the diversification and commercialization of activities, while ensuring community participation and sustainable development of its natural resources. Manufacturing remains largely based on sugar and related products (confectionery and soft drinks), which benefit from preferential access to the EC and the United States. Some food-processing industries primarily interested in low-cost inputs have expressed concerns about the structure of the SACU tariff. Exports of garments and apparel to the United States have fallen in recent years, despite Swaziland's eligibility for AGOA preferences. The financial services legislation has been modernized, and the mobile telecoms market has been opened to competition.

I. ECONOMIC ENVIRONMENT

(1) MAIN CHARACTERISTICS

1. The five Member States of the Southern African Customs Union (SACU), Botswana, Lesotho, Namibia, South Africa, and Swaziland, cover an area of 2.7 million square kilometres. In 2007, the combined population of the SACU countries was around 55 million (Table I.1), with South Africa accounting for some 87% of the total. During the period under review, South Africa has accounted for over 90% of SACU's aggregate GDP, maintaining its predominant position in the region.¹

2. The Customs Union's member states continue to exhibit pronounced differences in levels of economic development. Botswana and South Africa are classified as upper middle-income countries (Annexes 1 and 4, respectively), while Namibia and Swaziland are considered lower middle-income countries (Annexes 3 and 5), and Lesotho is a least-developed country (Annex 2). Botswana, Namibia and, in particular, South Africa have relatively well developed transportation and telecommunications networks; however, for the countries to fully integrate and achieve sustained economic growth, infrastructure in the region needs to be further improved.

3. The structure of economic activity within SACU has not changed significantly since its last Trade Policy Review in 2003. In 2007, services accounted for 59.3% of SACU's GDP (down from 60.2% in 2003), followed by manufacturing with 16% (down from 17% in 2003), mining and energy with 10.8% (up from 10.2%), and agriculture with 3% (down from 3.5%). Nevertheless, while the economy of South Africa is relatively diversified (Annex 4, Chapter I(1)), Botswana, Lesotho, Namibia, and Swaziland (BLNS) depend upon a limited number of products, such as diamonds, and beef for Botswana (Annex 1, Chapter I(1)); diamonds, fish, and meat for Namibia (Annex 3, Chapter I(1)); water, clothing, and textiles for Lesotho (Annex 2, Chapter I(1)); and sugar, and chemicals to be used in the food industries for Swaziland (Annex 5, Chapter I(1)).

Table I.1
Selected socio-economic indicators, 2002-07

	2002	2003	2004	2005	2006	2007
Area ('000 km ²)	2,673	2,673	2,673	2,673	2,673	2,673
Population (million)	53.3	53.9	54.4	54.9	55.3	55.7
Urban (million)	29.3	29.9	30.4	30.9	31.4	32.0
Density (per km ²)	19.9	20.2	20.4	20.5	20.7	20.8
Growth rate (per year)	..	1.1	1.0	0.9	0.8	0.7
Life expectancy	52.6	51.9	51.2	50.4	49.7	49.0
GDP at market prices (US\$ million, current prices)	121,791	182,240	235,090	262,939	279,279	306,827
GDP per capita (US\$, current prices)	2,284	3,381	4,319	4,789	5,049	5,510
Real GDP (constant 2000, US\$ million)	154,541	159,583	167,465	175,750	184,927	194,418
Annual percentage change	3.8	3.3	4.9	4.9	5.2	5.1
Per capita GDP	2,898	2,960	3,077	3,201	3,343	3,492
Growth	2.8	2.0	3.7	3.7	4.1	4.1
Share of GDP (current prices) ^{a, b}						
Agriculture ^c	3.9	3.5	3.1	2.7	2.8	3.0

Table I.1 (cont'd)

¹ Secretariat calculation, based on World Bank (2008).

	2002	2003	2004	2005	2006	2007
Mining and energy	11.7	10.2	9.7	10.0	10.6	10.8
Mining	9.5	8.0	7.5	7.9	8.5	8.8
Electricity and water	2.2	2.2	2.1	2.1	2.1	2.0
Manufacturing sector	17.2	17.0	16.5	16.0	15.9	16.0
Services	58.3	60.2	60.6	60.6	59.8	59.3
Construction	2.3	2.4	2.3	2.4	2.6	2.7
Other services	56.0	57.9	58.3	58.2	57.2	56.7
Less: financial services indirectly measured	0.2	0.2	0.2	0.2	0.2	0.2
Indirect taxes less subsidies	9.2	9.2	10.3	10.8	11.1	11.0
Exports of goods and non-factor services (constant 2000 US\$ million) ^b	45,012	45,565	46,758	50,371	53,581	57,891
Imports of goods and non-factor services (constant 2000 US\$ million) ^b	42,226	45,543	51,146	55,675	64,955	71,595
Exports + imports /GDP (per cent)	56.5	57.1	58.5	60.3	64.1	66.6

.. Not available.

a Lesotho's 2006 figures are Central Bank of Lesotho projections.

b 2007 data do not include Lesotho.

c The definition of agriculture varies according to each country.

Source: International Financial Statistics, IFS CD Rom, version 1.1.82; World Bank Key Development Data and Statistics. Viewed at: <http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS>; African Development Bank (2008), *Selected Statistics on African countries*; Bank of Botswana (2008), *Annual Report 2007*; Bank of Lesotho (2006), *Annual Report*, Statistical tables; Bank of Namibia (2009), *Quarterly Bulletin*, March; Bank of Namibia (2006), *Quarterly Bulletin*, December; South African Reserve Bank, Statistical tables, March 2009; IMF (2008), *Kingdom of Swaziland: Statistical Appendix*, Country Report No. 08/355, October; IMF (2006), *Kingdom of Swaziland: Statistical Appendix*, Country Report No. 06/109, March; and World Bank WDI online information. Viewed at: <http://ddp-ext.worldbank.org/ext/DDPQQ/report.do?method=showReport>.

(2) MACROECONOMIC DEVELOPMENTS

4. Since 2003, SACU economies have collectively expanded at an average annual rate of about 4% in real terms, albeit with a certain variation in growth rates in each economy and a generally unsteady performance (Table I.1). The mixed growth record reflects, *inter alia*, severe infrastructure bottlenecks, fluctuations in mining output, and volatile national currencies, as well as the global economic downturn in recent years.

5. Monetary policy within SACU is largely led by South Africa. Lesotho, Namibia, Swaziland, and South Africa form a Common Monetary Area (CMA), within which the loti (Lesotho's currency), the Namibian dollar, and the lilangeni (Swaziland's currency) are pegged to the South African rand at par (Chapter II(3)). Although not a member of the CMA, Botswana has pegged its currency (pula) to a basket of currencies, i.e. the rand and the SDR, and has contained its fluctuations against the rand (Annex 1, Chapter I(2)). In practice, therefore, Lesotho, Namibia, and Swaziland (and to a certain extent Botswana) follow South Africa's monetary and exchange rate policies (Annex 4, Chapter I(2)).

6. There is a no formal harmonization of fiscal policy in SACU. The BLNS countries have relatively narrow tax bases; customs and excise duties, which are basically still determined by South Africa, constitute a major source of revenue for the relatively smaller BLNS economies, but make up a negligible portion of South Africa's fiscal receipts. Payments under SACU's revenue-sharing arrangement account for more than half of total government income in Lesotho and

Swaziland, while the corresponding figures for Namibia and Botswana are in the order of 30% and 25%, respectively. By contrast, these payments represent about 1% of South Africa's total income.²

(3) TRADE AND INVESTMENT PERFORMANCE

7. During the period under review, SACU economies maintained their traditionally high dependence on international trade; the ratio of aggregate trade in goods and services as a percentage of GDP increased steadily from 56.5% in 2002 to 66.6% in 2007 (Table I.1). Nevertheless, the positive trade balance registered by SACU, as a whole, at the time of the previous Review in 2003 has given way to a deficit, which rose from US\$4,388 million in 2004 to US\$13,704 million in 2007 (Table I.1). The widening shortfall reflected mainly the reversal of South Africa's hitherto positive record, driven by an increasing demand for imports of machinery and declining exports due to electricity-related output constraints (Annex 4). Botswana maintained trade surpluses throughout the review period, whereas Lesotho, Namibia, and Swaziland continued to post deficits.

8. Intra-SACU trade has intensified since 2003 but the traditional importance of South Africa as a regional hub has remained broadly unaltered. Throughout the review period, more than 95% of commercial flows within the customs union involved South Africa as a destination or supplier (Tables AI.1 and AI.2). Moreover, South Africa accounted for around half of total BLNS trade, whereas the intra-SACU component of South Africa's total trade was relatively minor, reflecting greater diversification in terms of export destinations and import sources (Annex 4, Chapter I).

9. The EC continues to absorb the largest share of overall SACU exports, followed by the United States. However, the U.S. market remains the single most important destination outside SACU for exports from Lesotho and Swaziland, mainly due to the preferences granted under the African Growth and Opportunity Act (AGOA). Exports to China from SACU, although still relatively modest, registered the fastest growth during the review period (Table AI.3). SACU's main export products are: minerals, platinum group metals, diamonds (Table AI.4), followed by meat, fish, textiles and clothing, and sugar and related products. Imports to SACU originate largely from the EC, China, and the United States. Since 2005, imports from China have exceeded those originating in the United States (Table AI.5). SACU's imports consist mainly of machinery and transport equipment, fuels, and chemicals (Table AI.6).

10. Inflows of foreign direct investment (FDI) into SACU remain low on a global scale, notwithstanding their sustained growth trend.

11. The sectoral distribution of inward investment has not changed significantly since the last TPR of the customs union. FDI inflows are predominantly channelled into mining and quarrying, manufacturing (notably the clothing industry), telecommunications, financial services, and retail trade. The EC continues to provide the largest share of overseas funds, followed by the United States and a number of Asian countries, particularly Malaysia.³ Besides being one of the leading investors in the economies of its SACU partners, South Africa successfully attracts capital inflows from the rest of the African continent.

(4) OUTLOOK

12. Amid the global economic downturn, SACU's performance outlook will depend on the effectiveness of ongoing policy harmonization efforts aimed at achieving a more cohesive regional

² Oral presentation delivered by the SACU Secretariat at Regional Trade Policy Seminar for SACU countries in Windhoek (October 2008).

³ South African Reserve Bank (2009).

market and fostering export-led growth. Notwithstanding some progress in the consolidation of SACU institutions and operational mechanisms established under the 2002 SACU Agreement, a number of technical points are yet to be addressed. In particular, work on coherent policy formulation in the areas of agriculture, industrial development, competition, and unfair trade practices is still at an early stage. In trade relations with third parties, prompt implementation of the envisaged Common Negotiating Mechanism should provide for collective responses to regional and global developments that have a bearing on SACU's integration agenda. Specifically, the elaboration of a common position could accelerate the creation of the SADC Free Trade Area.

13. While trade liberalization initiatives would ensure better terms of access to foreign markets, related tariff concessions could significantly reduce overall customs receipts, causing uneven repercussions on SACU member states' fiscal positions. In this scenario, BLNS countries would need to broaden their domestic tax bases, whereas the revenue impact in South Africa would be minimal.

14. SACU's economic outlook also depends on the evolution of the New Partnership for Africa's Development (NEPAD), aimed at eradicating poverty; placing African countries, both individually and collectively, on a sustainable growth and development path; and promoting the integration of the continent into the global economy.

II. THE COMMON REGIME

(1) OVERVIEW

15. The first Southern African Customs Union (SACU) Agreement of sovereign states was signed on 11 December 1969⁴, and entered into force on 1 March 1970. The agreement replaced a 1910 Customs Union Arrangement.⁵ Namibia became the fifth member of SACU on 10 July 1990; it had been a *de facto* member during the time it was administered by South Africa.⁶ Acknowledgement of the weaknesses of the 1969 SACU Agreement led to its renegotiation as from 1994.⁷ A new agreement (the 2002 SACU Agreement) was signed on 21 October 2002, and entered into force on 15 July 2004.

16. One of the major issues tackled by the 2002 SACU Agreement was trade arrangements with third parties. Article 31 of the 2002 agreement provides that no member state can negotiate or enter into new preferential trade agreements with third parties, or amend existing agreements, without the prior consent of other member states. In order to harmonize trade policy within SACU, the SACU Council of Ministers has directed that SACU will negotiate new preferential-trade agreements with third parties as a bloc, and not as individual countries.

17. The 2002 SACU Agreement also provided for the establishment of a common negotiating mechanism for any new negotiations with third parties. However, Article 31 allows member states to maintain pre-existing preferential-trade arrangements and related arrangements. Consequently, some SACU members are still signatories to other trade arrangements, such as the Common Market for Eastern and Southern Africa (COMESA), of which only Swaziland is a member (Annex 5)⁸; and the Trade, Development and Cooperation Agreement between the European Union and South Africa (the TDCA) (Annex 4). Moreover, the SACU countries and the EC are finalizing negotiations for economic partnership agreements.

18. In addition, South Africa has bilateral trade agreements with Malawi and Zimbabwe (Annex 4).⁹ Botswana has bilateral trade agreements with Malawi and Zimbabwe (Annex 1), while Namibia has a bilateral trade agreement with Zimbabwe (Annex 3). Lesotho and Swaziland do not have any bilateral trade agreements.

19. SACU members are eligible for non-reciprocal preferential treatment under the Generalized System of Preferences (GSP); and the U.S. African Growth and Opportunity Act (AGOA). None of the SACU members is a signatory to the Agreement on the Global System of Trade Preferences among Developing Countries (GSTP).

20. All the SACU members are members of the Southern African Development Community (SADC), in their respective individual capacities, but have undertaken single tariff phase down commitments in terms of the SADC Protocol on Trade.

⁴ Botswana and Lesotho became independent in 1966 and Swaziland in 1968.

⁵ With the exception of the revenue-sharing formula, which went into effect retroactively from 1 April 1969.

⁶ Namibia became independent on 21 March 1990.

⁷ For details on the evolution of the customs union since 1910, including the weaknesses of the 1969 SACU Agreement, see WTO (1998) and (2003).

⁸ Lesotho withdrew from COMESA in 1997, followed by Namibia on 31 May 2004.

⁹ South Africa also grants preferential tariff treatment to a list of products from Mozambique, which are admitted duty free, within annual quota limits (see WTO, 1998).

(2) SOUTHERN AFRICAN CUSTOMS UNION (SACU)

(i) Introduction

21. The objectives of the 2002 SACU Agreement, as defined in Article 2, are: (i) to facilitate the cross-border movement of goods between the territories of the member states; (ii) to create effective, transparent, and democratic institutions which will ensure equitable trade benefits to member states; (iii) to promote conditions of fair competition in the common customs area; (iv) to substantially increase investment opportunities in the common customs area; (v) to enhance the economic development, diversification, industrialization and competitiveness of member states; (vi) to promote the integration of member states into the global economy through enhanced trade and investment; (vii) to facilitate the equitable sharing of revenue arising from customs and excise duties levied by member states; and (viii) to facilitate the development of common policies and strategies.

22. In the preamble to the 2002 SACU Agreement, it is acknowledged that the 1969 Agreement was hampered by a lack of common policies and common institutions.¹⁰ To address these specific deficiencies, the 2002 agreement provides for the adoption of common policies and strategies; the creation of specific institutions for running SACU; and the recognition of the crucial role of the external tariff as an instrument for development, and not merely for revenue generation. Therefore, the 2002 agreement provides a framework that allows policy and institutional developments in SACU to be properly anchored, and for the creation of the legal and structural mechanisms required for the operation of SACU.

(ii) Institutional structure

23. The 2002 SACU Agreement provides for the establishment of six institutions essential for the running of the customs union: the Council of Ministers; the Customs Union Commission; the Secretariat; the Tariff Board; the Technical Liaison Committees; and the Tribunal.¹¹

24. The Council of Ministers is the supreme decision-making authority on SACU matters. It is "responsible for the overall policy direction and functioning of SACU institutions, including the formulation of policy mandates, procedures and guidelines for the SACU institutions".¹² The Council consists of at least one Minister from each member state and is chaired in turn by each member state for a period of one year.

25. The Customs Union Commission is responsible for implementation of the agreement; overseeing the management of the common revenue pool in accordance with the policy guidelines decided by the Council; and supervising the work of the Secretariat.¹³

26. The Secretariat is responsible for the day-to-day administration of the Agreement. It is headed by an Executive Secretary, who must be a citizen of a member state.¹⁴ In general, it is responsible for implementing the policies of the Council and of the Commission, and for providing technical support for all SACU initiatives.¹⁵

¹⁰ See WTO (2003), pp. 6-7.

¹¹ Article 7.

¹² Article 8(2) of the 2002 Agreement. See WTO (2003), p. 8, for more details on the responsibilities of the Council of Ministers.

¹³ See WTO (2003), pp 8-9, for more details on the composition and operational procedures of the Customs Union Commission.

¹⁴ The Secretariat is based in Windhoek, Namibia.

¹⁵ See WTO (2003), p. 9, for details on the duties and responsibilities of the SACU Secretariat.

27. The Tariff Board is responsible for, *inter alia*, making recommendations to the Council on the level of and changes to customs, anti-dumping, countervailing, and safeguard duties on goods imported from outside the common customs area, and rebates, refunds or duty drawbacks, based on directives by the Council as provided for in Article 8 of the agreement. The 2002 SACU agreement clearly makes the Tariff Board an independent institution, consisting of experts drawn from member states. Under Article 14 of the agreement, SACU members are to establish national bodies or designate institutions, entrusted with receiving requests for tariff changes, carrying out preliminary investigations, and making appropriate recommendations to the Tariff Board. The national bodies may also periodically make recommendations to the Commission (through the Secretariat) on the basis of studies or investigations on the impact of the tariff.

28. The 2002 agreement sets up four Technical Liaison Committees for agriculture, customs, trade and industry, and transport. In addition, the SACU Council created the Finance Technical Liaison Committee in 2008.¹⁶ These committees advise and assist the Customs Union Commission in its work.

29. The Tribunal will adjudicate over any disputes, and will also undertake an advisory role (section (iv) below).

30. Of the institutional organs provided for by the 2002 agreement, the Council of Ministers, the SACU Commission, Technical Liaison Committees and the Secretariat are currently functional. SACU members have agreed that, in the meantime, the International Trade Administration Commission (ITAC) of South Africa will undertake the functions of the Tariff Board.

31. The SACU Agreement established all SACU institutions. The agreement did not, however, make provision for the detailed aspects of the substantive and procedural aspects of the work of the Tariff Board, the Tribunal or the national bodies. The SACU Secretariat, in consultations with the member states, made proposal on Annexes to the SACU Agreement to provide more detail. The negotiation of the Annexes, as well as their adoption by member states, took a considerable amount of time. The Annexes on the Tariff Board and on the National Bodies have been ratified by all member states; the Annex on the Tribunal, however, is still undergoing the consultative stage, and should be submitted to the SACU Council before the end of 2009. In addition, the members do not have the necessary legislation in place to implement the 2002 SACU Agreement, including the creation of national bodies as stipulated in Article 14.¹⁷

(iii) Common revenue pool and sharing formula

32. The new revenue-sharing formula and the Common Revenue Pool are governed by Articles 32 to 37, and Annex A of the 2002 SACU Agreement. Under Article 32, all customs, excise, and additional duties collected in the common customs area are to be paid into the common revenue pool, within three months of the end of each quarter of a financial year (commencing on 1 April).¹⁸

33. Article 33 of the 2002 agreement provided that South Africa would only manage the common revenue pool for two years, from the entry into force of the agreement. Thereafter, a member state or SACU institution was to be appointed by the Council to manage it, and specify the accounts into

¹⁶ This was done in accordance with Article 8, paragraph 8, of the 2002 SACU Agreement, which provides a mandate for the Council to create additional technical liaison committees. The objective was to alleviate the work of the Customs Technical Liaison Committee by splitting finance and customs matters.

¹⁷ The Secretariat drafted a SACU Model Law on National Bodies, which Members are currently adopting.

¹⁸ The sharing of revenue was at the core of the original SACU Agreement.

which the common revenue pool is to be paid and from which all SACU payments are to be made. However, South Africa continues to manage the CRP: its tenure as interim manager was extended pending finalization of work on a long term management arrangement. Following two studies on the matter, the Council has taken a decision, in principle, to maintain the responsibility for the management of the Common Revenue Pool with South Africa, under a new account structure. Details of this structure are still being finalized and should be implemented by April 2010.

34. The Secretariat has oversight functions over all transactions into and out of the common revenue pool. The pool is also to be subject to regular audits. Before any sharing of the pooled revenue can be effected, the financial needs (budgeted cost of financing) of the Secretariat, the Tariff Board, and the Tribunal must be met. From the remaining net amount, the respective shares of members during any financial year will be calculated from each of the three distinct components, i.e. the customs component; the excise component; and the development component.¹⁹

35. Under the new revenue sharing formula (and contrary to the 1969 formula), South Africa is no longer consigned to taking a residual share after the shares of the other countries have been apportioned. This means that each member's share is specifically calculated (Box II.1). The new formula has also eliminated the concept of a revenue floor, and the time-lag between actual flow of trade and distribution of tax receipts has been reduced.

Box II.1: The 2002 SACU revenue-sharing formula

The revenue sharing formula of the 2002 SACU Agreement, for a given financial year, is:

$$R_i = C (A_i/A) + (0.85) E (GDP_i/GDP) + 20*(0.15) E (1 - ((Y_i/Y) - 1)/10)$$

where:

- R_i = revenue share of SACU country i ;
- i = Botswana, Lesotho, Namibia, South Africa or Swaziland;
- C = all customs duties actually collected on goods imported into SACU, less the cost of financing the Secretariat, the Tariff Board, and the Tribunal, less the customs duties rebated or refunded;
- A_i = c.i.f. value (at the border) of imports of SACU country i from all other SACU members, less re-exports;
- A = total c.i.f. value (at the border) of intra-SACU imports, less re-exports;
- E = all excise duties actually collected on goods produced in the SACU area, less the cost of financing the Secretariat, the Tariff Board, and the Tribunal, less the excise duties rebated or refunded;
- GDP_i = gross domestic product of SACU country i ;
- GDP = total gross domestic product of SACU members;
- Y_i = gross domestic product per capita of SACU country i ; and
- Y = average gross domestic product per capita of all SACU members

After some algebraic manipulations, R_i becomes:

$$R_i = C (A_i/A) + (0.85) E (GDP_i/GDP) + (0.3) E (11 - Y_i/Y)$$

The customs component: $C (A_i/A)$

The pooled customs revenue will be distributed according to intra-SACU imports. On the basis of 1998/99 trade, South Africa would have contributed about 80% to the customs component, and its share of this component would have been 20.5% (in 1998/99 South Africa's intra-SACU imports were R 7,520 million, while total intra-SACU imports amounted to R 36,706 million). On the same basis, the BLNS would have contributed around 20% to the customs component, and their shares of the customs pool would have been: Botswana (26.6%), Lesotho (13.4%), Namibia (24.9%), and Swaziland (14.6%). These shares are expected to remain stable over time, though the size of the customs pool (C) will depend upon the value of imports and changes to the SACU tariff regime.

Box II.1 (cont'd)

¹⁹ SACU members agreed that the budgeted cost of financing the Secretariat, the Tariff Board, and the Tribunal, for the related financial year, will be deducted proportionately from each component of the common revenue pool before distribution to member states. The development component is to be reviewed from time to time and adjusted if agreed to by all SACU members.

Box II.1: The 2002 SACU revenue-sharing formula**The excise component: $(0.85) E$ (GDP_i/GDP)**

The size of the excise component has been set initially at 85% of the excise pool, and will be distributed on the basis of the GDP of each of the SACU countries. In 1998, South Africa's GDP represented 92.8% of SACU's total GDP, and its share of this component would have been 78.9% (92.8 times 0.85). The remainder of the 85% of the excise component would have been distributed as follows: Botswana (3.0%), Lesotho (0.5%), Namibia (1.8%), and Swaziland (0.8%).

The development component: $(0.3) E$ ($11 - Y_i/Y$)

The development component has been set initially at 15% of the excise pool, and will be distributed inversely to each country's GDP per capita: the smaller the GDP per capita, the greater the share of the development pool. In 1998, GDP per capita in the SACU area was: Botswana (R 17,968), Lesotho (R 2,395), Namibia (R 9,615), South Africa (R 17,578), and Swaziland (R 7,024); this leads to an average GDP per capita of R 10,916. On this basis, the 15% share of the development component would have been distributed as follows: Botswana (2.80%), Lesotho (3.23%), Namibia (3.04%), South Africa (2.82%), and Swaziland (3.11%).

The composition of SACU payment by component:

On the basis of the previous figures, the BLNS countries would largely derive their SACU revenue from the customs component: Namibia (83.7%), Botswana (82.1%), Swaziland (78.9%), and Lesotho (78.2%); while South Africa would receive 20.1% from this component. South Africa would get the majority of its SACU revenue from the excise component (77.2%), followed by Botswana (9.3%), Namibia (6.1%), Swaziland (4.3%), and Lesotho (2.9%). The development component is relatively more important for Lesotho and Swaziland (18.9% and 16.8%, respectively, of their total SACU revenues), followed by Namibia (10.2%), Botswana (8.6%), and South Africa (2.7%).

Source: SACU 2002 Agreement, and DTI (2001), "Working Paper Concerning the Establishment of the CITA: Draft", November, Pretoria.

(iv) Dispute settlement mechanism

36. The 2002 SACU Agreement provides for a dispute settlement mechanism. Consultations are ongoing regarding some important aspects of the Tribunal such as the jurisdiction and enforcement of decisions. In the event of any dispute arising from the agreement, the parties must first negotiate before referring the matter to the Tribunal.²⁰ The agreement gives the Tribunal power to adjudicate on any issue concerning the application or interpretation of the agreement, or any dispute arising from it. It also provides for the Council to refer any matter to the Tribunal for advice. Thus, the Tribunal will not be restricted to adversarial matters only, but will also have a role as an advisor. Decisions of the Tribunal (to be made by a majority vote) will be final and binding. This means that SACU members cannot take intra-SACU issues for resolution outside SACU structures as the Tribunal will have exclusive jurisdiction to resolve disputes regarding the implementation and application of the 2002 SACU Agreement.

37. Further, the 2002 agreement allows for mutually acceptable solutions to problems that may arise between member countries. Pursuant to Article 15, any difference or dispute arising out of the 2002 Agreement that does not directly affect the interests of all member states, may be the subject of direct consultations between the affected parties. The affected parties are to report the results of their consultations before the next meeting of the Commission.

(v) Common policies

38. In an attempt to foster economic integration, the 2002 SACU Agreement calls for the elaboration of common policies amongst the members on industrial development (Article 38), agriculture (Article 39), competition policies (Article 40), and unfair trade practices (Article 41).²¹

²⁰ Article 13.6 of the Agreement.

²¹ Article 10 of the Agreement stipulates that the Secretariat shall assist in the harmonization of national policies and strategies of members in so far as they relate to SACU.

39. The 2002 Agreement also calls for customs cooperation (Article 23) to facilitate the simplification and harmonization of trade documentation and procedures; and for harmonization of product standards and technical regulations within the common customs area (Article 28). Regarding SPS matters, however, under Article 30 each member reserves the right to apply measures in accordance with its national laws and international standards (see also Chapter III(5) below).

(vi) Common monetary area (CMA)

40. Within SACU, there is a common monetary area (CMA), comprising Lesotho, Namibia, South Africa, and Swaziland; Botswana is not a member.²² Namibia officially joined the CMA (now also known as the Multilateral Monetary Agreement (MMA)) in 1992; it had been a *de facto* member, as a territory administered by South Africa. The CMA aims to achieve monetary stability in the region, better economic and financial cooperation among members for sustained economic development, and to encourage the advancement of the less developed members. The administering organ is the Common Monetary Area Commission, comprising a representative of each member country and any advisers the country may appoint.

41. The agreement provides for free flow of funds within the monetary area (with the possibility of limited exceptions, as indicated in the provisions on exchange control, to safeguard domestic prudential requirements) and a right of access by Lesotho, Namibia, and Swaziland (LNS) to South Africa's capital and money markets. The loti (Lesotho's currency), the Namibian dollar, and the lilangeni (the Swazi currency) are pegged to the South African rand, and banknotes issued by LNS are freely convertible into the rand. LNS must support the peg by maintaining net foreign reserves (NFRs) equivalent to a minimum of individual member state's money supply. The rand is legal tender in Lesotho, Namibia, and Swaziland, and circulates widely in all three.

42. Each of the LNS countries entered into a bilateral monetary agreement with South Africa to supplement the MMA. This was done mainly for flexibility purposes, and to accommodate country-specific needs. Although they belong to this monetary arrangement, each member is responsible for managing its own monetary policy, and supervising its financial institutions. However, by virtue of their membership of the CMA and pegging their currencies to the rand, effective implementation of monetary policy and the conduciveness of macroeconomic stability essential for growth in LNS depend, to a large extent, on the policies pursued by the South African Reserve Bank (SARB).

(3) TRADE AGREEMENTS AND ARRANGEMENTS

(i) Participation in the WTO

43. The SACU countries are original WTO Members in their individual capacities.²³ None of the SACU members are signatories or observers to any of the WTO plurilateral agreements. Apart from South Africa, SACU members have not been directly involved, as complainant or defendant, in any WTO dispute settlement proceedings. All SACU countries accord at least MFN treatment to all WTO Members.

44. SACU countries attach great importance to the Doha Development Agenda (DDA) negotiations. They are of the view that in order to have meaningful participation in the DDA

²² The Botswana pula is not a currency of the CMA. Nevertheless, Botswana maintains a crawling band system based on a basket of the South African rand and the IMF's Special Drawing Right (SDR).

²³ Botswana joined the GATT on 28 August 1987, Lesotho on 8 January 1988, Namibia on 15 September 1992, South Africa on 13 June 1948, and Swaziland on 8 February 1993.

negotiations, they need to develop sufficient capacity to define and analyse issues in the negotiations, based on well informed national and regional development priorities. In this regard, SACU countries have indicated that technical assistance and capacity building must extend well beyond traditional boundaries. They would like this assistance to include research support at the country and regional levels, be aimed at mobilizing constituencies that have an interest in domestic policy reform, and be provided through multilateral initiatives. Technical assistance, including institutional capacity building, will also be required if SACU countries are to set up the institutions necessary to effectively fulfil the objectives of the customs union enshrined in the 2002 SACU Agreement.

45. SACU countries have multiple, and sometimes varied, interests in the WTO, including on issues specifically related to the on-going DDA negotiations. These interests include: the commitment to ensuring that the developmental concerns of developing and least developed countries are reflected in the final outcome of these negotiations; and the substantial reduction and/or elimination (by developed WTO Members) of all tariff and non-tariff barriers, particularly those on products of export interest to developing and least developed countries. SACU countries also favour technical assistance that will allow developing and least developed countries to participate fully and effectively in all negotiations, and ultimately to take advantage of the opportunities offered by the multilateral trading system.

(ii) African Union (AU) and African Economic Community (AEC)

46. The five SACU countries are members of the AU, which succeeded the Organization of African Unity (OAU) in July 2002. The AU aims to become, in the longer run, an economic and political union, and is being structured largely on the model of the European Union. Its organs comprise the Assembly, composed of Heads of State and Government (decisional body); the Council of Ministers (executive body); the Pan-African Parliament (consultative body); the Commission (including eight commissioners, each responsible for a portfolio); and the Peace and Security Council (PSC). The AU will also comprise an African central bank; an African monetary fund; an African investment bank; a Court of Justice; an Economic, Social and Cultural Council (whose Statutes have been elaborated); and specialized technical committees.

47. In June 1991, the OAU founded the African Economic Community (AEC). Under the AU, the AEC is to become a customs and monetary union in six stages, over a 34-year period. The AEC is encountering several difficulties, however, including conflicts, institutional and budgetary insufficiencies, and weak commitment by its members. At the last AU Summit, held in Addis-Ababa in February 2008, the concept of a United States of Africa was revived, which may re-ignite the continent-wide economic integration.

48. One of the main initiatives under the AU is the New Partnership for African Development (NEPAD), which has its own Secretariat, based in South Africa. It resulted from the fusion of two other plans proposed for Africa: the Omega Plan and the Millennium Africa Plan. The goals of NEPAD are to halt the marginalization of Africa in the globalization process; to eradicate poverty; and to promote accelerated growth and sustainable development. It places the private sector and investment promotion at the centre of its project, and aims at trade integration and improved access to the developed countries markets.

49. To respond to the objectives defined by the AU and the NEPAD, an EC-Africa partnership to develop trans-African connections was launched in 2006. A total of €5.6 billion from the 10th European Development Fund (EDF, 2008-13) will support regional development in the priority areas of: transport, energy, water, information technology, and telecommunication networks.

(iii) Southern African Development Community (SADC)

50. The Treaty establishing the SADC was signed in 1992 with the objective of creating a development community that would achieve economic integration in the whole of Southern Africa, including through increased intra-regional trade.²⁴ All five SACU member states are also members of SADC in their respective individual capacities. SADC aims to provide balanced economic growth and development, political stability, and security for all its member states through increased regional cooperation and integration.

51. The SADC Treaty provides for several protocols in specific areas such as trade, finance, industry, education, agriculture, transport, and investment. The protocols bind only the member states that are parties to them.

52. All SACU member states are signatories to the SADC Protocol on Trade, which entered into force on 25 January 2000. The protocol aims to further liberalize intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial trade arrangements. The SADC free-trade area (FTA) was launched in August 2008. The SACU member states have undertaken single tariff-phase-down commitments in terms of the SADC Protocol on Trade.

53. The SADC Free-Trade Area has been notified to the WTO under Article XXIV of the GATT 1994²⁵, and was considered by Members at the Committee on Regional Trade Agreements (CRTA) on 15-16 May 2007.²⁶

54. Through the Regional Indicative Strategic Development Plan (RISDP), adopted in 2003, SADC envisages a further move towards broader regional integration. This includes the establishment of a Customs Union by 2010, a common market by 2015, and a monetary union by 2016. SACU member states have committed themselves to these milestones.

(iv) Relations with the European Communities

55. SACU members were signatories to the Cotonou Agreement (successor to the Lomé Convention) between the EC and the African, Caribbean, and Pacific (ACP) countries.²⁷ South Africa, however, was excluded from most of the trade provisions of the Lomé IV Convention and, as a result, was excluded from the trade provisions of the Cotonou Agreement. South Africa's trade relationship with the EC is governed under a separate bilateral agreement, the SA-EC Trade, Development, and Cooperation Agreement (TDCA), which makes provision for a free-trade area covering trade in goods. A waiver from the obligations under Article I:1 of GATT 1994 (MFN treatment) for the Cotonou Agreement, that was granted by WTO Members for the period up to 31 December 2007, has expired.²⁸

²⁴ SADC replaced the Southern African Development Coordination Conference (SADCC). SADC membership comprises the five SACU countries and nine other countries from the sub-region, i.e. Angola, Democratic Republic of the Congo, Malawi, Mauritius, Madagascar, Mozambique, Tanzania, Zambia, and Zimbabwe.

²⁵ WTO documents WT/REG176/N1/Rev.1, 27 August 2004; WT/REG176/1, 8 October 2004; and WT/REG176/Rev.1, 19 November 2004.

²⁶ WTO document WT/REG176/M/1, 12 June 2007.

²⁷ The Cotonou Agreement was signed on 23 June 2000. The fourth Lomé Convention expired at the end of February 2000.

²⁸ WTO document WT/MIN(01)/15, 14 November 2001. The full text of the Cotonou Agreement has been communicated to WTO Members (WTO document G/C/W/187/Add.3 of 14 April 2000).

56. ACP-EC negotiations began in September 2002, and are aimed at establishing economic partnership agreements (EPAs) on a bilateral basis or between the EC and regional groupings. The EPA negotiations for the SADC region were launched in July 2004. SACU (South Africa has also been invited to participate in the EPAs) is negotiating the EPAs with the EC as part of the SADC configuration – known as the SADC EPA Group comprising only seven of the fourteen SADC members, i.e. SACU plus Angola and Mozambique. The rest of the SADC countries are negotiating the EPAs under the Eastern and Southern Africa (ESA) Group with the exception of Tanzania, which is negotiating as part of the East African Community (EAC) Group.

57. In July 2005, SADC Ministers of Trade decided to commission a working group to look at harmonizing trade relations between Southern African countries and the EC. A Strategic Framework Document was developed and approved by the SADC Ministers of Trade at their meeting, in Luanda, Angola, in February 2006.

58. The EPAs were expected to have been in force from 1 January 2008. However, this has not materialized. The SADC EPA Group-EC EPA negotiations reached an initial agreement culminating in the initialling of an Interim EPA (covering goods only) at the end of 2007. Botswana, Lesotho, and Swaziland (together with Mozambique) signed the Interim EPA on 4 June 2009. Negotiations for a comprehensive EPA are under way, and the final EPA for the SADC EPA Group is expected to be finalized during 2009.

(v) Relations with the United States

59. The African Growth and Opportunity Act (AGOA), contained in the U.S. Trade and Development Act of 2000 offers duty-free access to some manufactured products originating in 37 designated sub-Saharan African countries.²⁹ The Act originally covered the eight-year period from October 2000 to September 2008, but amendments in July 2004 extended the AGOA to 2015. At the same time, a special dispensation relating to apparel was extended to 2007, but has since expired.

60. Duty-free access to the U.S. market under the combined AGOA/GSP programme now covers approximately 7,000 product tariff lines, including the roughly 1,800 product tariff lines that were added to the GSP by the AGOA. These include items such as apparel and footwear, wine, certain motor-vehicle components, a variety of agricultural products, chemicals, and steel.

61. To be eligible for AGOA benefits, a number of conditions are laid out, including proven progress in establishing a market-based economy; commitment and action in developing political pluralism and the rule of law; eliminating discriminatory barriers to U.S. trade and investment; adequate protection of intellectual property; combating corruption; protecting human rights, e.g. those specifically related to labour, particularly the abolition of certain child labour practices.³⁰ Although the apparel benefits took effect, in principle, from 17 October 2000, countries must have in place an effective visa system to prevent illegal trans-shipment and use of counterfeit documentation,

²⁹ African countries eligible for preferential treatment under the AGOA receive GSP treatment (exempt from the "competitive needs" limitations of the general GSP treatment by the United States) in the U.S. market until the expiry of the AGOA (in contrast to general GSP treatment, which is renewed on an annual basis in the United States), and will qualify for an expanded list of GSP products (beyond that available to other countries). All eligible African countries are entitled to duty-free and quota-free access to the U.S. market for apparel made from U.S. fabric, yarn or thread. The legislation provides for an upper limit by volume on such imports, rising from 1.5% of "aggregate square metre equivalent" of all U.S. apparel imports to 3.5%, over an eight-year period.

³⁰ African Growth and Opportunity Act online information. Viewed at: www.agoa.gov/index.html.

as well as effective enforcement and verification procedures. The five SACU countries were declared eligible for tariff preferences under the AGOA on 31 December 2001.

62. The U.S. Trade Act of 2002 (AGOA II) expanded preferential access for imports from beneficiary sub-Saharan African countries by modifying certain provisions of the AGOA. Among the most important changes, AGOA II allows producers from Botswana and Namibia, for purposes of AGOA only, to profit from the "lesser developed beneficiary sub-Saharan country" provision, and to use third-country fabric in qualifying apparel.

63. On 16 July 2008, SACU and the United States signed a Trade, Investment, and Development Agreement (TIDCA). This is a cooperation agreement aimed at promoting investment and expanding and diversifying trade between SACU and the United States.

64. The TIDCA aims to promote increased contact between the private sectors of both sides; and to promote trade and investment between SACU member states and the United States by, *inter alia*, looking at the possibility of concluding trade- and investment-enhancing agreements between the two sides; monitoring trade and investment relations between the two sides; identifying and removing barriers to trade and investment between the two sides; and dealing with trade-capacity-building assistance and/or cooperation.

65. The agreement further provides for a consultative process to deal with any matter relating to trade and investment between the two sides. It also provides for cooperation and the possibility of concluding further agreements in the areas of sanitary and phytosanitary matters (SPS), technical barriers to trade (TBT), customs cooperation, and trade facilitation.

(vi) Free-Trade Agreement between SACU and EFTA

66. In June 2006, SACU member states signed a free-trade agreement with the European Free Trade Association (EFTA). It came into effect on 1 May 2008. The agreement was notified to the WTO Committee on Regional Trade Agreements on 29 October 2008 under Article XXIV of GATT 1994. The factual review is scheduled to take place on 19 and 20 November 2009.

67. The agreement covers trade in industrial products, including fish and other marine products, and processed agricultural products. In addition, the individual EFTA States and SACU concluded bilateral agreements on basic agricultural products, which form part of the instruments creating the free-trade area. The main objective of the agreement is to achieve liberalization of trade in goods in conformity with the relevant WTO provisions: the EFTA States will grant the SACU states duty-free entry for all industrial goods from the entry into force of the agreement; the SACU states will dismantle their tariffs progressively over a period not exceeding nine years.

68. The agreement also includes trade-related disciplines as well as an article on special treatment for Botswana, Lesotho, Namibia, and Swaziland. Moreover, the agreement contains provisions on the protection of intellectual property rights, as well as cooperation regarding investment, services, and government procurement. It also includes a chapter on economic cooperation and technical assistance, and one on institutional and procedural provisions. A Joint Committee supervises the application of the agreement.

(vii) Preferential-trade agreement between SACU and MERCOSUR

69. During 2008, SACU and MERCOSUR member states concluded negotiations on a preferential-trade agreement (PTA). The agreement was signed by the MERCOSUR member states on 15 December 2008, and by SACU member states on 4 April 2009. The agreement replaces the

PTA signed in December 2004, based on the Understanding between SACU and MERCOSUR on the Conclusion of their Preferential Trade Agreement, which mandated further negotiations aimed at resolving some outstanding issues. The PTA has not yet been notified to the WTO, although it is the intention of both parties to do so in future.

70. The agreement is aimed at promoting trade between the two parties on a selected number of products. In addition it contains provisions on rules of origin and methods of administrative cooperation, trade remedies, technical barriers to trade, sanitary and phytosanitary measures, further market access, settlement of disputes, mutual administrative assistance between customs authorities, as well as legal and institutional provisions. The agreement established a Joint Administrative Committee, which supervises the administration and application of the agreement.

(viii) Generalized System of Preferences (GSP)

71. SACU countries also benefit, in their individual capacities, from non-reciprocal preferential treatment from many developed and some developing countries under the GSP.³¹

³¹ SACU countries are not signatories to the Agreement on the Global System of Trade Preferences (GSTP) among Developing Countries.

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

72. There have been no major changes in the common trade policies applied by the SACU members since the previous Review of SACU in 2003. The applied customs tariff; excise duties; duty rebates, refunds and drawbacks; customs valuation; rules of origin; and contingency trade remedies are the only trade policies that continue to be harmonized in SACU. The Textile and Clothing Industry Development Programme (TCIDP) and the Motor Industry Development Programme (MIDP), which continue to be contingent on export performance, are applied throughout SACU.

73. Customs procedures, which have been in the process of harmonization since 2002, have not yet been harmonized. The common tariff has been somewhat simplified since the previous Review; it is applied by all countries with no exceptions, as are excise duties. However, each member continues to have its own VAT or sales tax regime; there are no plans to further harmonize the internal taxes, which would foster economic integration.

74. The SACU members continue to apply country-specific investment incentives as a major industrial policy instrument. Investigations related to trade remedies are still undertaken by South Africa's ITAC (after consultations with all members) on behalf of SACU; when imposed, trade remedies are applied by the five members. However, the BLNS are establishing their own institutions and drafting their own contingency laws to enable them to initiate trade remedies.

(2) CUSTOMS PROCEDURES AND VALUATION

(i) Customs clearance and valuation

75. There have been no major changes in SACU customs procedures during the review period. Article 23 of the 2002 SACU Agreement calls for all five members to take appropriate measures, including customs cooperation, to ensure that the provisions of the agreement are applied effectively and harmoniously. Prior to the entry into force of the new agreement, all SACU members applied South Africa's customs laws (mainly the Customs and Excise Act, Act No. 91 of 1964 of South Africa, as amended) to regulate customs procedures (see Annex 4). The SACU Agreement (Article 22) calls for members to have similar legislation in place governing customs and excise duties. At present each member has its own legislation modelled on South Africa's Customs and Excise Act. However, customs procedures have not yet been harmonized in SACU, and some differences remain in the regulations and administrative procedures in the five countries; the documentation required also differs.³²

76. In order to promote harmonization and facilitate trade, SACU members have adopted several customs initiatives during the period. These include the introduction of the single administrative document (SAD) as a common customs declaration; a standard customs procedure code; and an electronic data interchange.³³ It appears that Botswana, Namibia and Swaziland use ASYCUDA, while South Africa uses CAPE. Lesotho is assessing the different customs automation options.

77. Goods entering the SACU area may be declared at the first port of entry into the customs union (usually a South African port), or may be removed in bond from the port of entry to another

³² USAID (2005).

³³ The World Customs Organization (WCO) is assisting the SACU customs administrations to strengthen implementation of these initiatives and develop a new customs strategy plan for the region.

SACU country, where they are cleared for home consumption or for transit to another SACU country. Goods moved within SACU are free of customs duty but customs controls are maintained because of the difference in internal tax regimes (i.e. VAT and sales taxes) and in import control measures. In the cases of Botswana, Swaziland, and Lesotho, which are landlocked, goods are imported (exported) mainly via South Africa (in transit).

78. Goods traded within the customs union must be declared at each border post and comply with the requirements (e.g. sanitary, phytosanitary, and technical requirements) of each SACU member state.

79. There has been no change to customs valuation provisions in the SACU area. SACU members use the 1964 Customs and Excise Act of South Africa, as amended, to regulate customs valuation. Under this Act, the customs value of imported goods is the transaction value based on the f.o.b. price of the import. Where the transaction value cannot be ascertained, the customs value is based on the methods provided for by the WTO Agreement on Customs Valuation.

(ii) Rules of origin

80. SACU countries have both non-preferential and preferential rules of origin. The non-preferential rules of origin continue to be set in each member's Customs and Excise Act, modelled on the South Africa's Act. Under the 1964 Customs and Excise Act of South Africa (Section 46), as amended, a good is regarded as having been produced or manufactured in any particular territory if at least 25% (or other percentage as may be determined by the Commissioner for Customs and Excise)³⁴ of its production cost is represented by materials produced and labour performed in that territory, and if the last process in its production or manufacture has taken place in that territory.

81. Preferential rules of origin are applied under regional trade agreements such as the Southern African Development Community (SADC) Trade Protocol (Chapter II(3)(v)), and under individual SACU member's bilateral trade agreements (see Annexes). The basic origin criteria for the SADC Trade Protocol are wholly produced, change in tariff heading and substantial transformation.

(3) TARIFFS AND OTHER CHARGES

(i) MFN applied tariffs

82. South Africa continues to set the applied MFN tariff for all SACU members after consulting with the other members. The 2009 tariff is based on the 2007 Harmonized System (HS). The total number of lines at the HS eight-digit level decreased from 7,909 in 2002 to 6,695 in 2009, mainly due to the change in HS nomenclature from the 2002 version.

83. The tariff structure has been somewhat simplified; compound duties are no longer applied. However, the tariff still includes *ad valorem*, specific, mixed, and variable (formula) duties; the percentage of tariff lines bearing *ad valorem* rates increased substantially from 75% in 2002 to 96.8% in 2009 (Tables III.1 and III.2). In number, lines with specific duties fell from 195 in 2002 to 109 in 2009; lines with mixed duties decreased from 1,774 to 98; and those with formula duties remained the same (5 lines). Specific duties (109 tariff lines) apply mainly to agricultural products (94 tariff lines), coal, and some textiles; their *ad valorem* equivalents range from zero to 60%. Mixed duties

³⁴ The Act stipulated that the Commissioner may, at any time, increase the prescribed percentage at the request of South Africa's International Trade Administration Commission (ITAC). This is a discretionary power that, according to the authorities, has not been used recently.

(two different types³⁵) apply to agricultural products, coal, and textiles and footwear products (Table III.2).

Table III.1
Structure of SACU MFN tariffs, 2002, 2008, and 2009
(Per cent)

		2002	2008	2009	U.R.			
					BWA	LSO	NAM and SWZ	ZAF
1.	Bound tariff lines (% of all tariff lines)	n.a.	n.a.	n.a.	95.1	100.0	95.1	95.1
2.	Duty-free tariff lines (% of all tariff lines)	43.4	54.1	54.4	11.5	0.0	11.6	11.6
3.	Non- <i>ad valorem</i> tariffs (% of all tariff lines)	25.0	3.1	3.2	0.0	0.0	0.0	0.0
4.	Tariff quotas (% of all tariff lines)	3.8	4.6	4.6	0.0	0.0	0.0	4.6
5.	Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	25.0	0.8	0.8	0.0	0.0	0.0	0.0
6.	Simple average tariff rate	11.4	8.1	8.1	20.0	79.1	20.3	20.3
	Agricultural products (WTO definition) ^a	9.6	10.1	10.1	39.6	200.0	41.8	41.8
	Non-agricultural products (WTO definition) ^b	11.6	7.9	7.8	16.7	60.0	16.7	16.7
	Agriculture, hunting, forestry, and fishing (ISIC 1)	5.3	3.7	3.7	18.3	170.6	21.0	21.0
	Mining and quarrying (ISIC 2)	0.7	0.8	0.8	1.5	60.0	1.5	1.5
	Manufacturing (ISIC 3)	11.8	8.5	8.5	20.4	74.6	20.6	20.6
7.	Domestic tariff "spikes" (% of all tariff lines) ^c	3.9	8.5	8.5	2.4	0.0	2.8	2.8
8.	International tariff "peaks" (% of all tariff lines) ^d	34.8	20.8	20.8	46.5	100.0	46.5	46.5
9.	Overall standard deviation of applied rates	12.6	11.1	11.1	23.3	48.0	23.8	23.8
10.	"Nuisance" applied rates (% of all tariff lines) ^e	0.0	1.0	1.0	0.0	0.0	0.0	0.0

n.a. Not applicable.

a WTO Agreement on Agriculture definitions.

b Excluding petroleum.

c Domestic tariff spikes are defined as those exceeding three times the overall simple average applied rate.

d International tariff peaks are defined as those exceeding 15%.

e Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: BWA: Botswana; LSO: Lesotho; NAM: Namibia; SWZ: Swaziland; and ZAF: South Africa.

Source: WTO Secretariat calculations, based on data provided by the South African authorities; and WTO, CTS database.

Table III.2
MFN tariff distribution, by type of duty, 2002 and 2009

Type of duty	2002			2009		
	No. of lines ^a	Per cent	HS Chapters	No. of lines ^a	Per cent	HS Chapters
<i>Ad valorem</i>	5,933	75.0	All HS chapters	6,483	96.8	All HS chapters
Specific	195	2.5	02, 03, 04, 07, 08, 09, 10, 11, 12, 16, 17, 19, 20, 21, 22, 24, 27, 38, 52, 63	109	1.6	02, 07, 09, 11, 12, 16, 19, 20, 21, 22, 24, 27, 38, 52, 63
Compound	2	0.0	11, 22	0	0.0	n.a.
Mixed	1,774	22.4	n.a.	98	1.5	02, 04, 07, 16, 19, 20, 27, 63, 64
Type 1 (e.g. 25% or 70c/kg)	65	0.8	03, 16, 20, 62, 63, 64	65	1.0	02, 16, 20, 63, 64
Type 2 (e.g. 325c/kg with a max. of 39%)	114	1.4	07, 16, 19, 20, 27, 52, 55, 63	33	0.5	04, 07, 16, 19, 20, 27
Type 3 (e.g. 22% or 24% with a max. of 2,880c/kg)	1,595	20.2	51, 52, 54, 55, 58, 59, 60, 61, 62	0	0	0

Table III.2 (cont'd)

³⁵ There were three types of mixed duties in WTO (2003).

Type of duty	2002			2009		
	No. of lines ^a	Per cent	HS Chapters	No. of lines ^a	Per cent	HS Chapters
Formula	5	0.1	19, 20, 24	5	0.1	19, 20, 24
Total lines	7,909	100.0	n.a.	6,695	100.0	n.a.

n.a. Not applicable.

a Eight-digit HS.

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

84. As in 2002, variable (formula) duties are levied on corn-flour, preserved tomatoes, cherries, and two kinds of tobacco (Table III.3). Variable (formula) duties were designed to maintain domestic prices above a certain level and protect the industry producing the good against low international prices. They are based on the relationship between the f.o.b. import prices and reference prices. If the f.o.b. price is higher than or equal to the reference price, an *ad valorem* duty applies; and if the f.o.b. price is lower than the reference price, the payable duty is calculated as the difference between the reference price and the f.o.b. price net of the otherwise payable "*ad valorem*" amount of duty.³⁶ As such, protection is adjusted automatically with changes in international prices; the lower the international price in relation to the reference price the higher the protection (Box III.1).

Table III.3
Formula (variable) duties, 2009

HS heading	Product description	Duty
1901.9010	Corn flour	10% or 55c/kg less 90%
2002.1090	Other tomatoes prepared or preserved otherwise than by vinegar or acetic acid	110c/kg less 80% with a maximum of 37%
2006.0030	Cherries, drained or glacé	20% or 215c/kg less 80%
2401.1000	Tobacco, not stemmed or stripped	860c/kg less 85% with a maximum of 44%
2401.2000	Tobacco, partly or wholly stemmed or stripped	15% or 860c/kg less 85%

Source: South African Revenue Service online information, *Legal and Policy: Schedule to the Customs and Excise Acts (Tariff Books)*. Viewed at: <http://www.sars.gov.za/home.asp?pid=2630> [26 March 2009].

Box III.1: Formula (variable) duties in the SACU tariff

Formula duties were designed to combat "disruptive competition" (e.g. dumping, export subsidies, distress selling in cases of temporary surplus, arbitrary pricing in non-market economies, and price manipulation in intra-group transactions) by maintaining domestic prices above set floors. For this purpose, formula duties are adjusted automatically with changes in international prices.

The formula duty generally applies the higher of two rates and is based on the relationship between the f.o.b. import price and a reference price: either an *ad valorem* duty applies, or the amount of customs duty payable on each unit of the good is calculated as the difference between the reference price and the f.o.b. price net of "the otherwise payable *ad valorem* amount of duty" (i.e. the amount of duty payable if the *ad valorem* rate were applied).

Let θ be the *ad valorem* rate, P_m the reference price, and P_z the f.o.b. import price, the formula-duty system can be summarized as follows: if $P_z \geq P_m$, then the *ad valorem* (minimum) rate θ applies; otherwise, i.e. if $P_m > P_z$, the amount of duty payable (D_c) is calculated using the following formula:

$$D_c = P_m - (P_z - \theta P_z) = (P_m - (1 - \theta)P_z)$$

The *ad valorem* equivalent rate θ_c that yields D_c is:

$$\theta_c = D_c / P_z = (P_m - (1 - \theta)P_z) / P_z = (P_m / P_z) + \theta - 1$$

Box III.1 (cont'd)

³⁶ The otherwise payable "*ad valorem* amount of duty" is the amount of duty to be paid if the *ad valorem* rate set for import prices higher than or equal to the reference price were used.

Box III.1: Formula (variable) duties in the SACU tariff

This expression means that, for a given reference price P_m and an *ad valorem* rate θ , the *ad valorem* equivalent, θ_c , increases as f.o.b. prices decline. Since (P_m/P_z) is higher than 1, then $\{(P_m/P_z) - 1\}$ is positive and θ is lower than θ_c , which may take any value between θ , its lowest level, and infinity. Therefore, in cases where maximum rates are not set, the maximum tariff protection is indefinite.

On corn flour, cherries (drained or glacé) and tobacco (partly or wholly stemmed or stripped), the minimum *ad valorem* rates are specified but no maximum rate is set. Therefore, the *ad valorem* equivalents could be higher than the *ad valorem* bound tariffs on these products.

For example, on drained or glacé cherries, under the formula duty system 20% is applied if the import price is at least 215¢/kg (the reference price), otherwise if the f.o.b. import price is lower than 215¢/kg, the duty payable will be 215¢/kg less 80% of the import price. If the import price is 100¢/kg for example, the duty payable will be: $D_c = 215¢ - (1 - 0.2)100¢ = 135¢/\text{kg}$; therefore, the *ad valorem* equivalent rate θ_c will be 135%.

On tomatoes (prepared or preserved otherwise than by vinegar or acetic acid) and tobacco (not stemmed or stripped), maximum *ad valorem* rates are specified, but no minimum *ad valorem* rate (θ) is set. This means that the tariff on these products may vary from zero to the maximum *ad valorem* rate set.

Source: WTO (1998), *Trade Policy Review: SACU*, Geneva.

85. For the purpose of this tariff analysis, a total of 6,670 lines were used: 25 tariff lines for which *ad valorem* equivalents could not be calculated were omitted. Only the *ad valorem* tariffs, the *ad valorem* equivalents (if computable), and the *ad valorem* components of some of the non-*ad valorem* tariffs were used for the calculations; the specific components of compound duties, have been ignored. As a result, the analysis may, to a certain extent, be misleading. For instance, the omission of the specific components of compound duties is likely to introduce a downward bias in the estimates. Furthermore, the *ad valorem* equivalents of certain non-*ad valorem* duties could be relatively high; formula duties, as already mentioned, may in particular result in extremely high rates.

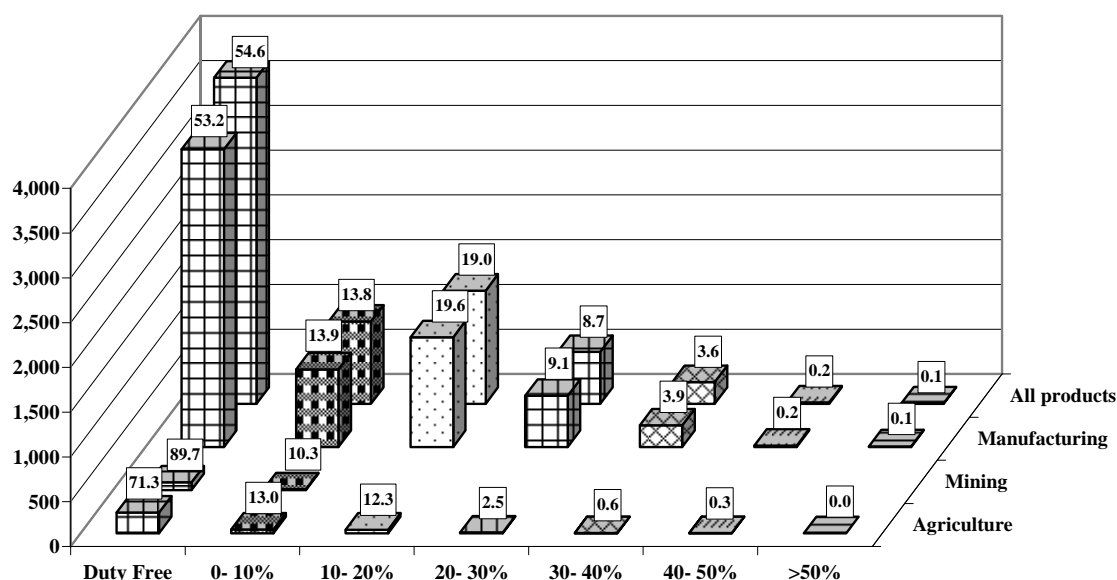
86. The simple average applied MFN tariff rate is 8.1% in 2009 down from 11.4% in 2002 (Table III.1); the coefficient of variation of 1.4 (up from 1.10 in 2002) indicates that there is still relative dispersion of the tariff rates and that dispersion has increased. The tariff comprises *ad valorem* rates ranging from zero to 96% (zero to 55% in 2002); the modal rate (the rate occurring most frequently) is zero, and applies to some 54.6% of all tariff lines (up from 43.4% in 2002) (Chart III.1). Duty-free items include live animals, products of animal origin, ores, fertilizers, cork, pulp of wood, silk, some minerals (e.g. nickel, lead, and zinc), and other base metals. Some 87.4% of all tariff lines carry rates up to 20% (included). The highest tariffs (above 50%) apply to some 0.1% of all tariff lines including dairy products, preparations of vegetables, beverages, and spirits (Table AIII.1). The ISIC sector with the highest tariff protection is manufacturing (8.5%, down from 11.8% in 2002), followed by agriculture (3.7%, down from 5.5% in 2002), and mining and quarrying (0.8%, slightly up from 0.7% in 2002) (Table AIII.2). Under the WTO definition, agriculture has the highest average tariff protection at 10.1% (9.6% in 2002), against 7.8% (11.6% in 2002) for non-agricultural products.

87. In aggregate, the tariff displays positive escalation throughout the stages of production from raw materials, with an average tariff rate of 3.6% (down from 4.7% in 2002), to semi-finished products, with an average rate of 6.0% (down from 12.9% in 2002); to fully-processed products on which tariffs average 10.2% (down from 11.2% in 2002) (Table III.4). Tariff escalation is also positive in almost all industries (Chart III.2). The positive escalation and, therefore, the effective rate of protection, may be more pronounced if duty concessions were taken into account.

Chart III.1

MFN tariff distribution by sector (ISIC1 definitions)^a, 2009

Number of lines



^a Labels are share by sector. Due to non-*ad valorem* duties, they may not add up to 100%.

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

Table III.4
Summary analysis of SACU MFN tariff, 2009

Analysis	No. of lines	Applied 2009 rates				
		No. of lines used ^a	Simple avg. tariff (%)	Range tariff (%)	Std-dev (%)	CV
Total	6,695	6,670	8.1	0-96	11.1	1.4
By WTO definition^b						
Agriculture	917	901	10.1	0-96	12.7	1.3
Live animals and products thereof	115	111	15.3	0-43.7	17.6	1.2
Dairy products	29	29	21.9	0-96	23.8	1.1
Coffee and tea, cocoa, sugar, etc.	184	181	8.6	0-44.2	10.4	1.2
Cut flowers and plants	45	45	7.1	0-25	8.5	1.2
Fruit and vegetables	207	200	11.1	0-55	10.6	1.0
Grains	16	16	0.5	0-5	1.4	2.8
Oil seeds, fats, oils, and their products	86	86	7.9	0-20	4.2	0.5
Beverages and spirits	56	56	17.1	0-60.1	13.0	0.8
Tobacco	17	15	33.6	0-45	15.7	0.5
Other agricultural products	162	162	3.1	0-20.6	6.5	2.1
Non-agriculture (excl. petroleum)	5,751	5,744	7.8	0-60	10.8	1.4
Fish and fishery products	175	170	5.8	0-30	10.7	1.8
Mineral products, precious stones, and precious metals	391	391	4.7	0-30	7.1	1.5
Metals	752	752	4.6	0-30	7.2	1.6

Table III.4 (cont'd)

Analysis	No. of lines	Applied 2009 rates				
		No. of lines used ^a	Simple avg. tariff (%)	Range tariff (%)	Std-dev (%)	CV
Chemicals and photographic supplies	1,215	1,213	3.7	0-20	6.2	1.7
Leather, rubber, footwear, and travel goods	238	238	12.5	0-43	12.0	1.0
Wood, pulp, paper, and furniture	324	324	6.1	0-30	8.0	1.3
Textiles and clothing	991	991	21.2	0-60	12.8	0.6
Transport equipment	211	211	8.7	0-30	10.2	1.2
Non-electric machinery	622	622	2.7	0-30	6.0	2.2
Electric machinery	374	374	6.6	0-25	7.9	1.2
Non-agricultural articles n.e.s.	458	458	5.1	0-30	7.9	1.6
By ISIC sector^c						
Agriculture, hunting, forestry, and fishing	324	324	3.7	0-44	7.3	2.0
Mining	97	97	0.8	0-10	2.6	3.1
Manufacturing	6,273	6,248	8.5	0-96	11.3	1.3
By stage of processing						
Raw materials	717	717	3.6	0-60	7.7	2.1
Semi-processed products	2,218	2,216	6.0	0-25	8.1	1.3
Fully-processed products	3,760	3,737	10.2	0-96	12.6	1.2

a Lines with no *ad valorem* equivalents are excluded.

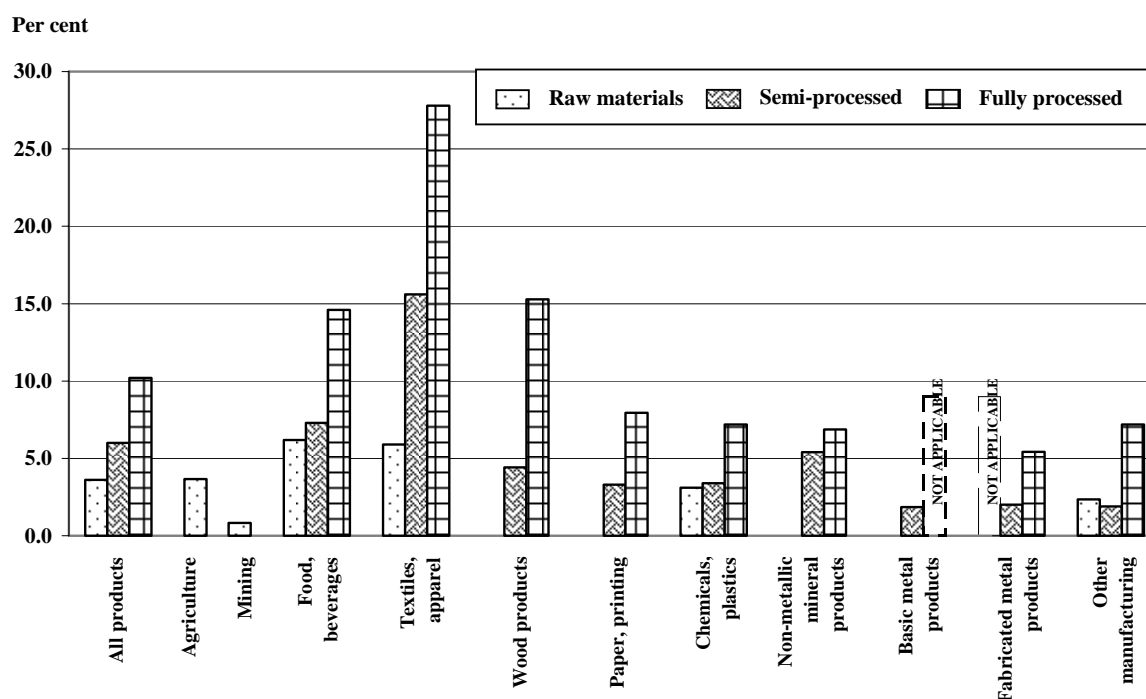
b 27 tariff lines on petroleum products are not taken into account.

c International Standard Industrial Classification (Rev.2). Electricity, gas, and water are excluded (1 tariff line).

Note: CV = coefficient of variation.

Source: WTO Secretariat estimates, based on data provided by the South African authorities.

Chart III.2
Tariff escalation by ISIC 2-digit industry, 2009



Source: WTO Secretariat estimates, based on data provided by the South African authorities.

(ii) MFN bound tariffs

88. Bindings made by Namibia and Swaziland during the Uruguay Round are identical to those made by South Africa. Those bindings covered 95% of the tariff lines at the HS eight-digit level calculated on the basis of the 2008 tariff schedule. Botswana's concessions are the same as South Africa's with some exceptions. In agricultural products, the exceptions include dairy products (HS 04); wheat, maize, and rice (HS 1001, 1005, and 1006); groundnuts and sunflower oil-seed (HS 1202 and 1206); and raw cotton (HS 5201), on which tariff rates are bound by Botswana at 20%.³⁷ Exceptions in non-agricultural products include small tractors (ex. HS 8701), on which the tariff rate was also bound by Botswana at 20%.³⁸ Lesotho bound 100% of its tariff lines; all agricultural products at ceiling rate of 200% and other products at a ceiling rate of 60% (Tables III.1 and AIII.2).

89. All tariff bindings are at *ad valorem* rates, including lines to which specific, mixed, compound, or formula duties apply. Tariff quotas were included in the commitments made by South Africa and apply to imports of selected agricultural products by all SACU countries (section (i) above). On some tariff lines, the applied tariff appears to be higher than the bound tariff (Table III.5). However, this is especially difficult to assess in some of the lines that bear specific non-*ad valorem* duties and where there is no strict correspondence between nomenclatures.

Table III.5
Tariff lines where applied MFN rate might be higher than the bound rate, 2009

Tariff code		MFN applied rates		Bound rates (%)
		As specified	Corresponding AVEs ^a (%)	
SACU				
19019010	Corn flour	10% or 55c/kg less 90%	..	99.0
20060030	Cherries, drained or glacé	20% or 215c/kg less 80%	..	37.0
24012000	Tobacco, partly or wholly stemmed or stripped	15% or 860c/kg less 85%	..	44.0
South Africa, Namibia, and Swaziland				
02064100	Livers	30% or 130c/kg	40.8	38.0
12119030	Basil, borage, hyssop, mint, rosemary, rue, and sage, ground or crushed	4c/kg	0.3	0.0
22021010	Water, containing added sugar or other sweetening matter or flavoured, in sealed containers holding 2.5 l or less (excluding those in collapsible plastic tubes)	4.36c/l	0.5	0.0
22021090	Water, containing added sugar or other sweetening matter or flavoured, in sealed containers holding more than 2.5 l (excluding those in collapsible plastic tubes)	3.3c/l	0.9	0.0
64022000	Footwear with upper straps or thongs assembled to the sole by means of plugs	30% or 500c/2u	31.9	30.0
84212330	Oil or petrol-filters for internal combustion engines, suitable for use with motor vehicle engines (including motorcycle engines)	16.0%	n.a.	15.0

Table III.5 (cont'd)

³⁷ South Africa bound tariffs for dairy products (HS 04) at 79%, 95%, and 96%; for wheat, maize, and rice (HS 1001, 1005 and 1006) at 0%, 21%, and 50%; for groundnuts and sunflower oil-seed (HS 1202 and 1206) at 47% and 70%; and for raw cotton (HS 5201) at 60%.

³⁸ South Africa bound the tariff on small tractors (ex. HS 8701) at 10%.

Tariff code		MFN applied rates		Bound rates (%)
		As specified	Corresponding AVEs ^a (%)	
Botswana				
02064100	Livers	30% or 130c/kg	40.8	38.0
04021000	Milk and cream, concentrated or containing added sugar or other sweetening matter, in powder, granules or other solid forms, of a fat content, by mass, not exceeding 1.5%	450c/kg with a maximum of 96%	31.0	20.0
04022100	Milk and cream, concentrated, in solid forms, of a fat content exceeding 1,5%, not containing added sugar or other sweetening matter	450c/kg with a maximum of 96%	30.9	20.0
04022900	Milk and cream, concentrated, in solid forms, of a fat content exceeding 1,5%, containing added sugar or other sweetening matter	450c/kg with a maximum of 96%	26.9	20.0
04029100	Milk and cream, concentrated, not in solid forms, not containing added sugar or other sweetening matter	450c/kg with a maximum of 96%	28.8	20.0
04029900	Milk and cream, concentrated, not in solid forms, containing added sugar or other sweetening matter	450c/kg with a maximum of 96%	21.4	20.0
04041000	Whey and modified whey, whether or not concentrated or containing added sugar or other sweetening matter	450c/kg with a maximum of 96%	40.2	20.0
04051000	Butter	500c/kg with a maximum of 79%	32.1	20.0
04059000	Other fats and oils derived from milk; dairy spreads	500c/kg with a maximum of 79%	41.7	20.0
04061000	Fresh (unripened or uncured) cheese, including whey cheese, and curd	500c/kg with a maximum of 95%	20.4	20.0
04063000	Processed cheese, not grated or powdered	500c/kg with a maximum of 95%	20.1	20.0
22021010	Water, containing added sugar or other sweetening matter or flavoured, in sealed containers holding 2.5 l or less (excluding those in collapsible plastic tubes)	4.36c/li	0.5	0.0
22021090	Water, containing added sugar or other sweetening matter or flavoured, in sealed containers holding more than 2.5 l (excluding those in collapsible plastic tubes)	3.3c/li	0.9	0.0
52010020	Cotton, not carded or combed, ginned but not further processed	160c/kg	20.6	20.0
64022000	Footwear with upper straps or thongs assembled to the sole by means of plugs	30% or 500c/2u	31.9	30.0
84212330	Oil or petrol-filters for internal combustion engines, suitable for use with motor vehicle engines (including motorcycle engines)	16.0%	n.a.	15.0

.. Not available.

n.a. Not applicable.

a AVEs of the specific components.

Source: WTO calculations, based on data provided by the South African authorities; and WTO CTS database.

(iii) Tariff preferences

90. Under the SACU Agreement, goods originating in a member country are traded free of duties within the customs union. Tariff preferences are provided under the SACU-EFTA agreement, and under SADC (Table III.6). Under the SACU-EFTA agreement, preferences are highest in the manufacturing sector, where average tariff protection is 5.7%, compared with MFN tariff protection of 8.5%; preferences in mining and agriculture are almost negligible. Under the SADC Trade Protocol, all SACU countries also grant duty-free access to imports of Category A products from the other SADC members. SACU countries also grant tariff preferences under trade agreements in which

they participate individually. Thus, tariff preferences may differ from one SACU country to another. However, when goods imported from outside the SACU under a preferential agreement are exported to another member state (not party to the agreement), the normal import duty is charged. The exporting state is responsible for ensuring that normal duty is paid on goods initially imported under a preferential arrangement if re-exported to another SACU country.

Table III.6
Summary analysis of SACU MFN and preferential tariffs, 2009

Analysis	No. of lines ^a	2009 applied rates		EFTA		SADC	
		Simple avg. tariff (%)	Range tariff (%)	Simple avg. tariff (%)	Range tariff (%)	Simple avg. tariff (%)	Range tariff (%)
Total	6,695	8.1	0-96	5.5	0-96	0.0	0-60
By WTO definition^b							
Agriculture	917	10.1	0-96	9.2	0-96	0.0	0
Live animals and products thereof	115	15.3	0-43.7	15.0	0-43.7	0.0	0
Dairy products	29	21.9	0-96	21.1	0-96	0.0	0
Coffee and tea, cocoa, sugar, etc.	184	8.6	0-44.2	7.0	0-44.2	0.0	0
Cut flowers and plants	45	7.1	0-25	5.7	0-22	0.0	0
Fruit and vegetables	207	11.1	0-55	10.4	0-55	0.0	0
Grains	16	0.5	0-5	0.5	0-5	0.0	0
Oil seeds, fats, oils, and their products	86	7.9	0-20	7.4	0-20	0.0	0
Beverages and spirits	56	17.1	0-60.1	16.1	0-60.1	0.0	0
Tobacco	17	33.6	0-45	31.1	0-45	0.0	0
Other agricultural products	162	3.1	0-20.6	2.4	0-20.6	0.0	0
Non-agriculture (excl. petroleum)	5,751	7.8	0-60	4.9	0-60	0.0	0-60
Fish and fishery products	175	5.8	0-30	2.9	0-25	0.0	0
Mineral products, precious stones, and precious metals	391	4.7	0-30	2.2	0-22.4	0.0	0
Metals	752	4.6	0-30	3.4	0-30	0.0	0
Chemicals and photographic supplies	1,215	3.7	0-20	2.3	0-20	0.0	0
Leather, rubber, footwear, and travel goods	238	12.5	0-43	8.5	0-24	0.0	0
Wood, pulp, paper, and furniture	324	6.1	0-30	3.5	0-22.5	0.0	0
Textiles and clothing	991	21.2	0-60	12.1	0-60	0.1	0-60
Transport equipment	211	8.7	0-30	7.2	0-30	0.0	0
Non-electric machinery	622	2.7	0-30	1.9	0-30	0.0	0
Electric machinery	374	6.6	0-25	4.5	0-45	0.0	0-4.4
Non-agricultural articles n.e.s.	458	5.1	0-30	4.3	0-30	0.0	0
By ISIC sector^c							
Agriculture, hunting, forestry, and fishing	324	3.7	0-44	3.6	0-44	0.0	0
Mining	97	0.8	0-10	0.0	0	0.0	0
Manufacturing	6,273	8.5	0-96	5.7	0-96	0.0	0-60
By stage of processing							
Raw materials	717	3.6	0-60	2.9	0-60	0.2	0-60
Semi-processed products	2,218	6.0	0-25	3.3	0-25	0.0	0
Fully-processed products	3,760	10.2	0-96	7.3	0-96	0.0	0-4.4

a Tariff rates are based on a lower frequency (number of lines) since lines with no *ad valorem* equivalents are excluded.

b 27 tariff lines on petroleum products are not taken into account.

c International Standard Industrial Classification (Rev.2). Electricity, gas, and water are excluded (1 tariff line).

Note: CV = coefficient of variation.

Source: WTO Secretariat estimates, based on data provided by the South African authorities.

(iv) Other duties and charges

91. As stipulated in the schedules to the South African Customs and Excise Act 91 of 1964 as amended, certain products are subject to VAT, excise duties, and other levies (Annex 4, section (2)(i)). SACU members bound other duties and charges (ODCs) at the time of the Uruguay Round. Lesotho bound ODCs on all tariff lines at zero per cent; Botswana, Namibia, South Africa, and Swaziland bound them for all tariff lines at zero, with the exception of 49 tariff lines (at the eight-digit level) that have higher bound rates.

(a) Excise duties

92. SACU countries apply the same excise duties on specified products (Table AIII.4). Excise duties may be specific or *ad valorem*, depending upon the good, and are applied at the same rate on imported and domestically produced goods (Table AIII.4). Excise formula duties remain in place for motor vehicles and their components.

(b) VAT or sales tax

93. The value-added tax (VAT) and sales tax are not harmonized within SACU, and this creates an economic border. Each SACU country continues to set its own VAT or sales tax. Botswana, Lesotho, Namibia, and South Africa levy VAT at different rates; and Swaziland still imposes a sales tax. In practice, when goods are exported from one SACU country to another, the shipper applies for VAT/sales tax refunds from the exporting country, and then pays the relevant tax to the importing country. However, this entails filing papers in two countries; it increases trading costs, and encourages smuggling and tax evasion. Given the disparity of internal tax rates, border controls are still maintained within the SACU area. The harmonization of tax levels would facilitate trade and foster economic integration.

(v) Duty and tax concessions

94. The 2002 SACU Agreement provides that members apply identical rebates, refunds or drawbacks of customs duties on imported goods (Article 21). The SACU council is responsible for approving all rebates³⁹, refunds⁴⁰, and drawbacks⁴¹ (Table AIII.4). There are two types of rebates: industrial rebates and "temporary" rebates. Industrial rebates apply to inputs not produced in SACU or in short supply in SACU or that are for final goods to be used in the region. The "temporary" rebates apply to final goods, for inputs for exports and for specific use (e.g. national disasters, donations).⁴² In general these rebates are used by all the SACU member states. The only country-specific rebates are those for wheat (HS1011) and dairy products (HS 04), which are used only by the BLNS, and those for goods to be used in the Gautrain Rapid Rail Link project, which are only used by South Africa. In addition, South Africa has several incentives programmes that do not apply to the BLNS countries, with the exception of the Textile and Clothing Industry Development Programme (TCIDP) and the Motor Industry Development Programme (MIDP), which are contingent on export performance (Annex 4).

³⁹ A part of the duty or all of the duty is reduced or remitted subject to compliance with certain conditions.

⁴⁰ Repayment of all or part of the duty paid at the time of importation.

⁴¹ Part or all of the duty paid on the imported goods is refunded to the importer once the imported goods are used to manufacture a product that is exported out of the customs union.

⁴² These are called "temporary" rebates because they are reviewed by the authorities.

(4) CONTINGENCY TRADE REMEDIES

95. As a result of their SACU membership, all SACU members must apply anti-dumping, countervailing or safeguard measure imposed by South Africa, through investigations conducted by the International Trade Administration (ITAC) of South Africa on behalf of all SACU countries. Thus, the trade remedies applied by South Africa are by extension also applied by BLNS. The BLNS countries do not have trade remedies legislation or institutions in charge of imposing trade remedies. Hence all actions are initiated by South Africa and thus mainly relevant to the South African economy; BLNS do not produce most of the items concerned. The new SACU Agreement provides for the creation of national bodies in each of the BLNS countries to enable them to conduct their own investigations. The BLNS countries are in the process of drafting the necessary legislation to establish the national bodies. In the interim, the ITAC of South Africa, which has been given a mandate to act as SACU Tariff Board in interim, is training officials from BLNS on tariff investigations and trade remedies.⁴³

96. The International Trade Administration Act, No. 71 of 2002, the Customs and Excise Act, No. 91 of 1964, as amended, the Anti-Dumping Regulations of 14 November 2003, and the Countervailing Regulations of 30 March 2005 provide the legal basis for anti-dumping and countervailing measures in South Africa, and by extension, SACU.⁴⁴ The application of safeguards is regulated by the International Trade Administration Act, No. 71 of 2002, the Customs and Excise Act, No. 91 of 1964, as amended, and the Safeguard Regulations of 27 August 2004.⁴⁵

97. South Africa (and by extension SACU) continues to be one of the major users of anti-dumping measures in the WTO. Data are not available on the percentage of imports to SACU that were subject to contingency measures during the period under review. However, the number of initiations of anti-dumping measures notified to the WTO has declined since 2005. According to the information notified to the WTO, there have been no new initiations of countervailing investigations during the review period, only sunset reviews and initiation of one safeguard investigation in 2007, which led to the imposition of a safeguard measure on lysine powder (Table III.7).⁴⁶

Table III.7
Contingency measures notified by South Africa, 2003-08^a

	2003	2004	2005	2006	2007	2008 ^a
Anti-dumping						
Initiation of investigations	12	17	32	27	7	6
Sunset review ^b	20	34	14	8	16	14
Sunset review ^c	38	21	8	31	20	15
Definitive measures	90	82	68	71	55	56
Countervailing						
Initiation of investigations	0	0	2 ^d	4 ^d	3 ^d	1 ^d
Definitive measures	4	4	4	3	1	1

Table III.7 (cont'd)

⁴³ For applications and necessary questionnaires related to trade remedies investigations and reviews, see ITAC online information. Viewed at: <http://www.itac.org.za/docs.asp?cID=1&scID=8> [27 March 2009].

⁴⁴ WTO documents G/ADP/N/1/ZAF/2 and G/SCM/N/1/ZAF/2, 20 January 2004; and G/SCM/N/1/ZAF/2/Add.1, 21 April 2005.

⁴⁵ WTO documents G/SG/N/1/ZAF/2, 27 September 2004.

⁴⁶ WTO document G/SG/N/8/ZAF/1/Suppl.2, G/SG/N/10/ZAF/1/Suppl.1; G/SG/N/11/ZAF/1/Suppl.2, 21 December 2007.

	2003	2004	2005	2006	2007	2008 ^a
Safeguards ^c						
Initiation of investigations	0	0	0	0	1	0
Definitive measures	0	0	0	0	1	0

a To 30 June 2008.

b Sunset review (expiry review).

c Notice given of sunset review, but not yet initiated.

d Sunset review.

e Notifications available in the Secretariat only for 2007.

Source: WTO documents G/ADP/N/-, SCM/N/-, and SG/N/- series, February 2003-August 2008; and WTO Anti-Dumping Measures Database.

(i) Anti-dumping

98. Anti-dumping investigations are usually initiated upon a written application by or on behalf of the SACU industry.⁴⁷ However, the ITAC may initiate an investigation or a review itself if it has *prima facie* evidence of dumping, material injury, and/or a causal link to justify the initiation of an investigation or review.⁴⁸ Investigations are formally initiated through publication by the ITAC of an initiation notice in the *Government Gazette*. This is also the case for countervailing and safeguard investigations.

99. When determining the margin of dumping, the ITAC must make allowance for differences in conditions and terms of sale, differences in taxation, and other differences affecting price comparability. The margin of dumping is determined as the amount by which the normal value exceeds the export price. If, during the investigation, the ITAC determines that the normal value of the goods investigated is the result of the Government intervening in the exporting country or country of origin, and not determined by the market, it may use a normal value based on data from a third country.

100. In determining material injury to the SACU industry the Commission must consider whether there has been a significant reduction of the SACU industry's prices and significant changes in the domestic performance of the SACU industry in respect to, *inter alia*, sales volume, profits and losses, output, market share, productivity, employment, wages, and capacity to grow.

101. The ITAC may request the South African Revenue Services (SARS) Commissioner to impose a provisional duty in respect of the investigated goods, by notice in the *Government Gazette*. If no anti-dumping, countervailing or safeguard duty is imposed, the provisional duty paid must be refunded. Definitive anti-dumping duties will remain in place for five years from the date of publication of the ITAC's final recommendation, unless otherwise specified or reviewed before the end of the five-year period. Definitive anti-dumping duties may be imposed with retroactive effect to the date of the imposition of the provisional duty. Anti-dumping duties will stay in place for five years, unless an interested party requests a review of these duties. Sunset reviews are available to determine whether any anti-dumping duty that has been in place for five years needs to be continued. For a duty to be continued it should be determined that there would be a continuation or recurrence of injurious dumping (or injurious subsidized exports) if the duty were to be removed.

⁴⁷ An application is regarded as made on behalf of the SACU industry if at least 25% of the SACU producers in terms of domestic volume support the application; and of those producers that express an opinion on the application, if at least 50% in terms of domestic production volume support the application.

⁴⁸ For reports on ongoing investigations, see ITAC online information. Viewed at: <http://www.itac.org.za/docs.asp?cid=8> [27 March 2009].

102. South Africa's legislation also provides for new shipper reviews. Thus, new exporters from a country against which an anti-dumping or countervailing duty has been imposed may be excluded from payment of anti-dumping duties, if it can be proved that they did not export the product in question to SACU during the original investigation and they are not related to a party on which the duty is imposed.

103. Anti-dumping duties are imposed through a publication in the *Government Gazette* by the SARS. Goods subject to anti-dumping duties, countervailing duties or safeguard measures are listed as an amendment to Schedule 2 of the Customs and Excise Act No. 91 of 1964. Any of these duties may be reduced or withdrawn at the request of the Minister of Trade and Industry after an investigation by the ITAC. These amendments are also made through a notice in the *Gazette* amending Schedule 2 to indicate which anti-dumping, countervailing or safeguard duties have changed.

104. Anti-dumping proceedings may be suspended or terminated following the receipt of a satisfactory price undertaking from any exporter to revise its prices or to cease exports to the SACU at dumped prices. If a sunset review has been initiated prior to the lapse of an anti-dumping duty, such anti-dumping duty should remain in force until the sunset review has been finalized. The ITAC's decisions may be challenged by the interested parties and taken to the High Court in South Africa.

(ii) Countervailing measures

105. Countervailing investigations, like anti-dumping investigations, are in general only initiated upon receipt of a properly documented application by or on behalf of the SACU industry. The ITAC may initiate an investigation or a review only if it has *prima facie* evidence of the existence of subsidized exports, material injury, and a causal link. Prior to the initiation of an investigation, a notification must be forwarded to the foreign country inviting it for consultations to determine whether any other subsidies are applied and to seek a mutually agreeable solution. An investigation is formally initiated through publication of an initiation notice in the *Government Gazette*. All investigations and reviews must be finalized within 18 months after initiation.

106. A subsidy is countervailable if it is specific and causes material injury to the SACU industry producing the like product.⁴⁹ A countervailing measure may only be imposed if the subsidy is 1% (2% for developing countries) or more of the invoiced export price. All subsidies are added up to determine if the total subsidy exceeds the *de minimis* standard. The ITAC is entitled to take into account and add up any subsidy found during the course of the investigation even if the SACU industry has not mentioned it in the application.

107. The Commission must determine the margin of each individual subsidy. Subsidies may take the form of grants, loans, revenue forgone, tax holidays and rebates, input subsidies, over-reimbursement of customs duties, and preferential interest rates for export purposes. To determine the margin or the amount of each individual subsidy, the Commission may take into account the following: the time value of money, the duration of the subsidy, and whether the subsidy is linked to exports, to all sales, or to production.

108. In determining material injury to the SACU industry, the ITAC must consider whether there has been a significant reduction of prices in that SACU industry. Once material injury is determined the ITAC must consider whether there is a causal link between the subsidized exports and the material injury. To do so it needs to, *inter alia*, take into account the change in the volume of subsidized imports; the price undercutting experienced by the SACU industry *vis-à-vis* the imported products;

⁴⁹ Export subsidies are considered to be a specific subsidy.

the market share of the subsidized imports; the magnitude of the margin of subsidization; and the price of fairly traded imports available in the market.

109. The ITAC will apply the lesser-duty rule if both the importer and exporter have cooperated fully. When determining the level of the countervailing duty, the ITAC should ensure that a product is not subject to both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization. Proceedings may be suspended or terminated following the receipt of a satisfactory price undertaking.

110. Provisional duties may be imposed 60 days after the initiation of the investigation for a maximum of four months; these may not be extended. Definitive countervailing duties will remain in place for five years from the date of publication of the ITAC's final recommendation unless otherwise specified or unless reviewed before the end of the five-year period. Definitive countervailing duties may be imposed with retroactive effect to the date of imposition of the provisional payment.

111. The ITAC initiates interim reviews only if the party requesting the reviews can prove a significant change in circumstances. Initiations of reviews are published in the *Government Gazette*. As a result of this interim investigation increase, the ITAC may decrease or confirm the scope of the application of such countervailing duties. New shipper reviews are available to exporters that did not export to SACU during the original investigation period.

112. At least six months prior to the lapse of a countervailing duty the ITAC will publish a notice to request a sunset review. The SACU industry may request that the countervailing duty be maintained through application to the ITAC.

113. The ITAC's decisions may be challenged through a judicial review in the High Court of South Africa. An importer or an exporter may request reimbursement of countervailing duties collected if it can be proved that the margin of subsidization, on the basis of which countervailing duties were paid, has been eliminated or has been reduced to a level below that of the duty in force.

(iii) Safeguard measures

114. A safeguard measure may only be imposed in response to a rapid and significant increase in imports of a product as a result of an unforeseen development, where such increased imports cause or threaten to cause serious injury to the SACU industry producing the like or directly competitive product. In determining serious injury or threat thereof to the SACU industry the ITAC must consider: the rate and volume of the increase in imports of the product concerned (in absolute terms or relative to the production and demand in SACU); and whether there have been significant changes in the performance of the SACU industry in respect of sales volume, profit and loss, output, market share, productivity, capacity utilization, and employment.

115. Investigations are formally initiated through publication of an initiation notice in the *Gazette*. All interested parties have 20 days from the initiation of an investigation to comment on the application. The ITAC may request the SARS to impose a provisional payment as soon as the ITAC has made a preliminary determination that there are critical circumstances where a delay would cause damage that would be difficult to repair, and there is clear evidence that increased imports have caused or are threatening to cause serious injury.

116. A definitive safeguard measure may be applied as a customs duty and/or a quantitative import restriction. If a quantitative import restriction is used, it should not reduce imports below the average level during the preceding three years. A safeguard measure must be liberalized progressively at regular intervals throughout its period of validity.

117. Safeguards may be in place, in general, only for four years. This can be extended for six years (for a maximum of ten years) where the ITAC deems that the lapse of the safeguard measure is likely to lead to the recurrence of serious injury and there is evidence that the SACU industry is adjusting; if extended, the measure must be reduced in effect. Safeguard measures imposed for a period exceeding three years must be reviewed at their halfway point. The ITAC's decisions may be challenged in a court of law.

118. Safeguard measures are applied to all imports of the product concerned, irrespective of its source, with the exception of imports originating in a developing country if their import share to SACU is *de minimis*.

119. Botswana, Namibia, Swaziland, and South Africa have retained the right to use the special safeguard under Article 5 of the WTO Agreement on Agriculture, but have never invoked this Article.

(5) STANDARDS AND TECHNICAL REGULATIONS

120. According to Articles 28 and 33 of the 2002 SACU Agreement, there should be harmonization of technical regulations and product standards, and sanitary and phytosanitary measures. However, SACU countries do not have a common policy on these issues. Lesotho and Namibia use South African standards, while Botswana established its own Bureau of Standards in 1995, and Swaziland enacted its Standards and Quality Act in 2001.

121. Article 30 of the 2002 SACU Agreement indicates that members reserve the right to apply sanitary and phytosanitary (SPS) measures in accordance with their national SPS laws and international standards, but should consult with each other to ensure the free flow of goods without endangering animal, and plant health. Members may impose import restrictions to safeguard human, animal and plant health.

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APPENDIX TABLES

Table AI.1
Intra-SACU exports by destination, 2002-07
 (US\$ million and per cent)

Description	2002	2003	2004	2005	2006	2007
Botswana's exports to other SACU members (US\$ million)	251.2	289.5	332.0	402.5	301.5	526.3
Shares						
South Africa	99.0	98.5	98.4	96.8	95.6	98.2
Namibia	0.9	1.2	1.5	3.1	4.2	1.6
Swaziland	0.0	0.2	0.1	0.1	0.2	0.2
Lesotho	0.0	0.1	0.0	0.0	0.0	0.0
Lesotho's exports to other SACU members (US\$ million)	151.6	92.9	173.9	161.2	118.3	239.4
Shares						
South Africa	100.0	99.9	98.0	100.0	100.0	100.0
Botswana	0.0	0.1	2.0	0.0	0.0	0.0
Swaziland	0.0	0.0	0.0	0.0	0.0	0.0
Namibia's exports to other SACU members (US\$ million)	332.2	420.7	642.0	776.1	845.9	1,198.5
Shares						
South Africa	98.2	97.6	98.0	98.4	98.0	97.8
Botswana	1.8	2.2	1.9	1.5	1.8	1.8
Swaziland	0.0	0.2	0.1	0.1	0.2	0.3
Lesotho	0.0	0.0	0.0	0.0	0.0	0.1
Swaziland's exports to other SACU members (US\$ million)	659.3	1,183.4	1,584.4	1,175.2	619.4	833.3
Shares						
South Africa	100.0	100.0	100.0	99.7	91.6	58.8
Botswana	0.0	0.0	0.0	0.0	4.3	41.1
Lesotho	0.0	0.0	0.0	0.1	0.0	0.1
Namibia	0.0	0.0	0.0	0.2	4.0	0.1

Source: UNSD, Comtrade database based on SITC Rev.3 data; and data provided by the authorities of the SACU members.

Table AI.2
Intra-SACU imports by origin, 2002-07
(US\$ million and per cent)

Description	2002	2003	2004	2005	2006	2007
Botswana's imports from other SACU members (US\$ million)	2,711.8	3,375.2	2,705.4	2,674.4	2,640.4	3,354.9
Shares						
South Africa	99.4	99.6	99.5	99.4	99.2	99.3
Namibia	0.5	0.3	0.5	0.6	0.7	0.7
Swaziland	0.1	0.1	0.0	0.0	0.0	0.0
Lesotho	0.0	0.0	0.0	0.0	0.0	0.0
Lesotho's imports from other SACU members (US\$ million)	617.3	915.5	1,094.4	794.7	804.4	927.7
Shares						
South Africa	99.9	100.0	100.0	99.9	100.0	99.9
Namibia	0.0	0.0	0.0	0.0	0.0	0.0
Botswana	0.1	0.0	0.0	0.0	0.0	0.1
Swaziland	0.0	0.0	0.0	0.0	0.0	0.0
Namibia's imports from other SACU members (US\$ million)	1,015.3	1,151.1	2,072.7	2,101.2	2,317.9	3,161.3
Shares						
South Africa	99.8	99.8	99.4	99.6	99.4	99.4
Botswana	0.2	0.2	0.3	0.3	0.3	0.3
Swaziland	0.0	0.0	0.3	0.1	0.3	0.3
Lesotho	0.0	0.0	0.0	0.0	0.0	0.0
South Africa's imports from other SACU members (US\$ million)	0.5	4.7	0.7	430.9	791.4	350.7
Shares						
South Africa	0.0	0.0	0.0	0.0	49.5	0.0
Botswana	6.1	86.4	48.2	70.2	33.5	62.3
Namibia	37.0	12.2	27.9	29.7	16.9	37.6
Lesotho	35.4	0.5	23.3	0.1	0.0	0.0
Swaziland	21.5	0.9	0.6	0.0	0.0	0.1
Swaziland's imports from other SACU members (US\$ million)	769.7	1,245.9	1,634.0	1,460.6	1,013.4	1,129.4
Shares						
South Africa	100.0	100.0	100.0	100.0	98.3	95.7
Namibia	0.0	0.0	0.0	0.0	1.2	2.3
Lesotho	0.0	0.0	0.0	0.0	0.0	1.5
Botswana	0.0	0.0	0.0	0.0	0.5	0.5

Source: UNSD, Comtrade database based on SITC Rev.3 data; and data provided by the authorities of the SACU members.

Table AI.3
Destination of exports, 2002-07
 (US\$ million and per cent)

	2002	2003	2004	2005 ^a	2006 ^a	2007 ^a
Total (US\$ million)	27,204.3	36,957.4	46,634.7	53,111.9	60,260.3	71,663.5
	(per cent)					
America	12.6	13.9	14.9	12.3	13.0	14.3
United States	10.1	11.9	12.4	10.1	10.4	10.8
Other America	2.6	1.9	2.5	2.3	2.6	3.5
Canada	0.7	0.7	1.0	0.8	1.0	1.5
Europe	46.0	43.4	43.1	43.5	43.4	40.4
EC(25)	44.2	39.9	39.6	40.0	39.0	36.9
United Kingdom	18.7	17.1	15.8	16.7	14.5	12.6
Germany	7.0	6.6	7.0	6.5	6.8	7.3
Netherlands	4.4	4.1	4.0	4.5	4.6	4.1
Italy	2.8	2.5	2.7	2.3	2.6	2.8
Spain	2.9	2.7	2.7	3.0	2.8	2.8
Belgium	3.2	2.7	2.7	2.7	2.5	2.5
France	2.8	2.1	2.5	2.1	2.2	2.1
EFTA	1.3	3.0	3.0	3.0	3.7	2.9
Switzerland	0.9	2.1	2.5	2.4	2.9	2.0
Other Europe	0.6	0.5	0.5	0.5	0.7	0.7
Commonwealth of Independent States (CIS)	0.2	0.3	0.4	0.2	0.3	0.3
Africa	17.0	16.2	14.2	14.7	14.6	14.3
Zimbabwe	2.9	2.7	2.3	2.6	2.2	2.2
Zambia	2.0	1.5	1.6	1.7	2.0	2.0
Mozambique	2.4	2.2	1.9	2.0	1.6	1.8
Angola	1.9	2.1	1.6	1.4	1.5	1.4
Nigeria	1.0	0.9	1.0	1.0	1.0	1.0
Middle East	3.4	3.0	3.1	3.5	3.5	3.5
Israel	2.0	1.4	1.4	1.5	1.3	1.3
United Arab Emirates	0.6	0.8	0.7	0.9	1.0	1.0
Asia	18.4	21.9	23.9	24.9	24.6	26.5
China	1.7	2.6	2.4	2.7	3.6	6.1
Japan	5.5	8.5	8.9	9.7	10.4	9.9
Six East Asian traders	6.7	6.3	7.6	6.1	5.6	5.6
Korea, Rep. of	1.8	1.6	1.5	1.6	1.8	1.7
Chinese Taipei	1.9	1.8	3.0	1.5	1.1	1.2
Other Asia	4.4	4.5	5.0	6.4	4.9	4.9
India	1.3	1.0	1.2	2.2	1.3	1.9
Australia	1.9	2.1	2.3	2.7	2.4	1.8
Other	2.4	1.2	0.6	0.8	0.8	0.7

a Excluding Lesotho.

Source: WTO Secretariat calculations, based on UNSD, Comtrade database (SITC Rev.3 data).

Table AI.4
Structure of exports (extra-SACU), 2002-07
(US\$ million and per cent)

	2002	2003	2004	2005 ^a	2006 ^a	2007 ^a
Total (US\$ million)	27,204.3	36,957.4	46,634.7	53,111.9	60,260.3	71,663.5
	(per cent)					
Total primary products	35.2	39.3	39.9	41.2	45.2	47.7
Agriculture	14.2	13.3	11.2	10.9	9.4	8.9
Food	10.8	10.1	8.6	8.5	7.2	7.0
1121 Wine of fresh grapes (including fortified wine)	1.1	1.1	1.2	1.1	0.9	0.9
Agricultural raw material	3.4	3.2	2.6	2.4	2.2	2.0
Mining	21.0	26.0	28.7	30.2	35.8	38.7
Ores and other minerals	6.4	5.6	5.6	6.6	8.6	10.2
2816 Iron ore agglomerates (sinters, pellets, briquettes, etc.)	1.5	1.3	1.2	1.8	1.9	2.2
2842 Nickel mattes, sinters, etc.	0.0	0.0	0.0	0.0	0.0	1.0
2879 Other non-ferrous base metals ores and concentrates	0.3	0.3	0.4	0.5	0.7	0.9
2878 Ore and concentrates of molybdenum, niobium, etc.	1.3	1.1	0.7	0.6	1.1	0.8
Non-ferrous metals	4.1	12.0	15.3	14.4	18.9	19.1
6812 Platinum unwrought, unworked or semi-manufactured	0.0	8.6	10.0	10.0	13.3	13.7
6841 Aluminium and aluminium alloys, unwrought	2.6	1.8	2.2	2.0	2.3	2.2
6842 Aluminium and aluminium alloys, worked	0.7	0.8	0.8	1.0	1.1	0.8
Fuels	10.5	8.4	7.9	9.2	8.3	9.5
3212 Other coal, whether or pulverized, not agglomerated	6.7	4.8	5.2	6.1	5.1	4.6
3330 Crude oils of petroleum and bituminous minerals	0.0	0.0	0.0	0.0	0.8	2.6
Manufactures	64.0	60.1	59.3	58.2	54.3	51.7
Iron and steel	8.9	10.5	12.1	11.1	9.4	10.4
6715 Other Ferro-alloys (excl. radio-active Ferro-alloys)	2.8	3.6	4.4	3.9	3.1	4.2
6753 Flat-rolled products, stainless steel, hot-rolled	1.2	1.5	1.5	0.7	1.2	1.3
6755 Flat, cold-rolled stainless steel	0.2	0.1	0.6	0.7	1.2	0.9
6714 Ferro-manganese	0.9	0.8	1.3	1.2	0.7	0.9
Chemicals	8.6	7.1	7.5	8.0	7.8	6.2
Other semi-manufactures	20.2	17.8	16.0	16.6	14.8	12.9
6672 Diamonds (excl. industrial, sorted) not mounted/set	14.9	13.1	11.5	12.4	10.9	8.9
Machinery and transport equipment	19.7	18.0	17.3	18.2	18.9	19.0
Power generating machines	0.3	0.2	0.3	0.3	0.4	0.4
Other non-electrical machinery	6.1	5.7	5.3	5.6	6.3	7.1
7436 Filtering and purifying machines for liquids/gases	3.5	3.2	3.0	3.1	4.0	4.5
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1	0.2
Office machines and telecommunication equipment	1.5	1.4	1.3	1.2	1.3	1.3
Other electrical machines	1.2	1.0	1.0	0.8	0.9	1.0
Automotive products	8.9	8.5	8.0	8.2	8.2	7.6
7812 Motor vehicles for the transport of persons, n.e.s.	6.0	5.7	5.3	5.4	4.5	3.7
7821 Goods vehicles	0.8	0.8	0.5	0.9	1.7	1.8
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.5	1.4	1.4	1.2	1.2	1.3
Other transport equipment	1.7	1.3	1.4	2.1	1.9	1.8
Textiles	1.0	0.8	0.7	0.6	0.5	0.5
Clothing	2.0	2.4	2.7	0.9	0.5	0.5
Other consumer goods	3.6	3.3	3.0	2.8	2.3	2.2
Other	0.8	0.6	0.8	0.7	0.6	0.6
9310 Special transactions and commodities not classified by type	0.7	0.0	4.1	4.5	3.4	2.6
Gold	0.1	0.5	0.7	0.6	0.3	0.5

^a Excluding Lesotho.

Source: WTO Secretariat calculations, based on UNSD, Comtrade database (SITC Rev.3 data).

Table AI.5
Origin of imports, 2002-07
 (US\$ million and per cent)

	2002	2003	2004	2005	2006	2007
Total (US\$ million)	27,560.7	35,790.1	48,955.5	56,496.4	69,702.2	82,011.4
	(per cent)					
America	15.5	14.0	13.0	12.6	12.8	13.6
United States	11.5	9.7	8.6	7.9	7.8	8.0
Other America	4.0	4.2	4.4	4.7	5.1	5.5
Brazil	1.7	2.0	2.1	2.4	2.0	2.1
Argentina	0.8	0.8	1.1	0.8	1.4	1.3
Europe	44.4	45.3	42.2	40.7	31.7	36.9
EC(25)	42.1	43.2	40.5	38.6	35.7	34.8
Germany	15.0	14.5	14.0	14.2	13.2	12.3
United Kingdom	9.2	8.8	6.9	5.6	5.2	5.0
France	4.2	5.9	6.0	4.4	3.6	3.5
Italy	3.5	3.2	3.0	3.0	3.0	2.8
Netherlands	1.8	1.7	1.5	1.6	1.6	1.6
Spain	1.3	1.5	1.4	1.7	1.5	1.5
Sweden	1.4	1.6	1.5	1.6	1.3	1.5
Belgium	1.4	1.4	1.3	1.4	1.3	1.3
EFTA	1.9	1.6	1.2	1.5	1.1	1.1
Other Europe	0.4	0.4	0.5	0.6	0.8	1.0
Commonwealth of Independent States (CIS)	0.5	0.2	0.2	0.3	0.5	0.7
Africa	3.8	3.3	4.3	4.0	8.6	6.9
Nigeria	1.2	1.1	1.6	1.2	2.0	2.2
Angola	0.1	0.0	0.5	0.5	0.5	2.0
Middle East	9.7	10.2	11.7	11.6	11.5	10.8
Saudi Arabia	4.7	5.5	5.4	5.5	5.2	4.5
Iran Islamic Rep.	3.3	3.5	4.8	4.0	3.9	3.6
Asia	25.1	26.4	28.1	30.5	33.7	33.4
China	5.2	6.5	7.6	9.1	10.3	10.8
Japan	6.7	6.9	6.7	7.0	8.0	7.3
Six East Asian traders	8.0	8.1	8.5	8.7	9.5	8.2
Korea, Rep. of	1.6	1.6	2.1	2.6	2.6	2.2
Thailand	1.0	1.2	1.4	1.6	1.7	1.8
Chinese Taipei	2.2	2.1	1.9	1.7	1.7	1.4
Malaysia	1.3	1.2	1.2	1.3	1.2	1.3
Other Asia	5.2	5.0	5.3	5.6	5.9	6.0
India	1.1	1.2	1.5	2.1	2.4	2.3
Australia	2.7	2.2	2.3	2.1	2.1	1.9
Other	1.0	0.6	0.5	0.8	0.2	1.0

Source: WTO Secretariat calculations, based on UNSD, Comtrade database (SITC Rev.3 data); and data provided by the authorities of SACU members.

Table AI.6
Structure of imports (extra-SACU), 2002-07
 (US\$ million and per cent)

	2002	2003	2004	2005 ^a	2006 ^a	2007 ^a
Total (US\$ million)	27,560.7	35,790.1	48,955.5	55,697.5	68,878.2	81,053.4
	(per cent)					
Total primary products	21.0	20.6	23.2	22.4	26.9	27.9
Agriculture	6.5	6.3	6.3	5.7	5.5	6.2
Food	5.0	5.0	5.0	4.6	4.5	5.2
Agricultural raw material	1.5	1.4	1.3	1.1	1.0	1.0
Mining	14.5	14.2	16.8	16.7	21.4	21.7
Ores and other minerals	1.7	1.7	1.8	1.7	2.0	2.1
2852 Alumina (aluminium oxide)	0.9	0.7	0.9	0.8	0.9	0.8
Non-ferrous metals	0.9	1.0	1.0	0.9	1.2	1.2
Fuels	11.9	11.5	14.0	14.1	18.2	18.4
3330 Crude oils of petroleum and bituminous minerals	10.1	10.1	12.1	11.6	13.7	13.5
Manufactures	69.5	69.6	68.1	68.8	65.4	64.9
Iron and steel	1.3	1.3	1.4	1.5	1.7	2.0
6715 Other ferro-alloys (excl. radio-active ferro-alloys)	0.1	0.1	0.2	0.2	0.2	0.4
Chemicals	11.8	10.8	9.9	10.1	9.0	9.0
5429 Medicaments, n.e.s.	1.5	1.6	1.5	1.6	1.4	1.3
Other semi-manufactures	7.9	7.8	7.0	6.7	6.0	7.0
6672 Diamonds (excl. industrial, sorted) not mounted/set	1.7	1.8	1.4	0.9	0.5	0.9
Machinery and transport equipment	37.2	39.0	39.3	39.7	38.2	37.6
Power generating machines	1.3	1.5	1.4	1.1	2.1	1.4
7144 Reaction engines	0.6	0.6	0.6	0.4	0.9	0.6
Other non-electrical machinery	11.2	11.4	10.1	9.7	9.9	10.8
7232 Mechanical shovels, etc., self-propelled	0.6	0.8	0.7	0.7	0.7	1.1
7284 Machinery and appliances for particular industries, n.e.s.	0.6	0.6	0.7	0.6	0.8	0.6
7239 Parts n.e.s., of machinery of 723 and 744.3	0.4	0.4	0.3	0.3	0.3	0.4
7283 Other mineral working machines	0.2	0.2	0.2	0.2	0.3	0.4
Agricultural machinery and tractors	0.8	0.7	0.7	0.5	0.5	0.6
Office machines and telecommunication equipment	11.0	10.4	10.9	11.3	10.4	9.3
7643 Radio or television transmission apparatus	2.7	2.3	2.5	2.8	2.4	2.0
7599 Parts and accessories of 751.1, 751.2, 751.9, and 752	1.1	1.5	1.7	1.6	1.3	0.8
7522 Digital automatic data processing machines, containing in the same housing at least a central processing unit an input and output unit whether or not combined	0.5	0.6	0.6	0.6	0.6	0.6
7649 Parts and accessories for apparatus of division 76	0.6	0.5	0.5	0.6	0.5	0.4
Other electrical machines	3.4	3.5	3.0	3.2	3.2	3.3
Automotive products	6.3	7.1	8.0	10.0	9.6	9.7
7812 Motor vehicles for the transport of persons, n.e.s.	3.6	4.1	5.3	6.6	6.1	5.5
7821 Goods vehicles	0.6	0.7	0.7	1.0	1.3	1.8
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.4	1.4	1.3	1.5	1.4	1.4
Other transport equipment	3.9	5.2	6.0	4.3	2.9	3.2
7924 Aeroplanes, etc. (excl. helicopters), >15,000 kg unladen	1.0	2.1	2.6	1.6	0.3	0.6
Textiles	2.4	2.3	2.1	1.7	1.5	1.3
Clothing	0.8	1.1	1.3	1.5	1.6	1.3
Other consumer goods	8.0	7.4	7.1	7.5	7.3	6.9
8722 Instruments and appliances used in medical, surgical or veterinary sciences (including sight testing instruments, but excluding electro-diagnostic and radiological instruments and apparatus)	0.7	0.6	0.6	0.6	0.5	0.5
Other	9.6	9.8	8.8	8.9	7.8	7.2
9310 Special transactions and commodities not classified by type	9.8	10.1	10.2	10.8	12.0	14.8
Gold	0.0	0.0	0.0	0.0	0.0	0.0

^a Excluding Lesotho.

Source: WTO Secretariat calculations, based on UNSD, Comtrade database (SITC Rev.3 data).

Table AIII.1
Applied MFN tariff averages by HS2, 2009

Code	Description	No. of lines	No. of lines used	Avg. tariff	Range	Std-dev
				(per cent)		
	Total	6,695	6,670	8.1	0-96	11.1
01	Live animals	23	23	0.0	0	0.0
02	Meat and edible meat offal	71	67	20.1	0-43.7	18.4
03	Fish and crustaceans, molluscs, and other aquatic invertebrates	119	119	4.6	0-25	9.7
04	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	38	38	19.3	0-96	21.8
05	Products of animal origin, not elsewhere specified or included	25	25	0.0	0	0.0
06	Live trees and other plants; bulbs, roots, and the like; cut flowers and ornamental foliage	16	16	11.3	0-20	10.2
07	Edible vegetables, and certain roots and tubers	71	71	10.4	0-37	9.7
08	Edible fruit and nuts; peel of citrus fruit or melons	62	62	6.6	0-35	7.7
09	Coffee, tea, mate, and spices	38	38	3.6	0-44.2	9.4
10	Cereals	16	16	0.5	0-5	1.4
11	Products of the milling industry; malt; starches; insulin; wheat gluten	51	50	6.2	0-20	8.4
12	Oil seeds and oleaginous fruits; misc. grains, seeds and fruit; industrial or medicinal plants; straw and fodder	47	47	6.2	0-20	7.0
13	Lac; gums, resins, and other vegetable saps and extracts	16	16	6.0	0-25	7.9
14	Vegetable plaiting materials; vegetable products not elsewhere specified or included	7	7	2.1	0-15	5.7
15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes	57	57	7.5	0-10	4.3
16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	71	66	12.0	0-40	13.9
17	Sugars and sugar confectionery	16	16	3.9	0-37	10.8
18	Cocoa and cocoa preparations	12	12	9.3	0-21	9.8
19	Preparations of cereals, flour, starch or milk; pastry cooks' products	29	29	17.1	0-30	9.2
20	Preparations of vegetables, fruit, nuts or other parts of plants	85	78	17.1	0-55	11.5
21	Miscellaneous edible preparations	36	34	12.8	0-30	9.8
22	Beverages, spirits, and vinegar	39	39	15.5	0-60.1	14.3
23	Residues and waste from the food industries; prepared animal fodder	39	39	4.8	0-20	7.2
24	Tobacco and manufactured tobacco substitutes	17	15	33.6	0-45	15.7
25	Salt; sulphur; earths and stone; plastering materials, lime and cement	69	69	1.2	0-10	3.0
26	Ores, slag, and ash	37	37	0.0	0	0.0
27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	77	75	3.5	0-20	6.3
28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes	177	177	1.0	0-20	3.3
29	Organic chemicals	442	442	1.3	0-15	3.6
30	Pharmaceutical products	34	34	0.6	0-20	3.4

Table AIII.1 (cont'd)

Code	Description	No. of lines	No. of lines used	Avg. tariff	Range	Std-dev
					(per cent)	
31	Fertilizers	23	23	0.0	0	0.0
32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks	52	52	2.9	0-10	4.6
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar article	40	40	10.8	0-20	9.0
34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, dental waxes and dental preparations with a basis	26	26	13.5	0-20	8.0
35	Albuminoidal substances; modified starches; glues; enzymes	20	20	2.8	0-20	5.9
36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	8	8	3.1	0-15	5.9
37	Photographic or cinematographic goods	50	50	5.4	0-15	6.8
38	Miscellaneous chemical products	135	133	3.5	0-10	4.8
39	Plastics and articles thereof	309	309	8.1	0-20	7.4
40	Rubber and articles thereof	132	132	8.8	0-43	9.6
41	Raw hides and skins (other than furskins) and leather	53	53	3.4	0-10	4.8
42	Articles of animal gut (other than silk-worm gut)	25	25	26.4	0-30	8.0
43	Furskins and artificial fur; manufactures thereof	13	13	11.5	0-30	12.5
44	Wood and articles of wood; wood charcoal	87	87	6.9	0-30	8.5
45	Cork and articles of cork	7	7	0.0	0	0.0
46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork	12	12	18.3	0-20	5.8
47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper and paperboard	21	21	0.0	0	0.0
48	Paper and paperboard; articles of paper pulp, of paper or of paperboard	153	153	5.1	0-20	6.7
49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans	27	27	4.3	0-15	6.6
50	Silk	9	9	0.0	0	0.0
51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric	52	52	7.9	0-22	9.4
52	Cotton	126	126	18.5	0-22	4.8
53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn	23	23	3.8	0-22	8.5
54	Man-made filaments	88	88	15.0	0-22	7.5
55	Man-made staple fibres	108	108	16.1	0-22	8.0
56	Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof	41	41	14.1	0-20	5.7
57	Carpets and other textile floor coverings	21	21	26.4	5-30	9.0

Table AIII.1 (cont'd)

Code	Description	No. of lines	No. of lines used	Avg. tariff	Range	Std-dev
					(per cent)	
58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery	47	47	17.2	0-25	8.5
59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use	62	62	10.9	0-22	9.4
60	Knitted or crocheted fabrics	59	59	16.7	0-22	8.8
61	Articles of apparel and clothing accessories, knitted or crocheted	109	109	37.6	0-40	7.7
62	Articles of apparel and clothing accessories, not knitted or crocheted	128	128	36.5	0-40	9.1
63	Other made up textile articles; sets; worn clothing and worn textile articles; rags	71	71	25.2	0-60	9.9
64	Footwear, gaiters and the like; parts of such articles	56	56	21.9	0-31.9	11.7
65	Headgear and parts thereof	11	11	18.6	0-30	11.2
66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof	6	6	25.8	20-30	4.9
67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	8	8	12.5	0-20	10.4
68	Articles of stone, plaster, cement, asbestos, mica or similar materials	61	61	6.1	0-15	7.4
69	Ceramic products	29	29	8.6	0-30	11.6
70	Glass and glassware	108	108	7.4	0-20	5.6
71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin	58	58	4.4	0-20	8.3
72	Iron and steel	168	168	0.0	0-5	0.4
73	Articles of iron or steel	186	186	6.9	0-30	6.4
74	Copper and articles thereof	65	65	5.3	0-20	6.2
75	Nickel and articles thereof	17	17	0.0	0	0.0
76	Aluminium and articles thereof	63	63	5.6	0-30	6.4
78	Lead and articles thereof	8	8	0.0	0	0.0
79	Zinc and articles thereof	9	9	0.0	0	0.0
80	Tin and articles thereof	5	5	0.0	0	0.0
81	Other base metals; cermets; articles thereof	48	48	0.0	0	0.0
82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal	117	117	10.0	0-30	10.1
83	Miscellaneous articles of base metal	47	47	12.1	0-20	8.4
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	612	612	2.5	0-30	5.9
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	387	387	6.5	0-25	7.8
86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds	24	24	0.4	0-10	2.0
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	165	165	11.1	0-30	10.4
88	Aircraft, spacecraft, and parts thereof	15	15	0.0	0	0.0

Table AIII.1 (cont'd)

Code	Description	No. of lines	No. of lines used	Avg. tariff	Range	Std-dev
					(per cent)	
89	Ships, boats and floating structures	18	18	2.2	0-10	4.3
90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	152	152	0.4	0-20	2.5
91	Clocks and watches and parts thereof	51	51	0.0	0	0.0
92	Musical instruments; parts and accessories of such articles	17	17	0.0	0	0.0
93	Arms and ammunition; parts and accessories thereof	65	65	13.4	0-15	4.7
94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates	48	48	13.8	0-20	9.4
95	Toys, games and sports requisites; parts and accessories thereof	33	33	1.8	0-30	6.4
96	Miscellaneous manufactured articles	57	57	9.1	0-20	8.6
97	Works of art, collectors' pieces, and antiques	7	7	0.0	0	0.0

Source: WTO Secretariat estimates, based on data provided by the South African authorities.

Table AIII.2
Applied MFN tariffs, by ISIC Rev.2 category, 2009

ISIC code	Description	No. of lines	Simple avg.	Range	Std-dev
			(Per cent)		
	Total	6,695	8.1	0-96	11.1
1	Agriculture, hunting, forestry, and fishing	324	3.7	0-44	7.3
11	Agriculture and hunting	244	4.3	0-44	7.6
12	Forestry and logging	27	3.0	0-25	6.8
121	Forestry	19	4.3	0-25	7.8
122	Logging	8	0.0	0	0.0
13	Fishing	53	1.4	0-25	5.8
1301	Ocean and coastal fishing	46	0.0	0	0.0
1302	Fishing n.e.c.	7	10.7	0-25	13.4
2	Mining and quarrying	97	0.8	0-10	2.6
21	Coal mining	4	0.0	0	0.0
22	Crude petroleum and natural gas production	4	0.0	0	0.0
23	Metal ore mining	23	0.0	0	0.0
2301	Mining of iron ores	2	0.0	0	0.0
2302	Non-ferrous ore mining	21	0.0	0	0.0
29	Other mining	66	1.2	0-10	3.0
2901	Mining of feldspar	32	0.3	0-5	1.2
2902	Mining of fertilizer and chemical minerals	12	0.0	0	0.0
2903	Salt mining	1	10.0	10	0.0
2909	Mining and quarrying n.e.s.	21	2.9	0-10	4.4
3	Manufacturing	6,273	8.5	0-96	11.3
3 - 31	Manufacturing (excluding food processing)	5,556	8.0	0-60	10.8
31	Manufacture of food, beverages, and tobacco	717	12.4	0-96	13.7
311	Food products	556	12.7	0-96	13.6
3111	Meat products	113	17.4	0-43.7	17.1
3112	Dairy products	30	23.0	0-96	22.8
3113	Fruit and vegetable canning	139	15.5	0-55	10.6
3114	Fish products	121	6.6	0-30	11.2
3115	Manufacture of oil and fats (veg. and animal)	63	8.2	0-20	4.2
3116	Grain mill products	49	8.8	0-30	10.1
3117	Manufacture of bakery products	16	17.5	0.1-30	9.3
3118	Sugar products	7	0.0	0	0.0
3119	Cocoa and chocolate confectionery	18	12.7	0-37	12.2
312	Other food products and animal feeds	99	7.1	0-44.2	9.7
3121	Other food products	71	8.5	0-44.2	10.1
3122	Manufacture of animal feeds	28	3.6	0-20	7.8
313	Beverages	48	13.4	0-60.1	14.1
3131	Distillation of spirits and alcohol production	16	12.6	2.4-60.1	18.2
3132	Manufacture of wines	15	24.7	20-25	1.3
3133	Manufacture of malt liquors and malt	11	1.4	0-5	2.1
3134	Soft drinks and mineral waters	6	7.2	0-21	10.7
314	Tobacco manufacturing	14	35.4	0-45	15.9

Table AIII.2 (cont'd)

ISIC code	Description	No. of lines	Simple avg.	Range	Std-dev
			(Per cent)		
32	Textile, wearing apparel, and leather industries	1,031	21.2	0-60	12.9
321	Textiles	781	19.4	0-60	11.6
3211	Textile spinning, weaving, and finishing	423	15.8	0-60	8.6
3212	Made-up textile goods except wearing apparel	75	23.0	0-30	8.9
3213	Knitted and crocheted fabrics	168	30.3	0-40	12.9
3214	Carpets and rugs	21	26.4	5-30	9.0
3215	Cordage, rope, etc	12	14.2	0-20	7.0
3219	Textiles n.e.c.	82	11.5	0-22	8.5
322	Manufacture of wearing apparel, except footwear	146	34.5	0-40	10.8
323	Leather products, except footwear and wearing apparel	62	11.5	0-30	12.5
3231	Tanning and dressing of leather	38	3.4	0-10	4.8
3232	Fur dressing and dying	7	17.1	0-30	10.4
3233	Leather products except footwear	17	27.4	0-30	7.9
324	Footwear, except vulcanized rubber or plastic footwear	42	20.6	0-30	12.4
33	Wood and wood products, including furniture	117	10.8	0-30	9.5
331	Wood and wood products, except furniture	92	8.7	0-30	9.3
3311	Sawmills and woodmills	56	5.5	0-15	6.4
3312	Wooden case containers and cane ware	16	16.3	0-20	7.2
3319	Wood and cork products	20	11.5	0-30	13.1
332	Manuf.of furniture and fixtures, except primarily of metal	25	18.4	0-20	5.5
34	Paper, paper products, printing, and publishing	202	4.7	0-20	6.5
341	Paper products	168	4.3	0-20	6.3
3411	Pulp, paper and paperboard	98	3.2	0-20	5.6
3412	Containers, paperboxes, paperboard	10	9.5	0-20	6.0
3419	Articles n.e.s.(stationery)	60	5.3	0-20	7.0
342	Printing and publishing and allied industries	34	6.5	0-15	7.3
35	Chemicals, petroleum, coal, rubber, plastics	1,538	4.5	0-43	7.1
351	Industrial chemicals	993	3.2	0-20	5.6
3511	Basic industrial chemicals	635	1.4	0-20	3.8
3512	Fertilizers and pesticides	54	3.5	0-10	4.8
3513	Synthetic resins, plastic materials except glass	304	7.0	0-18	6.9
352	Other chemicals, incl. pharm.	309	4.7	0-20	7.1
3521	Paints, varnishes and lacquers	16	5.0	0-10	5.2
3522	Drugs and medicines	103	0.9	0-12	2.9
3523	Soaps	33	16.8	0-20	6.2
3529	Other chemicals n.e.s.	157	4.6	0-20	6.5
353	Petroleum refineries	47	3.8	0-20	6.2
354	Manufacture of miscellaneous petroleum and coal products	20	6.0	0-20	7.9
355	Rubber products	116	12.1	0-43	10.7
3551	Tyre and tube industries	30	13.2	0-43	14.2
3559	Rubber products n.e.s.	86	11.7	0-31.9	9.2
356	Manufacture of plastic products n.e.s.	53	10.1	0-20	8.7
36	Non-metallic mineral products except of petrol. and coal	218	6.4	0-30	7.3
361	Pottery and china	16	10.6	0-30	12.9
362	Manufacture of glass and glass products	108	7.3	0-20	5.7

Table AIII.2 (cont'd)

ISIC code	Description	No. of lines	Simple avg.	Range	Std-dev
			(Per cent)		
369	Other non-metallic mineral products	94	4.5	0-20	7.2
3691	Structural clay products	17	4.7	0-20	8.7
3692	Cement, lime, and plaster	9	0.0	0	0.0
3699	Non-metallic mineral products	68	5.1	0-15	7.1
37	Basic metal industries	414	1.8	0-15	3.9
371	Iron and steel basic industries	212	1.6	0-15	3.8
372	Non-ferrous metal basic industries	202	2.0	0-15	3.9
38	Fabricated metal products, machinery and equipment	1,833	5.4	0-30	8.0
381	Fabricated metal products, except machinery and equipment	335	8.4	0-30	8.6
3811	Manufacture of cutlery and hardware	118	11.4	0-30	9.8
3812	Metal furniture and fixtures	8	17.5	0-20	7.1
3813	Structural metal products	24	4.0	0-15	6.4
3819	Fabricated metal prod. except machinery and equipment n.e.c.	185	6.7	0-30	7.2
382	Non-electrical machinery incl. computers	656	3.7	0-30	6.7
3821	Engines and turbines	13	1.2	0-15	4.2
3822	Agricultural machinery	36	1.9	0-20	4.8
3823	Metal and woodworking machinery	128	2.6	0-20	6.1
3824	Special industrial machinery	147	0.3	0-10	1.7
3825	Office machinery	35	0.0	0	0.0
3829	Non-electrical machinery and equipment, n.e.s.	297	6.6	0-30	7.8
383	Electrical machinery apparatus, appliances, and supplies	394	6.6	0-30	8.0
3831	Electrical motors and apparatus	100	6.8	0-20	6.5
3832	Radio, television and communication equipment	134	2.8	0-25	6.3
3833	Electrical appliances and houseware	39	13.5	0-30	9.3
3839	Electrical apparatus n.e.s.	121	8.5	0-21	8.1
384	Transport equipment	243	8.1	0-30	10.0
3841	Ship building and repairing	22	2.5	0-15	4.8
3842	Railway and tramway	24	0.4	0-10	2.0
3843	Motor vehicles	149	12.5	0-30	10.2
3844	Motorcycles et bicycles	22	0.7	0-15	3.2
3845	Aircraft manufacture	21	0.0	0	0.0
3849	Other transport equipment n.e.c.	5	7.0	0-20	9.7
385	Professional and scientific equipment	205	0.5	0-20	3.0
3851	Prof., scientif., measuring equipment	103	0.9	0-20	3.9
3852	Photographic and optical goods	52	0.3	0-15	2.1
3853	Watches and clocks	50	0.0	0	0.0
39	Other manufacturing industries	203	6.7	0-30	9.7
3901	Jewellery and related articles	24	8.8	0-30	10.8
3902	Musical instruments	18	0.8	0-15	3.5
3903	Sporting goods	27	4.8	0-30	10.9
3909	Other manufacturing n.e.c.	134	7.5	0-30	9.5
4	Electrical energy	1	0.0	0	0.0

Source: WTO Secretariat calculations, based on data provided by the South African authorities; and UNSD, Comtrade database.

Table AIII.3
Selected statistics of SACU members' bound tariff, by HS 2-digit, 2009

HS two-digit Code	MFN		Range				
	Mean	Range	Botswana	Lesotho	Namibia	South Africa	Swaziland
01	0.0	0	0	200	0	0	0
02	20.1	0-43.7	22-160	200	22-160	22-160	22-160
03	4.6	0-25		60			
04	19.3	0-96	19-79	200	19-96	19-96	19-96
05	0.0	0	0	60-200	0	0	0
06	11.3	0-20	0-60	200	0-60	0-60	0-60
07	10.4	0-37	0-60	200	0-60	0-60	0-60
08	6.6	0-35	0-70	200	0-70	0-70	0-70
09	3.6	0-44.2	0-170	200	0-170	0-170	0-170
10	0.5	0-5	20-43	200	0-72	0-72	0-72
11	6.2	0-20	24-99	200	24-99	24-99	24-99
12	6.2	0-20	0-60	200	0-70	0-70	0-70
13	6.0	0-25	0-26	200	0-26	0-26	0-26
14	2.1	0-15	0-51	200	0-51	0-51	0-51
15	7.5	0-10	0-81	60-200	0-81	0-81	0-81
16	12.0	0-40	37-60	60-200	37-60	37-60	37-60
17	3.9	0-37	37-105	200	37-105	37-105	37-105
18	9.3	0-21	0-21	200	0-21	0-21	0-21
19	17.1	0-30	0-99	200	0-99	0-99	0-99
20	17.1	0-55	0-73	200	0-73	0-73	0-73
21	12.8	0-30	37-597	200	37-597	37-597	37-597
22	15.5	0-60.1	0-597	200	0-597	0-597	0-597
23	4.8	0-20	33-72	60-200	33-72	33-72	33-72
24	33.6	0-45	44-54	200	44-54	44-54	44-54
25	1.2	0-10	0-10	60	0-10	0-10	0-10
26	0.0	0	0	60	0	0	0
27	3.5	0-20	0	60	0	0	0
28	1.0	0-20	0-20	60	0-20	0-20	0-20
29	1.3	0-15	0-17	60-200	0-17	0-17	0-17
30	0.6	0-20	10-20	60	10-20	10-20	10-20
31	0.0	0	0-15	60	0-15	0-15	0-15
32	2.9	0-10	0-15	60	0-15	0-15	0-15
33	10.8	0-20	10-597	60-200	10-597	10-597	10-597
34	13.5	0-20	10-20	60	10-20	10-20	10-20
35	2.8	0-20	0-22	60-200	0-22	0-22	0-22
36	3.1	0-15	10-15	60	10-15	10-15	10-15
37	5.4	0-15	0-15	60	0-15	0-15	0-15
38	3.5	0-10	0-30	60-200	0-30	0-30	0-30
39	8.1	0-20	10-30	60	10-30	10-30	10-30
40	8.8	0-43	10-30	60	10-30	10-30	10-30
41	3.4	0-10	0-60	60-200	0-60	0-60	0-60
42	26.4	0-30	15-30	60	15-30	15-30	15-30
43	11.5	0-30	0-30	60-200	0-30	0-30	0-30
44	6.9	0-30	0-30	60	0-30	0-30	0-30
45	0.0	0	0-30	60	0-30	0-30	0-30
46	18.3	0-20	20	60	20	20	20
47	0.0	0	5	60	5	5	5
48	5.1	0-20	5-30	60	5-30	5-30	5-30
49	4.3	0-15	0-30	60	0-30	0-30	0-30

Table AIII.3 (cont'd)

HS two-digit Code	MFN		Range				
	Mean	Range	Botswana	Lesotho	Namibia	South Africa	Swaziland
50	0.0	0	0-17	60-200	0-17	0-17	0-17
51	7.9	0-22	0-25	60-200	0-25	0-25	0-25
52	18.5	0-22	18-60	60-200	18-60	18-60	18-60
53	3.8	0-22	0-25	60-200	0-25	0-25	0-25
54	15.0	0-22	18-25	60	18-25	18-25	18-25
55	16.1	0-22	0-25	60	0-25	0-25	0-25
56	14.1	0-20	18-20	60	18-20	18-20	18-20
57	26.4	5-30	30	60	30	30	30
58	17.2	0-25	25-30	60	25-30	25-30	25-30
59	10.9	0-22	25-30	60	25-30	25-30	25-30
60	16.7	0-22	25	60	25	25	25
61	37.6	0-40	45	60	45	45	45
62	36.5	0-40	45	60	45	45	45
63	25.2	0-60	30	60	30	30	30
64	21.9	0-31.9	20-30	60	20-30	20-30	20-30
65	18.6	0-30	15-30	60	15-30	15-30	15-30
66	25.8	20-30	20-30	60	20-30	20-30	20-30
67	12.5	0-20	15-30	60	15-30	15-30	15-30
68	6.1	0-15	10-30	60	10-30	10-30	10-30
69	8.6	0-30	0-30	60	0-30	0-30	0-30
70	7.4	0-20	0-30	60	0-30	0-30	0-30
71	4.4	0-20	0-30	60	0-30	0-30	0-30
72	0.0	0-5	5-10	60	5-10	5-10	5-10
73	6.9	0-30	10-30	60	10-30	10-30	10-30
74	5.3	0-20	5-30	60	5-30	5-30	5-30
75	0.0	0	5-20	60	5-20	5-20	5-20
76	5.6	0-30	5-30	60	5-30	5-30	5-30
78	0.0	0	5-15	60	5-15	5-15	5-15
79	0.0	0	5-15	60	5-15	5-15	5-15
80	0.0	0	5-30	60	5-30	5-30	5-30
81	0.0	0	0-5	60	0-5	0-5	0-5
82	10.0	0-30	20-30	60	20-30	20-30	20-30
83	12.1	0-20	20-30	60	20-30	20-30	20-30
84	2.5	0-30	0-30	60	0-30	0-30	0-30
85	6.5	0-25	0-30	60	0-30	0-30	0-30
86	0.4	0-10	10	60	10	10	10
87	11.1	0-30	0-50	60	0-50	0-50	0-50
88	0.0	0	0-5	60	0-5	0-5	0-5
89	2.2	0-10	0-10	60	0-10	0-10	0-10
90	0.4	0-20	0-30	60	0-30	0-30	0-30
91	0.0	0	0-30	60	0-30	0-30	0-30
92	0.0	0	5	60	5	5	5
93	13.4	0-15		60			
94	13.8	0-20	20-30	60	20-30	20-30	20-30
95	1.8	0-30	10-30	60	10-30	10-30	10-30
96	9.1	0-20	0-30	60	0-30	0-30	0-30
97	0.0	0	0	60	0	0	0

Source: WTO Secretariat estimates, based on data provided by the South African authorities; and WTO CTS database.

Table AIII.4
Excise duties, 2009

Tariff heading	Description	Rate
Specific excise duties		
Prepared foodstuffs		
19.01	Malt extract; food preparations of flour, groats, meal starch or malt extract, not containing cocoa or containing less than 40% by mass of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings Nos. 0401 to 0404, not containing cocoa or containing less than 5% by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included	
	Traditional African beer powder	R 0.347/kg
Beverages and spirits		
22.03	Beer made from malt	
	Traditional African beer	R 0.0782/l
	Other	R 46.41/l ^a
22.04	Wine of fresh grapes, including fortified wines; and grape must (excluding heading No. 20.09)	
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	
	Sparkling wine	R 6.16/l
	Unfortified wine	R 1.98/l
	Fortified wine	R 3.72/l
22.06	Other fermented beverages (e.g. cider, perry, and mead); mixtures of fermented beverages; and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included	
	Traditional African beer	R 0.0782/l
	Other fermented beverages, unfortified	R 2.33/l
	Other fermented beverages, fortified	R 4.73/l
	Mixtures of fermented beverages, and mixtures of fermented beverages and non-alcoholic beverages	R 2.33/l
	Other	R 4.73/l
22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% volume; spirits, liqueurs, and other spirituous beverages	
	Wine spirits, manufactured by the distillation of wine	R 77.67/l ^a
	Spirits, manufactured by the distillation of any sugar cane product	R 77.67/l ^a
	Spirits, manufactured by the distillation of any grain product	R 77.67/l ^a
	Other spirits	R 77.67/l ^a
	Liqueurs and other spirituous beverages	R 77.67/l ^a
Tobacco		
24.02	Cigars, cheroots and cigarillos of tobacco or of tobacco substitutes	R 1,951.43/kg net
	Cigarettes, of tobacco or of tobacco	R 3.85/10 cigarettes
24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; and tobacco extracts and essences	
	Cigarette tobacco and substitutes thereof	R 183.04/kg
	Pipe tobacco and substitutes thereof	R 100.10/kg net
Mineral products		
27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by mass 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations	
	Petrol	R 0.03909/l
	Aviation kerosene	Free
	Illuminating kerosene, marked	Free
	Illuminating kerosene, unmarked	R 0.03817/l
	Distillate fuel	R 0.03817/l
	Specified aliphatic hydrocarbon solvents, marked	Free
	Specified aliphatic hydrocarbon solvents, unmarked	R 0.03817/l

Table AIII.4 (cont'd)

Tariff heading	Description	Rate
Products of the chemical or allied industries		
29.03	Halogenated derivatives of hydrocarbons	
	Carbon tetrachloride	R 5/kg
	1,1,1-Trichloroethane (methyl chloroform)	R 5/kg
	Chlorotrifluoromethane	R 5/kg
	Pentachlorofluoroethane	R 5/kg
	Tetrachlorodifluoroethane	R 5/kg
	Heptachlorofluoropropane	R 5/kg
	Hexachlorodifluoropropane	R 5/kg
	Pentachlorotrifluoropropane	R 5/kg
	Dichlorodifluoromethane	R 5/kg
	Tetrachlorotetrafluoropropane	R 5/kg
	Trichloropentafluoropropane	R 5/kg
	Dichlorohexafluoropropane	R 5/kg
	Trichlorofluoromethane	R 5/kg
	Chloroheptafluoropropane	R 5/kg
	Trichlorotrifluoroethane	R 5/kg
	Dichlorotetrafluoroethane and chloropentafluoroethane	R 5/kg
	Bromochlorodifluoromethane, bromotrifluoromethane, and dibromotetrafluoroethane	R 5/kg
38.24	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products or the chemical or allied industries, not elsewhere specified or included	
	Mixture containing acyclic hydrocarbons perhalogenated only with fluorine and chlorine (excl. mixtures containing chlorodifluoromethane, dichlorodifluoromethane or trichlorofluoromethane)	R 5/kg
	Mixtures containing dichlorodifluoromethane or trichlorofluoromethane	R 5/kg
	Other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	R 5/kg
Ad valorem excise duties		
33.03	Perfumes and toilet waters	7%
33.04	Beauty or make-up preparations, and preparations for the case of the skin	5%
36.04	Fireworks	7%
43.03	Articles of apparel, clothing accessories, and other articles of furskin	7%
43.04	Artificial fur and articles thereof	7%
84.15	Air conditioning machines	7%
84.18	Refrigerators, freezers, and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading No. 84.15	7%
85.17	Cordless phones, fax machines, modems	7%
85.18	Microphones, loudspeakers, amplifiers	7%
85.21	Video recording	7%
85.25	Cell phones, video cameras	7%
85.27	Reception apparatus	7%
85.28	Reception apparatus (television)	7%
87.02	Motor vehicles (taxi)	$\{(0.00003 \times A) - 0.75\}\%$ with a maximum rate of 20%
87.03	Motor vehicles	$\{(0.00003 \times A) - 0.75\}\%$ with a maximum rate of 20%
87.04	Bakkies (trucks/pick-ups)	$\{(0.00003 \times A) - 0.75\}\%$ with a maximum rate of 20%
87.06	Chassis	$\{(0.00003 \times A) - 0.75\}\%$ with a maximum rate of 20%
87.11	Motorcycles	7% ^b
89.03	Water scooters	7%
93.02	Revolvers, pistols	7%

Table AIII.4 (cont'd)

Tariff heading	Description	Rate
93.03	Other firearms and similar devices	7%
93.04	Other arms	7%
95.04	Articles of funfair/table games	7%
95.06	Golf balls	7%

a Absolute alcohol.

b Except for sub-heading No. 8711.90.20: 5%.

Note: A: recommended retail price excluding VAT, less 20%.

Source: Customs and Excise Tariff Book, Part 2: Section A: Specific Excise Duties and Specific Customs Duties on Imported Goods of the Same Class or Kind.

Table AIII.5
Products eligible for rebates of customs and excise duties, 2009

Rebate	Product
Schedule 3: Industrial rebates of customs duties	
Part 1: Imports to manufacture other goods	
	Animal and vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
	Prepared foodstuffs; beverages, spirits, vinegar; tobacco and manufactured tobacco products
	Mineral products
	Products of the chemical and allied industries
	Plastics and articles thereof; and rubber, synthetic rubber, factice, and articles thereof
	Raw hides and skins, leather, furskins, and articles thereof; saddlery and harness; travel goods, handbags, and similar containers; and articles of gut (excluding silk-worm gut)
	Wood and articles of wood; wood charcoal; cork and articles of cork; manufactures of straw, esparto, and other plaiting materials; and basketware and wickerwork
	Paper-making material; and paper and paperboard, and articles thereof
	Textiles and textile articles
	Footwear, headgear, umbrellas, sunshades, whips, riding-crops, and parts thereof; prepared feathers and articles made therewith; artificial flowers; and articles of human hair
	Articles of stone, plaster, cement, asbestos, mica, and similar material; ceramic products; and glass and glassware
	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery; and coins
	Base metals and articles of base metal
	Machinery and mechanical appliances; electrical equipment; and parts thereof
	Vehicles, aircraft, vessels, and associated transport equipment
	Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, clocks and watches; musical instruments; sound recorders or reproducers; television image and sound recorders or reproducers; and parts thereof
	Miscellaneous manufactured articles
	Material for general industrial purposes
Part 2: Goods used in manufacturing other goods for export	
	Prepared foodstuffs; beverages, spirits, and vinegar; and tobacco and manufactured tobacco substitutes
	Articles of stone, plaster, cement, asbestos, mica, and similar materials; ceramic products; and glass and glassware
	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments
	Miscellaneous manufactured articles
Schedule 4: General rebates of customs duties and fuel levies	
Part 1: Specific rebates of customs duties	
	Imports by international organizations
	Goods for cultural, educational, charitable, welfare or youth organizations or purposes
	Goods for approved institutions or bodies
	Goods for disabled persons or the upliftment of indigent persons
	Goods for religious instruction or purposes
	Goods for heads of state, diplomatic, and other foreign representatives
	Goods imported by immigrants, tourists, returning residents and other passengers, for their personal use
	Personal effects, and sporting and recreational equipment, new or used
	Goods imported as accompanied passengers' baggage either by non-residents or residents and cleared at the place where such persons disembark or enter South Africa
	Motor vehicles imported by natural persons on change of permanent residence
	Household furniture
	Cups, medals, and other trophies; and articles of food and drinks imported by officials of any foreign government for official use at international exhibitions
	Re-imported goods
	Goods for industrial or commercial purposes
	Goods for manufacturing or commercial purposes
	Mixtures of mono-, di-, and polyisocyanates, and preparations containing isocyanates
	Piping and tubing of unhardened vulcanized rubber
	Electric motors, generator sets, and motor cars

Table AIII.4 (cont'd)

Rebate	Product
	<p>Goods (excluding corn or grain seeds) for the purposes of experimenting therewith</p> <p>Nets treated with insecticides for the control of mosquitoes</p> <p>Used personal or household effects</p> <p>Used property</p> <p>Life saving apparatus</p> <p>Food containing soya-bean concentrates, specially prepared for infants</p> <p>Goods unconditionally abandoned to the Office by the owner or goods destroyed with the permission of the Commissioner; goods lost in manufacturing processes in a customs and excise warehouse; and goods proved to have been lost, destroyed or damaged on any single occasion</p> <p>Bona fide unsolicited gifts of no more than two parcels per person per calendar year, and of which the value per parcel does not exceed R 400</p> <p>Goods imported for the relief of distress of persons in cases of famine or other national disaster, under any technical assistance agreement or in terms of an obligation under any multilateral international agreement to which South Africa is party</p> <p>Goods imported for any purpose agreed upon between the Governments of South Africa, Botswana, Lesotho, Swaziland, and Namibia</p> <p>Ileal bladder appliances and parts thereof; and skin protective preparations</p> <p>Printed matters imported by airlines for their use</p> <p>Goods of any description imported by refugees from African territories</p> <p>Machinery and mechanical appliances; and electrical machinery and equipment</p> <p>Parts and materials, of plastics</p> <p>Textile fabrics woven</p> <p>Goods produced or manufactured in Mozambique, and imported directly therefrom</p> <p>Goods for upgrading, supplied free of charge to replace defective goods covered by a warranty agreement</p> <p>Goods for sale, consumption or use in the 2010 FIFA World Cup South Africa when imported and entered by persons and employees of qualifying persons</p> <p>Part 2: Temporary rebates of customs duties</p> <p>Fish, fresh, chilled or frozen, excluding fish fillets and other fish meat</p> <p>Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen</p> <p>Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; and flours, meals, and pellets of fish, fit for human consumption</p> <p>Dairy produce; and natural honey</p> <p>Potatoes, dried leguminous vegetables, cereals, oil seeds, and sweet corn</p> <p>Wheat</p> <p>Rape seed, whether or not broken; and sunflower seed</p> <p>Preparations based on minced, flavoured, and cooked fish, frozen</p> <p>Raw or refined sugar</p> <p>Preparation of wheat or wheaten flour, gluten-free</p> <p>Specified aliphatic hydrocarbon solvents</p> <p>Tetrachloroethylene</p> <p>Miscellaneous chemical products</p> <p>Plastics and articles thereof</p> <p>Synthetic rubber and factice derived from oils</p> <p>New pneumatic tyres, of rubber</p> <p>Paper and paperboard; and articles of paper pulp, of paper or of paperboard</p> <p>Textile and textile articles produced and imported from Malawi, Mozambique, Tanzania, and Zambia</p> <p>Textile and textile articles entered for home consumption after 1 April 2001 to 30 September 2006</p> <p>Textile and textile articles entered for home consumption after 1 January 2006 to 30 September 2010</p> <p>Woven fabrics of synthetic staple fibres, containing 85% or more by weight of acrylic fibres</p> <p>Other woven fabrics of synthetic staple fibres, containing acrylic</p> <p>Woven warp pile fabrics and chenille fabrics</p> <p>Knitted or crocheted fabrics; "long pile" fabrics, knitted or crocheted; looped pile fabrics, knitted or crocheted; and other pile fabrics and terry fabrics, knitted or crocheted</p> <p>Glass bottles or a metric capacity, for the packing of mineral water, beer, wine, and spirituous beverages</p> <p>Bracelets and pendants, of stainless steel</p> <p>Tubes and pipes, of iron or steel; and tubes, pipes, and hollow profiles, of iron or non-alloy steel</p>

Table AIII.4 (cont'd)

Rebate	Product
	<p>Aluminium plates, sheets, and strip</p> <p>Works trucks</p> <p>Segmental ball plug valves, positioners, and actuators</p> <p>Hydraulic presses</p> <p>Parts for use solely or principally in radio-telephonic transmission and reception apparatus</p> <p>Vehicles, aircraft, vessels, and associated transport equipment</p> <p>Medical or surgical instruments and apparatus</p> <p>Goods specified in Schedule 1 Part 2A^a, imported into South Africa for further processing, blending or mixing, or entered for use in the manufacture of excisable goods of another or same calls or kind</p> <p>Undenatured, partially undenatured or fully denatured ethyl alcohol</p> <p>Meat of bovine animals, fresh, chilled or frozen</p> <p>Meat of sheep or goats, fresh, chilled or frozen.</p> <p>Milk and cream, not concentrated nor containing any added sugar or other sweetening matter, fresh</p> <p>Milk and cream, concentrated or containing added sugar or other sweetening matter, in powder</p> <p>Buttermilk, curdled milk and cream, yogurt, kephir, and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa</p> <p>Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included</p> <p>Butter and other fats and oils derived from milk</p> <p>Cheese (excluding cheddar and sweet milk cheese)</p> <p>Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter</p> <p>Vegetables (uncooked or cooked by steaming or boiling in water), frozen</p> <p>Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared</p> <p>Peas (uncooked or cooked by steaming or boiling water), shelled or unshelled, frozen</p> <p>Dried leguminous vegetables, shelled, whether or not skinned or split</p> <p>Grapes, dried</p> <p>Fruit, dried; and mixtures of nuts or dried fruits</p> <p>Wheat; maize (corn); buckwheat, millet, and canary seed; and other cereals</p> <p>Soya beans, whether or not broken</p> <p>Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings Nos. 04.01 to 04.04, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included</p> <p>Pasta, whether or not cooked or stuffed or otherwise prepared</p> <p>Preparations for infants</p> <p>Food preparations not elsewhere specified or included; and pudding and ice cream mixtures</p> <p>Other fermented beverages; and mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included</p> <p>Undenatured ethyl alcohol; and ethyl alcohol and other spirits, denatured</p> <p>Sparkling wine; wine; grape must; vermouth and other wine of fresh grapes, and spirits obtained by distilling grape wine or grape marc; whiskies; rum and tafia, and other spirits obtained by distilling fermented sugarcane products; gin and geneva; vodka; liqueurs and cordials; and other</p> <p>Unmanufactured tobacco; and tobacco refuse</p> <p>Cotton, not carded or combed</p> <p>Goods of any description, for use in the construction of the Gautrain Rapid Rail Link</p> <p>Part 3: Goods temporarily admitted under rebate of customs duties</p> <p>Goods temporarily admitted for processing, repairing, cleaning or reconditioning</p> <p>Goods temporarily admitted for specific purposes</p> <p>Goods temporarily admitted subject to export in the same state</p> <p>Part 4: Rebates of fuel levy</p> <p>Goods in respect of which the fuel levy, together with the customs duty, where applicable, amounts to not less than R 2,500, proved to have been lost, destroyed or damaged on any single occasion</p> <p>Specified aliphatic hydrocarbon solvents</p>

Table AIII.4 (cont'd)

Rebate	Product
Schedule 5: Specific drawbacks and refunds of customs duties and fuel levy	
Part 1: Specific drawbacks of customs duties	
	Animal and animal products
	Prepared foodstuffs, beverages, spirits, and tobacco
	Chemical and allied products
	Plastic and rubber goods
	Textile and textile products
	Footwear, headgear, umbrellas, and sunshades
	Base metals and articles of base metal
	Machinery and mechanical appliances; and electrical equipment
	Vehicles, aircraft, vessels, and associated transport equipment
	Optical, photographic, surgical, musical, and precision instruments
	Miscellaneous (e.g. mattresses and similar padded, stuffed or fitted furnishings; sports goods; and Christmas crackers)
	Goods (excluding carbon), surcharge goods, and carbon, used in manufacturing, processing, finishing or packing of any goods exported; wooden packing cases, boxes, crates, drums, and similar containers, unassembled, used as packing for exported goods; and casks of a capacity of less than 180 l, used as packing for exported goods
Part 2: Refunds of customs duties on goods exported in the same condition as imported	
	Goods, from a single consignment, not having been imported contrary to the provisions of any law, on which duty amounting to R 50 or more, has been paid
	Motor vehicles imported by bona fide tourists for their own use and exported within 12 months of the date of import
	Goods, exceeding R 200 in value for each consignment for each consignee, exported for trade purposes
	Goods, not intended for trade purposes, imported through the post, if such goods are returned by the addressee to the sender, in the same condition as imported
	Printed books, journals, and periodicals, not having been imported contrary to the provisions of any law, on which duty amounting to R 50 or more, has been paid
Part 3: Miscellaneous refunds of customs duties and fuel levy	
	Goods abandoned to the Office
	Goods used to manufacture excisable goods
	Motor vehicle parts and accessories
	Motor vehicles
Part 4: Refunds of fuel levy	
	Petrol, distillate fuels and biodiesels used for specific purposes
Schedule 6: Rebates and refunds of excise duties, fuel levy, road accident fund levy, and environmental levy	
Part 1: Rebates and refunds of specific excise duties	
	Prepared foodstuffs (traditional African beer powder)
	Beer made from malt and traditional African beer
	Wine and other fermented beverages (excluding beer made from malt and traditional African beer); mixtures of fermented beverages; and mixture of fermented beverages and non-alcoholic beverages not elsewhere specified or included
	Spirits and spirituous beverages
	Manufactured tobacco and tobacco substitute products
	Minerals products (e.g. petroleum oils and biodiesel, and distillate fuel and biodiesel)
	Goods for use in manufacturing; and goods lost, destroyed or damaged
Part 2: Rebates and refunds of <i>ad valorem</i> excise duties	
	Goods supplied to schools or colleges; goods used by an organization or body for the care of persons with alcohol or narcotic substance dependency; goods to be used by the National Sea Rescue Institute of South Africa and the Surf Life-Saving Association of South Africa; apparatus, capable of sound reproduction only, manually operated; motor vehicles, motor cars, and other motor vehicles; goods used by heads of state, diplomatic, and other foreign representatives; goods for use in manufacturing; goods exported ex a customs and excise warehouse; and goods lost, destroyed or damaged

a Prepared foodstuffs; beverages, spirits, and vinegar; tobacco; mineral products; and products of the chemical or allied industries.

Source: Customs and Excise Duties Act (Act No. 91 of 1964). Viewed at: <http://www.sars.gov.za/home.asp?pid=2630> [13 March 2009].