ANNEX 4

SOUTH AFRICA

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I. ECONOMIC ENVIRONMENT

(1) MAIN FEATURES

1. The Republic of South Africa is one of the most important economies on the African continent. Per capita income was US$5,811 in 2008 (Table I.1). Economic activity is relatively diversified, with services and manufacturing accounting for 65.6% and 15.9% of GDP, respectively. Despite its modest contribution to GDP (2.6% in 2008), agriculture remains important because it absorbs a large share of the unskilled workforce.

Table I.1
Main economic indicators, 2002-08

	2002	2003	2004	2005	2006	2007	2008
Miscellaneous							
Population (million)	45.34	46.05	46.71	47.36	47.97	48.55	48.70
GDP at market price (US$ million, current prices)	111,130	166,655	216,340	242,676	257,894	283,381	282,995
GDP per capita (US$, current prices)	2,451	3,619	4,631	5,125	5,376	5,836	5,811
Real GDP (annual percentage change)	3.7	3.1	4.9	5.0	5.3	5.1	3.1
Unemployment rate (official definition; per cent)	30.4	28.0	26.3	26.7	25.5	24.2	23.1
Sectoral distribution of GDP				(percentage)			
Agriculture, forestry, and fishing	2.9	2.7	2.6	2.7	2.3	2.3	2.6
Mining and energy	8.8	8.9	8.6	8.3	8.0	7.6	7.0
of which: mining and quarrying	6.5	6.6	6.3	6.2	5.8	5.6	5.0
Manufacturing sector	17.2	16.4	16.4	16.3	16.3	16.2	15.9
Services	62.2	63.1	63.5	63.8	64.5	65.0	65.6
Construction (contractors)	2.4	2.5	2.6	2.8	3.0	3.4	3.7
Wholesale and retail trade, catering, and accommodation	13.0	13.4	13.6	13.9	14.1	14.1	13.8
Transport, storage, and communications	9.5	9.8	9.7	9.8	9.9	9.9	10.0
Finance, insurance, real estate, and business services	18.3	18.5	19.0	19.0	19.4	19.7	20.1
Community, social, and personal services	19.0	19.0	18.5	18.3	18.0	17.8	18.0
Government finance[a]				(percentage of GDP)			
Revenue, including grants	23.6	22.9	23.6	25.6	26.6	26.9	26.3
Expenditure and net lending	24.3	25.4	25.6	26.1	26.3	26.1	26.9
Overall balance	-0.7	-2.5	-2.0	-0.5	0.3	0.8	-0.6
National government debt	38.9	39.6	37.2	35.3	32.9	27.1	23.8
National government gross external debt	10.8	7.9	6.7	6.5	6.8	6.0	6.2
National accounts				(percentage of GDP)			
Private final consumption	61.8	62.3	62.4	62.6	62.3	61.4	60.6
Government final consumption	18.4	19.3	19.4	19.6	19.8	19.7	20.4
Gross fixed capital formation	15	15.9	16.2	17.1	18.8	21.1	23.2
Change in inventories (after inventory valuation adjustment)	-2.3	0.0	-0.2	-0.1	0.0	0.0	-1.0
Residual items	-0.1	-0.8	1.0	0.4	0.6	0.0	-0.7
Exports of goods and services (XGS)	33.0	28.1	26.7	27.4	29.7	31.5	35.4
Imports of goods and services	29.1	25.8	27.1	28.2	32.9	34.6	38.5
Monetary aggregates				(percentage change)			
Money supply (M2 - end of period)	16.28	15.94	11.63	17.68	20.06	20.70	10.47
Prices and interest rate				(percentage change)			
Inflation (percent change)[b]	9.3	6.2	1.6	3.3	4.6	7.2	9.8
Saving rate (%)	10.25	7.25	6.75	6.25	7.00	9.75	10.25
Lending rate (%)	17.00	11.50	11.00	10.50	12.50	14.50	15.00
Exchange rate							
U.S. dollar exchange rate (end of period)	10.52	7.56	6.45	6.36	6.77	7.05	8.25
Real effective exchange rate[c]	82.55	103.23	110.13	112.50	108.87	105.05	94.07
Change in real effective rate[d]	-9.67	25.05	6.68	2.15	-3.23	-3.51	-10.45
Nominal effective exchange rate[c]	66.54	83.23	90.84	91.03	85.68	77.44	64.17
Change in nominal effective rate[d]	-21.70	25.08	9.14	0.21	-5.88	-9.62	-17.14

Table I.1 (cont'd)

	2002	2003	2004	2005	2006	2007	2008
Memorandum							
Current account balance (percentage of GDP)	0.8	-1.1	-3.2	-4	-6.3	-7.3	-7.4
Total external debt/XGS (%)	83.0	71.5	64.6	61.8	66.9	70.6	61.7
Gross official reserves (US$ billion)	6.3	7.0	12.8	20.5	26.4	31.8	38.4
Gross official reserves (months of imports)	2.6	2.0	2.2	3.0	3.3	3.3	3.7
Trade in goods and services (percentage of GDP)	62.1	53.8	53.8	55.6	62.5	66.0	73.8
Terms of trade (percentage change)							
Including gold	2.1	3.7	1.1	0.4	4.4	3.2	1.5
Excluding gold	0.1	4.8	1.8	0.2	2.9	3	0.9

a Public deficit (-) or surplus (+).
b A change in the underlying methodology caused an upward bias to the inflation rate in 2008.
c Exchange rate Index 2000 = 100.
d Depreciation (-) and appreciation (+).

Source: South African Reserve Bank online information, *Quarterly Bulletin* time series. Viewed at: http://www.reservebank.co.za/; World Development Indicators CD-Rom 2008, Development Indicators (Chapter I); and data provided by the South African authorities.

2. South Africa's growth was robust during the period under review, although recent shocks have prompted a slowdown. The economy expanded at an average annual rate of 4.5% between 2002 and 2007, led by strong domestic demand and favourable external conditions (e.g. terms of trade). Prudent macroeconomic management also helped strengthen public finances, contain inflation, and increase foreign exchange reserves in that period. However, severe electricity shortages, coupled with weaker global demand, triggered a moderation in real GDP growth to 3.1% in 2008. Inflationary pressures have also been on the rise, driven by increasing commodity and food prices worldwide, as well as by considerable exchange rate volatility.

3. South Africa faces significant unemployment, poverty, and inequality challenges. Growth has led to a decline in unemployment and improvement in social indicators. While unemployment has decreased since 2002 (30.4%), it remained high (at 23.1% in 2008), and some 43% of the population lived below the poverty line, US$2 per day in 2006.[1] This is despite efforts to improve social welfare. According to the latest population census, the share of individuals with medical aid coverage declined from 14.8% in 2003 to 14.3% in 2007, with an alarming under-representation of the poorest individuals (7.4% of covered individuals); outcomes regarding education were also unsatisfactory.[2] Moreover, South Africa's most prominent social problems, the HIV/AIDS pandemic and high crime rate, remain unresolved, with a strong negative economic impact. One challenge will be to maintain macroeconomic prudence while dealing with these problems.

4. During the period under review (2003-08), the ratio of total trade in goods and services to GDP increased from 53.8% to 73.8% (52.16% to 61.83% in real terms). Export growth remained strong throughout the period, maintaining a nominal average annual rate of 21%, while imports grew at 22.7% (Tables AI.1 and AI.2). In line with the deteriorating trade balance, the current account deficit has been steadily widening since 2003 and reached 7.41% of GDP in 2008.

5. South Africa's export structure has changed somewhat since the last Trade Policy Review, with the share of manufactured and agricultural products in total merchandise exports declining; while that of mining products increasing. This is despite electricity-related production interruptions in the mining sector and is partly a reflection of favourable commodity prices. In contrast, manufactures remain the main import category, despite a decline in the total import share from 69.5% in 2002 to 61.5% in 2008. In terms of markets there has not been a substantial change since the last Review:

[1] OECD (2008a).
[2] Statistics South Africa (2007).

the EC continues to be the main destination for South Africa's exports, followed by the United States; Japan and China have increased their purchases from South Africa. The shares of imports from China and the rest of Africa have also increased, while those from the United States and the EC have declined.

6. South Africa's economic weight and positive growth spill-overs to the rest of the continent have traditionally underpinned its key role in trade and economic integration initiatives in the region. Besides its important role in Southern African Customs Union (SACU), South Africa is also engaged in ongoing liberalization efforts within the Southern African Development Community (SADC). The official launch of the SADC Free Trade Area in August 2008 paved the way for a broader customs union, monetary union, and a common market in the future.[3] Moreover, the current economic crisis has prompted ambitious discussions for the integration of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), and SADC into a unique trading block that would serve as a stepping stone towards the creation of an African Economic Community.[4]

(2) RECENT ECONOMIC DEVELOPMENTS

7. South Africa's relatively strong economic performance between 2003 and 2007 was followed by more modest growth in 2008, after a series of adverse global economic conditions and domestic shocks. Country-wide electricity shortages disrupted output and hence exports, particularly in mining, from the beginning of 2008. Continuing power rationing is likely to constrain output growth while additional generation capacity is being built (Chapter IV). Notwithstanding the tightening economic conditions, investment activity in South Africa has remained strong, driven, in part, by higher public spending on infrastructure, and by preparations to host the FIFA World Cup in 2010. Gross fixed capital formation continued to expand robustly throughout the review period, reaching 23.2% of GDP in 2008 (Table I.1). Investment could displace consumption as the main driver of growth, in light of the unprecedented levels of household debt and the rising costs of servicing it due to the increase in interest rates.[5]

8. The unemployment rate declined from 30.4% in 2002 to 23.1% in 2008. Job creation, both in terms of absolute figures and shares in overall employment, has been concentrated in construction, wholesale and retail trade, and services, whereas agriculture and mining have recorded declines.[6] Despite the trend in recent years, employment prospects deteriorated substantially in the course of 2008, in line with the moderation in economic growth.[7] In addition, increases in nominal wages fell short of the general rise in consumer prices, causing a decline in workers' real remuneration.

9. Fiscal prudence has resulted in gradually improving public finances, with budget surpluses recorded in 2006 and 2007. However, the reversal of favourable economic conditions in 2008 led to a modest deficit of 0.6% of GDP.[8] In an effort to cushion the domestic economy, South Africa has recently adopted an expansionary fiscal policy stance, with a projected budget shortfall of 3.9% of GDP for 2009. In line with national development priorities, the additional public-sector spending would be in infrastructure, promoting improved delivery of public services and reinforcing the social

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[3] SADC online information, "SADC Free-Trade Area". Viewed at: http://www.sadc.int/index/browse/page/39.

[4] COMESA/EAC/SADC (2008).

[5] African Development Bank/OECD (2008).

[6] Statistics South Africa (2007).

[7] South African Reserve Bank (2008a), p. 38.

[8] South African Reserve Bank online information, "Online Statistical Query Facility". Viewed at: http://www.reservebank.co.za.

safety net.[9] The generally stable fiscal position, up to 2007, had been mirrored by a steady decline in the public debt: the ratio of national government debt to GDP was 23.8% in 2008 down from 38.9% in 2002. This has helped to improved investor sentiment towards South Africa. Government borrowing from abroad also declined during the review period, to 6.2% of GDP in 2008 (10.8% in 2002) (Table I.1).

10. The South African Reserve Bank (SARB), whose independence is guaranteed by the Constitution, has maintained an inflation targeting system since 2002.[10] The policy has been broadly successful. Inflation declined from about 9.3% in 2002 to just over 3% in 2005 just within the SARB's target zone of 3-6%. However, inflation started to increase thereafter, and in 2007, breached the upper end of the inflation target range for the first time since August 2003. The SARB increased interest rates but inflation has continued to rise beyond the authorities' upper target rate of 6%. South Africa is exposed to considerable external and domestic inflationary pressures from rising food and energy prices; the depreciation of the rand has added to inflationary pressures, through import prices pass-through, as have the increasing domestic electricity tariffs (Chapter IV). In response, South Africa's Monetary Policy Committee (MPC) has increased interest rates several times with a view to containing inflation and moderating expectations for further price increases. However, despite the recent diffusion of external oil price shocks and indications of subdued household consumption, domestic price developments have continued to defy the tightening of monetary policy. According to the MPC's latest assessment, deteriorating public sentiment about inflation's momentum should maintain inflation at about 8.1% in the first quarter of 2009, with a gradual return within the target band by the end of the year.[11]

11. Under the freely floating exchange rate system maintained by the SARB, the rand has been volatile over the review period, partly attributed, by the authorities, to the relatively high proportion of off-shore trading.[12] However, volatility can also be explained by South Africa's dependence on commodities whose prices have been highly variable. In line with its policy commitment, the SARB has continued to gradually build up foreign exchange reserves without seeking to influence the value of the exchange rate. SARB's gross reserves increased from US$6.3 billion in 2002 to US$38.4 billion at the end of 2008[13]; nevertheless, reserves remained at around four months of imports (Table I.1).

12. South Africa posted a deficit in the current account of the balance of payments throughout 2003-08, contrasting with the surpluses recorded in 2001 and 2002. The steadily widening gap reached 7.41% of GDP in 2008, a level not seen since the early 1980s. The current account deficit is the major source of vulnerability, since it exposes South Africa to the risk of a financial crisis due to the sudden halt of capital inflows. Despite slowing private consumption growth, imports of goods and services continued to outpace exports as demand for capital goods is increasing. Export earnings also suffered from output constraints in the mining sector, experienced in the beginning of 2008. However, the recent decline of the international price of oil, which had exacerbated current account imbalances for a prolonged period, resulted in a significant narrowing of the deficit in the fourth quarter of 2008.[14]

[9] South African Reserve Bank (2009).
[10] In the 2000 Budget Speech, it was announced that inflation targeting would be adopted with an average range of 3-6% for the consumer price index excluding mortgage payments.
[11] South African Reserve Bank online information. Viewed at: http://www.reservebank.co.za/.
[12] South African Reserve Bank (2008a), p. 55.
[13] South African Reserve Bank (2009).
[14] South African Reserve Bank (2009).

13. Portfolio investment was crucial in financing the current account deficit until 2006. However, the power crisis compounded investors' concerns about the rising deficit and, accordingly, risk premia on South African debt increased markedly and portfolio inflows subsided, weakening the stock market index and the rand. Nevertheless, non-residents' confidence in the economy's growth potential resulted in rising levels of foreign direct investment. Hence, during 2007 and 2008 FDI and "other investment" emerged as the predominant source of foreign funds, more than offsetting the deficit in the current account.[15]

(3) DEVELOPMENTS IN TRADE AND INVESTMENT

(i) Trade in goods and services

14. South Africa's total merchandise trade grew at a nominal average annual rate of 22% between 2003 and 2008, buoyed by solid economic growth and rising commodity prices. Total services trade expanded at a nominal average annual rate of 24.5% during the same period. Merchandise exports grew at an average annual of 21.7% and imports at 22.7%; the corresponding figures for services were 23.8% and 25.2%.[16] The economy's robust expansion was mirrored, however, by a substantial deterioration in the trade balance, as the growth of imports of both goods and services continued to outpace export growth.

15. In value terms, merchandise exports more than doubled between 2002 and 2008, to reach some US$74 billion (Table AI.1). Exports of primary products were US$35.6 billion in 2008 – an increase of about 166% from their 2002 level. While agricultural exports grew by about 66% over the period, exports of mining products more than tripled, to reach US$28.6 billion in 2008, reflecting strong global demand. Exports of manufactured goods rose to US$38 billion, a 111% increase over 2002. Overall, South Africa's export structure has changed somewhat during the period under review. Despite doubling in value terms (from US$18 billion to US$38 billion), the share of manufactured products in total exports decreased from 61.7% in 2002 to 51.5% in 2008. Machinery and transport equipment were the main exports among manufactured goods, followed by iron and steel. Primary products accounted for 48.2% of total exports in 2008, up from 38.2% in 2002. The increase was mainly due to the strong export performance of the mining sector, while agricultural exports recorded a gradual decline from 19.5% to 9.5% of total exports.

16. The value of merchandise imports reached US$87.6 billion in 2008, i.e. over three-times the 2002 level (Table AI.2). Imports of primary products increased faster than imports of manufactures during the period, with average annual growth rates of 31.4% and 20.2%, respectively. Nevertheless, manufactured goods remained the largest import sector, accounting for 61.5% of total imports in 2008 (69.5% in 2003). Underpinned by steady infrastructure spending, machinery and transport equipment remained the most important single import category, representing 35% of total imports. The share of primary products increased by 10.3 percentage points over the period, to 31.8%; fuels were the second largest import category (22.3% of total imports in 2008). The share of agricultural imports remained relatively stable, accounting for 6.1% in 2008.

17. Despite showing a surplus of US$253 million in 2003, South Africa's services have shown a steadily widening deficit since 2004. In 2008, exports of services (receipts) totalled US$12.5 billion, while imports (payments) totalled US$16.8 billion (Table I.2). The negative balance was primarily attributable to transportation, business travel, royalties and licence fees, and other business services. The deficit in transportation widened significantly, as payments for freight shipments more than

[15] South African Reserve Bank (2008a), p. 30.
[16] Detailed data for trade in services are not available for 2008.

doubled between 2003 and 2008. South Africa registered comparatively modest, but rapidly increasing, surpluses in financial and computer services.[17]

Table I.2
Balance of payments, 2002-08
(US$ million)

	2002	2003	2004	2005	2006	2007	2008[a]
Overall balance	**-322.4**	**-354.4**	**6,324.1**	**5,765.8**	**3,710.8**	**5,737.3**	**3,158.9**
Current account balance	**884.5**	**-1,902.3**	**-7,003.3**	**-9,722.8**	**-16,487.5**	**-20,631.3**	**-20,498.8**
Balance on goods, services, and income	1,440.8	-906.4	-5,245.5	-6,921.6	-13,670.5	-17,678.8	-23,408.0
Balance on goods and services	4,237.2	3,684.1	-927.7	-1,992.6	-8,377.3	-8,755.9	-14,459.1
Trade balance	4,756.1	3,430.6	-281.5	-995.0	-6,100.9	-5,705.1	-10,191.0
Exports	31,772.1	38,700.1	48,236.9	55,284.0	63,840.6	76,184.5	79,469.6
Imports	-27,016.0	-35,269.5	-48,518.4	-56,279.0	-69,941.5	-81,889.5	-89,660.6
Balance on services	-518.9	253.6	-646.2	-997.6	-2,276.4	-3,050.9	-4,268.1
Credit	4,985.2	8,298.5	9,681.8	11,157.3	12,014.1	13,561.6	12,532.1
Debit	-5,504.1	-8,044.9	-10,327.9	-12,154.9	-14,290.5	-16,612.5	-16,800.2
Transportation (net)	-1,271.3	-1,913.1	-2,983.3	-3,794.5	-5,140.3	-5,816.8	-5,965.1
Travel (net)	1,111.8	2,682.1	3,165.0	3,961.9	4,491.4	4,515.6	3,376.4
Other services (net)	-359.4	-515.4	-828.0	-1,165.0	-1,627.5	-1,749.8	-1,679.4
Balance on income	-2,796.4	-4,590.5	-4,317.8	-4,929.0	-5,293.2	-8,922.8	-8,948.9
Credit	2,178.8	2,856.7	3,258.5	4,640.5	5,944.4	6,549.7	5,847.8
Debit	-4,975.2	-7,447.2	-7,576.4	-9,569.5	-11,237.6	-15,472.5	-14,796.7
Current transfers	-556.4	-995.9	-1,757.8	-2,801.2	-2,816.9	-2,952.5	-2,972.5
Credit	139.1	251.7	257.2	239.5	260.9	265.1	..
Debit	-695.5	-1,247.6	-2,015.0	-3,040.7	-3,077.8	-3,217.6	..
Balance on capital account	**-15.0**	**43.6**	**52.4**	**30.4**	**30.2**	**28.0**	**25.2**
Credit	20.2	43.6	54.7	44.4	42.6	41.3	..
Debit	-35.2	0.0	-2.3	-14.0	-12.4	-13.4	..
Balance on financial account	**-707.2**	**-1,961.4**	**7,651.5**	**12,582.8**	**14,684.4**	**21,161.3**	**12,566.7**
Direct investment abroad[b]	402.3	-552.5	-1,305.4	-909.4	-6,535.7	-3,156.0	3,533.3
Direct investment in South Africa[c]	1,479.8	783.1	701.4	6,522.1	-183.6	5,745.9	9,009.2
Portfolio investment	-417.2	723.4	6,406.7	4,787.0	19,582.8	11,616.3	-15,937.6
Financial derivatives assets and liabilities	0.0	0.0	0.0	0.0	0.0	0.0	..
Other investment	-2,172.1	-2,915.4	1,848.8	2,183.1	1,820.9	6,955.1	15,961.8
Net errors and omissions	**-484.6**	**3,465.7**	**5,623.5**	**2,875.4**	**5,483.7**	**5,179.3**	**11,065.7**

.. Not available.

a Figures for 2008 from South African Reserve Bank (2009), *Quarterly Bulletin*, No. 251, March. Viewed at: http://www.reservebank.co.za/.

b Investment by South African residents in undertakings abroad in which they have at least 10% of the voting rights.

c Investment by foreigners in undertakings in South Africa in which they have individually or collectively in the case of affiliated organizations or persons at least 10% of the voting rights.

Source: IMF International Financial Statistics (IFS) Version 1.1.82, Balance of Payments Statistics version 1.1.105.

18. Bilateral trade flows between South Africa and most of its major trading partners increased substantially in nominal terms during 2002-08. At nine times the 2002 level, the value of exports to China showed the largest expansion, followed by an eightfold increase in exports to the Commonwealth of Independent States. Exports to the rest of Africa also grew steadily. There was also a surge in the value of imports between 2002 and 2008 from the rest of Africa, India, and China. The value of imports from the United States and the EC also rose.

[17] IMF, Balance of Payment (BOP) CD-Rom 2008.

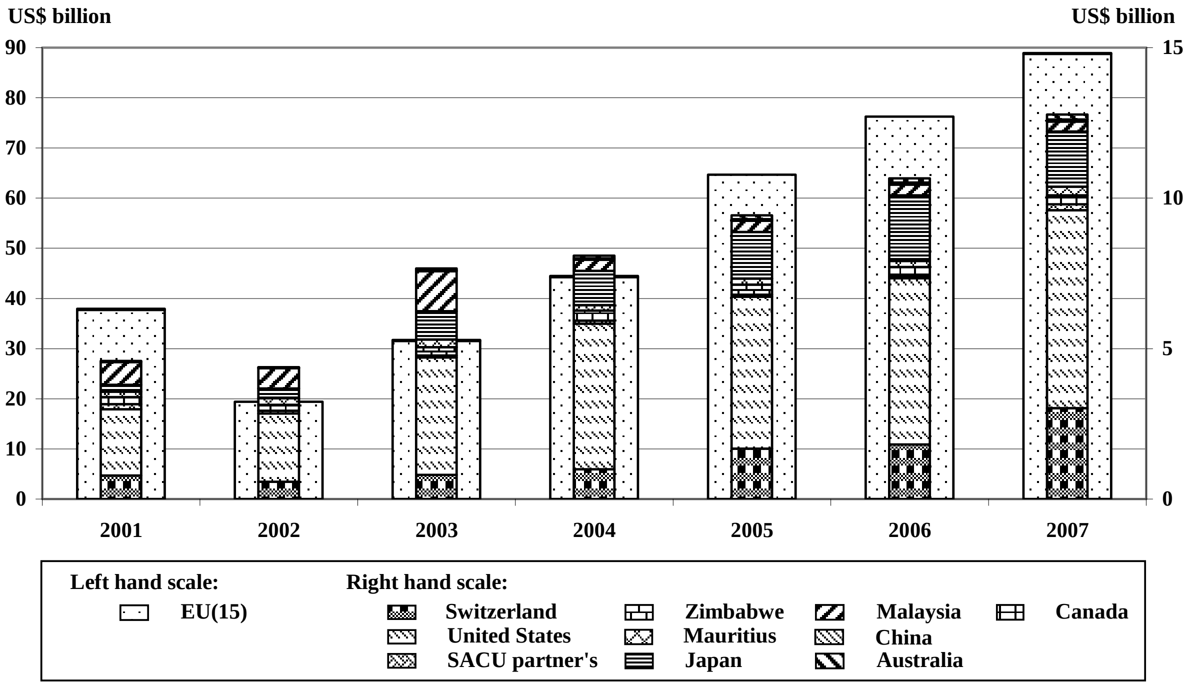
19. The EC remained South Africa's leading destination and a supplier of merchandise throughout 2002-08. Although maintaining a fairly stable share of total exports originating from South Africa (around 35%), the EC's relative weight in aggregate South African imports decreased from 42.4% to 31.1% (Table AI.3). The U.S. share of exports remained stable while imports declined (Tables AI.4 and AI.3). Shipments to China accounted for a growing share of South Africa's total exports, rising from 2.0% to 5.8% between 2003 and 2008. The same trend was observed in the opposite direction, with the Chinese share of total imports to South Africa increasing. Imports from the rest of Africa to South Africa also increased, whereas South Africa's exports to the continent remained relatively stable at about 15%.

(ii) Investment

20. During 2003-07, annual inflows of foreign direct investment (FDI) into South Africa increased sevenfold, and year-on-year growth was 85% in 2008, confirming investors' confidence in the South African economy. FDI increased from US$1.4 billion to US$9 billion over 2002-08.

21. The majority of overseas funds originate in the EC, particularly from the United Kingdom and Germany. The United States, Switzerland, and Japan have also been important investors during the review period (Chart I.1). Non-resident investors have taken ownership in local companies across a wide range of sectors, including glass manufacturing, retail trade, accommodation, financial services and platinum mining (Chart I.2).[18]

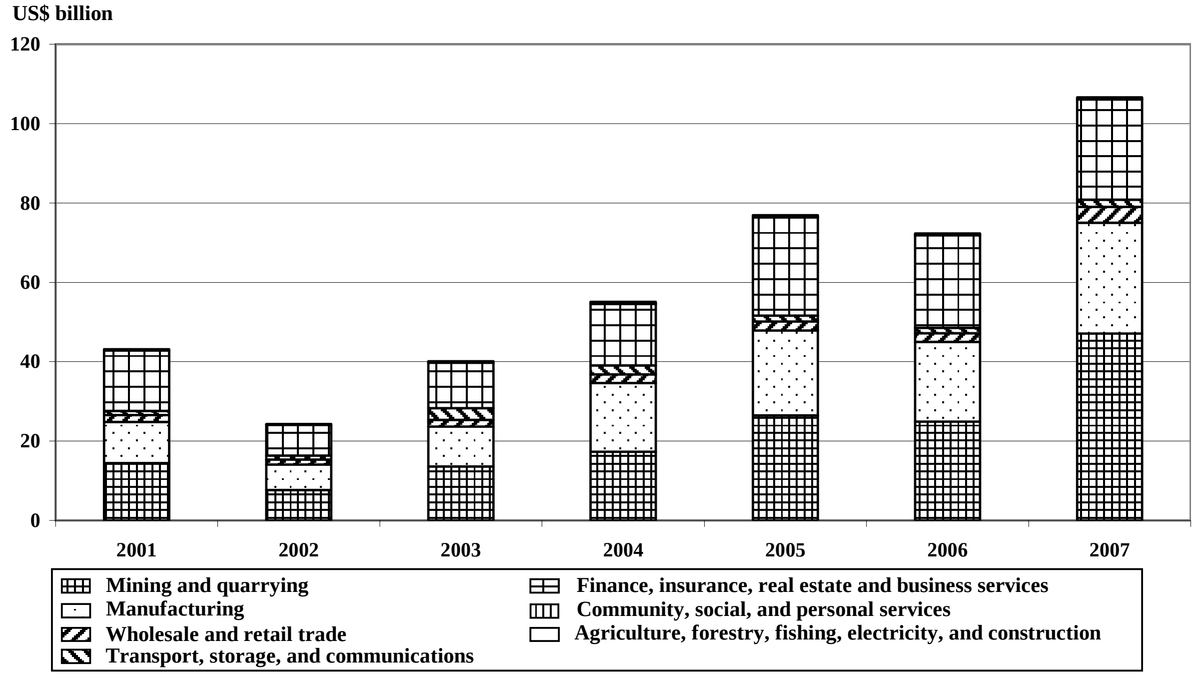
Chart I.1
Direct investment in South Africa by origin, 2001-07



Source: **South African Reserve Bank online information. Viewed at: http://www.reservebank.co.za/.**

[18] South African Reserve Bank (2009); and South African Reserve Bank (2008a).

Chart I.2
Direct investment in South Africa by sector, 2001-07



Source: South African Reserve Bank online information. Viewed at: http://www.reservebank.co.za/.

(4) OUTLOOK

22. The National Treasury's recent forecasts indicate that South Africa's economy will weaken in response to the global slowdown, growing at a rate 1.2% in 2009. A gradual recovery to levels above 4% is expected by 2011.[19] Sluggish consumption, weak exports and slowing private-sector investment are expected in 2009. Sound fiscal and monetary policies, a well-regulated financial system and prudential limits on foreign investment have helped to limit South Africa's exposure to the crisis. However, unemployment and poverty remain the most pressing economic problems along with the electricity supply shortages, which threaten near-term growth prospects. For growth to be sustainable, South Africa needs to deal with structural issues such as poor education, which contributes to entrenched poverty, inequality, and a gap in skills, which in turn contributes to the high levels of unemployment affecting mainly the unskilled poor segments of society. The economic significance of HIV/AIDS and crime are also major constraints to growth. Further investment in electricity infrastructure, and opening up the South African economy to greater international competition in services would help to enhance efficiency and accelerate growth.

23. The global economic context looks less favourable for South Africa than in recent years. The economy's resilience may be put to test, if the current account deficit continues to widen, progressively deteriorating foreign investors' confidence in South Africa's steady macroeconomic performance. While the gradual strengthening of public finances has been a positive factor in that regard, the national currency has remained relatively volatile and domestic inflationary pressures will continue. The SARB is likely to miss its inflation targets, and it does not seem to have a policy in place to deal with currency volatility, which could affect growth, as risk averse firms are not willing to invest in an economy that has a volatile exchange rate. Moreover, exchange rate volatility could be a sign of weak fundamentals.

[19] South African Reserve Bank (2008b).

II. TRADE AND INVESTMENT REGIMES

(1) GENERAL

24. South Africa's institutional structure has remained broadly unchanged the 2003 Review of SACU.[20] The Department of Trade and Industry (DTI) is responsible for formulating and coordinating the country's trade and industrial policies. However, other departments and agencies also take important initiatives on trade and investment policy, such as the Departments of Finance, Agriculture, Health, and Mineral and Energy Affairs, as well as the South African Reserve Bank. The private sector is quite instrumental in forwarding proposals and recommendations to the DTI, through for example, the National Economic Development and Labour Council (NEDLAC), the International Trade Administration Commission (ITAC), which replaced the Board on Tariffs and Trade (BTT)[21], and the Industrial Development Corporation (IDC). The IDC and Parliamentary Committees continue to play a key role in assisting the DTI in carrying out periodic reviews and assessments of trade policies.

25. The DTI has evolved to become a key player in modernizing and streamlining South Africa's trade and industrial development institutions, and achieving the following strategic objectives[22]: sustaining the relatively good growth levels of the economy; contributing to the international competitiveness of manufacturing industries; promoting small, micro, and medium-sized enterprises (SMME); promoting economic empowerment of previously disadvantaged persons ("black economic empowerment" (BEE)); reducing inequality and poverty; promoting organizational efficiency; and contributing to the development of the SADC region and Africa as a whole.

26. Based on the Broad Based Black Economic Empowerment Act of 2003, South Africa's policy of black economic empowerment (BEE) aims to realize the country's full economic potential.[23] The BEE Act is a sector-wide generic scorecard, which measures corporations' empowerment progress in four areas: direct empowerment through ownership and control of enterprises and assets; management at senior level; human resource development and employment equity; and indirect empowerment through preferential procurement, enterprise development, and corporate social investment (a residual and open-ended category). This scorecard, as well as a scorecard for multinational companies, is defined and elaborated in the BEE codes of good practice, which govern how companies do business in South Africa; they allow global and multinational companies some flexibility in how they structure their empowerment deals. The codes are binding on all state bodies and public companies, and the Government is required to apply them when making economic decisions on: procurement; licensing and concessions; public-private partnerships; and the sale of state-owned assets or businesses.

27. Over 2006-09, the DTI has refocused on new policy developments, represented by five key medium-term strategic objective, to: promote coordinated implementation of the accelerated and shared growth initiative; promote direct investment and growth in the industrial and services sectors, with particular focus on employment creation; promote broader participation, equity, and redress in the economy; raise the level of exports and promote equitable global trade; and contribute towards the development and regional integration of the African continent within the NEPAD framework.

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[20] South Africa's overall institutional framework was described in detail in WTO (1998).

[21] International Trade Administration Act (Act No. 71 of 2002), in force since 22 January 2003.

[22] Department of Trade and Industry (2001a).

[23] The policy reflects the Government's approach, which is to "situate black economic empowerment within the context of a broader national empowerment strategy focused on historically disadvantaged people, and particularly black people, women, youth, the disabled, and rural communities".

28. The ITAC is responsible for tariff investigations, amendments, and trade remedies in South Africa and on behalf of SACU (Main Report, Chapter II). In addition, Trade and Investment South Africa (TISA) is mandated to promote investment, particularly FDI, and export development in South Africa; and the Companies and Intellectual Property Registration Office (CIPRO) is mandated to regulate and service business entities effectively, in order to gain investor confidence, to stimulate economic growth, to create awareness of IPR in South Africa, and to harmonize the country's IPR legislation with international laws (Table AII.1).[24]

(2) TRADE AGREEMENTS

(i) Overview

29. South Africa is a strong proponent of multilateralism, and has historically played an active part in the GATT/WTO, including in the ongoing DDA negotiations where it is a key member of various configurations under the agriculture and NAMA areas of the negotiations. In South Africa's view, the DDA negotiations offer WTO Members an opportunity to strengthen the rules-based trading system in a manner that reduces imbalances and inequities, and supports development-related issues, which had not been an integral part of any previous multilateral trade negotiation under the GATT/WTO (Main Report, Chapter II(3)).

30. South Africa has made several notifications to the WTO during the review period (Table II.1).

Table II.1
Notifications to the WTO, 2003-09

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
Agreement on Agriculture				
Article 18.2	Domestic support	Annual since 1996	G/AG/N/ZAF/65 8 September 2008	Domestic support commitments for 2005
	Domestic support	Annual since 1996	G/AG/N/ZAF/58/Rev1 25 May 2009	Domestic support commitments for 2004
Article 18.3	Domestic support exemptions	Annual since 1996	G/AG/ZAF/68 25 May 2009	Domestic support measures exempt from reduction
Articles 10 and 18.2	Export subsidies	Annual since 1996	G/AG/N/ZAF/66 8 September 2008	Export subsidies during 2005
Article 18.2	Tariff quotas	Annual since 1996	G/AG/N/ZAF/64 8 September 2008	Tariff and other quota commitments during 2006
Article 5.7	Special safeguard provisions	Annual since 1996	G/AG/N/ZAF/63 8 September 2008	No special agricultural safeguards were invoked in 2005 and 2006
Article 16.2	Decision on possible negative effects of the reform programme on LDC-NFIDC	Annual since 1996	G/AG/N/ZAF/42 15 October 2008	Technical and financial assistance was provided to Zimbabwe, Zambia, Swaziland, Mozambique, Malawi, Lesotho, and Namibia
Agreement on the Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement)				
Article 18.5	Laws and regulations	Once	G/ADP/N/1/ZAF/2 20 January 2004	Copies of the relevant Acts
Article 16.4	Anti-dumping actions taken	Semi-annual	G/ADP/N/173/ZAF 7 August 2008	Anti-dumping actions taken during 1 January-30 June 2008
Article 16.5	Competent authority	Once	G/ADP/N/14/Add.22 10 October 2006	Committee on Anti-Dumping notified
Article 5.8	Time period for determining negligible import value	Once	G/ADP/N/100/ZAF 23 January 2003	Notification

Table II.1 (cont'd)

[24] See WTO (2003), Annex 4, pp. 227-228, for details of these institutions.

WTO Agreement	Description of requirement	Periodicity	Most recent notification	Comment
General Agreement on Tariffs and Trade				
Article XXIV 7(a)	Territorial application - customs unions	Once	WT/REG231/N/1 28 June 2007	Notification of SACU to WTO
	Territorial application-free-trade areas	Once	WT/REG256/N/1 3 November 2008	Notification of SACU-EFTA to WTO
Article XXVIII: 5	Modifications of schedules	Once	T/MA/229 24 December 2008	Modification of Schedule XVIII for three years beginning 1 January 2009
Agreement on Sanitary and Phytosanitary Measures				
Article 7, Annex B	SPS to be notified promptly	Once	G/SPS/N/ZAF/26 2 March 2009	Maximum levels of melamine in foodstuff
Agreement on Safeguards				
Article 9.1 footnote	Application of safeguards – developing country Members	Once	G/SG/N/11/ZAF 18 June 1996	Consideration given to Indonesia to be removed from the list
Art. 12.6	Laws, regulations, and administrative procedures	Once	G/SG/N/1/ZAF/2 27 September 2004	Committee on Safeguards notified
Agreement on Subsidies and Countervailing Measures				
Article 25.11	Countervailing actions taken	Semi-annual	G/SCM/N/178/ZAF 1 January-30 June 2008	Countervailing duty actions during 1 January-30 June 2008
Agreement on Technical Barriers to Trade				
Article 10.6	Information about technical regulations, standards, and conformity assessment	Once	G/TBT/N/ZAF/93-97 27 January 2009	Various regulations
General Agreement on Trade and Services (GATS)				
Article III:4 or IV:2	Transparency	Once	S/ENG/78/Rev 9 1 December 2006	Contact and enquiry points notified to the Council of Trade in Services
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)				
Article 63.2	Laws and regulations	Once	IP/N/1/ZAF/C/1/Add.1 27 and 30 January 2004	Copies of the relevant Acts

Source: WTO documents.

31. South Africa is an important member of the Southern African Development Community (SADC), of which all SACU countries are members (Main Report, Chapter II(3)). Being an important player in the sub-region, South Africa seeks to restructure regional arrangements by pursuing policies to promote industrialization in SADC. This implies encouraging regional exports to South Africa, and promoting outward investment to the region.[25]

32. In addition to its regional agreements, South Africa has a series of bilateral trade arrangements; the most important is the Trade, Development, and Cooperation Agreement (TDCA) concluded in 1999 with the European Communities (EC).

[25] The actions foreseen, which were described in full in WTO (2003), include: implementing the SADC Trade Protocol to aid market access, for regional exports; linking regional trade, development, and industrial restructuring to reflect comparative advantages across the region; promoting coordinated infrastructure and resource-based industrial development through spatial development initiatives (SDIs); encouraging South African firms to invest regionally by relaxing foreign exchange controls on capital destined for the region; and promoting regional trade facilitation, strengthening customs control and administration, and eliminating non-tariff measures (Department of Trade and Industry, 2001b).

(ii) Trade, Development, and Cooperation Agreement (TDCA)

33. The EC remains South Africa's main trading partner and source of FDI (Chapter I(3)(ii)). This was one of the main motivations behind the TDCA between South Africa and the EC, which was concluded in October 1999. The TDCA entered into force provisionally in January 2000 and definitively on 1 May 2004, after it was ratified by all EC member states. It was notified to the WTO on 2 November 2000.[26] After the EC enlargement, additional protocols to the TDCA had to be ratified by the South African Parliament.

34. South Africa and the EC also concluded a Science and Technology Agreement, which provides for South Africa's qualified membership of the the Cotonou Convention. The Wines and Spirits Agreement, signed on 28 January 2002, has not yet been ratified by South Africa due to subsequent disagreements on a number of issues.[27]

35. The TDCA provides for asymmetrical trade liberalization between the two parties, with the aim of forming a free-trade area by 2012. South Africa will liberalize around 86% of its imports from the EC during a 12-year transitional period, while the EC will liberalize 95% in 10 years, starting from 1 January 2000. The EC agreed to complete most of its obligations on non-agricultural products in the initial 3-6 years. In the case of South Africa, sensitive products, comprising 16% of its imports from the EC, will be fully liberalized over the transitional period. Certain NAMA products, representing 3% of South Africa's imports from the EC, are only subject to partial liberalization.

36. South Africa will remove duties on approximately 81% of its agricultural imports from the EC; while the EC will remove duties on approximately 61% from South Africa. If partial liberalization quotas are included in the latter figure, approximately 72% of South Africa's exports to the EC will be subject to some form of preference under the TDCA.

37. The TDCA provides for detailed rules of origin. In principle, products are considered to be of South African or EC origin if they are "wholly obtained" or have been sufficiently worked or processed in these countries. An annex to the protocol on the rules of origin lists the criteria for a product to be considered as sufficiently worked or processed.

(iii) Other trade arrangements

38. South Africa has bilateral trade agreements with Malawi and Zimbabwe, and grants non-reciprocal preferential treatment on a number of products from Mozambique.[28]

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

40. The agreement with Malawi, which is also a member of COMESA and SADC, was concluded in 1990. Under the agreement, South Africa allows duty-free imports to its market of all goods grown, produced or manufactured in Malawi, subject to a minimum domestic value-added

[26] WTO document WT/REG113/N/1, 21 November 2000.
[27] The agreement applies to wines and spirits under HS headings Nos. 22.04 and 22.08.
[28] For a description of the preferential tariff treatment for Mozambique, see WTO (1998).

of 25%. However, preferential quotas apply to some products, such as tea (10,000 tonnes annually). The agreement also contains anti-dumping and countervailing provisions.

41. In addition to the specific agreements listed above, South African products are eligible for non-reciprocal preferences, including lower tariffs or preferential tariff quotas under, *inter alia*, the U.S. African Growth and Opportunity Act (AGOA), and the GSP schemes of the EC, as well as of Canada, Japan, Norway, Switzerland, and the United States.

(3) INVESTMENT FRAMEWORK

42. Much of the institutional framework governing investment in South Africa has remained broadly unchanged since the last TPR of SACU in 2003. South Africa does not have a stand-alone investment law; investment is governed by sector-specific legislation, which establishes the conditions for investment (Table AII.1). A variety of schemes provide incentives to investors. Over the years, South Africa has encouraged investment by non-resident persons and companies. According to the authorities, national treatment applies to all foreign investors, who can repatriate the proceeds and earnings of their investments after payment of taxes. South Africa has made significant progress in liberalizing exchange controls, including:

– Offshore direct investments by companies: the requirement that South African companies had to obtain a majority (i.e. over 50%) shareholding in foreign entities and/or projects outside of Africa was replaced by a minimum requirement of 25%.

– Customer foreign currency accounts: South African companies involved in international trade are now allowed to operate a single customer foreign currency (CFC) account for both trade in goods and services, and can use it for a wider variety of "permissible" transactions.

– Rand currency futures: the Johannesburg Securities Exchange has been granted permission to establish a rand currency futures market. This will enable South African investors to participate directly in the currency market through a transparent and regulated domestic channel.

43. Despite the ongoing liberalization, two restrictions to foreign investment remain in place in South Africa: (i) local minimum equity requirements for banks and insurance companies; and (ii) businesses with non-resident ownership or control equal to or greater than 75% are restricted as to the amount they may borrow from local financial markets. In addition, a foreign bank establishing a branch may be required to employ a minimum number of local residents to obtain a banking licence, and to have a minimum capital base (Chapter IV(5)(ii)). Foreign companies are also required to register as "external companies" before immovable property can be registered in their name.[29]

44. With the exception of financial institutions, any foreign company may establish a place of business in South Africa, and conduct its activities without having to incorporate as a local entity. The establishment of a branch requires registration as an "external company" within 21 days of establishment of a place of business. Additional approval is required for a business entity that will be involved in import and export activities.

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

45. All foreign investors require a business permit to establish a company in South Africa.[30] The permit is issued to prospective investors after the Department of Home Affairs has received documentary evidence of the applicant's intention to invest in South Africa. Processing times range from six to eight weeks.

46. Under the authority of DTI, Trade and Investment South Africa is in charge of promoting trade and investments in South Africa. TISA focuses on activities with the greatest growth potential: fine and speciality chemicals, polymers, and pharmaceuticals; minerals, and ferrous and non-ferrous metals; agri-processing, meat, fruit, and vegetables; textiles and clothing, and leather; auto industry; technology and research; and information and communication technology.

47. At the same time, South Africa has continued to promote outward investment, particularly in the SACU and SADC areas, in an effort to promote industrialization in the region. The Government is encouraging South African firms to invest regionally through the relaxation of foreign exchange controls on capital destined for the region. The SADC FTA was launched in 2008, and according to the projections, more than 85% of intra-SADC trade would be duty free.

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

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

48. South Africa's trade policy measures have not changed substantially since its previous review in 2003. As a member of SACU, South Africa applies the common external tariff (CET). South Africa (on behalf of SACU countries) is in charge of initiating and conducting investigations on contingency trade remedies. Certain key non-tariff trade policy measures, such as quantitative restrictions, customs procedures, standards and technical regulations, sanitary and phytosanitary measures, public procurement, competition policy, incentives, and internal taxes, have not been harmonized within SACU.

49. Import permits are maintained to administer tariff quotas, on health, sanitary, phytosanitary, and environmental grounds, or under international conventions to which South Africa is a signatory. The government procurement system has not changed substantially, and preferences and offsetting requirements are still in place. Local-content/substantial transformation requirements are taken into account when comparing tenders for government procurement purposes.

50. South Africa still levies an export tax on unpolished diamonds. Export levies are also imposed on some agricultural goods to finance activities such as advertising and research and development. A number of products remain subject to export controls, including prohibitions. Like import controls, these controls are maintained on grounds of safety, security, and the environment.

51. Incentives are one of South Africa's key policy instruments. A number of investment incentives, including duty and tax exemptions, remain in place to promote industrialization, develop export-oriented industries, and to assist SMEs and the formerly disadvantaged population. Some are subject to local-content requirements and are contingent on export performance. Elimination of these programmes could add transparency to the tariff.

52. Government intervention through ownership continues to be important, and progress in restructuring state-owned enterprises has been slow despite plans to complete the restructuring by 2004. Three major state-owned enterprises are still operating under monopoly or hold exclusive rights in, *inter alia*, transportation and electricity. The competition regime has not undergone substantial change since the previous Review. The 2008 Competition Amendment Bill aims to strengthen certain provisions of the regime; however, high levels of concentration remain present in the economy. The intellectual property rights (IPR) laws remain mostly unchanged.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration, import duties, and related measures

53. Trading activities in South Africa are open to nationals and foreigners. Importers (and exporters) in South Africa are required to register with the South African Revenue Service (SARS) when the value of traded goods exceeds R 20,000.[31] The registration process takes on average one day. Upon registration, applicants are issued with a customs code number, which must be entered on all customs declarations. However, if required, traders may use a general code number issued by Customs in order to import or export immediately.

[31] DTI online information, "Registering as an Exporter". Viewed at: http://www.thedti.gov.za/exporting/registeringasanexporter.htm [5 February 2009].

54. All required documentation (e.g. bill of lading, commercial invoice) must be submitted with the customs declaration to the customs offices at the port of entry before goods can be cleared. The commercial invoice has to include all the necessary information for the South African Customs to determine the value of the imported item for duty purposes. A certificate and declaration of origin are required when preferential duties are applicable and for goods subject to anti-dumping or countervailing duties. Import permits (i.e. licences) are required in certain instances (section (ii)). Shipments may obtain customs clearance prior to arrival at a South African port (as soon as they are loaded onto the vessel to be transported). In the case of sea freight, once Customs is cleared, the importer pays dues to Harbour Revenue and receives a wharfage order.[32] The larger district customs offices accept electronic documentation to expedite the clearance process; however, it must be accompanied by a paper version, since a paper document is still regarded as the legal declaration.[33] Import clearance generally takes a maximum of 24 hours for air freight, and two to three days for sea freight, depending on the port of entry.[34]

55. All imports to South Africa are subject to customs duties and internal taxes including VAT; excise duties on, *inter alia*, wine, spirits, beer and other fermented beverages, tobacco, and fuel (Main Report, Chapter III(3)); and levies (e.g. on certain agricultural products, environmental levy on certain goods, fuel levy, and RAF levy). The specific levies on certain agricultural products are collected at the first point of sale by the different agricultural associations (Chapter IV(2)). In 2004 South Africa introduced an environmental levy of 3 cents per bag on locally manufactured and imported plastic carriers and flat bags (HS 3923.21.05, 3923.21.15, 3923.29.05 and 3923.29.15). The purpose is to reduce pollution, and it is collected by SARS.[35] A specific fuel levy is applied on certain petroleum oils and oils obtained from bituminous minerals. The levy is applied at the same rate on imported and domestic goods (Table III.1).

Table III.1
Fuel levy, 2009

Products	**Rate**
Petrol, leaded and unleaded	R 1.50/l
Aviation kerosene (marked)	Free
Illuminating kerosene (unmarked)	R 1.35/l
Illuminating kerosene (marked)	Free
Distillate fuel (diesel)	R 1.35/l

Source: Information provided by the South African authorities.

56. South Africa's VAT, on domestically produced and imported goods and services, is imposed at a standard rate of 14%. Exports[36]; certain basic foodstuffs (e.g. brown bread, maize meal, eggs,

[32] Transnet National Ports Authority determines tariffs for services and facilities offered and publishes them annually in the Transnet National Ports Authority Tariff Book (Transnet online information, "Transnet National Ports Authority: Tariff Adjustment with Effect from 1 April 2009", Tariff Increase Letter and Tariff Schedule 01 April 2009, 26 February 2009. Viewed at: http://www.transnetnationalportsauthority.net).

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

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

[35] SARS online information, "Customs and Excise: Excise: Industries". Viewed at: http://www.sars.gov.za/home.asp?pid=4139#Environmental [23 January 2009].

[36] Value-Added Tax Act, 1991 Part II: Value-Added Tax: Zero rating. Viewed at: http://www.acts.co.za/vat/index.htm [24 June 2009].

milk, fruit, and vegetables)[37]; certain goods used or consumed for agricultural, pastoral or other farming purposes (e.g. animal feed, seed, fertilizers, pesticides, and animal remedies)[38]; certain fuels (on lighting paraffin, diesel, and gasoline), and international transport of goods and passengers are zero-rated.[39] Goods and services exempt from VAT include financial services; donated goods or services or any other goods made or manufactured with donated inputs; the supply of residential accommodation; the supply of certain educational services; and the supply of certain transport services. The VAT is not payable on temporary imports and imports for export-processing.

57. The VAT is levied on the "domestic open-market value" for goods and services produced in South Africa.[40] On imports, it is levied on the duty-inclusive f.o.b. customs value (i.e. the f.o.b. customs value plus the amount of any non-rebated customs duty), uplifted by 10%.[41] The additional 10% is included to adjust for the customs valuation on the f.o.b. value rather than the c.i.f. value.

58. Imports from other SACU members enter South Africa free of customs tariffs and excise duties (Main Report, Chapter III(3)(v)). Preferential tariffs apply to imports from SADC (Main Report, Chapter II(3)); and under South Africa's bilateral trade arrangements with the EC, EFTA, Malawi, Mozambique, and Zimbabwe (Chapter II).

59. South Africa's duty exemption regime covers a substantial number of goods and appears to be cumbersome as exemptions are granted on different grounds and under several schemes. Rebates and drawbacks, as well as the Motor Industry Development Programme and the Textile and Clothing Industry Development Programme (TCIDP) are also applied by the other SACU countries (Main Report, Chapter III; and Chapter IV(3)). The proportion of imports that entered South Africa under industrial customs duty rebates (i.e. Schedule 3 of the Customs and Excise Tariff Act) and general rebates of customs duties and fuel levies (i.e. Schedule 4 of the Customs and Excise Tariff Act) has decreased during the period under review (Table III.2). However, no data are available on duties forgone as a result of the duty exemptions granted.

60. Goods temporarily admitted into South Africa for processing, repair, cleaning, reconditioning or for the manufacture of goods exclusively for export are exempt of duties and taxes. Goods temporarily admitted and then exported in the same state are also exempt of duties. Imports may enter under temporary admission, including inward processing or into a bonded warehouse, for manufacturing and subsequent exportation exempt of duties and taxes. Goods cleared from a bonded warehouse for domestic consumption are subject to import duties and other taxes. Goods imported to be processed in the industrial development zones (IDZs) are also exempt from customs duties and taxes. Imported goods may also be admitted under rebate of duty for use in the Customs Controlled Area (CCA), bonded areas within the IDZs.

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[37] Value-Added Tax Act, 1991: Schedule 2: Zero Rate: Supply of goods consisting of certain foodstuffs: Part B. Viewed at: http://www.acts.co.za/vat/index.htm [24 June 2009].

[38] Value-Added Tax Act, 1991Schedule 2 - Part A Zero Rate: Supply of Goods Used or Consumed for Agricultural, Pastoral or other Farming Purposes http://www.acts.co.za/vat/index.htm

[39] Value-Added Tax Act (Act No. 89 of 1991). Viewed at: http://www.sars.gov.za/LNB/MyLNB.asp [24 June 2009].

[40] The open-market value is the amount the goods and/or services would generally fetch if their supply were freely offered, in similar circumstances, between persons who are not connected persons, in South Africa (Section 3, Value-Added Tax Act (Act No. 89 of 1991)).

[41] VAT is calculated on: (f.o.b customs value + the amount of customs duties)*1.10 (the uplifting factor). For example, if the f.o.b. value equals 100 and the customs duty is levied at 20%, the amount of the VAT at 14% is calculated as: on the 100(1 + 20%)(1 + 10%)*14% = 132*0.14= 18.48.

Table III.2
Imports benefiting from tax and duty rebates, 2003-07

	2003	2004	2005	2006	2007
			(US$ million)		
Total imports	34,543.1	47,603.3	55,032.6	68,469.1	79,872.6
Schedule 3 of the Customs and Excise Tariff Act	4,123.4	4,418.7	5,647.3	6,428.4	7,160.1
Schedule 4 of the Customs and Excise Tariff Act	5,168.0	6,000.1	6,335.4	6,851.7	6,306.1
			(per cent of total imports)		
Schedule 3 of the Customs and Excise Tariff Act	11.9	9.3	10.3	9.4	9.0
Schedule 4 of the Customs and Excise Tariff Act	15.0	12.6	11.5	10.0	7.9

Note: Schedule 3 of the Customs and Excise Tariff Act: Industrial Rebates of Custom Duties; and Schedule 4 of the Customs and Excise Tariff Act: General rebates of Customs Duties and Fuel Levies.

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

61. Under the Customs and Excise Act (Act No. 91 of 1964), duty rebates, in most cases of a 100%, continue to be available for imported commodities used as inputs in specific industries.[42] The Act also provides for rebates on any customs duties, fuel levy and Road Accident Fund levy on specific goods imported for domestic consumption for, *inter alia*, diplomats (based on reciprocal treatment), special events such as international exhibitions, relief in cases of natural disasters and famines; for manufacturing and commercial use[43]; goods re-imported into South Africa; or goods imported from specific countries (e.g. textiles from Mozambique). South Africa also provides "temporary" duty rebates; goods eligible in 2009 include fish and fish products, sugar imported from non-SACU SADC "net surplus sugar producing" member states; wheat products; tyres and pneumatics; certain textiles produced and imported from the MMTZ (Malawi, Mozambique, Tanzania, and Zambia) of the SADC; textiles and textiles articles imported for using in activities related to the Textile and Clothing Industry Development Programme (TCIDP); certain vehicles; medical or surgical instruments; and goods used in certain projects (e.g. the Gautrain Rapid Rail Link project.[44]

62. A full rebate of anti-dumping duty is also possible in South Africa.[45] According to the authorities, this is because in certain instances, due to the tariff code description in the Customs and Excise Act, it is not possible to exclude specific products, that are not the subject of the investigation, from the payment of the anti-dumping duty. In such instances, a rebate provision may be created for the specific products falling outside the scope of the anti-dumping investigation, to be rebated.

(ii) Import prohibitions, controls, and licensing

63. The International Trade Administration Act (Act No. 71 of 2002) allows for the control, through a permit (i.e. licence**)** system, of certain imports and exports as specified by regulation. The

[42] For a full list of goods eligible for tax rebates and the specific industries in which they must be used, see Schedule 3 of the Customs and Excise Act (Act No. 91 of 1964), as amended (SARS online information, "Legal and Policy: Schedules to the Customs and Excise Acts (Tariff Books)". Viewed at: http://www.sars.gov.za/home.asp?pid=2630 [2 February 2009]).

[43] These include materials for packing mineral oil products, inputs used to manufacture three-wheeled carriages for the use of the handicapped, base oils to manufacture prepared lubricating oils and wetting agents/stickers to be used in agricultural insecticides and herbicides.

[44] See Schedule 4 of the Customs and Excise Act (Act No. 91 of 1964), as amended (SARS online information, "Legal and Policy: Schedules to the Customs and Excise Acts (Tariff Books)". Viewed at: http://www.sars.gov.za/home.asp?pid=2630 [2 February 2009]).

[45] Schedule 4, Customs and Excise Act (Act No. 91 of 1964), as amended.

designation of products to be subject to licensing is left to administrative discretion.[46] It is possible for the Government to abolish the system without legislative approval. The import controls are maintained to ensure compliance with health, environmental, and safety requirements, and with the provisions of international agreements; to curb competition in the domestic market by the importation of second-hand goods; and to ensure that used and second hand goods do not erode the SACU manufacturing industry.[47]

64. The Minister in charge of trade and industry has the power to regulate imports and exports.[48] By notice in the *Gazette*, import and export prohibitions and other controls may be prescribed on an *ad hoc* basis. Controls must be in accordance with policies approved by the Minster of Trade and Industry.[49] Prohibitions and controls may be applied according to the goods' origin, final use, channels of transportation, the manner in which they are imported or exported, the purposes for which they are to be used; or the methods or processes of production.[50]

65. The importation of most used and second-hand goods is subject to control (i.e. requires an import permit or licence). Unused items including fish and fish products, oils and other fossil fuels, inorganic acids, radio-active chemical elements, hydrocarbons, tyres, base metals, fire arms and ammunition, gambling machines and other miscellaneous chemicals ethers and carboxylic acids are also subject to import control measures (Table AIII.1).

66. An import permit requires a written application accompanied by the required additional information.[51] Applications are considered by the International Trade and Administration Commission (ITAC). Applications for some goods are also evaluated by other departments but the recommendation is issued by the ITAC (Table AIII.1).

67. In accordance with an MOU signed with China in 2006, imports of several categories of textiles and clothing were restricted during 2006-08.[52] The restriction was removed as scheduled.

68. Import controls continue to be maintained in South Africa on, *inter alia*, security, moral, technical, sanitary, phytosanitary, and environmental grounds.[53] Controlled imports include live plants and animals and products thereof; drugs and narcotics; pornographic or objectionable materials; uncut diamonds; and waste and hazardous materials. These measures apply to all imports, including from other SACU countries.

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[46] WTO document G/LIC/N/3/ZAF/3/Rev.1, 20 August 2001

[47] International Trade Administration Commission of South Africa online information, "Import Control Regulations". Viewed at: http://www.itac.org.za/import_regulations_page.asp [16 January 2009] and International Trade Administration Commission of South Africa online information, "Export Control". Viewed at: http://www.itac.org.za/export_control.htm [24 June 2008].

[48] International Trade Administration Act (Act No. 71 of 2002, Chapter 2(6)) (*Government Gazette* No. 24287, 22 January 2003).

[49] International Trade Administration Act (Act No. 71 of 2002) (*Government Gazette* No. 24287, 22 January 2003).

[50] International Trade Administration Act (Act No. 71 of 2002) (*Government Gazette* No. 24287, 22 January 2003).

[51] The importer's reference number; the name and business address of the applicant; the quantity and description of goods to be imported as well as their customs tariff heading and value; the customs code number of the importer; indication of whether the goods are new or used; the port of entry; the country of origin; and units to be imported.

[52] For a full list of goods subject to import restrictions, see Schedule 10, Part 5, of the Customs and Excise Act (Act No. 91 of 1964), as amended.

[53] Meat Safety Act (Act No. 40 of 2000); Fertilizers, Farm Feeds, Agricultural Remedies, and Stock Remedies Act (Act No. 36 of 1947); and Agricultural Pests Act (No. 36 of 1983).

69. Fertilizers, farm feeds, agricultural remedies or stock remedies may be imported only if registered in South Africa and in compliance with the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act of 1947 (Act No. 36 of 1947).[54] Imports must be of the composition and efficacy specified in the registration, must possess all chemical, physical, and other properties specified in the registration and must be packed in a sealed container marked or labelled in the prescribed manner in accordance with the regulations of the Act.[55] These products must be imported through a prescribed port or place. A sample might be taken for examination prior to the shipment.[56] A special permit is required for fertilizers or farm feeds containing bone or any other substance derived from the carcass of an animal.[57]

70. Under extraordinary circumstances (e.g. food insecurity) and taking into account South Africa's international obligations, the Minister of Agriculture, Forestry and Fisheries may prohibit the importation of any agricultural product, or impose conditions with regard to the exportation of agricultural goods.[58] Before the Minister imposes a prohibition the Council must publish a notice, setting out details of the proposed prohibition and an explanation in the *Gazette* and any magazines and newspapers necessary to bring the proposed prohibition to the attention of directly affected groups, and invite them to lodge any objections within a specified period. However, this provision has not been used since the promulgation of the Act in 1996.

71. In general, South Africa does not apply import quotas. Quantitative restrictions apply only to used goods; goods controlled under the Montreal Protocol; and under the 1998 Convention against chemicals used in illegal drug manufacturing, the Basel Convention. All these goods are also subject to import permit/licence.[59]

72. Tariff quotas (TQs) apply to agricultural products, and to textiles and clothing. TQs on agricultural products are administered through import permits issued by the Department of Agriculture on a quarterly or bi-annual basis and applicants need to registered with SARS and the DTI. Most quotas (70%) are allocated on a historical basis, 20% are allocated to SMEs and new importers; and 10% to BEE importers (i.e. companies that qualify under the Broad-Based Black Economic Empowerment Act (Act No. 53 of 2003)). However, many TQs have not been used since the out-of-quota tariff rates on certain products have been less than the in-quota tariff rate (Table III.3).

73. South Africa only applies trade sanctions endorsed by the United Nations (UN) Security Council, the African Union (AU), or the Southern African Development Community (SADC). The restrictions include those dictated by international conventions to which South Africa is a signatory, for example on ivory, under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

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[54] NDA online information. Viewed at: http://www.nda.agric.za/Act36/main.htm [24 June 2009].

[55] Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act of 1947 (Act No. 36 of 1947). Viewed at: http://www.nda.agric.za/Act36/main.htm [24.06.2009]. Labelling requirements for the Registration of Stock Remedies under Fertilizers, Farm feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947). Viewed at: http://www.nda.agric.za/Act36/Stocks/labelreq.pdf [25 June 2009].

[56] Fertilizers, Farm Feeds, Agricultural Remedies, and Stock Remedies Act (Act No. 36 of 1947), as amended.

[57] Fertilizers, Farm Feeds, Agricultural Remedies, and Stock Remedies Act (Act No. 36 of 1947), as amended.

[58] Paragraph 22 of the Marketing of Agricultural Products Act (Act No. 47 of 1996). Viewed at: http://www.info.gov.za/gazette/acts/1996/a47-96.htm.

[59] WTO document G/LIC/N/3/ZAF/3/Rev.1, 20 August 2001.

Table III.3
Tariff quotas, 2007

HS code	Product description	Tariff rates 2008		Quota commitment	Fill ratio (%)	
		In-quota (%)	Out-of-quota (% or cents)		2006	2007
0201 and 0202	Meat of bovine animals	13.8; 32	40% or 240c/kg	26,254	92.3	84.4
0203	Meat of swine	7.4	0%; 15% or 130c/kg	4,691	100.0	100.0
0204	Meat of sheep	13.2; 16.4; 19	40% or 200c/kg	6,002	99.2	98.0
0206	Edible offal	7.6	0%; 22% or 240c/kg; 30% or 130c/kg	2,544	100.0	100.0
0207	Meat and edible offal of poultry	7.4; 16.4	0%; 5%; 27%; 220c/kg	29,033	100.0	100.0
0401	Milk and cream fresh	19.2	0%	53,657	9.2	25.8
0402	Milk powder	19.2	450c/kg (max. 96%)	4,470	86.8	35.3
0403	Buttermilk and yoghurt	19.2	0%; 450c/kg (max. 96%)	213	100.0	71.0
0404	Whey	19.2	450c/kg (max. 96%)	2,786	100.0	100.0
0405	Butter	15.8	500c/kg (max. 79%)	1,167	48.0	19.4
0406	Cheese	19	500c/kg (max. 95%)	1,989	53.4	36.5
0407 and 0408	Eggs	3.8	0%; 19%	9,000	7.9	9.0
0701	Potatoes	9.8	0.44c/kg	48,161	0.2	0.02
070520	Chickory, fresh	6	0%	4	12.5	50.0
0708	Peas and beans, fresh	4.8 ; 6.6	0%; 15%	263	100.0	100.0
0710	Vegetables, frozen	4.8 ; 6.6 ; 7.4 ; 9.8	0%; 10%; 20%; 24%; 30%	583	81.5	83.7
0712	Dried vegetables	7.4	20%; 4c/kg	860	33.0	32.0
071320 and 071390	Dried peas	4.8 ; 6.6	0%; 15%; 24%	5,184	31.6	37.0
071330	Dried beans	4.8	10%; 15%	11,063	69.5	90.0
071340	Lentils	9.8	0%	1,601	100.0	100.0
080620	Grapes, dried	4.6	10%	397	100.0	23.7
0813	Dried fruit	6; 6.6; 8.8; 10.8; 14	10%	349	100.0	100.0
0901	Coffee	23.8	0%; 20%; 6c/kg; 10c/kg	15,746	100.0	100.0
0902	Tea	34	0%; 400c/kg	11,375	100.0	100.0
1001 ex 1100	Wheat or wheat equivalent	4.2; 14.4; 19.8	0%; 2%; 20%	108,279	100.0	100.0
1002	Rye	4.2	0%	83	100.0	51.8
1003	Barley	8.2	0%	14,552	100.0	100.0
ex 1100	Barley equivalent	8.2	0%	96,248	62.1	73.5
1004 ex 1100	Oats or oats equivalent	6.6; 19.8	0%; 2.75c/kg	7,333	100.0	100.0
1005 ex 1100	Maize or maize equivalent	8.6; 10; 19.8	0%; 5%	269,000	100.0	100.0
1007	Grain sorghum	6.6	3%	21,116	70.1	100.0
1008	Other cereals	6.6; 8.6	0% ; 3% ; 5%	145	100.0	100.0
1201	Soya beans	8	8%	1,717	100.0	100.0
1202	Groundnuts	14	10%	7,908	100.0	100.0
1204	Linseed	9.4	9.4%	202	100.0	100.0
1205	Rapeseed	8.0	10%	871	13.7	22.5
1206	Sunflower seed	9.4	9.4%	14,514	7.1	34.2
120921	Lucerne seed	5.0	0%	576	60.9	41.5
1507, 1508, 1510-1515	Vegetable oils	9.8; 12.2; 13.4; 16.2	0% ; 9.8% ; 10%	61,083	100.0	100.0
1701	Sugar	21	6c/kg	62,037	100.0	100.0

Table III.3 (cont'd)

HS code	Product description	Tariff rates 2008		Quota commitment	Fill ratio (%)	
		In-quota (%)	Out-of-quota (% or cents)		2006	2007
1702	Other sugars	13.6	0%	6,391	100.0	100.0
1703	Molasses	13.6	0%	34,533	100.0	100.0
1901	Malt extracts	7.4; 19.2; 19.8	20%; 10% or 55c/kg less 90%	6,119	28.6	22.3
1902	Pasta	10.8	20%; 30%; 3c/kg; 5.5c/kg	1,749	88.6	84.2
1903	Tapioca	8.6	0%	5,448	21.3	15.7
2008	Preserved fruit and nuts	0; 6.6; 7.4; 8.6; 12; 14	0%; 5%; 20%; 55%; 0.99c/kg	1,636	100.0	100.0
2106	Food preparations	7.4	0%; 5%; 10%; 20%; 154c/li	3,109	82.8	71.0
2204-2208	Wine and spirits (LI)	13.4; 14.6; 19.6; 24.2; 119.4	25%; 136c/li; 154c/li; 317c/li of absolute alcohol	9,572,405	100.0	100.0
2209	Vinegar (LI)	14.6	5c/li	15,000	100.0	100.0
2303	Corn gluten feed	8.6	0%	3,960	100.0	100.0
2304-23.06	Oil-cake	6.6	6.6%	120,667	100.0	100.0
2401	Tobacco	8.8	77c/kg; 15% or 860c/kg less 85%; 860c/kg less 85% (max. 44%)	16,773	100.0	64.7
5201	Cotton	12	0%; 15%; 160c/kg	17,101	100.0	100.0

Source: Data provided by the South African authorities.

(iii) Local-content requirements

74. Local-content and substantial transformation requirements are an integral part of some of South Africa trade policies; they are used as an instrument of industrial policy to encourage investment, especially from overseas, and production of certain goods, including by SMEs. Local-content considerations are taken into account when, *inter alia*, comparing tenders for government procurement purposes (section (v) below); granting some incentives (section (4)(i)); providing export credit insurance (section (3)(iv)); and using the "Proudly South Africa" logo (section (iv) below).

(iv) Standards and other technical requirements

(a) Standardization, testing, and certification

75. Under the new Standards Act (Act No. 8 of 2008), the South African Bureau of Standards (SABS) continues to operate as a public entity under the DTI. The Act recognizes the SABS as the primary institution responsible for the development, promotion, and maintenance of standardization, and the provision of conformity assessment services. However, the regulatory function previously performed by the SABS now resides with the newly established National Regulator for Compulsory Specifications (NRCS).

76. The NRCS was established under the National Regulator for Compulsory Specifications Act (NRCS Act) of 2008 to administer compulsory specifications. This Act also provides the legal framework for the administration of technical regulations, maintained in the interests of public safety, health, and the environment.[60]

[60] National Regulator for Compulsory Specifications Act (Act No. 5 of 2008).

77. The Agricultural Product Standards Amendment Act (Act No. 63 of 1998) is the main law regulating the setting of standards for agricultural products. Standards are set in consultation with the agriculture sector, consumer groups, and international standards-setting bodies (e.g. the FAO/WHO Codex Alimentarius Commission, and various special advisory commissions under the World Organization for Animal Health (OIE)). A South African national standard in respect of a product or service under the jurisdiction of the Agricultural Product Standards Act, 1990, or the Liquor Products Act, 1989, can be set or amended following an agreement between the SABS Board and the director-general of the department responsible for agriculture.

78. The SABS has the power to set, issue, amend, and withdraw standards. SABS also furnishes reports and issues certificates in connection with examinations, tests, analyses, calibrations, and any other assessments. The SABS may levy fees for setting and issuing a standard and for services rendered in connection with the provision of conformity assessment services.

79. The SABS develops and maintains South African national standards (SANS), at the request of interested parties, and details the process to be used to set or amend them. The SABS must as far as possible ensure that, in setting or amending a SANS the latest technological developments are considered; and that the interests of all parties concerned, including manufacturers, suppliers and consumers, are considered. Standards generally comply with internationally accepted norms. As the first option South Africa reviews applicable international standards for adoption as the basis for a standard and/or technical regulations. Hence, as far as possible SANS are harmonized with international standards. There are over 440 technical committees and subcommittees administered by the SABS to develop standards.

80. South African national standards are drafted by technical committees (TCs), which prepare one or more working drafts. A committee draft (CD) is presented to the TC, which starts a consensus-building process entailing comments and voting. On acceptance of the CD, a draft South African standard (DSS) is made available for public comment, nationally and internationally (public enquiry stage); the comment period is 60 days. The comments are discussed by the committees and, through a consensus, incorporated into the standard prior to finalization. The draft is forwarded to the Standards Approvals Committee (SAC) for ratification. Standards are published in the *Government Gazette* as national standards.[61]

81. South African national standards may be appealed, and there is a procedure for resolving disputes. Appeals must be lodged in writing, within ten working days of the decision, stating clearly the technical grounds on which the appeal is made.[62] Any decision by the CEO of SABS concerning an appeal in respect of a standard is final and is reported to the Board of the SABS.

82. Technical regulations are set for health, safety, and environmental reasons. A standard becomes a technical regulation once "referenced", and any department may make a "reference". Various national departments are responsible developing technical regulations.[63]

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[61] SABS online information, "Latest Draft Standards". Viewed at: https://www.sabs.co.za:/Business_Units/Standards_SA/CatalogueAndInfo/LatestDraft.aspx [4 March 2009]. *Government Gazette* (1993-09). Viewed at: http://www.info.gov.za/view/DynamicAction?pageid=530.

[62] An appeal against a subcommittee decision or a ruling by the chairperson of a subcommittee is lodged with the chairperson of the technical committee. An appeal against a technical committee decision is lodged with the chairperson of the Standards Approval Committee. An appeal against a decision by the chairperson of the Standards Approval Committee must be lodged with the CEO of the SABS.

[63] These departments are the National Department of Agriculture (DoA), Department of Health (Doh), Department of Labour (DoL), Department of Minerals and Energy (DME), Department of Water Affairs and

83. The development of technical regulations, and inspection and enforcement are the responsibility of different government departments depending on subject of the regulation (Table III.4). Various institutions are responsible for setting technical regulations, including the South African Bureau of Standards (SABS); the South African National Accreditation System (SANAS)[64]; the National Metrology Institute of South Africa (NMISA), which is responsible for the maintenance, traceability, and dissemination of national measurement standards[65]; and a wide range of accredited bodies including laboratories, and verification, certification, and inspection bodies. National departments use a consultation process when technical regulations are developed but there is no consistent national approach. As there is no coordinated system for establishing a technical regulation, there appear to be some gaps as well as areas of overlap between national departments. In addition the regulatory system is fragmented, with myriad laws regulating the process of setting technical regulations (Table III.4). Thus, access to information on existing and proposed technical regulations can be difficult, rendering the system unpredictable and unclear.[66]

Table III.4
Technical regulations, 2009

Department	Legislation	Products
Agriculture		
	Fertilizers, Farm Feeds, Agricultural Remedies, and Stock Remedies Act (Act No. 36 of 1947)	Agricultural remedies, stock remedies, farm feeds, and fertilizers
	Agricultural Product Standards Act (Act No. 119 of 1990) Meat Safety Act (Act No. 40 of 2000) Liquor Products Act (Act No. 60 of 1989)	Fruit, vegetables, flowers, red meat, and poultry, dairy products, grains, processed fruits and vegetables, organically produced products, fresh (raw) meat Wines, spirits, brandies, whiskies, sacremental liquor, sparkling wines, fortified wines, cream liquor, and certain ciders
	Genetically Modified Organisms Act (Act No. 15 of 1997)	GM agricultural crops, plants, and animals
	Agricultural Pests Act, 1983 (Act No. 36 of 1983)	Fruit and vegetables, plants, pathogens, insects, exotic animals (as defined in the Act), growth mediums, infectious items, honey, beeswax and used apiary equipment, and vegetative materials of all fruits and ornamental plants
	Plant Animal Improvement Act (Act No. 53 of 1976) Plant Breeders' Rights Act (Act No. 15 of 1976) Animal Diseases Act, 1984 (Act No. 35 of 1984)	Plant animal genetic material Any animal, animal product (including meat), parasite, contaminated or infectious thing
Health		
	Health Act (Act No. 63 of 1977) Foodstuffs, Cosmetics and Disinfectants Act (Act No. 54 of 1972)	Foodstuffs, food labels, food premises, food irradiation, food biotechnology and toxicology, food additives and contaminants, and safety of street foods
	Hazardous Substances Act (Act No. 15 of 1973) International Health Regulations Act (Act No. 28 of 1974)	Ionising radiation products and non-ionising radiation products (e.g. certain electronic products, radioactive materials, and radio nuclides) Medical devices (active electro-magnetic and passive), hazardous, and radio-active substances
	Medicines and Related Substances Control Act (Act No. 101 of 1965)	Medicines and medical devices Food, water, and hazardous by-products

Table III.4 (cont'd)

Forestry (DWAF), Department of Environmental Affairs and Tourism (DEAT), Department of Housing (DoH), Department of Transport (DoT), Department of Communications (DoC), and Department of Trade and Industry (the DTI).

[64] Accreditation for Conformity Assessment, Calibration, and Good Laboratory Practice Act (Act No. 19 of 2006).

[65] Measurement Units and Measurement Standards Act (Act No. 18 of 2006).

[66] Government of South Africa (2008); and Department of Trade and Industry (undated b).

Department	**Legislation**	**Products**
Labour		
	Occupational Health and Safety Act (Act No. 85 of 1993)	Products at workplace (e.g. driven machinery, general machinery, electrical, vessels under pressure, and chemical substances) Explosives and major hazard installations and construction work
Water Affairs and Forestry		
	National Water Act (Act No. 36 of 1998) Water Services Act (Act No. 108 of 1997)	Water
Environmental Affairs and Tourism		
	National Environmental Management Act (Act No. 107 of 1998)	Plastic bags, waste-tyres, and asbestos products
	National Environmental Management Air Quality Act (Act No. 39 of 2004)	Ambient air quality standards Source emission standards
	National Environmental Management Protected Areas (Act No. 57 of 2003 as amended)	Management of national protected areas Restricts activities that can be conducted in protected areas such as mining
	National Environment Management Biodiversity Act (Act No. 10 of 2004)	Ensures equitable and sustainable use of natural resources to contribute to economic development; trade and use of threatened and protected species, access and benefit sharing Draft regulations for international trade in wild fauna and flora cover the import and export of alien species
Transport		
	Merchant Shipping Act (Act No. 57 of 1951) South African Maritime Safety Authority Act (Act No. 5 of 1998)	Sea-going vessels, small craft, leisure craft, navigational aids, buoys for use at sea, breakwater obstacles, maritime safety equipment, safety vests, vessel/personal position distress signalling units, radio communications equipment, and vessel traffic systems
	Aviation Act (Act No. 74 of 1962)	Aircraft and avionics equipment Dangerous goods packaging, packaged goods vehicles, tankers, etc.
	National Road Traffic Act (Act No. 93 of 1996)	Safety, health, and environment aspects of transport of dangerous goods by roads
	National Railway Safety Regulator (Act No. 16 of 2002)	Safety, health, and environmental aspects of transport of dangerous goods by rail
Trade and Industry		
	Standards Act (Act No. 29 of 1993)	Automotive products, food, electrical and electronic equipment, and personal protective items
	Trade Metrology Act (Act No. 77 of 1973)	Measuring instruments, and marking of packaging with prescribed mass and volume
	National Building Regulations and Building Standards Act (Act No. 103 of 1977)	Building and building products
	Gambling Act (Act No. 7 of 2004)	Gaming equipment
	Liquor Act (Act No. 59 of 2003)	Liquor products

Source: Information provided by the South African authorities.

84. Technical regulations are applied equally to domestic and imported products. An imported commodity that is subject to a technical regulation would be deemed to comply if it has been certified by a person or organization recognized by the Minister of Trade and Industry by notice in the *Gazette*. In the absence of certification, the import may be tested or examined and, if found not to be in compliance with the regulation, may be destroyed.[67] The SABS may examine, test or analyse a sample of any imported or domestically produced article to determine whether it complies with or has been manufactured in accordance with the requirements.

[67] Section 23 of the Standards Act gives SABS the authority to ensure that products subject to compulsory South African specifications comply with these requirements.

85. South African National Accreditation System (SANAS) is in charge of accreditation, quality assessment, and calibration; it is responsible for formally recognizing the technical competence of conformity assessment services providers. SANAS operates an internationally recognized accreditation system for calibration and testing laboratories, quality and environmental management systems, and product and personnel certification and inspection. It is the authority responsible for good laboratory practices. SANAS has mutual recognition agreements with foreign accreditation agencies; in the absence of an MRA, the supplier is responsible for proving the compatibility of its products with the SANS.

(b) Sanitary and phytosanitary regulations

86. The Department of Agriculture sets and enforces sanitary and phytosanitary standards for agricultural and animal products.[68] The Department is also in charge of implementing inspection and certification requirments. Sanitary and phytosanitary standards are published in the *Gazette* according to the product regulated.[69]

87. Several laws regulate the setting of sanitary and phytosanitary measures (Table III.5). The Agricultural Pests Act (Act No. 36 of 1983) provides for, *inter alia*, quality control, control over sales of imported products, and the charging of certain fees; it also regulates powers of entry, investigation, sampling, and seizure. The purpose of the Act is to control imports of plants, plant products, and other regulated articles to prevent associated pests and diseases. The Meat Safety Act (Act No. 40 of 2000) promotes meat safety and the safety of animal products[70], establishes and maintains essential national standards in respect of abattoirs, regulates the import and export of meat, and establishes meat safety schemes, which may be made compulsory. The Fertilizers, Farm Feeds, Agricultural Remedies, and Stock Remedies Act (Act No. 36 of 1947) as amended, covers the registration of fertilizers, farm feeds, agricultural remedies, stock remedies, sterilizing plants, and pest control operators; and regulates or prohibits the import, sale, acquisition, disposal or use of fertilizers, farm feeds, agricultural remedies, and stock remedies. The Animal Disease Act (Act No. 35 of 1984) provides for the control of animal diseases and parasites to promote animal health.

Table III.5
Phytosanitary regime, 2009

Act/regulation	Product or activity	Responsible directorate
Agricultural Pests Act, 1983 (Act No. 36 of 1983)[a]	Development and issuance of phytosanitary regulations	Directorate Plant Health
	Pest risk assessment (PRA) and import permits	Directorate Plant Health
	Surveillance (early warning systems for quarantine pests)	Directorate Plant Health
	Pest-free areas and areas of low pest prevalence: maintenance and surveillance	Directorate Plant Health
	Diagnostic services (plant pests)	Directorate Plant Health
	Quarantine services (plants and plant propagation material)	Directorate Plant Health
	Phytosanitary awareness and information exchange	Directorate Plant Health
	Phytosanitary inspection and certification services	Directorate Agricultural Product Inspection Services

Table III.5 (cont'd)

[68] National Department of Agriculture online information. Viewed at: http://www.nda.agric.za; and National Department of Health online information. Viewed at: http://www.doh.gov.za

[69] South African Government Information online, "Documents: All documents by subject: Agriculture". Viewed at: http://www.info.gov.za/view/DynamicAction?pageid=606 [10 March 2009].

[70] Repeals the Abattoir Hygiene Act (Act No. 121 of 1992), except for its Section 23.

Act/regulation	Product or activity	Responsible directorate
	Disinfestation or disinfection of consignments	Directorate Agricultural Product Inspection Services
	Migratory pests (e.g. locusts)	Directorate Land Use and Soil Management
Government Notice R.1013 of 26 May 1989, last amended by R.1058 of 27 October 2006	Importation of controlled goods without a permit	Directorate Plant Health
Government Notice R.110 of 27 January 1984 with amendments, last amended by R. 258 of 13 March 2009	Control measures relating to maintenance of pest-free areas and areas of low pest prevalence to control the national spread of pests and diseases associated with plants, plant products and other regulated articles.	Directorate Plant Health
Government Notice R.1902 of 12 September 1986, amended by R.1780 of 21 August 1987	Control measures relating to cotton	Directorate Plant Health
Government Notice R.458 of 12 May 2000	Control measures relating to honey bees (movement of honey bees to and from Robben Island)	Directorate Plant Health
Government Notice R.1674 of December 1998	Control measures relating to honey bees	Directorate Plant Health
Government Notice R.111 of 27 January 1984 with amendments, last amended by R.257 of 13 March 2009	Regulations on imports of plants and plant products, and applicable tariffs	Directorate Plant Health

a The Act provides measures to prevent and control imports of plant pests, and for their national control. It covers plants, plant products, and their pathogens, and includes biological control agents, insects, other organisms imported for research purposes, growth media, honey, beeswax, used apiary equipment, and exotic animals as well as migratory pests such as locusts.

Source: Information provided by the South African authorities.

88. The Liquor Products Amendment Act (Act No. 11 of 1993) regulates the production, sale, import and export of certain alcoholic products[71], and the composition and properties of such products. It establishes schemes to regulate particular production matters, including origin schemes and environmentally friendly wine production. The Tobacco Products Control Amendment Act (Act No. 12 of 1999)[72] sets out maximum yields of tar, nicotine, and other constituents in tobacco products.

89. All imported food products, including from other SACU countries, must meet South Africa's sanitary and phytosanitary, quality, and labelling requirements. Responsibility for compliance with the regulations rests with the South African importer. Sanitary and phytosanitary measures in South Africa are based on international standards; however, SPS requirements on agricultural products appear stringent, since most agricultural goods are subject to quality standards (Table III.6) or technical regulations. As at March 2009, there were some 60 technical regulations on foodstuffs (Table AIII.2). In accordance with the Animal Diseases Act, (Act 35 of 1984), the import of any animal and animal product (including meat), is prohibited where the risk of importing has been determined to be unacceptable. The Minister may also prohibit the sale of any imported product if it was removed from the port of entry prior to verification of compliance.[73]

90. A permit is required to import meat.[74] The permit may only be issued if meat is imported from a place approved by the national executive officer by notice in the *Gazette*.[75] Importers of meat

[71] Alcoholic products are, *inter alia*, wine, alcoholic fruit beverage, spirits, a grape-based liquor, a spirit-based liquor or a "specially authorized liquor".

[72] Amends the Tobacco Products Control Act (Act No. 83 of 1993).

[73] Agricultural Products Standards (Act No. 119 of 1990) also referred to as the Agricultural Product Standards Amendment Act (Act No. 63 of 1998).

[74] Meat Safety Act (Act No. 40 of 2000) and the Animal Diseases Act (Act No. 35 of 1984). Schedule 1 of the Meat Safety Act lists the animals to which the Act applies.

[75] However, according to the authorities, this will change because the Meat Safety Act of 2000 is being amendment. Once the Act is amended South Africa will accept certification from the abattoirs of the country of origin.

must obtain the permit (valid for one consignment), before a consignment arrives in South Africa. Shipments may be off-loaded at the port of entry if all the conditions specified in the permit have been fulfilled.[76] Meat must be stored at an approved facility until the prescribed veterinary procedures are performed, and the meat is inspected, sampled, and/or tested.[77] These procedures vary according to the origin of the meat. The executive officer might in the "public interest" suspend or withdraw a permit, or impose new or additional conditions to a permit. South Africa also has technical regulations relating to the manufacture, production, processing, and treatment of canned meat products.

Table III.6
Standards on agricultural products[a], 2009

Product	Applies on
Animal products	
Dairy products	Domestic sale and export
Eggs	Domestic sale and export
Imitation dairy products	Domestic sale and export
Meat	Domestic sale and export[b]
Mohair	Domestic sale and export
Poultry meat	Domestic sale and export
Processed products	
Apricot and peach kernels	Export
Canned fruit	Domestic sale and export
Canned mushrooms	Domestic sale and export
Canned pasta	Domestic sale and export
Canned vegetables	Domestic sale and export
Dehydrated vegetables	Domestic sale and export
Dried fruit	Domestic sale and export
Fat spreads	Domestic sale and export
Frozen fruit and vegetables	Domestic sale and export
Fruit juices and drinks	Domestic sale and export
Honey	Domestic sale and export
Honey bush and green honey bush	Export
Jam, jelly, and marmalade	Domestic sale and export
Mayonnaise and salad dressing	Domestic sale and export
Organically produced products	Domestic sale and export
Rooibos tea	Domestic sale[c] and export
Vinegar	Domestic sale and export
Deciduous fruit	
Apples	Domestic sale and export
Apricots	Export
Cherries	Export
Grapes (table)	Domestic sale and export
Peaches and nectarines	Domestic sale and export
Pears	Domestic sale and export
Plums and prunes	Domestic sale and export

Table III.6 (cont'd)

[76] The import permit stipulates the port of entry and the period when the meat should be imported; meat must be stored in the prescribed manner at a facility approved by the national executive officer until the veterinary procedures or other acts specified in the permit have been performed; and must be available for inspection, sampling, and testing by the national executive officer as required.

[77] Schedule 1 of the Act lists all the animals to which the Act applies. The list includes domestic animals and game (Meat Safety Act (Act No. 40 of 2000)).

Product	Applies on
Subtropical crops and flowers	
Avocados	Domestic sale and export
Chinkerinchees	Export
Citrus fruit	Domestic sale and export
Flowers	Export
Fresh cut flowers and fresh ornamental foliage	Export
Granadillas	Export
Green bananas	Domestic sale and exports
Kiwifruit	Export
Litchis	Export
Mangoes	Export
Melons and watermelons	Export
Pineapples	Export
Strawberries	Export
Subtropical fruit	Export
Cereals and vegetables	
Buckwheat	Export
Dry beans	Domestic sale and export
Feed products	Export
Fresh vegetables	Domestic sale and export
Food safety and hygiene	Export
Garlic	Domestic sale
Grain sorghum	Export
Grass seeds	Export
Groundnuts	Domestic sale and export
Leguminous seeds	Export
Lesser known types of maize	Export
Maize	Domestic sale and export
Maize products	Domestic sale and export
Oilseeds	Export
Onions	Domestic sale and export
Popcorn	Export
Potatoes	Domestic sale and export
Sorghum	Domestic sale and export
Soya bean	Domestic sale and export
Sunflower	Domestic sale
Tobacco	Export
Tomatoes	Domestic sale
Vegetables (other than potatoes and onions)	Export
Wheat	Domestic sale and export
Wheat products	Domestic sale
Liquor products	
All liquor products (excl. beer and sorghum beer)	Domestic sale and export

a Standards relating to quality, grading, packing, and marking.
b Only to certain countries.
c Only draft.

Source: South African Government Information online, "Documents: All documents by subject: Agriculture". Viewed at: http://www.info.gov.za [5 March 2009]; and information provided by the South African authorities.

91. The Agricultural Pests Act, 1983 (Act No. 36 of 1983) provides for importation, by means of a permit or following publication in the *Government Gazette*, of controlled goods such as plants and plant products, pathogens, insects, exotic animals, and growth mediums.[78] The importation of such

[78] The Agricultural Pests Act (Act No. 36 of 1983) also referred to as Agricultural Pests Amendment Act (Act No. 9 of 1992).

goods may also be subject to specific phytosanitary conditions as indicated on the permit or as published in the *Government Gazette*. These import controls are aimed at preventing and combating the spread of agricultural pests. Imports of controlled goods must be through a specified port of entry so that controls may be enforced; controls may entail the destruction or cleansing of plants infected with pathogens or insects. The list of goods subject to import permits on SPS grounds is under continuous review by the Department of Agriculture to reflect changes in disease status. Listed goods that are subject to import permits on SPS grounds have been determined based on a sanitary or phytosanitary risk-assessment procedure. When new scientific information becomes available, risk assessments are carried out to determine whether import requirements need to be amended.

92. Imports (exports) of alcoholic beverages with an alcoholic content of more than 1% with the exception of beer, sorghum beer, and medicine require an import (or export) certificate.[79]

93. Under the Animal Disease Act (Act No. 35 of 1984) any animal, animal product (including meat), parasite, contaminated or infectious thing may only be imported into South Africa after a permit and a veterinary certificate have been issued, and the conditions stipulated in both documents have been complied with. The conditions stipulated on the permit and veterinary health certificates vary according to the risk of importing the different commodities from individual exporting countries. The decision on whether to issue these documents is based on information provided by World Organisation for Animal Health (OIE), information received from the exporting country, as well as the risk assessment outcome. The permit defines the "place of entry" and the period within which the importation is to take place. The Minister may stipulate general or particular control measures in respect of a particular animal disease and/or parasite. Controls might cover the whole of South Africa or a defined area. Control measures may include: examinations of animals presumed infected; restrictions on and control of the slaughtering, killing, hunting, and catching, and the movement and removal of animals, over, from, and to land where an animal disease or parasite occurs or is suspected to be present; decontamination; and/or the construction of fences

94. In accordance with the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act No. 36 of 1947) as amended, imports of fertilizers, farm feeds, agricultural remedies and stock remedies are prohibited unless registered. The manufacture and sale of fertilizers and farm feeds containing substances derived from animal carcasses are prohibited, unless the bone or substance has been sterilized.

95. Any product subject to SPS regulations may be subject to inspection (including grading and sampling) to verify compliance with regulations; the control may be done at any point. In case of non-compliance products may be seized and criminal proceedings may be instituted. However, appeals are possible under the various laws.[80]

96. South Africa's National Drug Policy stipulates the introduction of a five-year re-licensing system for drugs, computerization of the evaluation system, prioritization of registration based on need, and fast-track procedures for essential drugs. Drugs and medicines must be registered in South Africa before import and sale. Import controls are also applied to medicines, mainly to ensure compliance with the existing standards.

[79] Liquor Products Amendment Act (Act No. 11 of 1993).

[80] Agricultural Products Standards Act (Act No.119 of 1990) also referred to as the Agricultural Product Standards Amendment Act (Act No.63 of 1998); and Agricultural Pests Act (Act No. 36 of 1983) also referred to as the Agricultural Pests Amendment Act (Act No. 9 of 1992).

97. The regulatory framework governing the use of GMOs in South Africa is the 1997 Genetically Modified Organisms Act (Act No. 15 of 1997).[81] The Act regulates all activities involving the use of GMOs (including import, production, export, transit, development, release, distribution, contained use, storage, and application), to ensure that all activities are carried out in such a way that possible harmful consequences to the environment and to human and animal health are limited, accidents are prevented, and waste is managed in an effective manner. It establishes common measures for evaluating and reducing potential risks involved in using GMOs, and lays down the requirements and criteria for risk assessments. The Act also establishes a council for GMOs to ensure that GMOs are appropriate and do not represent an environmental hazard, and procedures to notify activities that entail the use of GMOs.

98. The Act was amended in 2006 (but is still called the GMO Act, 1997). The main amendments included changes to the scope of the Act to include exports of GMOs; consistency with the provisions of the Cartagena Protocol on Biosafety (ratified by South Africa in November 2003); amendment of the composition of the Executive Council; and streamlining the administrative procedures under the Act. The new regulations to the Act have not yet been finalized.

99. GMO products intended for sale as food and/or feed are analysed for food safety on a case-by-case basis. Prior to undertaking any activity involving genetic modification, a suitable assessment of the environmental and human health risks must be made.[82] Permits are required for import, export, contained use, trial release, and commercial release (Table III.7). Interested parties must apply to develop or use a GMO. Application is to the Registrar of GMOs at the Department of Agriculture, who checks whether the application meets the requirements of the GMO Act. If so, the application is evaluated by the Advisory Committee, which assesses the risk. If necessary the Advisory Committee may request further information from the applicant. A recommendation is prepared by the Advisory Committee and submitted to the Executive Council, which evaluates the application, the advisory committee's recommendation, and the public's input prior to reaching a decision. Permits may be used for import, export, contained use, field trials or commercial use. Up to mid 2009, South Africa has approved herbicide-tolerant soybean, maize, and cotton, insect-resistant maize and cotton, as well as stacked insect-resistant and herbicide-tolerant maize and cotton for commercial release and/or for food and animal feed.[83]

Table III.7
GMO activities subject to permits, 2009

Activities	No. of days to issue a permit	Fees
Appeal	n.a.	R 3,700 each
Commodity clearance	180	R 15,600/application
Contained use of GMOs	30	R 910/application
Fast tracking	n.a.	R 2,050 each
General release and marketing of GMOs	180	R 15,600/application
Import and export of GMOs	30	R 300/application
Registration of facility	30	R 370/application
Trial release of GMOs	90	R 20/application
Use as food or feed or for processing	30	R 210/application

n.a. Not applicable.

Source: Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997); and information provided by the South African authorities.

[81] According to the authorities the GMO Act is consistent with the provisions of the Cartagena Protocol on Biosafety.
[82] Genetically Modified Organism Act (Act No. 15 of 1997) Regulations.
[83] Genetically Modified Organism Act (Act No. 15 of 1997) Regulations.

(c) Marking, labelling, and packaging

100. Marks and labels are to provide the consumer with accurate and relevant information about products.

101. Several laws set out South Africa's packaging and marking requirements: the Agricultural Products Standards Act and the 1989 Liquor Products Act, which regulate packaging and marking of agricultural products (including imported goods) for local sale and for export; the Merchandise Marks Act (No. 17 of 1941), as amended, and the Intellectual Property Laws Amendment Act (No. 38 of 1997) have provisions concerning the marking and packaging, and the use of certain words and emblems; the Explosives Act indicates that explosives must be clearly identified in the prescribed manner with legible and visible identification markings and must be packed in the required packaging material.[84] Producers and importers of explosives must submit examples of the packaging material in order to create and maintain a database of such samples.

102. Products manufactured in South Africa and purchased by the State should be marked by the suppliers with "Made in the Republic of South Africa/Vervaardig in die Republiek van Suid-Afrika".[85] Under the Merchandise Marks Act, imported goods should not bear marks giving the impression that they originate in South Africa. The country of origin must be identified on imported goods. All products shipped to South Africa must conform with the metric international system of units.

103. Foodstuffs containing food additives used as an antioxidant, sweetener, colorant, curing agent, flavour enhancer, flavouring or preservative must be labelled with an indication of every food additive. "Special" labelling requirements apply to drugs, wine, foodstuffs, cosmetics, and toothpaste, and powders and mouthwashes containing fluoride. Certain products require labels in English and Afrikaans. False or misleading descriptions on alcoholic products is prohibited.

104. The Agricultural Products Standards Act of 1990 regulates the packaging and marking of commodities (including imported goods) for local sale as well as export (Table III.6). Labelling (as well as quality standards) applies to a vast list of agricultural products including fruit, flowers, grains, processed animal and plant products, animal products, and liquor products derived from wine. The Minister in charge of agriculture may prescribe the use of a "distinctive mark" on exports to certify the class or grade or, in the case of organically produced products, the production method concerned; and/or a particular management control system.

105. South Africa has regulations mandating the labelling of GM food products, including when allergens or human/animal proteins are present, and when a GM food product differs significantly from a non-GM equivalent.[86] Under the Consumer Protection Act (Section 24) food that contains GM ingredients must be labelled accordingly.

106. The SABS mark is granted to products that comply with relevant specifications. The SABS mark is voluntary and is not limited to domestically manufactured products.

107. The National Economic Development and Labour Council (NEDLAC) has launched a campaign to promote South African companies, products, and services. Companies that meet certain

[84] Chapter 3, Explosives Act (No. 15 of 2003) (South African Government Information online, "Documents Acts". Viewed at: http://www.info.gov.za/view/DynamicAction?pageid=544 [10 March 2009]).

[85] State Tender Board (2000).

[86] Foodstuffs, Cosmetics, and Disinfectants Act, 1972 (Act No. 54 of 1972).

criteria (i.e. labour and local requirements, and labour and environmental standards) may use the "Proudly South African" logo.[87]

(v) Government procurement

108. South Africa is not a signatory to the plurilateral Agreement on Government Procurement. The procurement system has not changed substantially during the review period. Government procurement remains decentralized**,** and preferences and offsets are still in place. However, the system is being harmonized and reformed to introduce a framework for supply-chain management.[88]

109. The basis for procurement is Section 217(I) of the South African Constitution, which stipulates that contracts for goods and services must be in accordance with a system that is fair, equitable, transparent, competitive, and cost-effective. The Constitution also confers an obligation for national legislation to set a framework providing for preferential procurement to address the social and economic imbalances of the past.[89]

110. Procurement in South Africa is regulated by the State Tender Act (Act No. 86 of 1968), the Public Finance Management Act of 1999[90], the Preferential Procurement Policy Framework Act (PPPFA) of 2000, the Policy to Guide Uniformity in Procurement Reform Processes in Government (a Framework for Supply Chain Management), and the general Procurement Guidelines, which are supplemented by individual Accounting Officer's Procurement Procedures. These apply to all national and provincial departments. The National Treasury, through the Public Finance Management Act of 1999, introduced norms and standards for transparency and expenditure control measures, which should include best practices to regulate financial management in the national and provincial spheres of government.[91] The Municipal Finance Management Act (MFMA) extends the same principles to municipalities.

111. All procurement contracts must comply with the Preferential Procurement Policy Framework Act (Act No. 5 of 2000) and its implementing regulations of 2001, which stipulate that preferences must be applied to all tenders regardless of value. The preferences are aimed at: supporting SMEs and micro enterprises (SMMEs) and historically disadvantaged individuals (HDIs), women, and physically handicapped people; and promoting employment and domestic production including in specific provinces and the rural areas. Preference points are to be awarded on the basis of comparative prices not tender prices. For tenders valued of less than R 500,000, there is an 80/20 split, with 80 points awarded to the lowest price acceptable bid. A maximum of 20 points is awarded to HDIs under the Black Economic Empowerment (BEE) programme depending on ownership, management, and employment goals. Tenders valued over R 500,000 operate on the same basis except the split is 90/10. The contract is to be awarded to the bidder with the highest points

[87] Proudly South African online information, "Competition Answers". Viewed at: http://www.proudlysa.co.za/level2/supporters.asp?include=../docs/misc/comps/answers.html [10 March 2009].

[88] In accordance with a policy document on government procurement adopted on 10 September 2003. South Africa is moving towards the implementation of supply-chain management (National Treasury, 2003).

[89] The Preferential Procurement Policy Framework Act (PPPFA) (No. 5 of 2000) and its accompanying regulations were promulgated to achieve these goals.

[90] The Public Finance Management Act (PFMA) (Act No. 1 of 1999, as amended by Act No. 29 of 1999) was promulgated to regulate financial management in the national and provincial spheres of government. The Municipal Finance Management Bill (MFMA) of 2002 will extend the same principles to municipalities. Considerable powers are assigned to accounting officers, accounting authorities, and municipal managers to enable them to manage their financial affairs within the parameters laid down by the prescribed norms and standards. Both the PFMA and the MFMA require the National Treasury to monitor compliance with these norms and standards.

[91] Sections 215-219 of the Constitution.

unless justified by other developmental objective criteria. Exemption from provisions of the Framework Act might be justified on grounds of public or national security interests. Foreign firms may only bid through a local agent.

112. Procurement of goods and services is arranged through the State Tender Board or by the regional tender boards, which cover the area determined by the Minister of Finance. In 2000, South Africa decided to phase out the tender boards. Therefore, in 2003, the State Tender Board Regulations were amended to allow national departments to procure goods and services either through the State Tender Board or through the accounting officers.[92] However, no information was made available regarding the criteria to determine which contracts are to be awarded through the Board or the accounting officers, or whether this is at the discretion of the Board. According to the authorities, since 2005 the State Tender Board has not awarded any contracts and departments procure their own goods and services. At end 2003, all provincial tender board acts had been repealed and the members' tenure terminated.

113. Most government purchasing takes place through competitive bidding, on invitations for tenders, published in the *Government Tender Bulletin*[93], on ministry websites, and sometimes in local newspapers. Where the Tender Board considers it "advisable", bidders are pre-screened to ensure that they can supply the goods or services so that the tender offer is extended to suitable bidders.[94] The Board might consider that invitations to tender for specific supplies or services should be limited to certain bidders; potential bidders are evaluated in the light of the requirements, and invitations are extended only to bidders found to be suitable.[95] In comparing tenders, the prices are brought to a comparative level by deducting preferences and other benefits, adding delivery and other costs as applicable, and bringing implied contract price adjustments into account. The Board awards price preferences for local content, for products with the SABS marks, and other preferences mandated by the Ministry of Finance.[96] After prices have been brought to a comparative level the lowest is normally chosen; when there are equal-price tenders the Board's General Procedures stipulate the criteria to be followed, including national content.

114. Until 2003, accounting officers were required to obtain three bids for contract valued over R 500,000, which were to be submitted to the Tender Board for final approval. Contracts valued over R 5 million required the approval of the Director-General of the Department of Trade and Industry. As of 2003, contracts valued over R 500,000 must be advertised in several newspapers, including the *Government Tender Bulletin*. Each department has to appoint a bid adjudication committee (BAC), which includes the accounting officer, and a bid evaluation committee (BEC). The BEC makes a recommendation to the BAC. The BAC usually follows the BEC recommendation; otherwise it must submit a report within ten working days to the National Treasury and the Auditor-General. Procurement by state-owned enterprises are covered in Schedule 2 of The Public Finance Management Act. Under the PFMA, SOEs may develop their own procurement policies provided they conform to the core principles of the PFMA, namely that the procurement process is competitive, transparent, and fair. SOEs must also comply with the National Industrial Participation Programme (NIPP).

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[92] Amendment to Section 13 of the State Tender Board Act (Act No. 86 of 1968) (*Government Gazette* No. 25766, 5 December 2003).

[93] DTI online information, "Government Tender Bulletins". Viewed at: http://www.dti.gov.za/tender/bulletins.htm [26 January 2009].

[94] No information was made available as to what this screening entails.

[95] The Board publishes in the *State Tender Bulletin* particulars of suppliers and services in respect of which there are lists of approved bidders.

[96] State Tender Board (2000).

115. In accordance with the NIPP, which entered into force in 1996 and is managed by the Department of Trade and Industry, all government purchases or lease contracts (goods, works, and services) are subject to an industrial participation (IP) obligation. Any contract having an imported content equal to or exceeding US$10 million is subject to an IP obligation. No contract can be awarded to a bidder who has not satisfied this requirement. This obligation requires the seller/supplier to engage in commercial or industrial activity equal to or exceeding 30% of the imported content of total goods purchased under the government tender, with the exception of defence-related contracts. In the case of defence contracts, an additional 50% on the imported content (referred to as DIP – Defence IP) is required.[97] The obligation may take the form of investments, joint-ventures, sub-contracting, licensee production, export promotion, sourcing arrangements, and research and development collaboration.[98] Bidders must submit their projects, which should be beneficial to the South African economy, to the Industrial Participation Secretariat at the Department of Trade and Industry for approval before implementation. Projects are evaluated by two committees: one assesses the technical merit of the proposal and determines whether it meets the DTI's and the industry's objectives, and the other ensures adherence to the principles of the NIPP. Any company is free to object to a decision, and a project can be reconsidered based on new information.

116. Imported goods bought by the Government must be shipped by vessels owned or operated by South African shipping companies or approved shipping companies, unless such arrangements result in higher costs or excessive delays. Exemptions are granted at the discretion of the Tender Board.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Export registration and procedures

117. All exporters are required to register with the South African Revenue Services (SARS).[99] In addition, exporters must be registered with the Department of Trade and Industry (DTI) to receive export incentives.

118. Export declarations are processed by SARS, which is in the process of implementing an automated system. The original and an audit copy of each export declaration is processed by Customs and retained for record and trade statistics purposes. Any other documents (e.g. commercial invoice including the price, bill of lading, insurance documents, packing list, certificates of origin, export licence, and health and sanitary certificate) must be produced, if required by Customs. Exporters must follow the packing and labelling requirements prescribed by the country of destination.[100] Additional requirements (e.g. sanitary and phytosanitary) depend on destination; inspection and certification by the relevant official South African authority may be needed in order to comply with the requirements of the importing country. Hence for certain commodities, clearance may be required from departments other than Customs, thereby extending the time required for clearance.

[97] This is the only change in the NIPP Guidelines since 2004.

[98] DTI online information, "National Industrial Participation Programme". Viewed at: http://www.thedti.gov.za/nippgm/SBD5Form.pdf [16 February 2009].

[99] DTI online information, "Registering as an Exporter". Viewed at: http://www.thedti.gov.za/exporting/registeringasanexporter.htm [5 February 2009].

[100] For example, shipper's mark; country of origin; weight marking (in pounds and kg); number of packages and size of cases (in inches and centimetres); handling marks (international pictorial symbols); cautionary markings such as "This Side Up" or "Use No Hooks" (in English and in the language of the country of destination); port of entry; and labels for hazardous materials (universal symbols adopted by the International Maritime Organization).

(ii) Export taxes and levies

119. South Africa still levies a tax on exports of unpolished diamonds in order to promote the development of the local economy, develop skills, and create employment.[101] As of 2008, SARS has been responsible for collecting the diamond export levy of 5% based on the value of exported unpolished diamonds. There are also export levies on citrus fruit (R 0.0213 per kg)[102] and on wine (in bulk R 0.05 per litre and R 0.08 per litre otherwise).[103]

120. Inspection fees are levied on exports of certain perishable goods in accordance with the inspection requirements. Fees are published by the Department of Agriculture.[104]

(iii) Export prohibitions, controls, and licensing

121. A number of products are still subject to export control, including export permits (licences) and prohibition (Table AIII.3)[105]; the list is reviewed periodically.[106] Controls are maintained on grounds of safety, security, and the environment, and to ensure compliance with international obligations under treaties and conventions to which South Africa is a signatory (e.g. the Montreal Protocol). Export prohibitions apply only to ozone-depleting substances in accordance with the Montreal Protocol. South Africa does not apply any trade embargoes except those imposed by the United Nations.

122. Export permits are valid for exports to any country, including other SACU members. Applications are to the International Trade and Administration Commission, or the government agency that controls the specific permit in question. The application procedure and time required for obtaining export permits takes on average three working day.

123. An export authorization is required, on SPS grounds, to export any animal, semen, ova or sterilized ostrich eggs.[107] Exports of meat require a health certificate and the payment of fees, depending upon the province, prior to export.[108] Exports of meat must be inspected, sampled, and tested. Health certificates are only issued for meat that has been slaughtered at an abattoir approved as an export abattoir and in accordance with the essential national standards.

124. Exports of any alcoholic product with an alcohol content of more that 1%, except for beer, sorghum beer, and medicines, require an export certificate under the Liquor Products Act.[109] Certificates are subject to a fee, which varies according to the need to sample or not.[110]

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[101] Diamond Export Levy Act (Act No. 15 of 2007), and Diamond Export Levy (Administration) Act (Act No. 14 of 2007).

[102] Marketing of Agricultural Products Act (Act No. 47 of 1996).

[103] Marketing of Agricultural Products Act (Act No. 47 of 1996), Wine Industry: Establishment of Statutory Measures and Determination of Guideline Prices (*Government Gazette* No. 28188, 1 November 2007).

[104] Perishable Products Export Control Act (Act No. 9 of 1983), updated on 29 September 2008.

[105] ITA Act No 71 of 2002.

[106] The criteria for this review were not specified.

[107] Livestock Improvement Amendment Act (Act No. 60 of 1997).

[108] Schedule 1 of the Meat Safety Act (Act No. 40 of 2000) lists all the animals to which this requirement applies.

[109] Liquor Products Act (Act No. 60 of 1989); and Liquor Products Act: Regulations: Amendment (*Government Gazette* No. 29652, 2 March 2007).

[110] The application fee varies from R 55.00 per application plus R 5.00 per hl up to the first 100 hl, plus an analysis fee of R 25.00 or plus R 4.50 when no analysis is required (Liquor Products Act: Regulations: Amendment (*Government Gazette* No. 29652, 2 March 2007)).

125. Exports of unpolished diamonds continue to be regulated in South Africa; they are prohibited unless undertaken by a producer, a manufacturer (synthetic diamonds), a dealer, or a holder of an export permit. Unpolished diamonds must be sold at a diamond exchange and export centre.[111] Under a 1994 agreement, South African Sugar Association (SASA) was responsible for exporting all sugar except if refined and packed in bags of 25 kg or less. A 2000 agreement allowed milling companies to export refined sugar and direct-consumption raw sugar (i.e. sugar not for use by the food industry); therefore, SASA is at present only responsible for exporting indirect-consumption raw sugar. There is no prohibition or restriction on the export of sugar; however, it is subject to automatic export licensing. All sugar exporters must apply for an export permit issued by the Department of Trade and Industry. There are no quantitative restrictions on sugar exports. Automatic licensing is for data collection; permits are generally issued within 24 hours.

(iv) Export subsidies, finance, and assistance

126. South Africa notified to the Committee on Agriculture that it did not provide export subsidies during 2002-05.[112] In 2003, South Africa notified the WTO that it does not maintain any specific subsidies or any subsidy that increases exports or aims to reduce imports.[113]

127. Duty drawbacks are allowed on imports of certain goods incorporated or used in goods to be exported. Drawbacks cannot exceed the duty actually paid at the time of importation. A drawback is given once evidence is provided that the import has been used to manufacture, process, finish, or pack an export.[114] There are relatively few applications for drawbacks, apparently because of refund delays; while, in the case of rebates, no duties have to be paid.

128. The Department of Trade and Industry (DTI) has undertaken to implement a series of industrial development zones (IDZ) under its Spatial Development Initiative (SDI) programmes. Firms that locate in those zones will benefit from, *inter alia*, fiscal incentives, expedited customs procedures, and a single-stop window that facilitates the issuing of all the required permits. The fiscal incentives include duty suspension on imports of raw materials, including machinery used in the production of goods intended for export, and VAT exemptions under specific conditions for inputs procured in South Africa.[115]

129. Several incentive schemes remain available to South African exporters for the promotion and development of exports and export markets (Table AIII.4). The DTI is still in charge of administering most of these schemes.

130. Export promotion is also the responsibility of the DTI. The Export Promotion Directorate, under the DTI (specifically under Trade and Investment South Africa (TISA)), is responsible for promoting South Africa's exports of goods and services. The Directorate provides both financial and

[111] Diamonds Second Amendment Act (Act No. 30 of 2005) (*Government Gazette* No. 27513, 14 February 2006); and Diamonds Act (Act No. 56 of 1986): Amendment of regulation (*Government Gazette* No. 30942, 4 April 2008).

[112] WTO documents G/AG/N/ZAF/66, 8 September 2008; G/AG/N/ZAF/59, 16 January 2007; G/AG/N/ZAF/57, 10 March 2006; and G/AG/N/ZAF/48, 7 November 2003.

[113] WTO document G/SCM/N/95/ZAF, 12 August 2003.

[114] For a full list of goods eligible for tax rebates and the eligible specific industries, see Schedule 5 of the Customs and Excise Act (Act No. 91 of 1964), as amended (SARS online information, "Legal and Policy: Schedules to the Customs and Excise Act (Tariff Books)". Viewed at: http://www.sars.gov.za/home.asp?pid=2630 [2 February 2009]).

[115] The authorities noted that "specific conditions" vary according to the transaction (DTI online information, "Industrial Development Zones (IDZ)". Viewed at: http://www.thedti.gov.za/offerings/offering.asp?offeringid=217 [16 February 2009]).

non-financial assistance to eligible exporters. It also provides information on export markets and opportunities; and issues country reports, market surveys, and booklets on the export process, on quality and other standards, and on e-commerce. Exporters are informed about the requirements for entering foreign markets and identifying export markets for their products and services.

131. TISA is responsible for administering the Export Marketing and Investment Assistance Scheme (EMIA). The purpose of the scheme is to partially compensate exporters for the cost of developing new export markets for goods and services. There are several programmes under the EMIA (Table AIII.4); assistance is granted at the discretion of the DTI. Eligible applicants include South African-based manufacturers including small, medium-sized and micro enterprises (SMMEs) and previously disadvantaged individuals (PDIs); South African export trading houses[116]; and South African export councils and industry associations.

132. In addition, the Sector Specific Assistance Scheme (SSAS) provides reimbursable grants to industries considered a priority by the DTI as outlined in ASGISA and NIPF. Funds must be used to, *inter alia*, stimulate exports, diversify exports, stimulate the participation of SMEs in the export sector, promote black economic empowerment, and create labour. Grants are also available under the Project Funding for Emerging Exporters, which targets only new exporters. Other sector-specific programmes are aimed at promoting exports, such as the Motor Industry Development Programme (MIDP); the Productive Asset Allowance for the automotive industry[117]; Duty Credit Certificates for the Textiles Industry; and Fund for the Committee on Secondary Manufacture (to support exports of steel products) (Chapter IV).

133. The Export Credit Insurance Corporation of South Africa (Pty) Ltd (ECIC) continues to provide export credit insurance for goods and services. Insurance cover is provided for losses arising from political risk, expropriation, loss incurred due to any action taken by the host government that prevents the conversion of a local currency, war and civil disturbance, breach of contract, protracted default; and insolvency. The ECIC provides insurance for credits of a minimum of two years, up to a maximum of ten years. Credit insurance covers up to 90% of the contract value but it is contingent on a national content of at least 50% of the value of the export.[118]

134. South Africa also offers subsidized medium- and long-term loans to promote the export/import of capital goods and services. Financing facilities offered by banks and financial institutions, such as the Industrial Development Corporation of South Africa Limited (IDC), are enhanced by the credit insurance cover and interest support from the government-owned Export Credit Insurance Corporation of South Africa (ECIC). The ECIC enables exporters of capital goods and services to offer extended credit facilities to foreign buyers by underwriting bank loans and investments outside the country.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Incentives

135. Incentives are one of South Africa's key industrial policy instruments. A wide range of incentive schemes continue to be available to investors (Table AIII.4). These include general incentive schemes such as the Spatial Development Initiative (SDI) (which includes industrial

[116] An enterprise that represents at least three SMMEs and focuses on export promotion.
[117] DTI online information, "Productive Asset Allowance". Viewed at: http://www.thedti.gov.za/offerings/offering.asp?offeringid=216 [18 February 2009].
[118] National content includes inputs, wages, freight charges paid in South Africa, insurance and finance charges, and any fees paid for services in South Africa.

development zones (IDZs)) (e.g. the Lubombo Initiative and the West Coast Initiative); Structural Adjustment Programmes for specific industries (e.g. automotive, and textile and clothing), innovation and research; and regional incentive programmes. All of these programmes are aimed at fostering sustainable industrial development in areas where poverty and unemployment are highest; providing historically disadvantaged persons (HDPs) with opportunities; developing the rapidly growing SME sector of the economy.

136. The SDI programme focuses on attracting domestic and foreign investors into areas where there is economic potential in order to enhance growth and improve socio-economic conditions. The IDZs, specialized industrial areas within an SDI, are an integral part of the SDI programme. The IDZ programme, administered by the DTI, is to improve the competitiveness of the South African manufacturing sector.[119] IDZs are industrial estates linked to an international port or airport with high quality infrastructure and expedited customs procedures, where producers benefit from duty and tax incentives (Table AIII.4). IDZs mainly target export-oriented investment and production. There are currently four IDZ in South Africa.[120]

137. South Africa also has several development finance institutions, which operate under the purview of DTI. The South African Micro-finance Apex Fund (SAMAF), a wholesale funding institution established in 2006, provides finance to micro and small and "survivalists" business at affordable rates. SAMAF works with community-based partner organizations like the Financial Services Co-operatives (FSC), village banks, and medium to large micro-finance institutions (MFI).[121]

138. Khula Enterprise Finance Ltd (Khula), established in 1996 as an independent agency of the DTI, is South Africa's most important development finance institution focusing on the rapidly growing SME sector of the economy. Khula is a wholesale finance institution with ties in the public and private sectors, including commercial banks, retail financial institutions, specialist funds, and joint ventures. It supplies complementary loans to bridge gaps not addressed by commercial financial institutions in the small business sector.[122]

139. The Industrial Development Corporation of South Africa Limited (IDC), a state-owned development finance institution in operation since 1940, provides financing to entrepreneurs engaged in competitive industries.[123] The IDC's main objective is to promote economic growth and industrial development in South Africa and the region as a whole. It contributes to the goals of the Shared and Accelerated Growth Initiative of South Africa (ASGISA) through the financing of labour intensive industries; the development of SMEs; and the acceleration of Black Economic Empowerment.[124]

[119] Manufacturing Development Act (Act No. 187 of 1993): Industrial Development Zone Programme: Amendment (*Government Gazette* No. 29320, 27 October 2006).

[120] These are: Coega IDZ, East London IDZ, Richard's Bay IDZ, and JIA IDZ at Kempton Park.

[121] DTI online information, "Development Finance Institutions". Viewed at: http://www.thedti.gov.za/thedti/samaf.htm [10 March 2009].

[122] For detailed information on Khula's financial schemes (e.g. Khula Credit Indemnity Scheme and Khula Land Reform Empowerment Facility), see DTI online information, "Khula Enterprise Finance". Viewed at: http://www.thedti.gov.za/thedti/khula.htm [10 March 2009].

[123] Industrial Development Corporation online information. Viewed at: http://www.idc.co.za/ [29 June 2009].

[124] IDC online information, "About the IDC". Viewed at: http://www.idc.co.za/Overview%20of%20the%20IDC.asp [29 June 2009].

(ii) State trading, state-owned enterprises, and privatization

140. In 2002, South Africa last notified to the WTO that it did not maintained any governmental and non-governmental enterprises as defined by Article XVII of the GATT 1994.[125] According to the authorities, this has remained unchanged during the period under review.

141. State-owned enterprises (SOEs) still play a critical role in South Africa's economy, operating in key sectors of the economy such as telecommunications, energy, defence, and transport (Table III.8). Until 2004, South Africa's intention was to privatize SOEs; however, the introduction of the Accelerated and Shared Growth Initiative (ASGISA) in 2003/04, which gives the SOEs a more significant role in the development of the economy, brought about a strategic shift.[126] Moreover, according to the authorities, the commercialization and/or partial privatization of some SOEs was virtually put on hold during the review period because the programme had been relatively unsuccessful. During 2001-08 only one SOE (Adventure Resorts) was sold, for some US$10 million, while the sale of 25% of Telkom's shares in 2003 resulted in US$500 million profit.

Table III.8
State-owned enterprises, 2009

SOE	Activity	Share owned by the State (%)
Air Traffic and Navigation Services Company Ltd.	Air transport control	..
Airports Company South Africa (ACSA)	Air transport services	..
Alexkor[a]	Alluvial diamond mining	100
Arivia	IT provider	..
Armaments Corporation of South Africa Ltd. (ARMSCOR)	Armament procurement	100
Aventura	Holiday resorts	..
Broadband Infraco[a]	Telecom	..
Central Energy Fund (CEF)	Energy	100
Denel[a]	Defence-related manufacturing	100
Electricity Distribution Industry Holdings (EDI)	Electricity	..
Eskom[a]	Electricity supply	100
Industrial Development Corporation (Ltd.) (IDC)	Industrial development	..
Ithala Development Finance Corporation (Ltd.)	Financial and property services	..
Land Bank and Agriculture Bank of South Africa (Land Bank)	Financial services	..
Limpopo Economic Development Enterprise (Limdev)	Financial services	..
National Energy Regulator (NERSA)	Electricity, gas-pipes, and petroleum pipeline	..
National Housing Finance Corporation (NHFC)	Financial services	..
Pebble Bed Modular Reactor (Pty) Ltd. (PBMR)[a]	Nuclear power generation	64
Petroleum, Oil, and Gas Corporation of South Africa (Pty) Ltd. (PetroSA)	Hydrocarbons provider	..
Public Investment Corporation (PIC)	Investment management	100
SA Express (SAX)[a]	Air transport	100
South African Forestry Company Ltd. (SAFCOL)[a]	Forestry	100
Small Enterprise Development Agency (SEDA)	Enterprise support	..
South African Airways (SAA)[a]	Air transport	95
South African Broadcasting Corporation (SABC)	Broadcasting	..
South African Post Office (SAPO)	Postal services	..
South African Rail Commuter Corporation (SARCC)	Rail commuting	..
Telkom	Telecom	38.9

Table III.8 (cont'd)

[125] WTO document G/STR/N/8/ZAF, 18 March 2002.
[126] The Presidency (undated).

SOE	Activity	Share owned by the State (%)
Transnet[a]	Port and rail infrastructure	100

.. Not available.

a Managed by the Department of Public Enterprises.

Source: Department of Public Enterprises online information, "State-owned enterprises". Viewed at: http://www.dpe.gov.za/home.asp?id=925 [27 February 2009]; South Africa Information online, "SA invests in African infrastructure". Viewed at: http://www.southafrica.info/what_happening/news/african_union/parastatals-040805.htm [27 February 2009]; Government Communication and Information System online, "Contact directory: Government Structure and Parastatals". Viewed at: http://www.gcis.gov.za/gcis/directory.jsp?dir=7 [27 February 2009]; and information provided by the South African authorities.

142. Since 2004, the aim has been to restructure the SOEs under the responsibility of the Department of Public Enterprises (DPE) so that they become more efficient, profitable businesses that could contribute to the economic growth and development of the country.[127] Restructuring and further investment in SOEs have continued; the SOEs had to streamline their operations, dispose of non-core assets, reduce costs, and improve access of the historically disadvantaged to utilities. However, some SOEs remain loss-making, with weak financial positions, and continue to be undercapitalized.[128]

143. The opening-up of some industries to competition and further improving the regulatory environment would ensure that certain services are provided at a lower cost and better quality. Although transport, energy, and defence have been somewhat opened to comptetion, three major public enterprises in principle still operate under monopoly or hold exclusive rights: Transnet (transport), Eskom (electricity), and Denel (defence) (Chapter IV).

(iii) Competition policy and price controls

(a) Overview

144. The competition regime has not undergone substantial changes since the previous Review. The authorities continue to address anti-competitive practices across all sectors of the economy and are attempting to strengthen the existing competition regime. Nevertheless, exemptions to the application of the law could result in discretionary application of the law, thus diminishing the effectiveness of competition policy in the economy.

145. Competition authority is vested in three institutions with distinct functions: the Competition Commission of South Africa (CCSA); the Competition Tribunal of South Africa (CTSA); and the Competition Appeal Court (CAC). The CCSA is responsible for investigation, prosecution, and advocacy. CTSA deals with all large (i.e. above the threshold[129]) mergers and all restrictive practices, and acts as an appeal body for CCSA's decisions in regard to small and intermediate mergers and exemptions. The CAC is a division of the High Court.

[127] The DPE portfolio comprises key network infrastructural providers (Eskom, Transnet, and Broadband Infraco); a full service network airline (South African Airways); an advanced military aerospace and defence manufacturer (Denel); a major technology development initiative (Pebble Bed Modular Reactor); a forestry company (SAFCOL); and a diamond mining company (Alexkor). Broadband Infraco and South African Express Airways (SAX) became SOEs in the 2007/08 financial year.

[128] Department of Public Enterprises (undated).

[129] If the combined annual turnover or assets of both the acquiring and transferred/target firms are at or above R 6.6 billion, and the annual turnover or asset value of the transferred/target firm is at least R 190 million, the merger must be notified to the Competition Commission as a large merger.

146. The Competition Act of 1998, which fundamentally reformed South Africa's competition regime, substantially strengthening the powers of the competition authorities, has not been amended since the last Review of SACU in 2003. The Act prohibits anti-competitive conduct, restrictive practices (such as, price fixing and collusive tendering) and "abuses" by "dominant" firms (firms with a market share of 45% or more).[130] The Act also requires a notification and prior-approval procedure for mergers and acquisitions, and carries penalties for contraventions. In principle the Act applies to all sectors of the economy; however, the Competition Commission has the right to exempt firms from the application of the Competition Act. Exemptions are granted by the Commission if the agreement or practice contributes to the following objectives: export promotion; assisting SMEs and historically disadvantaged persons to become competitive; stopping the decline of an industry; or protecting the stability of any industry designated by the Minister responsible for that industry.[131] The Act also regulates anti-competitive behaviour of state-owned enterprises.

147. In 2008, the DTI introduced the Competition Amendment Bill into Parliament. The objectives of the Bill are to strengthen certain provisions of the Competition Act (No. 89 of 1998), to enable the competition authorities to better deal with anti-competitive price-setting strategies, to address the levels of concentration in several sectors and the "complex monopolies" in operation because of the competition dispensation of the past; to fully incorporate the CCSA's Corporate Leniency Policy (CLP) into the law; and to strengthen the penal provisions of the Competition Act.

148. The provision on "complex monopoly" conduct introduced in the Bill is intended to combat the anti-competitive behaviour of firms in highly concentrated markets.[132] The need for this provision arose because the Competition Act only targets specific violations and does not address outcomes from anti-competitive behaviour not considered as an infringement in the Act. According to the DTI "complex monopolies" exist in several industries including banking, bread, fertilizer, milling, and telecommunications (Chapter IV).

149. The Commission's CLP provides an incentive to cartel members to admit their anti-competitive activities, since the first cartel member to do so will be given immunity from prosecution with no administrative fine. The CLP has been effective in helping the CCSA to uncover collusion and bid-rigging, hence DTI's proposal to introduce the policy in the future amended law. In 2007/08, the CCSA received ten new applications for corporate leniency, compared with three in the previous year, and conducted investigations into suspected bread, dairy, milling, pharmaceuticals, tyre manufacture, freight forwarding, air cargo, passenger airlines, wire products, construction and plastics cartels. Some of the firms that engaged in anti-competitive conduct (i.e. cartels) were penalized; the remainder are under investigation.

150. CCSA's Enforcement and Exemptions Division investigates anti-competitive practices and assesses of exemption applications. Complaints are either initiated by the Competition Commissioner or filed by members of the public or private enterprises. Where a prohibited practice has been

[130] Firms are presumed dominant above a market share of 45%, while the Act requires proof of market power below 45% (Chapter 2, Competition Act (Act No. 89 of 1998)).

[131] Competition Act (Act No. 89 of 1998) (South African Government Information online, "Documents: Acts". Viewed at: http://www.info.gov.za/view/DynamicAction?pageid=544.

[132] Complex monopoly conduct exists if: at least 75% of the goods or services in the particular market are supplied to, or by, five or fewer firms; any two or more of the firms conduct their respective business affairs in a parallel conscious manner or co-ordinated manner, without agreement between or among themselves; and their conduct has the effect of substantially preventing or lessening competition in that market, unless a firm engaging in the conduct can prove that any technological, efficiency or other pro-competitive gain resulting from it outweighs that effect.

established, the matter is referred to the CTSA for adjudication. In some cases, the CCSA reaches a settlement agreement with the parties.

151. During 2007/08, the CCSA dealt with 193 cases related to anti-competitive practices. Ten complaints were initiated by the CCSA (six in 2006/07); seven of which were in sectors that the CCSA considered a priority, including scrap metal, phosphoric acid, polymers, and high density polyethylene products.[133] The remaining investigations were in the transport sector. Of the 193 complaints received or initiated, 100 cases were not referred to the CTSA (71 after screening and 29 after further investigation), 4 were withdrawn and 7 were referred for adjudication (Table III.9). There were 6 consent agreements and 76 cases were carried over for investigation in the next year (2008/09).

Table III.9
Anti-competitive complaints referred to adjudication, April 2007 to March 2008

Complainant	Respondent	Market/product	Description of conduct
Commissioner	ABB Group of Companies and others	Energy/switchgear	A credit-system was designed to ensure that all cartel members got access to switchgear, used to control energy grids Collusive tendering, price fixing, and market allocation in this market affected customers (e.g. Eskom, the City of Cape Town, and the City of Durban)
New Scotland Sawmills	Komatiland Forests	Forestry/saw logs	Abuse of dominance by forcing small saw millers to pay high prices on "open/spot market", compared with prices paid by larger buyers with long-term contracts with Komatiland Forests Komatiland's pricing system in the log allocation processes forced prices in the open market to levels that were not sustainable for those without long-term contracts, thereby forcing them to exit the market. Long-term-contract holders tended to drive the open market prices up as they could afford to bid higher prices for a small (top up) portion of their total volume requirements as they secured most of their requirements through long-term contracts
Coetzee and Coetzee	Rooibos Limited	Agriculture/tea	Abuse of dominance as Rooibos Ltd. entered into exclusive supply agreements with packers with required them to buy rooibos tea only from them
Commissioner	SAA Cargo and others	Transport/airline freight service	The cargo division of a number of international airlines agreed on fuel surcharges and increased charges for flights to South Africa
Amatole Telecommunication Services	Cell C	Telecommunications/ mobile services	Amatole Telecommunications Service complained that its customers were not permitted by Cell C to interconnect with its users, even though it is a licensed service provider; Cell C was charged with exclusionary conduct and price discrimination
Commissioner	Adcock Ingram Critical Care (AICC) and Tiger Brands	Healthcare	Collusive tendering by dividing the private healthcare market between AICC and Fresenius Kabi South Africa and coordinating their bids to state tenders for public hospital supplies
Commissioner	Dismed Criticare and Thusanong Health Care	Healthcare	Collusive tendering: the respondents joined the cartel comprising AICC and Fresenius Kabi South Africa

Source: Competition Commission South Africa (2008), *Annual Report 2007/2008*; and information provided by the authorities.

[133] According to the authorities, the priority sectors include infrastructure (including construction), food and agri-processing, finance and intermediate industrial products. These sectors are considered a priority because of the Government's overall industrial policy, the history of anti-competitive behaviour in those markets, and their impact on the poor.

(b) Mergers

152. The Competition Act requires merging parties to notify the CCSA of a merger before it is implemented if it meets the turnover and asset-value thresholds stipulated by the Minister of Trade and Industry for intermediate and large mergers.[134] Small mergers may be notified voluntarily or upon the CCSA's direction.

153. The CCSA investigates all notified mergers to determine whether the transaction is likely to lead to substantial prevention or lessening of competition, or will negatively affect the public interest. It also seeks to encourage a dynamic environment by evaluating mergers that may result in innovation or efficiency gains, and increase competition. The CCSA has the authority to approve, approve with conditions[135], or prohibit intermediate mergers. For large mergers, the CCSA makes a recommendation to the CTSA to approve, approve with conditions, or prohibit.

154. During 2007/08 a total of 513 mergers were notified, 100 more than in the previous year. The increase in merger activity may reflect the growth and development of the economy, but it may also be because the merger notification thresholds have not been updated since 2001, while South Africa has continued to grow, capital markets have developed, and the consumer price index has increased on average by 5.3% year-on-year. As a result, transactions that did not require notification in 2001, based on the value of the threshold at that time, do require notification in terms of the value of the threshold at present.

(c) Price controls

155. Under the Marketing of Agricultural Products Act (Act No. 47 of 1996) guideline prices are determined for all products subject to levies.[136] These guideline prices are for administrative purposes only and are to ensure that the levy does not exceed 5% of the actual price. Guideline prices are set according to the national average price at the first point of sale (i.e. closest to the farm); they are revised every three years.[137]

156. Retail and wholesale fuel prices continue to be regulated by the Government (Chapter IV). The pricing of services supplied by parastatals operating in various areas, such as telecommunications and transportation, remains subject to control (Chapter IV).

[134] The Competition Commission must be notified of all intermediate mergers and acquisitions if the value of the proposed merger equals or exceeds R 560 million (calculated by either combining the annual turnover of both firms or their assets), and the annual turnover or asset value of the transferred/target firm is at least R 80 million. If the combined annual turnover or assets of both the acquiring and transferred/target firms are valued at or above R 6.6 billion, and the annual turnover or asset value of the transferred/target firm is at least R 190 million, the merger must be notified to the Competition Commission as a large merger.

[135] Conditions are imposed on a merger to curb any anti-competitive effects that might arise (e.g. "the merged entity must continue to honour its obligations to a specific customers").

[136] Marketing of Agricultural Products Act (Act No. 47 of 1996): Wine industry: Establishment of Statutory Measure and Determination of Guideline Prices (*Government Gazette* No. 28188, 31 October 2005); Marketing of Agricultural Products Act (Act No. 47 of 1996): Establishment of Levies on Milk and Other Dairy Products and the Determination of Guideline Prices in respect of Milk and Other Dairy Products (*Government Gazette* No. 28329, 23 December 2005); and Marketing of Agricultural Products Act (Act No. 47 of 1996): Establishment of Statutory Measure and Determination of Guideline Prices: Levy relating to Cotton Lint (*Government Gazette* No. 30925, 4 April 2008).

[137] Section 15, Act No. 47 of 1996.

157. The pricing mechanism on sugar appears to have been suspended.[138]

(iv) Protection of intellectual property rights

158. Intellectual property rights are protected under a variety of laws and regulations (Table III.10). The DTI administers these Acts through the Companies and Intellectual Property Registration Office (CIPRO), which publishes the monthly *Patent Journal*. The journal contains the filing status of patents, trade marks, designs, copyrights, cinematography and films applications, approvals, and disapprovals.

Table III.10
Intellectual property legislation, 2009

Legislation	Brief description
Intellectual property	
Intellectual Property Laws Amendment Act (Act No. 38 of 1997)	Amends the legislation on intellectual property
Copyright and related rights	
Copyright Act (Act No. 98 of 1978) Performers Protection Act (Act No. 11 of 1967) Copyright Amendment Act (Act No. 9 of 2002) Performers Protection Amendment Act (2002)	Regulates copyright Protects literary works, musical works, artistic works, cinematograph film works, sound recordings, broadcasts, programme-carrying signals, published editions, and computer programmes Protects sound recordings, fixed performances, and composers of music Duration of copyright: 50 years
Copyright Regulations, Government Notice R2530 of 1978	Provide for permitted reproduction, reproduction by libraries or archive depots, sound recording royalties, copyright tribunal proceedings, and forms to be used together with fees payable thereunder
Copyright Regulations, Government Notice R517 of 2006	Establish collective societies in the music industry as stated in the Copyright Amendment Act of 2002
Registration of Copyright in Cinematographic Films Act (Act No. 62 of 1977)	Provides for the registration of copyright in cinematograph films on a voluntary basis Duration of registration: 50 years Registration constitutes evidence of copyright
Registration of Copyright in Cinematograph Films Regulations, Government Notice R2140 of 1980	Provides for procedural aspects of applications for registration of cinematograph films, opposition, assignments, exclusive licence recordals, deregistration, forms used, and fees payable thereunder
Performers' Protection Act (Act No. 11 of 1967)	Provides for the protection of performances of literary, musical, and artistic works staged in South Africa or in a Rome Convention country where protection is granted to South African performances Duration of protection: 20 years
Geographical indications (GIs)[a]	
Sections 42 and 43 of the Trade Marks Act (Act No. 194 of 1993)	Provide for the protection of registered certification trade marks and collective trade marks, respectively GIs may be registered in the form of collective trade marks or certification trade marks and thus be protected in South Africa
Sections 6 and 7 of the Merchandise Marks Act (Act No. 17 of 1941) and Merchandise Marks Amendment Act (2002)	Section 6 outlaws the false application of a trade description; GIs inherently describe the quality of goods and, thus, if they are falsely applied to goods, that is an offence Section 7 outlaws the sale of goods with false descriptions; goods bearing false GIs are prohibited from being sold in South Africa as they bear false descriptions
Section 12 of the Liquor Products Act (Act No. 60 of 1989)	Prohibits false or misleading descriptions for liquor products GIs pertaining to liquor products are, in fact, descriptions of such products and, therefore, if they are false or misleading, this Section may be used to deal with the situation
Industrial designs	
Designs Act (Act No. 195 of 1993)	Provides for the registration and protection of industrial designs Industrial designs are divided into aesthetic designs and functional designs. Functional designs include integrated circuits topography and mask works Duration of design rights: 15 years for aesthetic designs; 10 for functional designs

Table III.10 (cont'd)

[138] DTI online information, "Current legislative intervention". Viewed at: http://www.thedti.gov.za/publications/SugarAct/3CurrentLegislative.pdf [26 February 2008].

Legislation	Brief description
Designs Regulations, Government Notice R843 of 1999	Provide for the application for registration, opposition, assignment, deregistration, forms used, and fees payable thereunder
Patents (including plant variety protections)	
Patents Act (Act No. 57 of 1978) and Patents Amendment Act (Act No. 20 of 2005)	Provide for the registration and granting of letters patent for inventions Duration of a patent: 20 years, non-extendable The test of novelty is absolute novelty Provide for disclosure of indigenous genetic/biological resources, indigenous knowledge, prior informed consent and benefit sharing agreement
Patent Regulations, Government Notice R2470 of 1978	Provide for applications for registration, opposition, assignment, deregistration, forms used, and fees payable thereunder
Patent Regulations, Government Notice 2007	Provide for the disclosure of indigenous genetic/biological resources, indigenous knowledge, prior informed consent and benefit sharing agreement
Plant Breeders' Rights Act (Act No. 15 of 1976) Plant Breeder's Rights Amendment Act (Act No. 673 of 1996)	Provide for a system whereunder rights relating to new varieties of certain kinds of plants may be granted and registered Further provide for the protection of such rights and the grant of licences in respect of the exercise thereof
Nuclear Energy Act (Act No. 131 of 1993)	Section 25 of this Act provides for the patenting of inventions in respect of nuclear material, restricted material, nuclear energy and nuclear related equipment and material Section 26 of this Act prohibits any South African citizen, resident or a juristic person registered in the Republic from applying in a country outside the Republic for a patent for an invention or improvement in respect of the processing, use or production of source material, special nuclear related equipment and material or the production of nuclear energy
Intellectual Property Rights from Publicly Financed Research and Development Act (Act No. 51 of 2008)	Provides for the commercialization of intellectual property derived from publicly financed research
Technology Innovation Agency Act (2008)	Provides for the protection of inventions and their commercialization thereof
Counterfeit Goods Act (1997)	Provides for the criminalization of dealing in counterfeits and pirated goods, such as trade marks and copyrights
Layout designs (topographies) of integrated circuits	
Designs Act (Act No. 195 of 1993)	Provides for the registration and protection of industrial designs Industrial designs are divided into aesthetic designs and functional designs. Functional designs include integrated circuits topography and mask works Duration of design rights: ten years for functional designs
Trade marks	
Trade Marks Act (Act No. 194 of 1993)	Provides for the registration of trade marks, certification trade marks, and collective trade marks Duration of registration: ten years, renewable indefinitely. It renders dilution unlawful Further it has specific provisions for the protection of well-known foreign trade marks
Trade Mark Regulations, Government Notice R578 of 1993	Provide for applications for registration, opposition, assignment, registered user recordal, deregistration, forms prescribed, and fees payable thereunder
Merchandise Marks Act (Act No. 17 of 1941)	Regulates the marking of merchandise and of coverings in or with which merchandise is sold and the use of certain words or emblems in connection with business Primarily, it outlaws false description of goods as to quality, kind, origin, measure, ownership, etc.
Liquor Products Act (Act No. 60 of 1989) Liquor Products Amendment Act (Act No. 11 of 1993)	Provide for control over the sale and production for sale of certain alcoholic products, the composition and properties of such products and the use of certain particulars in connection with the sale of such products. It provides for the control over the import and export of certain alcoholic products
Regulations for the Prohibition of the Use of Certain Names or Descriptions for Wine, Government Notice R426 of 1962	List certain names or descriptions of wine which are not to be used as names of South African wines and prohibit the sale in South Africa of any wine bearing those names and descriptions, if not originating in France

a No specific act has yet been passed on GIs but Sections 12 of the Liquor Products Act (No. 60 of 1989), 6 and 7 of the Merchandise Marks Act (No. 17 of 1941), and 42 and 43 of the Trade Marks Act (No. 194 of 1993), may, where appropriate, be of use.

Source: WTO document IP/N/1/ZAF/1, 16 April 1996; WIPO online information, "Collection of Laws for Electronic Access (CLEA)". Viewed at: http://www.wipo.int/clea/en/; Companies and Intellectual Property Registration Office online information, "Acts and Notices". Viewed at: http://www.cipro.co.za/2/home/; South African Government Information online, "Documents". Viewed at: http://www.info.gov.za/view/DynamicAction?pageid=528; and information provided by the South African authorities.

(a) Patents

159. Under the Patents Act (No. 57) of 1978 (amended in 1998), patents of invention are granted for 20 years from the date of filing, subject to payment of the prescribed renewal fees by the patentee concerned or an agent after the third year; there is no extension. Patents are granted for any invention involving an inventive step capable of being used or applied in trade, industry or agriculture. Patent applications are examined for novelty. Patents of addition are granted for the remaining duration of the patent of invention.

160. Applications and specifications for patents must be made through South African patent attorneys. The registrar examines the application and, if found in compliance, the applicant must publish the acceptance in the *Patent Journal* for a three-month period of opposition. If there are no objections, the patent becomes effective.

161. For the duration of the patent, the patentee has the right to exclude other persons from making, using, exercising, disposing or importing the patented invention.[139] Parallel imports are not allowed in South Africa.[140] If a patentee does not work the patent within three years of grant (or four years from application date, whichever is later), a compulsory licence may be ordered. There have been no applications for or granting of compulsory licences during the review period.

162. As a signatory of the Paris Convention, South Africa gives any person filing for a patent in another member nation a one-year priority (from the original registration date) for filing in South Africa. South Africa also accepts patents filed under the international provisions of the Patent Cooperation Treaty.

(b) Designs

163. Designs are protected in South Africa under the Designs Act (No. 195) of 1993. A registered design, either aesthetic or functional, relates to the shape or appearance of an article irrespective of whether it is patentable. Aesthetic designs are required to be new and original. Functional designs are subject to a novelty examination. The Act also allows for protection of designers of functional circuits. Protection is granted for 15 years for aesthetic designs and 10 years for functional designs, from the date of registration or issue, whichever is earlier.

(c) Trade marks

164. South Africa enacted its current trade mark law in 1993 (effective May 1995). Trade marks registered under this Act are granted for ten years and may be renewed indefinitely for ten-year periods. The law also protects internationally recognized trade marks. Trade marks are classified according to international standards. Applications are published in the *Patent Journal* for a three-month period of opposition.

165. For ownership claims to be valid, trade marks must be accepted by the Trademarks Office in Pretoria in order for ownership claims to succeed. The mark must be distinctive or capable of becoming distinctive; it cannot be a generic term or graph depiction. The applicant also must use or intend to use the mark to be considered for registration. There is a trade mark registration fee and a

[139] As from 9 February 2007, businesses selling grey or parallel imports will have to disclose this to consumers. This is in accordance with a regulation signed by the Minister of Trade and Industry signed after recommendations by the Consumer Affairs Committee. The regulation is in accordance with section 12(6) of the Consumer Affairs (Unfair Business Practices) Act No. 71 of 1988 (Trade Law Chambers online information, "Disclosure of Grey or Parallel imports required", 15 February 2007. Viewed at: http://www.internationaltradelaw.co.za/archives/101-disclosure-of-grey-or-parallel-imports-required-

[140] Information provided by the authorities.

renewal fee. A mark can be removed from the register if it is not used for a period of five years, the individual owner dies or the company owning the mark is liquidated. The mark can also be removed if the entry was made "without sufficient cause" (e.g. the applicant registered the mark without intending to use it).

166. There is no specific legislation to protect geographical indications (GIs). GIs continue to be protected under the Trade Marks Act, the Merchandise Act, and the Liquor Products Act (Table III.10). GIs may be registered in the form of collective trade marks or of certification trade marks and thus be protected in South Africa.

(d) Copyright

167. Literary, musical and artistic works, cinematographic films, and sound recordings are protected under, *inter alia*, the Copyright Act of 1978 and its 2002 amendment[141], which appear to be based on the provisions of the Berne Convention. The Act was amended in 1992 to include computer software, although software is not protected as "literary work". Software is protected under the Patent Act of 1978.

168. Copyright ownership is granted automatically when the work is published. There are no legal or administrative processes to obtain copyrights. Films are the only work that require registration. The registration provides proof in case of copyright infringement, but provides no additional rights. Copyright protection for literary, musical, and artistic works extends for the life of the author, plus 50 years. For computer software, films, photographs, and sound recordings, protection extends for 50 years from when the work is publicly released. Protection for performers is for 20 years, non-renewable.

(e) Enforcement[142]

169. The Counterfeit Goods Act (Act No. 37 of 1997), the Trade Marks Act (Act No. 194 of 1993), the Intellectual Property Laws Amendment Act (Act No. 38 of 1997), the Copyright Amendment Act (Act No. 9 of 2002), and the Patents Act (No. 57 of 1978) as amended, provides the legislative framework for sanctions for the various IPR offences.

170. The Counterfeit Goods Act introduced measures aimed at preventing trade and commercialization of counterfeit goods. It allows the Commissioner for Customs and Excise, upon application by the property right owner, to seize and detain counterfeit goods or suspected counterfeit goods imported into South Africa.

171. The fines and penal sanctions remained unchanged since the last Review of SACU: a maximum fine for first time violations of R 5,000 per item and/or imprisonment for three years; and the maximum fine for second time offences is R 10,000 and/or imprisonment for five years. Civil suits for damages may also be brought. The Copyright Act (Act No. 98 of 1978) also provides for similar penalties for copyright infringement.

172. The authorities consider that the infringement of IPRs results in losses in economic activity, jobs, and tax revenue. During 2001-05, more than 20 million suspected counterfeit items with an estimated value of R 1 billion were seized by law enforcement agencies in South Africa.

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[141] Copyright Amendment Act (Act No. 9 of 2002) (South African Government Information online, "Documents: Acts". Viewed at: http://www.info.gov.za/view/DynamicAction?pageid=528.

[142] The section is based on WIPO document WIPO/ACE/3/8/Rev, "Submission from South Africa", 11 May 2006. Viewed at: http://www.wipo.int/edocs/mdocs/enforcement/en/wipo_ace_3/wipo_ace_3_8_rev.doc [20 February 2009].

173. The Office of Company and Intellectual Property Enforcement (OCIPE), under the DTI, is in charge of IPR enforcement. OCIPE is responsible for education and capacity building, investigations, monitoring, and following complaints. OCIPE has inspectors to monitor enforcement. However, according to the authorities, since counterfeit products are mostly imported, the South African Revenue Services (SARS) Customs officials play a significant role in keeping the counterfeits from entering South Africa. IPR holders may also approach the DTI, South African Police Service (SAPS) or SARS Customs officials for assistance if their rights have been infringed.

174. Education (e.g. training and capacity building), including of the judiciary, customs, and police officials, on IP matters is one of OCIPE's major tasks. Hence, even though South Africa does not have a dedicated court to hear IP-related cases, some judges have developed expertise in this area. OCIPE publishes training manuals, brochures and pamphlets for public dissemination, and holds regular workshops and information sessions to disseminate information on IPR issues. The aim of these seminars is to curb the demand for counterfeited goods and hence discourage supply.

IV. TRADE POLICIES BY SECTOR

(1) INTRODUCTION

175. South Africa's economy is relatively diversified, with services and manufacturing accounting for 65.6% and 15.9% of GDP, respectively. Despite its modest contribution to GDP (2.6% in 2008), agriculture remains important because it absorbs a significant share of the unskilled workforce. However, the importance of agriculture in the overall economy, including in trade, has declined since the previous Review. State involvement in agricultural markets has declined. Agriculture imports are subject to a complex tariff structure, with export products benefiting from higher than average protection.

176. The contribution of manufacturing to GDP remained stable during the period under review, despite a decline from 17.2% in 2002 to 15.9% in 2008. However, as in the case of agriculture, the share of manufacturing exports and imports in total merchandise trade declined. State intervention in the manufacturing sector remains important. A wide range of incentive schemes continue to benefit manufacturing. These include general incentive schemes and industry-specific programmes (e.g. automotive, and textile and clothing), innovation, and research; some schemes are contingent on export performance. As a result of these policies, which have led to a misallocation of resources, the profitability of South Africa's manufacturing sector has been low, which in turn has led to low investment, low output and poor export and employment performance. The high cost of inputs and intermediate goods, has also been identified as a key constraint to the development of manufacturing in South Africa. This is partly due to the lack of competition in a number of key intermediate industries, hence the importance of competition policy in South Africa.

177. State remains very active in the mining and energy sector with several SOEs operating in both subsectors. Mining accounted for 5% of GDP in 2007 but contributed to 39.9% of South Africa's total merchandise exports despite the electricity-related production interruptions in the mining sector. Electricity in South Africa is supplied by a state-owned enterprise (Eskom). South Africa's recent strong economic growth, rapid industrialization, and mass electrification programme have contributed to an increase in the demand for electricity. However, the lack of investment in electricity generation capacity has left Eskom unable to meet demand; this has led to electricity shortages characterized by severe power cuts since 2007. The shortage of electricity has had an impact on the economy as whole, most strongly in the mining sector.

178. Services (including construction) contributed 65% to South Africa's GDP in 2007, up from 63.1% in 2003. Growth in 2008 reflected further expansion in telecommunications, financial services, construction, and wholesale, catering, and accommodation ahead of the 2010 World Cup. Travel (tourism) has dominated services exports denoting the country's important endowments as a tourist attraction, while transportation was the main import, reflecting long distances from key markets. More efficient services delivery is a government priority; however, considerable state intervention renders supply of key services inefficient and costly. Notwithstanding the limitations inscribed in South Africa's WTO GATS schedule, services liberalization is considered important to attract foreign investment and develop infrastructure. However, this has not yet been translated into any decisions to further open services subsectors.

(2) AGRICULTURE

179. South Africa's agricultural potential is limited; conditions for agricultural production are not favourable in most regions due to poor land quality, scarcity of water[143], and highly variable climatic

[143] Almost 50% of South Africa's water is used for agricultural purposes (Government Communication and Information System, 2008).

conditions.[144] Nevertheless, agriculture is well diversified. South Africa has used its scarce arable land to produce high value crops such as grapes, fruit, and nuts, and non-arable agricultural land has been devoted to sheep and cattle farming in addition to wildlife tourism, and conservation.

180. South African agriculture is dualistic: a developed commercial sector, occupying 86% of the agricultural land, co-exists with large numbers of subsistence (communal) farms. The commercial sector is capital-intensive, using hired labour, and strongly linked to global markets, while the small-scale farmers still have limited access to markets as they do not have their own means of transport or storage facilities. In addition, small farmers lack information and are not well organized. In order to integrate small farmers, South Africa has embarked on a land reform programme and several other programmes to support the disadvantaged farming communities; some have been developed within the framework of the Agricultural Broad Based Black Economic Empowerment (AgriBEE). In 2007, the draft AgriBEE Charter was finalized and approved by the Minister in charge of agriculture. AgriBEE was developed in accordance with the Broad Based Black Economic Empowerment Act, Act No 53 of 2003 and was launched in 2008. AgriBEE was designed after consultations with the various stakeholders and strives to promote equitable access and participation of black people in the agriculture sector.

181. Land reform is a fundamental element of South Africa's agricultural policy. The Land Reform Programme consists of three main schemes: restitution of land unjustly taken from people and communities, land redistribution, and land tenure reform. The authorities deem that small farmers are likely to care more about preserving productivity, controlling soil and water erosion, and reducing pollution if they have full ownership of the land. Moreover, weak land-use rights have an adverse effect on investment and the development of a rural credit system.

182. The importance of agriculture in the overall economy has declined. Its contribution to GDP during the review period was around 2.5%, but it accounts for 8.9% of total employment. Thus, it is an important sector in terms of employment and as a source of foreign exchange, accounting for 9.5% of total exports in 2008. In 2008, field crops accounted for 31.4% of total agricultural production, while livestock contributed 45% (Table IV.1). South Africa's agriculture is increasingly export oriented; about 40% of total production is exported.

183. The sector is well diversified. The most important products are sugar cane, followed by field crops such as maize and wheat. The country has traditionally been a net exporter of maize and sugar, and a net importer of wheat. Horticultural production consists of all the major fruit groups (deciduous, citrus, and subtropical), vegetables, and flowers. The major categories of fruit produced are citrus fruits (mainly oranges), apples, pears, peaches, table grapes, and avocados. During the period under review, fruit production, was the most dynamic sub-sector with a large share of total output exported, mainly to Europe. Some 83% of table grapes production are exported, while 61% of citrus production and 44% of apples are exported. Although horticulture is expanding, it still occupies a relatively small share of arable land. However, it is labour-intensive.

184. Livestock remains the most important category of agricultural production (Table IV.1); poultry meat, beef, milk, and dairy are the major component. There are two main patterns of livestock production: extensive and intensive. The extensive production of cattle, sheep, and goats takes place on the pasture land in the arid and semi-arid areas; the southern and western interior (semi-arid area) is suitable for extensive production (sheep, cattle). Intensive livestock farming (dairy, poultry, and pork production) is in the arable areas, generally closer to the major metropolitan markets or on the

[144] The country can be subdivided into a number of farming regions according to climate, natural vegetation, types of soil, and the type of farming practised (Government Communication and Information System, 2008).

coast, where access to imported feed is easier. South Africa is a net importer of meat, mostly originating in Botswana and Namibia.

Table IV.1
Selected indicators in agriculture, 2002-08

	2002	2003	2004	2005	2006	2007	2008
Share of real GDP (agriculture, forestry, and fishing) (%)	4.2	3.7	3.2	2.8	2.9	3.2	3.4
Percentage change in value added (agriculture, forestry, and fishing) (%)	6.5	-2.1	1.4	5.4	-7.2	2.9	18.8
Workers (agriculture, hunting, forestry, and fishing) ('000)	1,420	1,212	1,063	925	1,088	1,041	..
Skilled agriculture ('000)	706	341	329	302	432	341	..
Producer prices (2000 = 100)	130.2	124.0	122.7	116.9	135	164	..
Agriculture imports (% of total merchandise imports)	6.5	6.4	6.2	5.5	5.3	6.1	6.1
Agriculture exports (% of total merchandise exports)	14.5	13.4	11.6	11.2	9.4	8.7	9.5
Gross value of agricultural production (R million)	68,367	72,714	72,147	71,264	75,486	91,409	120,155
Fields crops	27,258	23,072	20,519	17,769	18,152	23,471	39,922
Horticulture	15,971	19,622	21,614	20,630	20,087	23,013	27,097
Animal production	25,138	30,020	31,014	32,866	37,247	44,926	53,136
Share in agriculture production (%)							
Fields crops	39.9	31.7	28.4	24.9	24.0	25.7	33.2
Horticulture	23.4	27.0	30.0	28.9	26.6	25.2	22.6
Livestock	36.8	41.3	43.0	46.1	49.3	49.1	44.2
Production of selected products (t '000)							
Sugar cane	21,157	23,013	20,419	19,095	21,052	20,278	19,724
Maize	10,076	9,705	9,737	11,749	6,947	7,339	13,164[a]
Wheat	2,438	1,547	1,687	1,913	2,114	1,913	2,031[a]
Potatoes	1,647	1,496	1,785	1,787	1,719	1,946	1,853[a]
Grapes	1,494	1,643	1,762	1,550	1,757	1,813	1,792[a]
Imports of selected products (t '000)							
Sugar	..	..	..	..	..	..	..
Maize	1,044	499	596	81	1,044	..	..
Wheat	685	722	1,192	1,271	973	..	..
Potatoes	456	483	3	30	119	..	..
Table grapes	0	0	1	1	1	..	..
Exports of selected products (t '000)							
Sugar	1,321	1,167	1,286	1,597	2,960	1,169	..
Maize	1,335	1,188	1,185	832	2,237	597	529[a]
Wheat	149	179	158	158	111	211	223[a]
Potatoes	27	28	30	21	31	..	..
Grapes	197	210	239	210	241	237	225[a]

.. Not available.

a Preliminary.

Source: Department of Agriculture (2008), *Economic Review of the South African Agriculture*. Viewed at: http://www.doa.agric.za/; Department of Agriculture (2009), *Abstracts Agriculture Statistics*. Viewed at: http://www.doa.agric.za/; and FAOSTAT online information. Viewed at: http://faostat.fao.org/site/345/default.aspx.

185. South Africa has historically had a comparative advantage in agriculture products. However, the relative importance of trade in agricultural products has declined, with the discovery of the large endowments of precious stones and metals (Table IV.1). Nevertheless, South Africa's agri-food sector is increasingly integrated with world markets and South Africa is a net exporter of agricultural products. The agri-food sector is increasingly export oriented, and South Africa is amongst the

world's leading exporters of agri-food products (e.g. wine, fresh fruits, and sugar). However, improving market access remains one of South Africa's priorities; the EC is the destination for a major share of its key exports.

Policy objectives and administration

186. The Department of Agriculture and the Department of Land Affairs, with the assistance of the Departments of Water Affairs and Forestry, Environmental Affairs, and Trade and Industry are the main institutions in charge of formulating and implementing agricultural policy, and regulating the sector. Other institutions involved in the sector include the Agricultural Research Council (ARC), the National Agricultural Marketing Council (NAMC), and financial institutions such as the Land and Agricultural Bank (Land Bank) and the Development Bank of South Africa (DBSA).

187. In addition, various government departments (Department of Agriculture and Department of Health) set and enforce sanitary and phytosanitary regulations, which affect trade in agricultural products (Chapter III(2)(iv)). The South African Bureau of Standards (SABS) is also involved in setting SPS regulation.

188. The agriculture sector is regulated by a number of laws and regulations (Table IV.2), while specific laws regulate sanitary and phytosanitary measures (Table III.5). The principal legislation on agriculture is the Marketing of Agricultural Products Act (Act No. 47 of 1996 as amended), aimed at, *inter alia,* improving market access and promoting agricultural exports. The introduction of this law resulted in a significant reduction of state involvement in agricultural markets. Nevertheless, the law still designates guideline prices for, *inter alia*, grapes intended for production of wine, grape juice, drinking wine, distilled wines and wine spirit, and export wines[145]; milk and other dairy products[146]; and cotton lint.[147] However, according to the authorities, these prices are calculated for every product subject to a levy, are for administrative purposes only, and have no effect on the market price.

189. The main agricultural policy objectives were outlined in the White Paper on Agriculture (1995), and later restated in the Strategic Plan for South African Agriculture (2001), and more recently in the Department of Agriculture's annual strategic plans.[148] South Africa's main objective in agriculture is to create an efficient and internationally competitive sector that contributes to the objectives of the Growth, Employment and Redistribution (GEAR) Strategy, aimed at increasing economic growth by reducing income inequality and eliminating poverty. Other agricultural policy objectives include the emergence of small and medium-sized farms, food security[149], food safety, and environmental protection.[150]

[145] Marketing of Agricultural Products Act (Act No. 47 of 1996): Wine industry: Establishment of Statutory Measure and Determination of Guideline Prices (*Government Gazette* No. 28188, 31 October 2005).

[146] Marketing of Agricultural Products Act (Act No. 47 of 1996): Establishment of Levies on Milk and Other Dairy Products and the Determination of Guideline Prices in respect of Milk and Other Dairy Products (*Government Gazette* No. 28329, 23 December 2005).

[147] Marketing of Agricultural Products Act (Act No. 47 of 1996): Establishment of Statutory Measure and Determination of Guideline Prices: Levy relating to Cotton Lint (*Government Gazette* No. 30925, 4 April 2008).

[148] For instance see Department of Agriculture (2007); and Department of Agricultural (2008).

[149] The Integrated Food Security and Nutrition Programme (IFSNP) aims to achieve physical, social and economic access to safe and nutritious food for all South Africans. Its goal is to eradicate hunger, malnutrition and food insecurity by 2015 (Government Communication and Information System, 2008).

[150] Department of Agriculture (2008); and Government Communication and Information System (2008).

Table IV.2
Selected legislation on agriculture, 2009

Legislation	Act No.	Description
Agricultural Credit Amendment Act	65 of 1995	Provides for assistance to persons carrying on, or undertaking to carry on, farming operations, and for the control of the assistance rendered
Marketing Amendment Act	188 of 1993	Provides for the introduction of a control system for the marketing of agricultural products; regulates quantitative controls over the import or export of these products
Marketing of Agricultural Products Act	47 of 1996	Establishes and enforces regulatory measures to intervene in the marketing of agricultural products, including the introduction of levies on agricultural products; establishes a National Agricultural Marketing Council
Wine and Spirit Control Amendment Act	25 of 1998	Regulates the control and management of the wine and spirit industry by the Kooperatieve Wijnbouwers Vereniging van Zuid-Afrika (KWV)
Subdivision of Agricultural Land Act	70 of 1970	Regulates the subdivision of agricultural land and its use for purposes other than agriculture
Livestock Improvement Amendment Act	60 of 1997	Regulates the collection and sale of semen and ova, and the artificial insemination and inoculation of certain animals; the establishment of a system for the evaluation and certification of the performance of certain animals, quality control with regard to the import and export of certain animals, semen, ova, and eggs; and the incorporation of livestock breeders' societies and the maintenance of the legal personality of livestock breeders' societies, and the granting of certain exclusive powers relating to the registration of pedigrees of certain livestock to the South African Stud Book and Livestock Improvement Association (SASBLIA)
Co-operatives Act	91 of 1981	Regulates the formation, registration, management, and functioning of various types of cooperatives, and the winding-up and dissolution of cooperatives
Veterinary and Para-veterinary Professions Act	19 of 1982	Provides for the establishment, powers, and functions of the South African Veterinary Council; the registration of persons practising veterinary and para-veterinary professions; and the control over the practising of these professions
Perishable Products Export Control Act	9 of 1983	Provides for the control of perishable products intended for export from South Africa and the continued existence of a statutory board to bring about the orderly and efficient export of perishable products from South Africa
Agricultural Research Amendment Act	27 of 2001	Establishes the Agricultural Research Council (ARC) to undertake agricultural research; regulates matters with regard to ARC's proceedings, powers, duties, management, control, employees, financing, and related matters
Agricultural Produce Agents Amendment Act	47 of 2003	Provides for the establishment of an Agricultural Produce Agents Council and fidelity funds in respect of agricultural produce agents, and the control of certain activities of agricultural produce agents
South African Abattoir Corporation Act Repeal Act	17 of 2005	Provides for the privatization of the South African Abattoir Corporation
Agricultural Development Fund Act	175 of 1993	Provides for the establishment of, and control over, an agricultural development fund for the handling of money received for development

Source: South African Government Information online. Viewed at: http://www.info.gov.za/; KwaZulu-Natal's Department of Agriculture and Environmental Affairs "Agricultural Legislation". Viewed at: http://agriculture.kzntl.gov.za/portal/Portals/0/Legal%20Services/agricultural%20legislation.pdf [27 May 2009]; and information provided by the South African authorities.

190. South Africa's agricultural policies have not changed substantially since the previous review of SACU in 2003. However, government intervention appears to have decreased further with the partial liberalization of the sugar market. While the tariff remains the main trade policy instrument, the strict SPS requirements on agricultural products appear to have become the major barrier to trade, as most agricultural goods are subject to quality standards (Table III.6) or technical regulations. Import prohibitions and controls continue to be maintained on, *inter alia*, technical, sanitary, and phytosanitary grounds; imports subject to control measures include live plants and animals and products thereof.

191. According to the authorities, most standards and technical regulations conform, or are in close conformity with international standards. Furthermore, the Department of Agriculture, noted that the opening of markets and trade in regulated agricultural products has increased the possibility of illegal

importation of agricultural products (i.e. products not complying with SPS regulations), as well as the risk of introducing various diseases and pests into South Africa. Hence, since 2006 the Government has focussed on improving the surveillance systems to monitor animal and plant diseases effectively in order to minimize the risks associated with disease outbreaks.[151]

192. Tariff protection on agriculture, hunting, forestry, and fishing (ISIC Rev.2, 1) stood at 3.7%, down from 5.5% in 2002, with tariffs ranging from zero to 44%. Both *ad valorem* and specific tariffs (or a combination of both) are applied to agriculture and agro-food products, however, most tariff lines 97.2% bear *ad valorem* duties. Variable (formula) duties are still levied on corn-flour, preserved tomatoes, cherries, and two kinds of tobacco (Main Report, Chapter III).[152] Manufactured food, beverages and tobacco (ISIC Rev.2, 31) still benefit from higher than average tariff protection in 2008 (12.3%) compared to the overall MFN simple average of 8.1%.

193. The level of protection for main agricultural products varies considerably. Some of the lowest tariffs of zero, and zero to 2% apply to maize (HS 1005), and wheat (HS 1001), respectively, which are the staples in South Africa. Maize is the most important crop in terms of production and consumption; it is the main source of carbohydrates for humans, and the main feedstock in South Africa. This pattern of protection seems to reflect South Africa's policy of attaining food security both through adequate domestic supply and through imports. However, the varied levels of tariff protection across commodities is a potential source of distortion. For instance, other traditionally highly protected agricultural commodities, such as sugar and confectionary sugar (HS27 with tariffs ranging from zero to 37%) and tobacco (with an average protection of 35.4% and duties ranging from zero to 45%), continue to bear higher than average protection. Fruits and vegetable, two major export products, also benefit from higher than average protection; the average for fruits is 6.6% (HS 08), while that for vegetables (HS 07) is 10.5%.

194. The same pattern of protection applies to livestock and its related products. Live animals are imported duty free, while import tariffs for meat and edible meat offal range to 43.7%. Dairy products are mostly subject to specific tariffs with *ad valorem* equivalents well above the average agricultural tariff level, at 24.8% (ISIC 3112).

195. Tariff quotas apply to agricultural products (3.1% of all tariff lines, i.e. 206 tariff lines at the HS eight-digit level), and cover, *inter alia*, animal products, potatoes, vegetables, fruits, cereals, coffee, tea, oil seeds, sugar, food preparations, wine and spirits, vinegar, tobacco, and cotton. Initial quotas are expected to increase for, *inter alia*, meat of sheep, fresh milk and cream, cheese, eggs, certain cereals, potatoes, and sugar. The quotas are to be filled at a maximum (in-quota) tariff rate of 20% of the out-of-quota rates. The preferential agreement concluded with EFTA includes preferential tariff quotas covering animals and animal products, dairy products, live plants and cut flowers, vegetables and fruits, spices, cereals, and sugar.[153] Preferential tariff quotas apply to exports of textiles, clothing, and sugar from the MMTZ to SACU countries.[154]

196. South Africa levies VAT on domestically produced and imported agricultural goods at a standard rate of 14%. Certain basic foodstuffs (e.g. brown bread, maize meal, eggs, milk, fruit, and vegetables), including their exports, are zero-rated. Specific levies apply on certain agricultural

[151] Department of Agriculture (2007).

[152] Corn-flour (ISIC 3116), preserved tomatoes (ISIC 3113), cherries (ISIC 3119), and two kinds of tobacco (ISIC 1110).

[153] For more details, see the Agricultural Agreement between the SACU States and Switzerland (WorldTradeLaw online information. Viewed at: http://www.worldtradelaw.net/fta/agreements/SACU_EFTA_Switz.pdf [26 March 2009]).

[154] The MMTZ comprises Malawi, Mozambique, Tanzania, and Zambia.

products and are collected at the first point of sale by the various agricultural associations (Table IV.3); they are used to fund different activities. Imports and domestically produced dairy products, potatoes, red meat, and sorghum are subject to levies at the same rate; the only export subject to levies is bulk wine. Under the Marketing of Agricultural Products Act (Act No. 47 of 1996) guideline prices are determined for all products on which levies are applicable. These prices are for administrative purposes and to ensure the levy does not exceed 5% of the actual price. The guideline price is the average price at the first point of sale and has no impact on the market price.

Table IV.3
Agricultural levies, 2009

Product	Rate on domestic products (excluding VAT)	Rate on imports
Citrus (export)	R 0.0213/kg	n.a.
Cotton lint	R 0.20/kg	n.a.
Dairy products	R 0.0114/litre	R 0.0114/litre
Deciduous fruit		
Pome fruit		
Apples (export)	R 30/tonne	n.a.
Apples (processed)	R 6/tonne	n.a.
Pears	R 30/tonne	n.a.
Stone fruit		
Apricots	R 110/tonne	n.a.
Peaches and nectarines	R 75/tonne	n.a.
Plums (export)	R 95/tonne	n.a.
Plums (local)	R 65/tonne	n.a.
Table grapes	R 50/tonne	n.a.
Dried fruit (average)	R 0.06/kg	n.a.
Potato	R 0.013/kg	R 0.013/kg
Red meat		
Cattle	R 5/head	R 5/head
Sheep and goats	R 0.75/head	R 0.75/head
Pigs	R 5.20/head	R 5.20/head
Sorghum	R 7.70/tonne	R 7.70/tonne
Wine		
Information		
Grapes	R 8.75/tonne	n.a.
Grape juice	R 0.0125/litre	n.a.
Drinking wine	R 0.0125/litre	n.a.
Research		
Grapes	R 12.46 /tonne	n.a.
Grape juice	R 0.0178/litre	n.a.
Drinking wine	R 0.0178/litre	n.a.
Distilling wine	R 0.0154/litre	n.a.
Export promotion		
Export bulk wine	R 0.0639/litre	n.a.
Other	R 0.0877/litre	n.a.
Transformation		
Grapes	R 2.12/tonne	n.a.
Grape juice	R 0.003/litre	n.a.
Drinking wine	R 0.003/litre	n.a.
Winter cereal		
Wheat	R 9.00/tonne	n.a.
Barley	R 8.50/tonne	n.a.
Oats	R 4.50/tonne	n.a.

n.a. Not applicable.

Source: Marketing of Agricultural Products Act (Act No. 47 of 1996) (statutory levies).

197. Import permits (i.e. licences) are required for products subject to tariff quotas (Table III.3). In 2007, the latest year for which information is available, tariff quota fill ratios varied substantially; some quotas were filled 100% while others, on potatoes, eggs, and milk showed very low fill ratios (Table III.3).[155] In some cases, applied duty rates are below or close to in-quota rates, hence the low in-quota imports. Non-tariff import controls consist mainly of sanitary and phytosanitary measures. South Africa has retained the right to use the special safeguard under Article 5 of the WTO Agreement on Agriculture, but this has never been invoked.

198. South Africa notified to the WTO that during 2002-05 it did not subsidize its exports of agricultural goods.[156] According to the authorities this has not changed. Exporters of agricultural products are entitled to duty rebates and some agricultural exports are zero rated; however, some export levies are still in place for wine.

199. Direct government intervention on domestic markets was reduced during the period under review. Nevertheless, the sugar market remains regulated. The South African Sugar Association (SASA) no longer has statutory marketing powers, and is no longer the sole sugar exporter. However, the Sugar Agreement of 2000 is still in force; it stipulates that raw sugar can be exported only through a single channel and allocates quotas to individual producers for sugar sold on the domestic market.[157] The domestic price is above world market prices because of the quota system and border protection. This system is implicitly taxing the South African sugar consumers and subsidizing exporters.

200. Guideline prices are, *inter alia*, set for grapes and grape juice concentrate intended for the production of wine, as well as for wine. South Africa ranks among the world's top ten exporters of grape wines. Exports have been growing rapidly since the mid-1990s, becoming the country's leading agri-food export item, earning US$3.5 billion in 2003-08.[158] Export levies are payable on the final product (wine).[159]

201. Wine is subject to a generic export promotion levy (export wine levy) of R 0.0639 per litre for bulk wine and R 0.0877 for bottled wine; it is also subject to information, research, and transformation levies (Chapter III). These levies are paid by wine and grape juice producers to various organizations, including to the South African Wine and Spirit Exporters' Association (SAWSEA). They are used to promote South African wine in the global market, and to assist SMMEs and BEEs to gather information and do research on the wine industry.[160]

202. The domestic support measures notified by South Africa in 2008 were for calendar year 2005 and relate to "green box" measures.[161] According to the authorities, this situation has not changed. The major areas of public support are research and development, education and training, inspection and control, the construction of infrastructure, and domestic food aid.[162] Budgetary expenditure in agriculture had declined up to 2001 but has since been increased gradually but limited to "green box"

[155] WTO documents G/AG/N/ZAF/64, 8 September 2008.
[156] WTO documents G/AG/N/ZAF/48, 7 November 2003; G/AG/N/ZAF/57, 10 March 2006, G/AG/N/ZAF/59, 16 January 2007; and G/AG/N/ZAF/66, 8 September 2008.
[157] SASA online information. Viewed at: http://www.sasa.org.za/HomePage1.aspx.
[158] WTO Secretariat calculations, based on UNSD, Comtrade database (SITC Rev.3 data).
[159] Marketing of Agricultural Products Act (Act No. 47 of 1996), Wine Industry: Establishment of Statutory Measures and Determination of Guideline Prices (*Government Gazette* No. 28188, 1 November 2007).
[160] Marketing of Agricultural Products Act (Act No. 47 of 1996).
[161] WTO document G/AG/N/ZAF/65, 8 September 2008.
[162] OECD (2008b)

support, and there has been a shift in payments away from established commercial farms towards the small farm sector, which is emerging from the land reform.

203. Consistent with government policy, new programmes have been implemented to support the development of "market oriented family farms" emerging from the land reform process. The Comprehensive Agricultural Support Programme (CASP) is aimed at supporting the beneficiaries of the land reform willing to establish commercial farms.[163] The overall goal is to provide the necessary services, in particular subsistence, to emerging and commercial farmers, and to ensure that the goal of food security for the country, and for the poor and vulnerable, is met.[164] Since the implementation of the CASP in 2004/05, a total R 1,161 million has been allocated to the programme. During 2004/05 and 2007/08 some 2,460 projects supporting over 180,000 farmers were approved; in 2008/09, 703 projects were approved to benefit an additional 61,000 farmers.[165]

204. The CASP is a complement to the Micro-Agricultural Finance Schemes of South Africa (MAFISA), a state-owned scheme to provide micro and retail financial services to communal farmers and emerging entrepreneurs. MAFISA, launched as a pilot project in three provinces in 2005, is now operational in all provinces, and several financial institutions participate in the scheme. MAFISA provides loans at subsidized interest rates; the interest rate has been pegged at 8% since 2005. MAFISA funds are administered by the Land Bank[166], which performs fund and treasury management functions on behalf of the DoA. During 2005/06-2006/07 the Department of Agriculture transferred a total of R400 million to the Land Bank to finance MAFISA. To date 9,000 emerging farmers have received MAFISA loans and expenditure related to the interest rate subsidy amounted to R 64 million.

(3) MANUFACTURING

205. The contribution of manufacturing to GDP remained stable during the period under review, despite a decline from 17.2% in 2002 to 15.9% in 2008 (Table I.1). However, in recent months the sector has been affected by the global downturn. The share of manufacturing exports and imports in total merchandise trade declined from 61.2% to 51.5% and from 69.5% to 61.5%, respectively, in 2002 and 2008.[167] The authorities attribute the decrease in exports to the appreciation of the currency, and thus estimate that coherence between macroeconomic and industrial policies are critical for the country to continue its process of industrialization.[168]

206. State intervention in the manufacturing sector remains substantial. Incentives are one of South Africa's key industrial policy instruments: a wide range of schemes continue to benefit manufacturing (Table AIII.4). These include general incentive schemes and structural adjustment programmes for specific industries (e.g. automotive, and textile and clothing), innovation, and research.

207. The industries actively supported by the Government since 1994, such as the automotive, carbon and stainless steel, and the textiles and clothing, have become South Africa's most important industries. The automotive sector is the leading manufacturing sector, predominantly because of the

[163] Department of Agricultural (2007).

[164] The CASP has several pillars: information management; technical and advisory assistance; training and capacity building; marketing and business development; supply of on-farm and off-farm infrastructure and inputs; and financial assistance.

[165] Government Communication and Information System (2008).

[166] The Land Bank operates as a development-finance institution within the agricultural and agri-business sectors; it is regulated by the Land and Agricultural Development Bank Act (Act No. 15 of 2002).

[167] WTO Secretariat calculations, based on UNSD, Comtrade database (SITC Rev.3 data).

[168] Department of Trade and Industry (undated a).

incentives provided through the Motor Industry Development Programme (MIDP) (see below). A range of resource-processing industries, including carbon and stainless steel, chemicals and aluminium, have been supported by various tax instruments and other state support, while the textiles and clothing sector has benefited from the Duty Credit Certificate Scheme. However, this type of support is not sustainable and has not rendered the industry competitive.[169] It appears that no evaluation has been made of these schemes.

208. As a result of these policies, which have led to a misallocation of resources, South Africa's industrial sector has shown low profitability, which in turn has led to low investment, low output, and poor export and employment performance. Other factors that have hindered the sector's development include: the monopolistic pricing of key intermediate inputs into the manufacturing sector; a relatively small market, coupled with relatively costly and unreliable infrastructure and logistics systems, particularly freight and commuter transport and irregular supply of electricity and water; an inadequate supply of skilled labour; high reliance on imported inputs; and "inadequate" state support for investment, upgrading, innovation, and technology.[170]

209. In order to overcome these constraints, the National Industrial Policy Framework (NIPF), was adopted in 2007.[171] The NIPF sets out broad policies in the context of the Accelerated and Shared Growth Initiative for South Africa (ASGI-SA) with the aim of halving unemployment and poverty by 2014 through accelerated growth of at least 6% as of 2010.[172] The main objectives of the NIPF are: to diversify production so as to diminish the current reliance on traditional commodities; move towards a knowledge-based economy; and promote labour-intensive industries with the increased participation of SMEs and historically disadvantaged people.[173]

210. The high cost of inputs and intermediate goods, has been identified as a key constraint to the development of the manufacturing sector in South Africa. It is due to lack of competition in a number of key intermediate industries, and to import duties; therefore, the effectiveness and enforcement of competition policy and law, has assumed greater importance (Chapter III). The authorities deem that import duties on a number of upstream products that are not strategic, from an employment point of view, could be removed or reduced in order to lower input costs to downstream manufacturing.[174] The authorities note that there are ongoing case-by-case investigations to assess whether and which duties should be reduced.

211. Tariff protection in the sector (ISIC 3) has continued to decrease since the previous TPR of SACU (from 11.8% in 2002 to 8.5% in 2008)[175], but protection remains slightly higher than the overall average (8.1% in 2008) with tariffs (including the *ad valorem* components) ranging from 0 to 96% (Main Report, Table AIII.2). Moreover, given the negative impact of the global downturn on its manufacturing sector, South Africa is considering increasing tariffs to the bound rates.[176]

212. The pattern of protection did not change substantially during the review period; with a tendency to protect non-export-oriented industries that mainly supply the domestic market. The

[169] Department of Trade and Industry (2007).
[170] Department of Trade and Industry (2007).
[171] The National Industrial Policy Framework (NIPF) is implemented through the Industrial Policy Action Plan (IPAP)
[172] Department of Trade and Industry (2007).
[173] Department of Trade and Industry (2007); and Department of Trade and Industry (2008a).
[174] Department of Trade and Industry (2007); and Department of Trade and Industry (undated a).
[175] Tariff protection on manufacturing in 1997 was 15.6%.
[176] *Mail and Guardian*, "Zuma-ites eye higher tariff walls", 19 May 2009. Viewed at: http://www.mg.co.za/article/2009-05-19-zumaites-eye-higher-tariff-walls [29 May 2009].

highest rate of protection continues to apply to textiles, wearing apparel, and leather industries (21.2%); average MFN tariff protection for beverages, foodstuffs, and tobacco is 12.3%, with a large number of products subject to rates above 60% and to the maximum rate of 96%; and wood and wood products receive average protection of 10.8%. Tariff protection in these industries also shows positive escalation (i.e. raw materials receive lower levels of protection than final products), which is consistent with South Africa's industrial policy of protecting and targeting certain "important" industries, such as textile and clothing, for further development. Other industries, such as motor vehicles (12.4%), and jewellery (8.8%), which the authorities are intent upon promoting, also have above-average tariff protection.

(i) Automotive sector[177]

213. The automotive industry is South Africa's leading manufacturing sector, contributing 7.4% to GDP in 2005 and directly employing some 107,981 people in vehicle and component manufacturing in the same year.[178] It is also the industry that attracts most foreign direct investment in manufacturing; in 2005, FDI totalled R 3.6 billion.[179] Growth in the automotive sector has had a positive impact on the manufacturing sector as whole because of the backward linkages. There has been significant growth in the component sectors, such as leather seat covers, silencers, exhausts, and catalytic converters.

214. The sector has developed with the support of the Motor Industry Development Programme (MIDP), and the Productive Asset Allowance for the automotive industry.[180] The Government established the MIDP in September 1995 to assist the South African automotive industry, but the scheme is also available in other SACU countries. In 2002, the MIDP was extended until 2012. Under the MIDP, producers may obtain import rebate credit certificates (IRCCs) based on the value of exports of vehicles and components. The IRCC may only be used to import components not produced in South Africa. The nominal value of these certificates increases with the value of exports of automotive products (i.e. the certificate value is not related to use of imported goods). Under the Productive Asset Allowance, producers are granted duty credit certificates calculated as 20% of the value of productive assets, to be used to import vehicles or components; however, these may not be re-exported.

215. As a result of the MIDP support, from 1995 to 2006, the sector doubled its production capacity from 388,000 units to around 580,000 units[181], while exports of automotive products also increased to account for some 10.5% of total exports in 2008. Nevertheless, the industry continues to face a number of challenges, including low productivity, "insufficient" use of local components, and a heavy reliance on a few export markets. In 2005, the DTI initiated a review of the MIDP. A revised MIDP, the Automotive Production and Development Programme (APDP), which will be implemented as of 2012[182], will seek to provide industry with a reasonable level of support in a "market neutral

[177] This section is based on Department of Trade and Industry (2007).
[178] Latest figures available.
[179] Latest figures available.
[180] Department of Trade and Industry online information, "Productive Asset Allowance". Viewed at: http://www.thedti.gov.za/offerings/offering.asp?offeringid=216 [18 February 2009].
[181] Latest figures available.
[182] For more information on the proposed programme, see South African Government Information online, "Minister of Trade and Industry M. Mpahlwa's statement: Automotive Development Programme announcement", 3 September 2008. Viewed at: http://www.info.gov.za/speeches/2008/08090415151001.htm [27 May 2009].

manner" that is consistent with South Africa's multilateral obligations; a production allowance will replace the current export incentive in line with multilateral obligations.[183]

(ii) Textiles and clothing[184]

216. The contribution of the textiles and clothing industry to GDP is not substantial (0.6% in 2008), but the industry is amongst the most labour-intensive in South Africa, employing approximately 100,000 people in 2008, down from 127,000 (11% of total employment in manufacturing) in 2007[185], hence the continued support from the Government. Recent Government efforts have been aimed at restructuring and upgrading the industry to arrest further contraction. The industry has been faced with a number of challenges; it has not been able to compete with low-cost imports due to its lack of competitiveness, caused by the low levels of investment; insufficient skills and innovation, and consequent decline in exports.[186] Exports of textiles and clothing declined from 2.2% of total merchandise exports in 2002 to 0.6% in 2008.

217. The Duty Credit Certificate Scheme (DCCS) was designed to encourage textile and clothing manufacturers to compete internationally. Manufacturers and exporters of certain textiles and clothing (e.g. clothing and accessories, yarns, household textiles, and fabrics) can earn duty credit certificates based on the amount exported. The duty credit is set at a percentage of the value of exports, and varies across products: 25% for clothing and accessories; 8% for yarns; 17.5% for household textiles; and 15% for fabrics and other textiles. The incentive is subject to participation in the Performance Measurement Programme (PMP) and the achievement of certain performance, training, and export targets. However, the scheme has not made the industry competitive: the medium- to long-term challenge for the industry is to upgrade and restructure so that it becomes competitive. Thus, the authorities are considering revising current support measures – in particular the DCCS. The DCCS applies across SACU; this needs to be taken into account when revising the scheme. DCCS are issued in each SACU country but they are tradeable. According to the authorities, the DCCS was to lapse in March 2009; however, while a new programme is being designed, the incentive remains in place.

218. The Textile and Clothing Industry Development Programme (TCIDP), which applies in the five SACU countries, operates similarly the DCCS, but applies only to producers of clothing. According to the authorities it is potentially inconsistent with WTO rules, and an alternative programme is being developed.[187] Benefits (i.e. duty credit certificates) granted under the TCIDP will be available until end of March 2010.

219. In addition, under the Customs and Excise Act (Act No. 91 of 1964), duty rebates, in most cases of a 100%, continue to be available for imported commodities if used as inputs in specific industries.

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[183] Department of Trade and Industry (2008a).

[184] This section is based on Department of Trade and Industry (2007).

[185] Information provided by the authorities.

[186] This is in spite of the MOU that South Africa signed with China in 2006, which restricted imports of several categories of textiles and clothing during 2006-08. For a full list of goods subject to import restrictions, see Schedule 10, Part 5, of the Customs and Excise Act (Act No. 91 of 1964), as amended (SARS online information, "Legal and Policy: Schedules to the Customs and Excise Acts (Tariff Books)". Viewed at: http://www.sars.gov.za/home.asp?pid=2630 [2 February 2009]).

[187] South African Government Information online, "The Department of Trade and Industry to give effect to the Customised Sector Programme process", 21 May 2009. Viewed at: http://www.info.gov.za/speeches/2009/09052211551002.htm [29 May 2009].

220. The DTI has introduced other support schemes to assist the sector, including a capital upgrading programme available to clothing, textiles, and footwear manufacturers via the Enterprise Investment Programme (EIP) (administered by the DTI), and preferential loans granted by the IDC at the prime rate less 5% (Table AIII.4).[188]

(4) MINING, ENERGY, AND WATER

221. The State retains a significant role in the mining and energy sector with several state-owned enterprises (SOEs) operating in both subsectors (Table IV.4). The National Energy Regulator of South Africa (NERSA) is in charge of the petroleum, gas, and electricity subsectors.[189] It issues licences for: building petroleum pipelines, and loading and storage facilities; constructing and operating gas transmission, distribution, and re-gasification facilities, "conversion of infrastructure", and trade in gas; and electricity generation and distribution.[190] No information was made available on the requirements for obtaining these licences. NERSA sets and approves utility charges; utility companies (e.g Sasol or Eskom) may not increase their regulated rates or alter their conditions of service without NERSA's approval. NERSA also ensures that access to petroleum pipelines, and loading and storage facilities is provided on the "appropriate" land; promotes competition amongst petroleum pipelines users and gas industries, as well as the optimal use of gas resources; and settles customer disputes.[191] NERSA is financed with public funds, levies charged to "regulated" industries, charges on dispute resolution, and licence fees.[192]

Table IV.4
SOEs in the mining and energy subsectors, 2009

Activity	SOEs
Regulator	National Nuclear Regulator (NNR)
	Energy Regulator of South Africa (NERSA)
	South African Diamond and Precious Metals Regulator (SADPMR)
	State Diamond Trader (SDT)
	Petroleum Agency of South Africa (PASA)
R&D	Council for Geoscience (CGS)
	Council for Mineral Technology (Mintek)
	South African Nuclear Energy Corporation (NECSA)
	Mines Health and Safety Council (MHSC)
	Central Energy Fund Group (CEF) (Pty) Ltd.
Other	Electricity Distribution Industry Holdings Company (Pty) Ltd. (EDI Holdings)

Source: Department of Minerals and Energy (undated), *Strategic Plan 2008/9-2010-11*, Pretoria; and information provided by the South African authorities.

[188] Under the EIP, investment grants of 15% to 30% are offered towards qualifying investment in plant, machinery and equipment, and customized vehicles required for establishing or expanding existing production facilities or upgrading production capacity in existing clothing and textiles operation, or to ensure that tourism projects create employment and promote tourism in new areas (Table AIII.4).

[189] In terms of the Electricity Regulation Act (Act No. 4 of 2006), the Gas Act (Act No. 48 of 2001), and the Petroleum Pipelines Act (Act No. 60 of 2003).

[190] For electricity distribution, NERSA determines a geographical area.

[191] NERSA online information. Viewed at: http://www.nersa.org.za/.

[192] Department of Minerals and Energy (undated c); and *Government Gazette* No. 27458, 6 April 2005; and the Gas Regulator Levies Act (Act No. 75 of 2002), the Petroleum Pipelines Levies Act (Act No. 28 of 2004), and Section 5B of the Electricity Act (Act No. 41 of 1987).

(i) Mining

222. Mining accounted for 5% of GDP in 2007 and employed around 495,474 workers.[193] In the same year, it generated 8.9% of total fixed investment (12.1% of total private-sector investment), and contributed 30.2% of South Africa's total merchandise exports, despite a decline in production (of 0.8% compared with 2006), led by a decline in gold and diamond production.[194]

223. The Department of Minerals and Energy has embarked on a 2008/09-2010/11 Strategic Plan aimed at increasing investment in mining, promoting the sustainable use of energy resources, and ensuring the development of an efficient, safe, and cost effective electricity industry.[195] The Plan also envisages a royalty on the sale of mineral resources; the rate would be determined by a formula based on the degree of refinement and the value of the company's gross sales.[196] The introduction of the Minerals and Petroleum Royalty Act (Act No. 28 of 2008) has been postponed from 1 May 2009 to 1 March 2010.

224. Taxation on mining companies in South Africa has not changed since the previous review of SACU in 2003. Mining companies extracting diamonds and other minerals and base metals, except gold, are levied an income tax at a flat rate of 29%, and a Secondary Tax on Companies at 12.5%. Income derived from gold mining is taxed on the basis of a formula. Mining companies are liable for value-added tax on goods and services supplied to them, but exports of mining products are zero-rated. Thus mining companies are entitled to refunds of VAT paid on inputs used in exported items.[197]

225. Average tariff protection for mining and quarrying is low (0.8%): most activities, with the exception of salt mining (with a 10% tariff), are subject to tariffs of 0% to 2.9% (Main Report, Table AIII.2).

226. The Mineral and Petroleum Resources Development Act (MPRDA) (Act No. 28 of 2002) stipulates that both foreigners and nationals have the right to apply for a prospecting right, mining permit, reconnaissance permit, beneficiation right, exploration right, and/or mining right as long as they comply with the requirements set out in the law.[198] The law makes no reservations for South African citizens; however, it empowers the Minister to give preference to applications from historically disadvantage peoples when considering applications received on the same date. The Branch Mineral Regulation and Administration within the Department of Mineral Resources is responsible for processing the applications. Application procedures for the different rights are similar: in all cases applications must be lodged with Regional Office where the land is situated, with all the required documents, including farm name and number, title deed, applicants' details, company name and registration number, proof of technical and financial ability, and type of mineral. The applicant must pay a non-refundable application fee, which varies according to activity. Turn-around times are six months for a prospecting right and 12 months for a mining right. The rights are non-transferable and are usually for two years, renewable in certain cases.

[193] Department of Minerals and Energy online information. Viewed at: www.dme.gov.za..

[194] Chamber of Mines of South Africa (2008b).

[195] Department of Minerals and Energy (2008).

[196] Bain (2009).

[197] Chamber of Mines Media Release, "Note on Mining Taxation in South Africa: a Presentation by Mzolisi (Zoli) Diliza at the World Mining Congress held in London, 2 June 2008". Viewed at: http://www.bullion.org.za/MediaReleases/Downloads/Taxation02.06.08.htm.

[198] Mineral and Petroleum Resources Development Act, Act No. 28 of 2002 Online. Viewed at: http://www.info.gov.za/view/DownloadFileAction?id=68062.

227. South Africa participates in the African Mining Partnership (AMP), aimed at coordinating mining and mineral-related initiatives around areas such as developing artisanal and small-scale mining or promoting foreign investment and indigenous participation in mining ventures. The Partnership is under auspices of the NEPAD's (Main Report, Chapter II(3)).

Coal

228. In 2006, South Africa had the world's sixth largest coal reserves (around 31 billion tonnes).[199] There are 19 official coal fields; 70% of the reserves lie in three fields (Highveld, Waterberg, and Witbank). In 2007, the coal industry employed around 60,400 workers, and accounted for 2.2% of GDP and 5.2% of total merchandise exports. Production totalled 247.7 million tonnes (1.2% increase compared with 2006). Around one third of the coal produced in South Africa is exported, of which one third to the European Communities. Domestic sales reached 177 million tonnes (3.2% more than in 2006) due to the increasing demand by Eskom and Sasol; Eskom and Sasol consumed 112 million tonnes and 45.4 million tonnes of coal, respectively.[200] Production of coal is concentrated: 90% is produced by six enterprises (Anglo Coal, BHP Billiton, Sasol Mining, Eyesizwe Coal, Kumba Coal, and Xstrata Coal).

229. Coal provides 88% of South Africa's primary energy needs; around 90% of the electricity generated, and 35% of the liquid fuel produced is derived from coal (liquefied coal).[201] Liquefied coal is produced by Sasol[202], the world's largest liquefied coal manufacturer. Imports of coal products enter South Africa duty free (Main Report, Table AIII.2).

Diamonds and precious metals

230. The South African Diamond and Precious Metals Regulator (SADPMR) replaced the South African Diamond Board on 1 July 2007.[203] It regulates the diamond and precious metals (gold and platinum-group metals) industries, as stipulated in the Diamond Act (Act No. 56 of 1986), as amended[204], and the Precious Metals Act (Act No. 37 of 2005). SADPMR administers, and controls the purchase, sale, beneficiation, import, and export of diamonds. It also administers and controls the acquisition, possession, smelting, refining, fabrication, use, and disposal of precious metals.[205] SADPMR issues licences, permits, and certificates for all activities related to diamonds and precious metals; in 2007, 704 licences/permits/certificates were issued related for diamond-related activities, and 32 for precious metals.[206] SADPMR also ensures that all diamond dealers comply with the Kimberley Process certification scheme.[207]

[199] Department of Minerals and Energy online information. Viewed at: www.dme.gov.za.

[200] Over the next decade, Eskom is likely to require 200 million tonnes annually and Sasol plans to expand its domestic fuel operations therefore requiring extra coal (U.S. Energy Information Administration, 2008; and Chamber of Mines of South Africa, 2008b).

[201] South Africa's large coal reserves made it one of the world's cheapest electricity supplier. Coal reserves are estimated to be sufficient to provide power for, at least, the next 20 years (EIU, 2009).

[202] Sasol was established by the Government in 1950 to manufacture fuels from indigenous raw materials.

[203] Department of Minerals and Energy (2008).

[204] Diamonds Amendment Act (Act No. 29 of 2005) and Diamonds Second Amendment Act (Act No. 30 of 2005).

[205] SADB online information. Viewed at: http://www.sadb.co.za/Default461.aspx.

[206] Permits, etc., for diamonds, include: the diamond dealer's licence, the diamond beneficiation licence, the diamond research licence, the diamond trading house licence, the temporary diamond buyer's permit, the permit to sell, import or export, and the certificate to possess and unpolished diamond. For precious

231. South Africa is the sixth largest diamond producer in the world in terms of volume and the fourth largest in value terms.[208] Around 41% of South Africa's diamonds are gem quality; the rest are of industrial quality. In 2007, production of rough diamonds totalled 15.7 million carats (up from 15 million in 2006). Exports totalled 13.8 million carats (down from 15.8 million carats).[209] Imports amounted to 1.2 million carats which indicates that South Africa imported gem quality diamonds (i.e. larger stones of more than 1 carat) from its offshore production for the local cutting and polishing industry. Imports of diamonds are duty free. Production declined 8.1% on a year-on-year basis during the first half of 2008 due to the national electricity supply crisis (section (c) below) and the closure of some shafts.[210]

232. In 2008, SADPMR created the Diamond Exchange and Export Centres to facilitate domestic and international trade in diamonds. The Centre organizes auctions for mines and allows any person holding a permit or licence to buy rough diamonds to participate. The State Diamond Trader (SDT) was created in 2007 to promote "equitable" access to diamonds and develop South Africa's diamond cutting and polishing industries.[211] SDT buys up to 10% of South Africa's diamond production and sells it to small-to-medium-sized local cutters and polishers[212]; in 2007, only 5% of South Africa's rough diamonds were cut and polished locally. De Beers Consolidated Mines rough diamond supply branch, will provide technical support to SDT until October 2010.[213]

233. There is considerable state intervention in the diamond market. Even though imports of diamonds bear a 0% tariff, import prohibitions and controls are maintained for uncut diamonds; while exports of unpolished diamonds continue to be regulated. Exports of unpolished diamonds are prohibited except by a producer, a manufacturer (if it is a synthetic diamond), a dealer, or a holder of an export permit. Unpolished diamonds must be sold at the Diamond Exchange and Export Centres. In addition, to promote the development of the local economy, develop skills, and create employment, South Africa still levies a tax on exports of unpolished diamonds (Chapter III(3)(ii)).

234. In 2007, South Africa produced 253 tonnes of gold (down from 272.1 tonnes in 2006) and was ranked the world's second gold producer. The contribution of gold to the economy remained important: gold exports accounted for 7.1% of total merchandise exports, and the gold mining industry represented about 2.5% of GDP and employed around 169,000 workers. During the first quarter of 2008, gold production further declined (by 17% year-on-year) due to the electricity supply

metals, they include: the precious metals refining licence, the precious metals beneficiation licence, the jeweller's permit, the import permit, the export permit, the special permit, and the precious metals certificate.

[207] South African Diamond and Precious Metals Regulator (2008).

[208] Chamber of Mines of South Africa (2008b).

[209] South African Diamond and Precious Metals Regulator (2008).

[210] Chamber of Mines of South Africa (2008b).

[211] "Equitable" distribution is ensured by allowing small, medium, and large business to participate in the diamond auctions.

[212] Initially, SDT bought rough diamonds exclusively from De Beers. It has now signed supply agreements with smaller mining operations (*Rapaport News*, "South Africa's Acting State Diamond Trader Shows Goods to Clients", 21 January 2009. Viewed at: http://www.diamonds.net/news/NewsItem.aspx?ArticleID=25009).

[213] *Mining Weekly*, "State Diamond Trader officially launched", 29 February 2008. Viewed at: http://www.miningweekly.com/article/state-diamond-trader-officially-launched-2008-02-29; and *Rapaport News*, "South Africa's Acting State Diamond Trader Shows Goods to Clients", 21 January 2009. Viewed at: http://www.diamonds.net/news/NewsItem.aspx?ArticleID=25009.

crisis. South Africa processes gold for jewellery and for minting coins.[214] Its gold reserves have been estimated at 31,000 tonnes, some 30% of the world's reserves.[215]

235. South Africa has about 87% of the world's PGM reserves.[216] PGM accounts for the largest component of South Africa's mining production; in 2006, sales were equivalent to the combined sale of gold and coal. In 2007, the PGM mining industry accounted for 2.1% of GDP and employed around 186,400 workers. Production totalled 311 tonnes (307.5 tonnes in 2006) due to increases in demand for ruthenium, rhodium, and iridium output; platinum accounted for over half of PGM production (South Africa is the world's largest producer of platinum (around 77% of world production) and rhodium (84%)).[217] PGM exports represented 14.6% of total merchandise exports in 2007. However, during the first quarter of 2008, production declined by 19% on a year-on-year basis, due to shortages in electricity supply (section (c) below).

(ii) Petroleum and gas

236. South Africa does not have significant deposits of oil and natural gas. In January 2008, reserves were estimated at 15 million barrels of oil and 318 million cubic feet of gas.

237. The Central Energy Fund (CEF) (Pty) Ltd. was created to engage in the acquisition, exploration, generation, marketing, and distribution of oil and gas and to undertake research related to the energy sector. According to authorities, CEF is a private company, incorporated under the Companies Act, which is wholly owned by the State and comprises seven operating subsidiaries: (i) the Petroleum Oil and Gas Corporation of South Africa (PetroSA), created in 2000, in charge of exploring and producing crude oil and natural gas off South Africa's coast; (ii) the South African Gas Development Company (Pty) Ltd. (IGas), in charge of the hydrocarbon gas industry; (iii) the Petroleum Agency SA (Pasa), which promotes and regulates petroleum resources; (iv) the Oil Pollution Control SA (OPCSA), in charge of preventing disasters and of clean-up services mainly in ports and on the coast; (v) the South African National Energy Research Institute (Saneri), in charge of research in alternative energy sources; (vi) the National Energy Efficiency Agency (NEEA), created in 2006 to promote energy efficiency; and (vii) the Strategic Fuel Fund Association (SFF) in charge of managing South Africa's strategic crude oil reserves.[218]

238. South Africa's oil fields are off the southern coast in the Bredasdorp basin and the west coast near the Namibian border.[219] In 2007, South Africa produced 199,000 barrels/day (b/d) of oil; comprising crude oil and synthetic liquid fuel processed from coal and gas (coal to liquid and gas to liquid). South Africa is a net importer of crude oil; around two third of its consumption is imported, mainly from Iran, Saudi Arabia, Nigeria, and Angola.[220] Imports of crude oil bear a 0% tariff rate.

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[214] Chamber of Mines of South Africa (2008b); and South African Diamond and Precious Metals Regulator (2008).

[215] Mbendi online information, "Gold Mining in South Africa: Overview". Viewed at: http://www.mbendi.com/indy/ming/gold/af/sa/p0005.htm [8 May 2009].

[216] PGM includes platinum, palladium, rhodium, iridium, ruthenium, and osmium.

[217] Chamber of Mines of South Africa (2008a); Chamber of Mines of South Africa (2008b); and South African Diamond and Precious Metals Regulator (2008).

[218] CEF online information. Viewed at: http://www.cef.org.za.

[219] The Bredasdorp basin – the most prolific exploration block – comprises the Oribi, Orxy, and Sable fields. PetroSA holds 100% equity of the Oribi and Orxy fields and 60% equity of the Sable field, operated in a joint-venture with U.S. Pioneer Natural Resources. In 2007, South Africa auctioned four offshore blocks off the western coast for exploration as a joint-venture with PetroSA (U.S. Energy Information Administration, 2008; and EIU, 2009).

[220] U.S. Energy Information Administration (2008).

South Africa does not own crude oil tankers, which limits its access to crude oil in case of need; hence it has strategic stocks of crude oil stored in Saldanha Bay.[221]

239. Companies active in oil exploration include South African PetroSA and international companies (e.g. Anschutz International, BHP Billion, Forest Oil International, Shell, TotalFinaElf, Caltex, and Pioneer Natural Resources). Despite insignificant oil deposits, South Africa has the second largest oil refining capacity in Africa (488,000 b/d in 2007). The main refineries are in Durban, Cape Town, and Sasolburg; a project is under way to open a refinery at Coega by 2015. The refineries are operated by South African companies (e.g. Naledi Petroleum and Afric Oil) and international companies (e.g. BP, Chevron, Shell, and TotalFinaElf). All the refined products produced in South Africa's companies are sold on the domestic market. Tariffs on imports of refined products average 3.8% (Main Report, Table AIII.2) Imports of oils and other fossil fuels inorganic acids are also subject to import control measures. The Energy Master Plan on liquid fuels supports the development of additional crude refinery capacity to address the shortage of locally refined products. PetroSA plans to build and upgrade the existing facilities to increase production and deal with the shortage.[222]

240. A specific fuel levy is applied on certain petroleum oils and oils obtained from bituminous minerals. The levy is applied at the same rate on imported and domestic goods (Table III.1).

241. The retail price of gasoline is regulated and adjusted on a monthly basis. This price is calculated by the Central Energy Fund (CEF) on behalf of the Department of Minerals and Energy (DME). The elements taken into account are: the basic fuel price (BFP) based on a formula that takes into account the import price of refined oil put in at the South African shores, accounting for 53.1% of the price; transport cost from the refinery to the pump (2.4%); a wholesale margin also determined by a formula (7%); the retail margin also fixed by DME and based on actual cost (8.4%); the cost of delivery (1.2%); and taxes (i.e. tariffs and excise duties; the road accident fund (RAF), and the fuel levy) (27.9%). The BFP is adjusted monthly and is the result of negotiations between African Minerals and Energy Forum (AMEF) and the South African Petroleum Industry Association (SAPIA). The price of diesel is not regulated.[223]

242. South Africa's natural gas resources are scarce and are offshore. To compensate for the lack of natural resources, much of the gas used in South Africa is synthetic gas produced from coal by Sasol. Natural gas is imported from Mozambique and Namibia. South Africa's natural gas fields supply PetroSA's liquified plant Mossgas.[224] PetroSA and Pioneer Natural Resources are exploiting new natural gas fields at Sable oil field and six adjacent undeveloped fields; Pioneer's production is sold to PetroSA under a gas and condensate agreement and provides Mossgas with feedstock. In June 2008, PetroSA discovered new gas fields off the southern Cape coast.[225]

(iii) Electricity

243. Wholly state-owned enterprise Eskom supplies most of the South African market and exports electricity. Additional electricity is generated by South African municipalities (2,400 MW), and private companies (800 MW). Eskom owns and operates the national transmission system. Its power generation capacity is of 42,000 MW; it produces electricity for the domestic market and exports to

[221] Department of Minerals and Energy (undated b).
[222] U.S. Energy Information Administration (2008).
[223] Sasol (undated).
[224] Mossgass is one of the world's largest gas-to-liquid fuel plant.
[225] U.S. Energy Information Administration (2008).

neighbouring countries.[226] South Africa is a net exporter of electricity; it is a member of the Southern African Power Pool, which facilitates trade in electricity within the Southern African Development Community (SADC). Eskom operates 13 coal-fired power stations, 2 gas turbines generators, 1 nuclear power station, 6 conventional hydroelectric plants, and 2 hydroelectric pumped-storage stations. Around 90% of South Africa's electricity is derived from coal[227]; Eskom plans to reduce the use of coal to 65-70% by 2025.[228]

244. The electricity distribution system has been under a process of restructuring since 2001. At present, Eskom is in charge of electricity generation and transmission; according to the authorities, Eskom has a dominant position, but not exclusive rights in the bulk electricity market. Eskom and 187 licensed municipalities distribute electricity. This dual system has led to inefficiencies, disparities in tariffs, unequal treatment of customers, and inadequate networks maintenance.[229] The 2001 Electricity Distribution Industry Restructuring Strategy and Blueprint called for the distribution of electricity to be consolidated through the creation of six "viable" regional electricity distributors (REDs), which were to regroup Eskom and the municipal electricity utilities. In July 2005, the first RED began operations in the city of Cape Town. It is not clear when the other five REDs will start operating. Under a 2006 Cabinet decision, the REDs were to be established as public entities; Eskom would become a transitional shareholder in the REDs and its percentage shares would decrease over time. The Department of Minerals and Energy (DME), through Electricity Distribution Industry (EDI) Holdings[230], would oversee and control the REDs.[231]

245. The Integrated National Electrification Programme (INEP) was launched in 2001 to ensure universal access to electricity by 2012; the level of electrification in South Africa is 73%.[232] The DME is responsible for the programme and finances the distributors licensed by NERSA, i.e. Eskom and municipalities.[233] Eskom is mainly responsible for electrification in rural areas with insufficient infrastructure. The INEP targets the electrification of households, schools, and clinics; in May 2005, it had electrified around 232,000 households, 2,200 schools, and 50 clinics.[234] However, in 2006 3.4 million households remained without access to electricity in South Africa.

246. South Africa's recent strong economic growth, rapid industrialization, and mass electrification programme have contributed to an increase in the demand for electricity. However, the lack of investment in electricity generation capacity have left Eskom unable to meet demand, which has led to electricity shortages and severe power cuts since 2007. Eskom reached its record peak demand in July 2007 (36,400 MW).[235] The shortage of electricity has had an impact on the economy as whole, but most importantly in the mining sector. At the beginning of 2008, Eskom requested gold, platinum, and coal mines to reduce their electricity demand to a minimum; they were also warned

[226] Department of Minerals and Energy (undated b).

[227] South Africa's large coal reserves makes it one of the world's cheapest electricity producer.

[228] U.S. Energy Information Administration (2008); and Mission économique de l'Ambassade de France en Afrique du Sud (2008a).

[229] *Business Report*, "Power supply to be restructuring to be fast tracked", 13 August 2007. Viewed at: http://www.busrep.co.za/index.php?fSectionId=561&fArticleId=5019465 [3 June 2009].

[230] EDI Holdings was created in 2003 to facilitate the restructuration of the electricity distribution industry.

[231] EDI Holdings online information. Viewed at: http://www.ediholdings.co.za/.

[232] Department of Minerals and Energy (undated a).

[233] Funding reach up to R 1.4 billion annually. However, R 5 billion annually would be required to reach complete electrification of un-electrified areas Integrated National Electrification Programme. Viewed at: http://www.ameu.co.za/library/neac/Extract-from-NEAC-MeetingDocument-16August2007.pdf [12 May 2009].

[234] Department of Minerals and Energy online information, "Integrated National Electrification Programme". Viewed at: http://www.dme.gov.za/energy/elect_inep.stm [12 May 2009].

[235] Department of Minerals and Energy (undated a).

that their electricity supply would not be guaranteed, and Eskom agreed to supply only 90% of their average electricity demand for the "foreseeable" future.[236]

247. In January 2008, the Department of Minerals and Energy and Eskom released a new policy in response to South Africa's electricity shortage. The plan includes the restructuring of the country's electricity distribution system and the approval of electricity projects by independent power producers. It also involves the approval of projects between Eskom and private industries to generate electricity, where the heat generated as a by-product of industrial processes in sectors such as chemicals is captured to produce power that can be used by the industries themselves, or bought by Eskom. The new plan also outlines the importance of reducing demand by pricing electricity correctly as well as promoting energy efficiency. Eskom aims to reduce demand by about 3,000 MW by 2012 and a further 5,000 MW by 2025 through the promotion of solar-powered geysers and of liquid petroleum gas for cooking.

248. The 2007-12 Energy Security Master Plan focuses on improving the infrastructure to produce electricity, ensure a secure supply, diversify the sources of electricity, reduce the use of energy, and ensure the supply of affordable energy. The Master Plan notes that the Energy Efficiency Strategy launched in 2005, called for an overall 12% reduction of energy demand by 2015.[237] Eskom started a demand-management programme in 2006 aimed at reducing demand through, *inter alia*, rationalizing electricity use and promoting the use of alternative energy. In addition, Eskom has announced its intention to reduce its exports to the SADC region. However, electricity shortages are expected to continue in the medium term as investment projects aimed at increasing electricity production and efficient distribution will not be completed before 2012; these projects include the construction of, *inter alia*, two coal-fired power stations, several nuclear power stations, and a pumped-storage station.[238] The costs of upgrading and expanding the generating capacity will led to large tariff increases in the coming years. Eskom has planned a 34% general increase in tariffs for FY 2009/10, subject to NERSA approval.[239]

249. South Africa, along with Angola, Botswana, the Democratic Republic of Congo (DRC), and Namibia, signed the Memorandum of Understanding (MoU) on the Western Power Corridor Project in October 2004. The MoU, under the auspices of NEPAD, is to pilot the use of hydroelectric energy from the Inga rapids site to ensure a constant supply of electricity in the SADC region. A joint-venture company has been established to study the project's viability, and to build, own, and operate the infrastructure.[240]

(iv) Water

250. South Africa's water resources are scarce: annual water availability is about 1,200 m^3 per capita and average annual rainfall is comparatively low (497 mm) (the world average is 860 mm), with high disparities within regions. So far, South Africa's relatively well-developed water infrastructure with a network of dams and inter-basin transfers schemes, has helped maintain agricultural irrigation through dry periods. However, many are under increasing pressure as water demand exceeds supply[241]: mining, manufacturing, and electricity production are major water users;

[236] Chamber of Mines of South Africa (2008b).
[237] Energy savings are expected to reach, *inter alia*, 15% in mining and industry, and 9% in transport (Department of Minerals and Energy, 2005).
[238] EIU (2009).
[239] Department of Trade and Industry (2008b).
[240] Government Communication and Information System (2008).
[241] Department of Trade and Industry (2008b).

and priority has been given to the construction of hydroelectric plants to supply South Africa's electricity needs (section (iii) above).[242]

251. As stipulated by the National Water Act (Act No. 36 of 1998), the Department of Water Affairs and Forestry (DWAF) manages the water resources through licences. All users who do not receive water from a service provider, local authority, water board, irrigation board, Government water scheme or other bulk supplier, and are using water for irrigation, mining purposes, industrial use, and feedlots, must register to obtain a licence.[243] No information was made available on obtaining a licence or the fees involved. Local authorities and other bulk suppliers with their own water sources and purification works must also obtain a licence. Registration is aimed at allowing effective management of water resources, hence promoting optimal use in the public interest and ensuring fair allocation according to how much water is available and already being used.[244]

252. The DWAF, through the 1999 Pricing Strategy for Raw Water, as revised in 2005[245], requires users of untreated water for irrigation, mining, manufacturing, and municipal purposes, to pay a water resource management charge. This fee is used to finance water management activities in each of South Africa's water management areas.[246] Other charges on water use include: the consumptive charge applied to those receiving water from government water schemes; the Trans-Caledon Tunnel Authority charge, applied to those using water from the Vaal river system; and the water research levy, which applies to users of water from government water schemes and water services providers (e.g. municipalities and water user associations).

(5) SERVICES

(i) Overview

253. Services (including construction) contributed some 65% to South Africa's GDP in 2007, up from 62.2% in 2002 (Chapter I). Growth in 2008 reflected further expansion in telecommunications, financial services, construction, and wholesale, catering and accommodation ahead of the 2010 World Cup. The largest services subsectors in 2008 were finance, insurance, real estate, and business services (20.1.% of GDP); community, social and personal services (18%); and wholesale, retail trade, catering and accommodation (13.8.%). South Africa is a net services importer (Chapter I). Travel (tourism) has dominated services exports, illustrating the country's importance as a tourist attraction, while transportation was the main import, reflecting long distances from key markets. More efficient services delivery is a government priority; however, state intervention remains significant, rendering the supply of key services inefficient and costly. Companies supplying services are subject to the secondary tax on companies, the VAT, and the skills development levies, other taxes apply mainly to financial services (Table IV.5).

254. South Africa's specific commitments in the Uruguay Round covered business services; communication services (courier services and telecommunication services); construction and related engineering; distribution services; environment services; financial services (insurance and insurance

[242] UNESCO World Water Assessment Programme (2007).

[243] This covers the use of surface and ground water. Other activities for which registration is required include: diversion of rivers and streams; discharges of waste or water containing waste; storage for any purpose; stream flow reduction activities (afforestation); and controlled activities (e.g. irrigating with waste, and power generation with water).

[244] Department of Water Affairs and Forestry online information. Viewed at: http://www.dwaf.gov.za/default.asp [14 May 2009].

[245] Notice No. 1045 of 2005 (*Government Gazette* No. 27732, 1 July 2005).

[246] These are areas where there are one or more catchment areas.

related services, and banking and other financial services); tourism and travel related services; and transport services. The horizontal commitments on market access contains a limitation on temporary presence for up to three years for those engaged in the supply of certain services, without requiring compliance with an economic needs test; limitations on national treatment relate to local borrowing. South African registered companies with a non-resident shareholding of 25% or more have unspecified limits on local borrowing.[247]

Table IV.5
Taxes on services, 2009

Tax	Description	Rate/calculation
All services		
Secondary Tax on Companies (STC)	Tax on dividends declared by companies resident in South Africa	10% on the amount declared
VAT	Value-added tax	14%
Skills Development Levies	Employers must pay a levy for each employee to finance an education and training fund	1% of the leviable amount based on the remuneration of employees
Financial services		
Capital Gains Tax (CGT)	CGT is levied on an asset when it is disposed of or transferred and there is a gain	25% of the taxable amount
Securities Transfer Tax (STT)	STT is levied on the transfer of listed and unlisted securities	0.25% of taxable amount
Retirement Fund Tax	Retirement fund tax is levied on the gross interest, net rental, and foreign dividend income of retirement funds; it is also levied on the untaxed policyholder funds of long-term assurance companies in respect of their retirement business	18% on the interest, net rental, and foreign dividends of the fund
Air transport		
Air Passenger Tax	Tax on international air travel	R 120 on the carriage of each chargeable passenger departing on a flight

Source: SARS online information, "Tax Types". Viewed at: http://www.sars.gov.za/home.asp?pid=161; and information provided by the South African authorities.

255. South Africa participated in the extended negotiations on basic telecommunications and financial services, and accepted the GATS Fourth Protocol (basic telecommunications) and the reference paper, and the Fifth Protocol (financial services). The monopoly on basic fixed-wire telephony services (international) of the majority-state-owned South Africa Telecom was scheduled to last until at least 2003. The monopoly public switched telecommunications services (PSTN) was also scheduled to end in 2003, but South Africa retained its market access limitations on cross-border supply by maintaining the prohibition on bypass. South Africa adopted the Reference Paper on Regulatory Principles as an additional GATS commitment.

256. South Africa made commitments during the financial services negotiations to either maintain or expand the market access currently offered to foreign financial service suppliers. In banking services, South Africa's commitments on national treatment specify that natural persons holding deposit accounts in branches of banks not incorporated in South Africa must maintain a minimum balance of R 1 million in their accounts. Commitments were also made on market access, under which dealing in foreign exchange in South Africa may only take place through a dealer authorized by the South African Reserve Bank, and companies involved in, *inter alia*, asset management, collective investment schemes, and custodial services for securities and financial instruments, must be incorporated as public companies in South Africa and registered with the supervisory authority to carry on business in South Africa. Market access limitations also apply to the insurance sector. Insurers/re-insurers need to be incorporated as a public company in South Africa and registered with

[247] WTO document GATS/SC/78/Suppl.3, 26 February 1998.

the supervisory authority to carry on insurance business in South Africa; the executive chairman, public officer, and the majority of directors must be resident in South Africa. The acquisitionn of 25% or more of the value of the shares in a registered insurer requires the written approval of the Registrar of Insurance.

257. South Africa grants MFN treatment in services to all WTO Members. The only two MFN exemptions listed relate to financial services and transport services. Members of the Common Monetary Area (i.e. Lesotho, Namibia, and Swaziland) enjoy preferential access to South Africa's capital and money markets and transfer of funds amongst CMA members is exempt of exchange controls. The right to carry goods and passenger to or from South Africa and between third countries (e.g. Botswana, Lesotho, Swaziland, Malawi, Zimbabwe, and other sub-Saharan African countries) by road, is reserved only to operators of contracting parties of a regional and plurilateral road transport agreements.[248] Cabotage is restricted to South African registered vehicles and operators.

258. Notwithstanding the limitations inscribed in South Africa's Schedule, the authorities view services liberalization as important in attracting foreign investment and developing infrastructure. However, this has not yet resulted in any decisions to further open the services sectors. Nevertheless, South Africa is examining the possibility of making further commitments in a number areas, and in 2006, tabled an offer in the ongoing services negotiations.

(ii) Financial services[249]

259. Financial institutions in South Africa have had several years of robust economic growth, supported by prudent macroeconomic management and high commodity prices, and virtually no exposure in the sub-prime mortgage market (Chapter I). Up to end-2008, banks and insurance companies were profitable, and enjoyed good capitalization and reserve levels. The financial sector has also benefited from an effective regulatory framework. Commercial banks are the largest segment of the financial sector followed by life insurance companies.

(a) Banking

260. South Africa's banking sector comprises commercial banks (foreign and domestically owned), mutual banks, co-operative banks, and development banks). Four commercial banks, Amalgamated Bank of South Africa (ABSA), FirstRand Bank, Nedbank, and Standard Bank, all of which are privately owned, account for almost 84% of total assets and have a strong presence in the other SACU countries. Foreign presence in these four banks has increased significantly since the previous Review of SACU in 2003.[250] The requirements (e.g. minimum capital requirements) for establishing a domestic or foreign bank are the same. In mid 2008, there were 19 registered commercial banks in South Africa (14 domestic and 5 foreign owned), and two registered mutual banks. The structure of a mutual bank is designed to be less formal and simpler than that of a traditional bank.[251] In addition to

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[248] This type of agreement includes the SADC Protocol on Transport, Communication and Meteorology, the Maputo Development Corridor between South Africa and Mozambique (Government Communication Information System, 2008).

[249] This section is based on South African Reserve Bank (2008a); IMF (2008); and Financial Services Board (2008).

[250] For instance, China's Industrial and Commercial Bank of China (ICBC) purchased a 20% stake in Standard Bank in February 2008.

[251] These are established under the Mutual Banks Act (Act No. 124 of 1993). While commercial banks are required to be public companies with external shareholders, mutual banks are owned by their members (i.e. the depositors are the members). The requirements for the establishment of both forms of bank are similar as the legal frameworks focus on fit and proper management, capital and IT systems. Capital requirements are:

the commercial banks, several state-owned development banks/finance institutions have been created to finance projects in specific sectors, to support SMEs, and to provide banking services to the "unbanked" sector of the population (Table IV.6).

Table IV.6
Development financing institutions, 2009

Institution	Activity
Development Corporation of South Africa (IDC)	Finances large industrial, mining, and agricultural projects
Development Bank of Southern Africa (DBSA)	Finances regional infrastructure development projects (e.g. roads, prisons, and local government waste treatment and water projects)
Business Partners[a]	Finances small business
Khula Enterprise Finance	Finances small and micro-businesses
Land Bank	Provides short- and medium-term loans, and long-term mortgages to farmers for agricultural projects at subsidized interest rates
Postbank[b]	Savings institution; provides services mainly to the "unbanked" population

a Formerly the Small Business Development Corporation.
b Operates through the South African Post Office.

Source: WTO Secretariat.

261. The new Co-operative Banks Act (No. 40, of 2007) is aimed at supporting and developing the co-operative banking industry. The Act provides for the registration of deposit-taking financial services co-operatives as banks. Hence, they would be under the supervision of the Central Bank giving depositors with co-operative banks the same level of protection as depositors with formal commercial banks. Thus increasing the access of certain segments of the population to banking services under safe conditions.

262. Foreign-owned banks may operate in South Africa in three different corporate forms: as branches of their foreign subsidiary with domestic registration; as subsidiaries of their foreign parent (and legally constituted as domestic banks); or as foreign representative offices. Branches and subsidiaries are subject to the same supervisory requirements than domestic banks. There are 44 foreign-representative offices in South Africa: these are not allowed to accept deposits; their purpose is largely to establish a presence in South Africa, sometimes attracting business to their offshore operations.

263. Up to end 2008 the banking sector had performed soundly. However, banks are facing increased credit risk, especially in their household loan portfolios, because of record household indebtedness and increasing debt-service burden. Asset quality has deteriorated and returns have decreased because of the increase in interest rates and the decrease in property prices. Non-performing loan (NPL) ratios are not high but have increased since 2006 because of the increases in interest rates; arrears on credit card debt are also rising.

264. Access to banking services has increased markedly: the population that has access to banking services rose from 25% in 1994 to 63% in 2008.[252] This has been as result of, *inter alia*, the Financial Sector Charter, which calls for the banking sector to expand its branch network[253]; and the National

R 250 million for commercial banks and R 10 million for mutual banks. The two forms of banks may provide the same services. Foreigners may invest in and establish a mutual bank.

[252] IMF (2008).

[253] The Financial Sector Charter aims to transform the financial sector to take into account the terms of the Broad Based Black Economic Empowerment (BBBEE) Act 98 (Act No. 53 of 2003). The financial sector committed itself to the development of a Black Economic Empowerment (BEE) charter (Financial Sector

Credit Act (Act No. 34 of 2005), which calls for the development of an accessible credit market to address the needs of the disadvantaged low-income population and remote communities.

265. The South African Reserve Bank (SARB) is responsible for commercial bank regulation and supervision. The SARB is governed by the Banks Act and the Mutual Banks Act, under which it must assign a Registrar of Banks to be in charge of banking supervision. The Registrar must be approved by the Ministry of Finance. Banking supervision has been strengthened in recent years through the SARB's implementation of Basel II. In addition, the National Credit Regulator (NCR), established under the National Credit Act (Act No. 34 of 2005), regulates the "credit industry" in South Africa[254]; it regulates of all types of household credit extended by banks and non-banking institutions. The role of the NCR has become more relevant given the level of household indebtedness: it prohibits "reckless lending", which has required lenders to increase underwriting, and improve risk management, and has increased transparency.

(b) Insurance

266. South Africa's insurance industry comprises long-term (mostly life) insurance, short-term insurance (corporate, general, personal motor vehicle), and reinsurance. At the end 2008, there were 190 registered insurance companies, consisting of 78 long-term insurers, 100 short-term insurers, and 12 reinsurers. Reinsurance companies operate as professional reinsurers in long-term, short-term and composite markets. Four of the five main insurance groups have close ties with South Africa's main commercial banks: currently, ten long-term insurers and six short-term insurers are owned by banks, and one bank is owned by a long-term insurance company. In terms of ownership, 78.47% of all long-term insurance companies are owned by South Africans; there is no state ownership in the sector. Around 73% of total ownership in the short-term insurance sector is domestic capital while state ownership is 4.8%.

267. During 2003-08 the performance of insurance sector, like that of banking sector, was strong, reflecting a growing economy and strong equity market. The life insurance sector is a major players in South Africa's financial sector, accounting for a large share of the retirement savings market. At end 2008, life and general insurers, maintained large and growing surpluses in excess of the required minima; no insurance companies have failured in recent years. However, due to the global financial crisis, the supervisory authority has strengthened supervision of the most important insurance groups to identify any potential problems.

268. Every insurer or reinsurer is required to be registered for a specific class or classes of business, i.e. assistance, disability, fund, health, life, and/or sinking fund. Registration criteria have not changed during the review period; the requirements are the same for national and foreign companies. Foreign insurers/re-insurers still need to be incorporated as a public company in South Africa and be registered with the supervisory authority to carry on insurance business in South Africa.

269. The minimum capital requirement for long-term insurers (for one or more kinds of long-term insurance policies) is R 10 million or an amount equal to the operating expenses[255]; whichever is higher. The Registrar may, however, relax the minimum capital adequacy requirement for a specific insurer upon conditions and for the duration that the Registrar determines necessary. For short-term

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Charter Council online information, "Overview". Viewed at: http://www.fscharter.co.za/page.php?p_id=137&PHPSESSID=46589b68277655bef8a050ac787d0e8d.

[254] Department of Trade and Industry online information, "The National Credit Regulator (NCR)". Viewed at: http://www.thedti.gov.za/thedti/ncr.htm [29 May 2009].

[255] The minimum capital requirement is defined as the amount reported as the annual return submitted to the Registrar multiplied by 13 and divided by the number of weeks in the reporting period.

insurers (for of one or more kinds of short-term insurance policies) the minimum capital requirement is R 5 million. The actual capital will, however, be dictated by the type and volume of business to be conducted, as set out in the five-year projections submitted with the application. Before the applicant is registered as a long-term or short-term insurer, the company auditors must confirm that the required capital has been paid. The Registrar must be satisfied that the proposed shareholders have the financial means to provide the minimum start-up capital as well as the ability to provide further capital to the insurer when required.

270. South African legislation requires reinsurers to register in South Africa in order to conduct business in the country. South African insurance companies however, often enter into reinsurance arrangements with foreign reinsurers. In order for this reinsurance to be acknowledged for purposes of capital adequacy requirements, the foreign reinsurer must provide security in the form of a monetary deposit with the South African primary insurer or an irrevocable guarantee or a letter of credit issued by a South African bank.

271. The acquisition of 25% or more of the value of the shares in a registered insurer, by nationals or foreigners, requires the written approval of the Registrar of Insurance.[256] Application for approval to acquire control over an insurance company requires information similar to that required when applying for registration; the application is treated in the same manner as a new application for registration of an insurer. Applications for acquisition of a controlling share in an insurance company are referred to the Licensing Committee (appointed by the Board of the Financial Services Board) for their recommendation.

272. There are a few compulsory insurances in South Africa. These are motor third-party bodily injury or death cover, and workers' compensation insurance. South African residents may purchase policies from non-resident insurance companies. However, the foreign insurer may not solicit business in South Africa.

273. The sector continues to be regulated mainly by the Long-Term Insurance Act (Act No. 52 of 1998) and the Short-Term Insurance Act (Act No. 53 of 1998). However, a draft bill proposing changes to these two Acts was submitted to the National Treasury in 2008. The Insurance Laws Amendment Bill, 2008 was approved on 30 April 2008 and the Insurance Laws Amendment Act (Act No. 27 of 2008) (ILAA) was signed by the President on 1 November 2008. The ILAA addresses technical and regulatory issues in both Acts, closes certain regulatory gaps, improves certain provisions and updates outdated references. Task teams, which include representatives from the National Treasury, the Financial Services Board (FSB), industrial associations, and regulators, have been constituted to draft regulations for demarcation between health and medical schemes, business, and binder agreements, respectively. The aim is to finalize regulations by end 2009.

274. The FSB, under the National Treasury (NT), is responsible for regulating insurance, pension funds and intermediaries, and the capital markets.[257] The FSB operates under various pieces of legislation[258]; it is accountable to government and parliament. The FSB is funded by levies and fees

[256] Section 26 of the Long-term Insurance Act or section 25 of the Short-term Insurance Act
[257] Financial Services Board (2008).
[258] The Collective Investment Schemes Control Act (Act No. 45 of 2002); Financial Services Board Act (Act No. 97 of 1990); Financial Advisory and Intermediaries Services Act (Act No. 37 of 2002) (FAIS Act); Financial Institutions (Protection of Funds) Act (Act 28 of 2001); Financial Supervision of the Road Accident Fund Act (Act No. 8 of 1993); Friendly Societies Act (Act No. 25 of 1956); Inspection of Financial Institutions Act (Act No. 80 of 1998); Long-term Insurance Act (Act No. 52 of 1998); Pension Funds Act (Act No. 24 of 1956); Short-term Insurance Act (Act No. 53 of 1998); the Supervision of the Financial Institutions

charged to the regulated entities. Every long-term and short-term insurer must pay a levy to the Financial Services Board. The levies are revised "from time to time" and are published in *Government Gazette*.[259] The regulatory system is well developed; the FSB uses a risk-based approach with extensive quantitative and qualitative reporting and regular on-site visits In addition, all licence holders are required to submit quarterly and annual financial statements. The Registrar may fine a licensee or suspend a licence if the licensee for instance does not submit the information stipulated in the laws within the deadline; provides false information; or lacks financial resources, organization or management necessary to carry on the business concerned. During 2003-08, the Minister of Finance prohibited one long-term insurance company from conducting any new business.

275. The FSB's licensing, supervision, and enforcement capacity have been enhanced since 2003.[260] During the review period, the FSB, as part of enhancing its regulatory capacity, initiated amendments to various laws. The amendments were incorporated into an omnibus bill, the General Financial Services Laws Amendment Bill, 2008 which is currently before Parliament.

(iii) Communications

276. South Africa's telecom network is one of Africa's most advanced. However, there remains a large gap between access to services in urban and rural areas. During 2003-07, telephone (fixed and mobile) subscriber numbers more than doubled, from 21.6 million to nearly 47 million, due mainly to an increase in mobile phone subscribers, who accounted for 90% of the total telephone subscribers in 2007 (Table IV.7). In contrast, there are some ten main fixed lines per 100 inhabitants in South Africa, which is low compared with countries at the same level of economic development (i.e. Brazil, Russia, and China) where the range is 22 to 28. The number of fixed lines has been decreasing to an estimated 4.5 million in mid 2008.[261] Telecommunications growth has been hampered by regulatory constraints restricting competition, especially the state semi-monopoly on fixed wire services, and the resulting high charges and inadequate services that penalize consumers, including businesses.

Table IV.7
Selected telecommunication indicators, 2003-08

	2003	2004	2005	2006	2007	2008
Telephone subscribers ('000)	21,681	25,689	38,689	44,362	46,942	46,832
Telephone subscribers per 100 inhabitants	46.21	54.42	81.57	93.21	96.63	96.41
Main fixed telephone lines ('000)	4,821	4,850	4,729	4,700	4,642	4,532
Main fixed lines per 100 inhabitants	10.28	10.27	9.97	9.88	9.56	9.33
Cellular mobile subscribers ('000)	16,860	20,839	33,960	39,662	42,300	45,000
Cellular subscribers per 100 inhabitants	35.93	44.14	71.60	83.33	87.08	92.15
Internet subscribers ('000)	3,138	3,566	4,279	4,279	4'279	4,279
Internet subscribers per 100 inhabitants	6.69	7.55	9.02	9.02	9.02	9.02
Internet users ('000)	3,283	4,000	3'600	3'700.0	3'966.0	4,187
Internet users per 100 inhabitants	7.0	8.47	7.59	7.77	8.16	8.57

Source: ITU online information, "ICT Statistics Database". Viewed at: http://www.itu.int/ITU-D/icteye/Indicators/Indicators.aspx# [24 June 2009].

Rationalisation Act (Act No. 32 of 1996); and The Securities Services Act (Act No. 36 of 2004) (Financial Services Board online information, "Legislation". Viewed at: http://www.fsb.co.za/ [29 May 2009]).

[259] The current levies have been in place since 1 April 2009 and will be revised on 31 March 2010. The levy on short-term insurers and underwriters at Lloyd's is equal to 0.107% of the first R 60 million gross premium income, including any rebates, plus 0.0247% thereafter, or R 10,700, whichever amount is the greater. The levy on long-term insurers is equal to R 50,000 plus 0.0066% of the liabilities under unmatured long-term policies.

[260] IMF (2008).

[261] Mission économique de l'Ambassade de France en Afrique du Sud (2008b); and OECD (2007).

277. The Department of Communications (DoC) is in charge of policies and legislation related to communications technology (ICT), ensuring reliable and affordable ICT infrastructure, strengthening the Independent Communications Authority of South Africa (ICASA), the regulator, enhancing the capacity of and overseeing state-owned enterprises (SOEs), and fulfilling South Africa's international ICT responsibilities. The SOEs operating under the DoC are: the Independent Communications Authority of South Africa (ICASA), the South African Post Office, the South African Broadcasting Corporation, Sentech Ltd., the National Electronic Media Institute of South Africa, the Universal Service and Access Agency of South Africa, and the za.com Domain Name Authority.[262] SOE Broadband Infraco was created under the Department of Public Enterprises portfolio to provide "affordable" broadband services, particularly in under-developed and under-serviced areas, and ensure that bandwidth requirements for projects of national interests are met. Infraco owns the network infrastructure that was previously operated by Eskom (an SOE).[263]

278. The Electronic Communications Act (Act No. 36 of 2005) promulgated[264], during the review period, is aimed at facilitating the synergies between telecom, broadcasting, and information technologies services, while promoting competition in the sector through *inter alia*, facilitating access to networks. Under the Act, a new licensing framework ("technologically neutral") for electronic communications network services (ECNS), electronic communications services (ECS), and broadcasting services should have been effective as of early 2009.[265] However, it is not clear whether this was put in place as scheduled. Licences issued under the previous regime, including value-added network services (VANS) licences, and under-serviced area licences (USALs)[266], remain valid until their full conversion by ICASA[267], in line with the new licensing framework. According to the provisions of the Act, the Competition Act applies to the telecom subsector; ICASA cooperates with the Competition Commission on any type of investigation. It appears, however, that Telekom often challenges ICASA decisions, leading to delays in implementing rulings.

279. ICASA regulates broadcasting, postal, and telecom services[268]; issues licences for related providers[269]; enforces compliance with rules and regulations; monitors complaints and disputes

[262] Department of Communications (2007).

[263] Department of Public Enterprises online information. Viewed at: http://www.dpe.gov.za/home.asp; and Bowman Gilfillan Attorneys online information, "Liberalization of the telecommunications sector in South Africa", February 2008. Viewed at: http://www.bowman.co.za/LawArticles/Law-Article.asp?id=2132417246 [27 April 2009].

[264] The Act repealed the Independent Broadcasting Authority Act (Act No. 153 of 1993), the Telecommunications Act (Act No. 103 of 1996), and part of the Broadcasting Act (Act No. 4 of 1999). The telecom legislation also comprises: the Telegraph Messages Protection Act (Act No. 44 of 1963), Post Office Act (Act No. 44 of 1958), Sentech Act (Act No. 63 of 1996), Postal Services Act (Act No. 124 of 1998), Independent Communications Authority of South Africa Act (Act No. 13 of 2000), Department of Communications Act (Act No. 25 of 2002), and Electronic Communications and Transactions Act (Act No. 25 of 2002).

[265] Mission économique de l'Ambassade de France en Afrique du Sud (2008b).

[266] USAASA (2008).

[267] According to ICASA's proposed conversion framework, potential licensees will be required to indicate, *inter alia*, whether they require a class or individual licence and the proposed geographic coverage area. They will have to submit a comprehensive technical plan and start the roll-out of the network within 12 months of the licence being issued. It is not clear whether the conversion framework is already in place (*IT News Africa*, "ICASA to issue out licences to electronic communications service providers", 18 November 2008. Viewed at: http://www.itnewsafrica.com/?p=1756 [24 April 2009]).

[268] Since 2007, the Postal Regulator, previously under the DoC, was incorporated into ICASA in terms of the ICASA Amendment Act (Act No. 3 of 2006). ICASA's postal division registers and licences operators; ensures compliance with legislation, and licence conditions and regulations; and fixes prices for the reserved postal area of the South African Post Office (ICASA, 2007).

brought against licensees; manages the frequency spectrum; and protects consumers. Up to 2009, South Africa had two types of telecommunications licences: individual and class licences. Individual licences, for services with a significant impact on socio-economic development[270], are issued upon an invitation to apply by ICASA. The criteria to issue invitations are not disclosed. Applications for class licences require registration with ICASA upon payment of a fee.[271] Individual licences are valid for 20 years and class licences for ten years; both are renewable.[272] ICASA ensures that licensed operators contribute to the Universal Service and Access Fund (USAF) up to 0.2% of their annual turnover; this amounted to around R 181 million for FY 2007/08.[273] Although ICASA collects the contributions, the Fund is managed by the Universal Service and Access Agency of South Africa. It is used to subsidize licensees in under-developed areas as well as broadcasting, ECNS, and ECS infrastructure in public schools and public education and training institutions.

280. Under its GATS specific commitments South Africa committed to license a second telecommunications supplier no later than 1 January 2004, to compete against Telkom in long-distance, data, telex, fax, and private-leased circuits services. As a result, a second operator was licensed, but Telkom continues to have a de facto monopoly over the network. It is not clear how the access to the network is regulated in South Africa. At present, there are two fixed-line operators: Telkom and Noetel Ltd. Telkom, the incumbent operator, is partly privatized.[274] Its main activity remains fixed telephony but it has diversified its services to offer ADSL. Telkom has five subsidiaries and holds part of SAT-3 submarine cable.[275] Since 2006, the fixed-line market has been open to competition. Telkom has until 1 November 2011 to unbundle the local loop that links the national telecom network to homes and businesses.[276] Noetel Ltd. became South Africa's second fixed line operator in 2006[277], but its services for businesses began only in 2007 and for private consumers in 2008.[278] It is licensed as South Africa's first alternative infrastructure-based telecom provider, able to deliver wireline and wireless data telecoms services at national and international levels.[279]

281. Teledensity has progressed substantially, in South Africa, as a result of the rapid increase in the use of mobile communication services. Mobile phone operators include Vodacom, Mobile Telephone Networks (MTN), Cell C, and Virgin Mobile.[280] Vodacom held 56% of the market in

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[269] For the 2006/07 financial year, 15 private telecom networks (PTN) services licences, 81 VANS licences, and 3 USALs. USALs are issued for areas with less than 5% density, upon an invitation to apply.

[270] Bowman Gilfillan Attorneys online information, "The Electronic Communications Act: An overview", November 2007. Viewed at: http://www.bowman.co.za/LawArticles/Law-Article.asp?id=2132417221 [23 April 2009].

[271] The fees range from R 3,000 for broadcasting licences to R 10,000 for ECNS and ECS licences (*Government Gazette* No. 32084, 1 April 2009).

[272] Chapter 3, Electronic Communications Act (Act No. 36 of 2005).

[273] ICASA (2007); and USAASA (2008).

[274] The State retains 38% of direct shares and a further 15.7% through the Public Investment Corporation. Other shareholders include Elephant Consortium (5.6%) and Telkom subsidiaries (4.3%); 36.4% of the shares are listed on the Johannesburg and New York stock exchanges.

[275] These are TDS Directory Operations, Multi-Links, Africa Online, Swiftnet, and Telekom Media.

[276] Government Communication and Information System (2008).

[277] Neotel is owned by Eskom Holding Ltd. and Transnet (both are SOEs) (30%), Nexus Connexion Ltd. (19%), and SEPCO Ltd. (51%).

[278] Mission économique de l'Ambassade de France en Afrique du Sud (2008b).

[279] Neotel online information. Viewed at: http://www.neotel.co.za/neotel/view/neotel/en/page1? [26 April 2009].

[280] All are privately owned: Vodacom is owned by Vodafone (65%) and Telkom; MTN is owned by several private investors; Cell C is owned by 3C Telecommunications (Pty) (60%) and CellSAF; and Virgin Mobile is a joint venture between Virgin Management and Cell C.

2008; MTN, Cell C, and Virgin Mobile provided services to 15.1 million, 5.4 million, and 400,000 customers, respectively, in mid 2008. Vodacom offers cellular, broadband connectivity, and internet services as well as communications service portfolios for corporate customers. MTN, Cell C, and Virgin Mobile offer cellular services; in addition, MTN offers business solutions and Cell C mobile internet services.

282. Internet development has been slow and penetration is low (9%). South African internet user numbers have increased at a much slower pace than in other African countries; in 2008, they represented only 9% of Africa's total internet users.[281] The number of internet subscribers has remained stable since 2005 (Table IV.7); the monopoly in fixed-line telephony has hindered internet development. Telkom started commercial ADSL trials in 2002 and phased roll-out in 2003.[282] In 2007, 90% of ADSL subscriptions were provided by Telkom, Vodacom, and MTN.[283] Other internet providers include Internet Solutions, Neotel, MWeb, Vox Telecom, Cell C, iBurst, Sentech, Verizon Business, and Data Pro. Many remote villages are now connected to the internet through public terminals in 700 post offices. Some 3.9 million active unique browsers were registered in South Africa in May 2007.[284]

283. Liberalization of telecom services has continued during the period under review; more than 300 enterprises have been granted licences to build their own or lease telecom network since 2003. This could have a major impact on the level of competition and could help reduce prices; customers have complained about the high cost of telecom services.[285] The dominance of a few firms in the sector translate into high prices and monopoly rents. For instance, ADSL broadband tariffs are particularly high by international standards, reflecting Telkom's dominant position. High telecommunication prices are detrimental to the Government's universal service goal, since telecom services are not affordable for parts of the population.

284. The South African Post Office (SAPO) provides postal and related services in 2,250 offices. SAPO has a universal service obligation (providing services even though they are not commercially viable; hence giving citizens equal access to a basic letter service); it was granted exclusive rights and privileges, including a monopoly on letters up to 1 kg. SAPO operates under a 25-year licence.[286]

285. South Africa is a member of the International Telecommunications Union, the Telecommunication Regulatory Association of Southern Africa, the International Institute of Communication, the African Communication Regulation Authorities Network, the Universal Postal Union, the Pan-African Postal Union, the Council of the Commonwealth Postal Administrations, and the Southern African Transport and Communications Commission.

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[281] ICEX online information, "El número de usuarios de Internet se estanca en Sudáfrica", 8 March 2009. Viewed at: http://www.icex.es/icex/cda/controller/pageICEX/0,6558,5518394_5519005_6366453_4201559_0_-1,00.html [27 April 2009].

[282] OECD (2007).

[283] Mission économique de l'Ambassade de France en Afrique du Sud (2008b).

[284] Government Communication and Information System (2008).

[285] ICEX online information, "Sudáfrica asiste a una progresiva liberalización del sector de telecomunicaciones", 16 February 2009. Viewed at: http://www.icex.es/icex/cda/controller/pageICEX/0,6558,5518394_5519005_6366453_4197938_0_-1,00.html [27 April 2009]; and ICEX online information, "Reestructuración en el sector de telecomunicaciones en Sudáfrica", 15 June 2007. Viewed at: http://www.icex.es/icex/cda/controller/pageICEX/0,6558,5518394_5519005_5604470_626690_0_-1,00.html [27 April 2009].

[286] Government Communication and Information System (2008).

(iv) Transport

286. Transport, storage, and communication accounted for 10% of GDP in 2008 (Table I.1). According to a transport industry survey, land transport was the largest contributor to GDP in 2002, followed by air and maritime transport.[287] The 1996 White Paper on National Transport Policy set the general framework to develop transport networks and infrastructure.[288] The Department of Transport (DoT) develops, co-ordinates, and implements transport policies. It has established several public entities that are in charge of transport services. These include the: South African National Roads Agency Ltd.; Cross-Border Road Transport Agency; Passenger Rail Agency of South Africa; South African Civil Aviation Authority; Airports Company South Africa Ltd.; Air Traffic and Navigation Services Company Ltd.; and South African Maritime Safety Authority.

287. The legislation that regulates transport services is extensive.[289] Since the last review of South Africa in 2003 one of the major changes to this body of legislation has been the enactment of the National Ports Act (Act No. 12 of 2005), which calls for the establishment of the National Ports Authority and a Port Regulator, and to allow for certain ports to be administered by the National Ports Authority (see below).

288. There is a long-standing need for major reforms in South Africa's transport sector. Transnet, a state-owned enterprise, continues to be the most important player in the sector[290], operating and controling South Africa's freight infrastructure. Transnet is divided into five companies: Transnet Freight Rail (freight rail), Transnet Rail Engineering (rolling stock maintenance), Transnet National Ports Authority (formerly the National Port Authority (NPA) in charge of landlord function for ports), Transnet Port Terminals (port and cargo terminals management), and Transnet Pipeline (petroleum and gas products storage). Transnet's monopolistic position in different transport segments allows for cross-subsidization; the company uses the profits from export-related transport activities to subsidize loss-making activities such as general freight and passenger transport.[291] In this context, the 2005 National Freight Logistics Strategy sought to reduce transport costs by promoting efficiency in the freight system through better integration of ports, airports, and land transport, and by ensuring safety. The Strategy targeted increased competition in the freight system[292], but this has not yet been attained.

[287] Department of Transport (2005).

[288] This is South Africa's most recent transport policy.

[289] It includes, *inter alia*, the: Air Service Licensing Act (Act No. 115 of 1990), as amended; Air Traffic and Navigation Services Company Act (Act No. 45 of 1993), as amended; Airports Company Act (Act No. 44 of 1993), as amended; Aviation Act (Act No. 74 of 1962), as amended; Aviation Laws Amendment Act (Act No. 98 of 1996); Carriage by Air Act (Act No. 17 of 1946), as amended; Carriage of Goods by Sea Act (Act No. 1 of 1986); Cross-Border Road Transport Act (Act No. 4 of 1998); International Air Services Act (Act No. 60 of 1993); Marine Traffic Act (Act No. 2 of 1981), as amended; Merchant Shipping Act (Act No. 57 of 1951), as amended; National Land Transport Interim Arrangements Act (Act No. 45 of 1998); National Land Transport Transition Act (Act No. 22 of 2000), as amended; National Roads Act (Act No. 54 of 1971), as amended; Railway and Harbour Purchase Act (Act No. 47 of 1977), as amended; Road Transportation Act (Act No. 74 of 1977), as amended; Ship Registration Act (Act No. 58 of 1998); South African Civil Aviation Authority Act (Act No. 40 of 1998); South African Maritime Safety Authority Act (Act No. 5 of 1998); South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998); and Transnet Limited Amendment Act (Act No. 52 of 1991) (For more details, see the Department of Transport online information, "Library: Legislation". Viewed at: http://www.transport.gov.za/library/legislation/index.html).

[290] Transnet reports to the Department of Public Works.

[291] OECD (2008c).

[292] Department of Transport (2005).

289. Under the GATS, South Africa made commitments on road transport services, including passenger transportation, freight transportation, and maintenance and repair of road transport equipment.

(a) Air transport

290. South Africa has ten major airports, of which three are international (Johannesburg, Cape Town, and Durban).[293] During the period under review, some 320,000 tonnes were transported by air and the majority of the visitors arrived by air.[294] Air transport services that allow service providers and consumers flexibility and choice, are important to support the tourism sector in South Africa. However, as in the other transport segments, the role of the State, through Transnet, remains substantial, and the lack of competition in the sector needs to be addressed with a view to reducing the costs of travel to South Africa. This is the aim of the 2006 Airlift Strategy, a five-year strategy that regulates air transport to support tourism growth.

291. The majority state-owned Airports Company South Africa Ltd. (ACSA) owns and operates South Africa's main airports, which account for 98% of commercial air traffic.[295] Some of the services provided the ACSA are open to competition. Third parties must participate in a tender organized by ACSA to be eligible to supply "certain" airport services. There are no plans to privatize ACSA. In 2008, ACSA's airports handled over 36 million passengers (up from 23 million in 2003) and 291,000 landings; it expects 44.4 million passengers to arrive by air and 600,000 planes landing per year by 2012.[296] As a result of this forecast, ASCA is expanding and upgrading several airports (e.g. opening O.R. Tambo new international pier; upgrading George airport; rehabilitating Cape Town International Airport main runway; and starting the construction of the new airport at La Mercy, which is to replace Durban as a hub for the KwaZulu Natal province).[297] The Department of Transport will also implement the National Airports Development Plan (NADP) to improve infrastructure. The NADP's objectives are two-fold: to asses the type of airport network needed for South Africa to meet its developmental goals; and to design a framework on how airports should be funded, managed, and operated, and how infrastructure investment should be determined, approached, and coordinated.

292. The authorities note that South Africa follows the Chicago Convention with regard to policy on airline ownership and control. Therefore, South Africa only allows foreign ownership in one of its designated national airlines, up to a maximum of 25% of the equity of the company.

293. The South African Civil Aviation Authority (SACAA) controls and regulates civil aviation for safety and security. Air Traffic Navigation Services (ATNS) provides air traffic control and information, and aeronautical support services at 20 airports throughout South Africa.

294. State-owned (South African Airways (SAA), and SA Express) and privately owned airlines (Comar, Interair, 1 Time, Airlink, Airlink Regional, and Pelican Air Services) operate in South Africa. However, SAA, which is wholly owned by Transnet, is the largest carrier in Africa; it

[293] The other seven for domestic use only, are Bloemfontein, East London, George, Kimberley, Pilanesburg, Port Elizabeth, and Upington.

[294] Department of Transport (2005).

[295] ACSA currently provides: passenger processing services; baggage handling services; infrastructure (runways, taxiways, and parking bays) for landing and take-off; retail services through concessionaires (e.g. food and beverage, duty free, and car rental); car parking facilities; advertising services; and ramp-handling services.

[296] Airports Company South Africa Ltd. (2008); and Department of Transport (undated b).

[297] Airports Company South Africa Ltd. (2008); and Government Communication and Information System (2008).

serves more than 700 world destinations and 20 domestic routes. According to the authorities, there are 107 international carriers operating from South Africa under bilateral air service agreements. Cabotage is not allowed. South Africa does not have any open skies agreements, but has started to renegotiate and review existing agreements in line with the key principles of the Yamoussoukro Decision (YD) within the continent.

(b) Maritime services

295. Transnet National Ports Authority (NPA), established in 2000, controls South Africa's seven commercial ports: Cape Town, Durban, East London, Mossel Bay, Port Elizabeth, Richards Bay, and Saldanha. A new port is under construction at Ngqura. Each port handles different commodities, and offers different types of services and facilities (Table IV.8). The main ports in terms of the volume of cargo handled are Richards Bay, Durban, and Saldanha (Table IV.9). During the first quarter of 2008, South Africa's ports handled over 43 million tonnes of merchandise; more than 95% of its trade transits through its ports.[298] The volume of exports, mainly bulk (coal and iron), is three times higher than the volume of imports.[299]

Table IV.8
Port activities, 2009

Port	Activity
Cape Town	A full service, general cargo port; dry docks and syncrolift available for ship repairs; extensive pre-cooling facilities at the fruit terminal to cater for deciduous fruit exports
Durban	South Africa's main general cargo, bulk liquid, and container port for a wide range of commodities (e.g. coal, mineral ores, granite, chemicals, petrochemical, steel, forest products, citrus products, sugar, and grain); also has a dry dock for ship repair
East London	The only river-based port in South Africa; offers container, automotive, break bulk, bulk grain, and bulk liquid (refined petroleum products) facilities; imports are mainly containerized vehicle components, vehicles, wheat, timber, and petroleum; exports are mainly motor vehicles, steel, maize, and agricultural products
Mossel Bay	Provides off-shore handling facilities that enable import and export of refined products and servicing the local fishing industry
Port Elizabeth	Handles imports of containerized components and raw materials for the vehicle manufacturing industry; also handles exports of agricultural products, timber, wool, citrus and deciduous fruit, manganese ore, motor-vehicle-related products, and steel
Richard Bay	Has four cargo terminals: (i) the dry bulk terminal handles imports and exports of ores, minerals, and woodchips; (ii) the multi-purpose terminal handles break bulk cargoes, including ferro-chrome, pig iron, steel, forest products, granite, aluminium, bagged cargo, containers, heavy lifts, and abnormal loads; (iii) a coal terminal, one of the largest in the world, with a current capacity to export 71 million tonnes per annum; and (iv) a chemical tank farm for liquid bulk products stored in tanks
Saldanha	The only iron-ore handling port in South Africa; also handles base metals, steel, mineral sands, granite, and crude oil

Source: Government Communication and Information System (2008), *South Africa Yearbook 2007/08*, March; Department of Transport (2008), *Economic Analysis: Transport Picture*, First Quarter, May; and National Ports Authority online information. Viewed at: http://www.transnetnationalportsauthority.net; and information provided by the South African authorities.

Table IV.9
Shipping services, 2003-08

Service	2003	2004	2005	2006	2007	2008
Vessels arrived (number)	**249,540,435**	**241,521,696**	**256,650,759**	**264,058,969**	**279,794,829**	**288,820,070**
Cape Town	48,932,304	44,501,297	47,635,324	47,624,854	47,557,954	53,447,789
Durban	87,005,966	81,700,001	90,277,199	96,660,086	105,713,201	110,332,744
East London	8,906,144	8,905,295	8,488,914	8,153,991	8,435,146	9,195,405
Mossel Bay	2,544,121	2,979,775	2,661,560	2,887,465	3,220,447	3,365,801

Table IV.9 (cont'd)

298 Department of Transport (2008a).
299 OECD (2008c).

Service	2003	2004	2005	2006	2007	2008
Port Elizabeth	24,095,741	25,756,823	26,237,291	27,446,345	30,311,764	30,066,961
Richards Bay	56,898,084	57,604,799	58,250,805	57,079,780	58,038,818	58,684,181
Saldanha	21,158,075	20,073,706	23,099,666	24,206,448	26,517,499	23,727,189
Total cargo (tonnes)	**171,621,146**	**168,750,600**	**173,555,069**	**179,983,594**	**183,328,184**	**185,079,584**
Cape Town	4,731,118	3,701,008	3,508,711	4,134,740	4,081,968	3,205,094
Durban	41,273,633	40,026,277	40,778,495	43,861,241	41,883,269	41,402,495
East London	1,417,471	1,478,399	1,647,848	1,506,111	1,832,894	1,982,498
Mossel Bay	1,221,228	1,628,691	1,597,950	1,518,597	1,802,992	1,995,491
Port Elizabeth	3,683,111	4,297,069	4,189,733	4,870,513	5,522,362	5,427,094
Richards Bay	87,797,601	85,688,419	86,623,684	86,319,200	84,517,409	84,533,584
Saldanha	31,496,984	31,930,737	35,208,648	37,773,192	43,687,290	46,533,328
Container traffic (TEUs)	**2,414,567**	**2,632,771**	**3,014,236**	**3,416,780**	**3,712,090**	**3,900,319**
Cape Town	510,379	573,021	690,895	782,868	764,005	767,501
Durban	1,565,606	1,686,554	1,899,065	2,198,600	2,479,232	2,642,165
East London	45,747	53,735	49,338	38,308	41,986	57,418
Mossel Bay	..	..	..	..	..	..
Port Elizabeth	288,341	313,923	369,759	392,813	422,846	423,885
Richards Bay	4,494	5,538	5,179	4,191	4,021	9,350
Saldanha	..	..	..	..	..	..
Employment (number)	3,144	2,949	2,854	2,700	2,669	2,673
Cape Town	713	683	680	651	634	624
Durban	1,464	1,349	1,272	1,198	1,161	1,142
East London	215	194	190	176	176	174
Mossel Bay	27	27	26	26	30	25
Port Elizabeth	269	257	252	247	258	287
Richards Bay	278	265	257	239	238	240
Saldanha	178	174	177	163	172	181

.. Not available.

Note: TEUs = twenty-foot equivalent container units.

Source: National Ports Authority online information, "Port Statistics". Viewed at: http://www.transnetnationalportsauthority.net/NPA_Port_statistics.html; and information provided by the South African authorities.

296. Despite the importance of the ports for trade, their operations appear to be inefficient and expensive. Productivity is low, which often creates a backlog, and poor integration with land networks further undermines port efficiency. The high cost of port operations impedes the development of South African trade, and thus of SACU as whole, and undermines the customs unions international competitiveness. The 2002 National Commercial Ports Policy called for increased investment, and improvement of the quality and speed of operations in ports to ensure effective and efficient services.

297. The National Ports Act (Act No. 12 of 2005) enacted in 2005 provides for the establishment of the National Ports Authority and an independent National Port Regulator, and stipulates that certain ports should be administered by the National Ports Authority. It is not clear which provisions of this legislation have been implemented. In 2007, the National Port Regulator was set up to regulate the ports system, ensure "equal" access, and monitor Transnet NPA activities. However, Transnet continues to play a dominant role in the sector; Transnet National Ports Authority (NPA) owns and manages infrastructure in all major South African ports, while Transnet Port Terminal has operations in various ports.[300] Tariffs are also set by Transnet. According the authorities, Transnet does not have

[300] Transnet (2008).

any exclusive operating rights and private companies compete with Transnet in port operations. Contracts to operate in a port are granted through a bidding process.

298. The South African Maritime Safety Authority (SAMSA) is responsible for maritime safety issues (e.g. ship registration, marine incidents, and vessel traffic); in 2007/08, it registered 1,129 ships under the South African flag. Around 66% of SAMSA's income comes from levies on ships calling at South African ports; the NPA charges a 2.5% fee for collecting the levies.

299. Government policy, as outlined in the 2008 Draft Maritime Transport Strategy is aimed at increasing South Africa's presence in international maritime transport services, by increasing the number of vessels sailing under South Africa's national flag, and providing a clear framework for investors.

300. Cabotage has been allowed since the release of the 1996 White Paper on National Transport Policy. South Africa allows local and foreign-owned vessels on international trade routes to carry its coastal cargoes.[301]

301. South Africa participates in three linear conferences.[302] It is a member of the International Maritime Organization. It had signed several international maritime agreements[303], including the Indian Ocean Memorandum of Understanding (MoU) on Port State Control and the West and Central Africa MoU on Port State Control (Abuja MoU).[304]

(c) Land transport

302. Land transportation, including road and rail, is important in South Africa for the transport of passengers and merchandise. The South African National Roads Agency Ltd. (SANRAL) is in charge of national road maintenance; other roads are maintained by provincial and municipal governments.[305] National roads comprise tolled and non-tolled roads. Tolling provides SANRAL with funding to maintain and upgrade roads; some 1,300 km of its 2,400 km tolled roads have been given in concession to private companies, through public-private partnership.[306] Public funds are allocated to SANRAL to maintain the non-tolled roads. In 2008, the Government allocated R 70 billion for road maintenance and upgrading for the 2009-11 period.[307] Road infrastructure is important as some 1.4 billion tonnes of merchandise are carried by road each year.[308] Given the importance of cross-border transport in South Africa and for SACU as a whole, since 1998 the Cross-Border Road Transport Agency (C-BRTA) has been in charge of improving cross-border merchandise and passenger road traffic, introducing competition, and reducing constraints to traffic. The agency is financed by fees charged for issuing cross-border permits. The procedures to obtain a

[301] Department of Transport (2008a).

[302] The Europe Southern African (ESA) Conference, United States/Southern Africa (USSA) Conference, and Japan, Hong-Kong, South African Shipping (JAHOSAS) Conference.

[303] For further details, see WTO (2003).

[304] The Abuja MoU is aimed at eradicating the operation of sub-standard shipping practice, protecting the marine environment, and improving the working and living conditions of persons on board ships (Africa Union online information, "Conferences and Events: Archives". Viewed at: http://www.africa-union.org/root/au/index/archive1_April_2008.htm [21 April 2009].

[305] Provincial governments, and municipalities are in charge of maintaining provincial roads and bridges, and local roads, respectively (Government Communication and Information System,2008).

[306] The concessions are for 30 years. They were granted to Bakwena for the N3 Gauteng-KwaZulu-Natal, N3 Toll Concession for the N3 Mpumalanga-KwaZulu-Natal, and Trans Africa Concessionaires for the N4 East (Maputo Development Corridor) (South African National Road Agency, 2008).

[307] Department of Transport (2008b).

[308] The main road freight corridors are Gauteng-Durban, Gauteng-Cape Town, and Gauteng-Maputo (Government Communication and Information System, 2008).

permit were not specified.[309] South Africa has signed multilateral and bilateral agreements to facilitate and encourage cross-border road flow of merchandise and passengers.[310]

303. Some 180 million tonnes of merchandise are carried by rail annually.[311] The railway sector continues to be dominated by the State. The state-owned company Transnet Freight Rail manages the largest railroad system in Southern Africa; a network (around 22,000 km) connects South Africa's ports and the hinterland with other sub-Saharan networks; 1,500 km are heavy-haul lines.[312] Transnet Freight Rail operates mainly general freight business and the transport of iron and coal. Traffic volume and the types of merchandise carried by rail are expected to increase as a result of the implementation of the 2005 National Freight Logistics Strategy.[313]

304. South Africa's passenger rail companies (South African Rail Commuter Corporation, Metrorail, and Shosholoza Meyl) merged recently into the Passenger Rail Agency of South Africa (PRASA).[314] PRASA provides commuter rail services in urban metropolitan areas, and regional and long-distance passenger services. Commuter rail services continue to be subsidized but remain insufficient.[315] The Government is implementing the National Passenger Rail Plan to improve passenger rail infrastructure.[316] In addition, the construction of the 80-kilometre Gautrain Rapid Rail Link, connecting Johannesburg, Pretoria, and O.R Tambo Internatioanl Airport, scheduled to be completed by 2011, should improve passenger rail services.[317]

(v) Tourism

305. In 2007, the travel and tourism subsector contributed 8% of GDP, employed some 950,000 people (11.3% of total employment), and generated revenue of R 163 billion (up from R 104 billion in 2003).[318] Government expenditure on tourism remained stable at some 0.2% of GDP over the 2003-07 period (Table IV.10). Despite the increase in foreign arrivals since 2003, the average amount spent by each tourist (per day) dropped from around R 1,500 in 2003 to R 880 in 2007.[319] Nevertheless, tourism remains South Africa's main service export.

306. In 2007, South Africa received 9 million foreign visitors, mainly from other African countries and Europe.[320] It ranked 28th as a world tourist destination (up from 32nd in 2005)[321] and was the

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[309] There are 14-day, 3-month, and 1-year permits (C-BRTA, 2007)

[310] Multilateral agreements include the SADC Protocol on Transport, Communications, and Meteorology, and the SACU Memorandum of Understanding (MoU). South Africa signed bilateral agreements with Mozambique, and an MoU with Namibia and Botswana (Government Communication and Information System, 2008).

[311] Department of Transport (2005).

[312] South Africa Information online, "South Africa's transport network". Viewed at: http://www.southafrica.info/business/enconomy/infrastructure/transport.htm [April 2009].

[313] Government Communication and Information System (2008).

[314] Department of Transport (2008b).

[315] Total subsidies amounted to R 329 million for FY 2007/08 (Department of Transport, 2008b).

[316] Department of Transport (undated a).

[317] It will connect Johannesburg, Pretoria, and O.R Tambo International Airport. Its construction involves a partnership between the Gauteng provincial government and Bombelo Concession Company (a Canadian-French-South African consortium).

[318] Estimates for 2008 indicate a contribution of 8.5% of GDP and employment of around 1 million people (World Travel and Tourism Council, 2009).

[319] South African Tourism (2008).

[320] SADC countries remain the major source of African foreign visitors. European tourist came mainly from the United Kingdom, Germany, the Netherlands, and France (South African Tourism, 2008).

[321] South African Tourism (2008).

leading destination in Africa, absorbing 20% of all visitors to the region.[322] Leisure and business were the main reasons for visiting South Africa.[323] Although South Africa's overall perception as a safe and secure tourist destination has somewhat improved, growth in tourism could expand further if crime and violence were not still seen as major problems. In this regard, the Government is taking measures (e.g. improvement in the police force and a wider application of hi-tech crime-detection methods) to improve safety and security for the 2010 FIFA World Cup. Moreover, as result of the World Cup there will be a substantial improvement in tourism-related infrastructure and increased international exposure for South Africa; these should boost tourism in the long-term.[324]

Table IV.10
Selected travel and tourism indicators, 2003-07

	2003	2004	2005	2006	2007
Foreign arrivals	6,504,890	6,677,839	7,368,742	8,395,833	9,090,881
Africa and Middle East	4,485,064	4,673,724	5,407,218	6,321,068	6,907,562
Americas	262,496	262,496	322,099	358,096	387,379
Asia and Australiasia	265,628	275,001	274,930	307,003	333,390
Europe	1,319,172	1,287,057	1,308,634	1,381,881	1,413,563
Economic contribution (R billion)	104.0	102.3	121.6	137.6	159.6
Direct	43.2	42.0	50.7	55.7	62.8
Indirect	60.8	60.3	70.9	81.9	96.8
Government expenditures in travel and tourism (% of GDP)	..	0.2	0.2	0.2	0.2
Investment in travel and tourism (US$ billion)	..	5.3	5.8	6.8	8.3
Employment (No.)	1,230,600	1,094,400	1,258,300	1,301,700	1,354,100
Direct industry employment	389,600	344,800	398,900	404,800	413,100
Economy employment	841,000	749,600	859,400	896,900	941,000
Contribution to GDP (%)	8.2	7.3	7.9	7.9	8.0
Contribution to total employment (%)	13.1	11.3	12.1	11.3	11.3
Average spend per foreign tourist per day (R)	1,544	800	1,000	1,000	880
Average length of stay (nights)	10.0	9.0	8.0	8.2	7.9

.. Not available.

Note: Travel and tourism includes transport, accommodation, catering, recreation, and services for visitors.

Source: The Presidency Republic of South Africa (undated), *Development Indicators 2008*. Viewed at: http://www.info.gov.za/view/DownloadFileAction?id=85218; World Travel and Tourism Council (2009), *Travel and Tourism Economic Impact 2009: South Africa*, March. Viewed at: http://www.wttc.org/bin/pdf/original_pdf_file/southafrica.pdf; and South African Tourism (various issues), *Annual Report*. Viewed at: http://www2.southafrica.net/satourism/research/research.cfm.

307. The Tourism Act (Act No. 72 of 1993), as amended in 1996 and 2000[325], remains the main legislation regulating tourism and related activities. The Act aims to regulate the subsector by coordinating the activities of those engaged in tourism and establishing standards for tourism facilities and other services provided to tourists. It authorizes the Minister to establish a grading and classification scheme for accommodation, and schemes for "prescribed" activities. The Tourism Grading Council of South Africa assesses and accredits accommodation and food and beverage outlets on a voluntary basis; a star grading is awarded. The Act also established the South African Tourism Board (SATOUR)[326], and introduced provisions on the membership and composition of the Board, and on training and registration of tourist guides. All tourist guides must be registered in each

[322] UNWTO (2008).

[323] Eight of its cultural and natural sites are considered UNESCO World Heritage (UNESCO World Heritage online information. Viewed at: http://whc.unesco.org/).

[324] EIU (2008).

[325] Tourism Amendment Act (No. 105 of 1996), Tourism Amendment Act (No. 8 of 2000), and Tourism Second Amendment Act (No. 70 of 2000).

[326] Formally known as SATOUR, it has been replaced by South African Tourism (SAT).

province in which they wish to work as guides. There is also a national Registrar of Tourist Guides in the Department of Environmental Affairs and Tourism (DEAT). Foreigners may only register as tour guides if they have a valid work permit or have obtained South African residency, completed the relevant accredited guiding training, and are registered with the provincial registrar of tour guides in the province in which they wish to operate.

308. Foreign travel agents must register (like most other businesses) under the South African Companies Act, and comply with any relevant regulations including those of IATA. Most travel agencies in South Africa are members of the Association of South African Travel Agents (ASATA); membership is voluntary. However, for a foreign-owned travel agent to be registered as a member, ASATA requires the operating enterprise to be registered in South Africa (under the Companies Act), all foreign directors to have a South African Bank Account; and a letter of "comfort" from the parent company, if based outside South Africa, as a type of insurance should the local-based operation default on its contracts.

309. The Department of Environmental Affairs and Tourism (DEAT) is responsible for formulating, monitoring, and implementing the national tourism policy and strategy. It works in partnership with the public and the private sectors; its partners include South African Tourism (SAT), which replaced SATOUR[327]; the Tourism Grading Council of South Africa (TGCSA); and the Tourism Business Council of South Africa (TBCSA). Provincial governments, through their own tourism organizations, are responsible for marketing and promoting local tourism. Local governments are in charge of policy implementation, environmental planning and land-use, product development, marketing, and promotion. Communities are expected to promote responsible tourism. However, many communities, in particular in rural areas, have not participated actively in tourism activities, despite enjoying significant tourism resources.[328]

310. Given the importance of tourism for the economy, both as source of foreign exchange and of labour, South Africa has implemented several programmes to further develop tourism during the review period. The 2002 Tourism Growth Strategy was revised to allow SAT to market South Africa more effectively[329]; the third revision (2008-10) focuses on markets with short- to medium-term opportunities.[330] The Global Competitiveness Programme for the Tourism Industry in South Africa (2003-05), aimed at further developing the tourism industry identified key strategic challenges including: insufficient investment in infrastructure and transport (access by air and public transport); poor safety and security; lack of information; modest innovation and product development; lack of involvement of SMEs in the sector; and need to train labour and ensure quality.[331] These issues have been addressed through, *inter alia*, new bilateral agreements to increase flight frequency, a Safety and Awareness Strategy, and the Tourism Support Programme to stimulate investment in the sector. The Domestic Tourism Growth Strategy launched in 2004, focused on developing the untapped domestic tourism market.[332] Latest data provided by the authorities indicate that holiday trips as a percentage of total trips increased from 7.5% in 2006 to 16.8% in 2007, which is consistent with strategy's goals.

[327] SAT is a DEAT statutory body.

[328] World Travel and Tourism Council (2002); and Department of Environmental Affairs and Tourism (1996).

[329] For details on the objectives of the Tourism Growth Strategy, see WTO (2003).

[330] South African Tourism (undated b).

[331] Key challenges include: transformation; market access; air access; public transport; safety and security; information; innovation; product development, investment, and small, medium, and micro enterprises development; skills development and quality assurance; and building local clusters and the role of the Government (Department of Environmental Affairs and Tourism/Department of Trade and Industry/South African Tourism, 2005).

[332] Atos KPMG Consulting/Department of Environmental Affairs and Tourism/South African Tourism (2006).

The Business Tourism Growth Strategy (2008-10) is aimed at converting South Africa into a top-ten business destination by 2010.[333]

311. Various incentive schemes are also in place, aimed at improving tourism services (Table AIII.4). In 2005, the DEAT, in partnership with TBCSA, issued the Tourism BEE Scorecard and Charter (based on the Black Economic Empowerment strategy) to ensure that opportunities and benefits from tourism will extend to black South Africans.[334] The Tourism Enterprise Programme launched in 2000[335], was institutionalized in 2008 as the Tourism Enterprise Partnership, to ensure the sustainability of the long-term support to SMMEs.[336] Financial assistance in the form of preferential loans is provided through the Development Bank of South Africa to SMEs involved in tourism; and through the Industrial Development Corporation (IDC) to medium and large tourism projects.[337] IDC provides financing for green-field and expansion projects in the tourism sector of R 1 million or more. The Development Bank of Southern Africa (DBSA) funds local government investment in tourism infrastructure. Due to its economic importance in terms of job creation and contribution to GDP, tourism has been identified as a high-priority sector under the Accelerated and Shared Growth Initiative for South Africa (AsgiSA), launched in 2006 to accelerate growth and to reduce poverty and unemployment.[338] Three incentive programmes are also made available to the tourism sector by the DTI: the Tourism Support Programme (TSP), a targeted incentive programme to support the development of tourism enterprises that will stimulate job creation and encourage investment in tourism by offering grants[339]; the Cooperatives Incentive Scheme, a generic incentive scheme to stimulate the creation and effective operation of cooperatives; and the Black Business Suppliers Development Programme, aimed at stimulating black economic empowerment (Table AIII.4).

312. Poor quality services and other weaknesses in South Africa's tourism industry are attributed to a lack of skills and training. Therefore, specialized institutions to train and upgrade personel engaged in the tourism industry, including the Tourism, Hospitality and Sport Education and Training Authority (THETA), have become more relevant.

313. South Africa is a member of the Regional Tourism Organization of Southern Africa (RETOSA)[340], the UNWTO, the Indian Ocean Tourism Organization (IOTO), and the Africa Travel Association (ATA). It signed an MOU with China in 2005, providing South African tourist guides training in basic Chinese language. Efforts are also made to develop tourism through the India-Brazil-South Africa (IBSA) dialogue: since tourism was identified as a key cooperation area[341], an action plan was agreed on capacity building in culture/heritage, joint marketing initiatives, eco-tourism and nature conservation, and management of cultural festivals. South Africa has signed tourism agreements with 20 countries.[342]

314. Under the GATS, South Africa made commitments for hotels and restaurants; travel agencies and tour operators services; and tourist guides services.

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[333] South African Tourism (undated b).

[334] Department of Environmental Affairs and Tourism (2005a) and (2005b).

[335] The programme was launched in 2000 for four years. It was funded by Business Trust and the DEAT.

[336] Department of Environmental Affairs and Tourism (2005a); and Tourism Enterprise Partnership online information. Viewed at: http://www.tep.co.za/index.php [24 March 2009].

[337] Department of Environmental Affairs and Tourism (2005a).

[338] The Presidency (2008).

[339] Department of Trade and Industry (2008c).

[340] RETOSA is the SADC body responsible for promoting and marketing tourism in southern Africa.

[341] IBSA online information, "Areas of cooperation". Viewed at: http://www.ibsa-trilateral.org/index.php?option=com_content&task=section&id=2&Itemid=13 [24 March 2009].

[342] Department of Environmental Affairs and Tourism (2005a).

REFERENCES

African Development Bank/OECD (2008), *African Economic Outlook: South Africa*. Viewed at: http://www.oecd.org/dataoecd/14/62/40573742.pdf.

Airports Company South Africa Ltd. (2008), *Annual Report 2008*, Gardenview.

Atos KPMG Consulting/Department of Environmental Affairs and Tourism/South African Tourism (2006), *South Africa: Domestic Tourism Growth Strategy*, Final Report, January. Viewed at: http://www.southafrica.net/research [23 March 2009].

Bain, J. (2009), "No Royal Impunity". In *Mining: an in-depth discussion of mining issues in South Africa*, Chamber of Mines of South Africa, February, Johannesburg.

C-BRTA (2007), *Annual Report 2006/2007*, Pretoria.

Chamber of Mines of South Africa (2008a), *Annual Report 2006-2007*, Johannesburg.

Chamber of Mines of South Africa (2008b), *Facts and Figures 2007*, Johannesburg.

COMESA/EAC/SADC (2008), *Final communiqué of the COMESA-EAC-SADC Tripartite Summit of Heads of State and Government*, October. Viewed at: http://www.africa-eu.org/content/download/17434/58351/file/COMESA-EAC-SADC_EN_221008.pdf.

Department of Agriculture (2007), *Strategic plan for the Department of Agriculture 2007*. Viewed at: http://www.nda.agric.za/docs/StratPlan07/07introduction.pdf.

Department of Agriculture (2008), *National Agricultural Research and Development Strategy* http://www.nda.agric.za/docs/Research_and_Development_Strategy.pdf.

Department of Communications (2007), *Annual Report 2006/07*, Pretoria.

Department of Environmental Affairs and Tourism (1996), *The Development and Promotion of Tourism in South Africa*. Viewed at: http://www.info.gov.za/whitepapers/1996/tourism.htm [25 March 2009].

Department of Environmental Affairs and Tourism (2005a), *1994-2004: 10 Year Review*. Viewed at: http://www.environment.gov.za/Documents/PreviousAnnualReports/2005Jan7/annual_review.pdf [26 February 2009].

Department of Environmental Affairs and Tourism (2005b), *Tourism BEE Charter and Scorecard*, 8 May. Viewed at: http://www.deat.gov.za/TourismIndaba_2005/docs/tourism_bee_charter_scorecard.pdf [24 March 2009].

Department of Environmental Affairs and Tourism/Department of Trade and Industry/South African Tourism (2005), *Global Competitiveness Programme for the Tourism Industry in South Africa 2005-2010*, Executive Summary, November. Viewed at: http://www.southafrica.net/research [20 March 2009]).

Department of Minerals and Energy (2005), *Energy Efficient Strategy for the Republic of South Africa*, March, Pretoria.

Department of Minerals and Energy (2008), *Annual Report 2007/08*, Pretoria.

Department of Minerals and Energy (undated a), *Energy Security Master Plan: Electricity*, Pretoria.

Department of Minerals and Energy (undated b), *Energy Security Master Plan: Liquid Fuels*, Pretoria.

Department of Minerals and Energy (undated c), *Strategic Plan 2008/9-2010-11*, Pretoria.

Department of Public Enterprises (undated), *Analysis of Performance of State Owned Enterprises for the period 2002/3-2006/7*, Pretoria.

Department of Trade and Industry (2000), *The Investor's Handbook*, Pretoria.

Department of Trade and Industry (2001a), *Draft Working Paper Concerning the Establishment of the CITA*, Pretoria.

Department of Trade and Industry (2001b), *South Africa's Global Economic Strategy*, Pretoria.

Department of Trade and Industry (2007), *Industrial Policy Action Plan (IPAP)*, Pretoria.

Department of Trade and Industry (2008a), *Annual Report 2007/2008*, Pretoria.

Department of Trade and Industry (2008b), *Cost of doing business in South Africa*, Pretoria.

Department of Trade and Industry (2008c), *Programme Guidelines: Enterprise Investment Programme and Tourism Support Programme*. Viewed at: http://www.thedti.gov.za/teo/EIP_guidelines_tourism.pdf.

Department of Trade and Industry (undated a), *National Industrial Policy Framework*, Pretoria.

Department of Trade and Industry (undated b), *Technical Regulations in South Africa*, Pretoria.

Department of Transport (2005), *National Freight Logistics Strategy*, September, Pretoria.

Department of Transport (2008a), *Draft South African Maritime Transport Policy*, Pretoria.

Department of Transport (2008b), *Economic Analysis: Transport Picture*, Issue 01, May, Pretoria.

Department of Transport (undated a), *National Land Transport Strategic Framework 2006-2011*, Pretoria.

Department of Transport (undated b), *Strategic Plan 2008-2011*, Pretoria.

EIU (2008), *Industry Forecast: Travel and tourism: South Africa*, August. Viewed at: http://www.eiu.com/index.asp?layout=country&geography_id=1660000166 [19 February 2009].

EIU (2009), *Industry Report: Energy: South Africa*, March, London.

Financial Services Board (2008), *Annual Report 2008*. Viewed at: ftp://ftp.fsb.co.za/public/documents/AReport2008.pdf [15 May 2009].

Government Communication and Information System (2008), *South Africa Yearbook 2007/08*, March, Pretoria.

Government of South Africa (2008), *Government Strategy Towards an Efficient National Technical Regulatory Framework (NTRF) for South Africa, Unpublished*, March, Pretoria.

ICASA (2007), *Annual Report 2006/07*, Pretoria.

IMF (2008), *South Africa: Financial System Stability Assessment*, Washington D.C.

Mission économique de l'Ambassade de France en Afrique du Sud (2008a), *L'électricité en Afrique du Sud*, August, Pretoria.

Mission économique de l'Ambassade de France en Afrique du Sud (2008b), *Fiche de synthèse: Les Télécommunications en Afrique du Sud*, October, Pretoria.

National Treasury (2003), *Policy to Guide Uniformity in Procurement Reform Processes in Government*. Viewed at: http://www.treasury.gov.za/divisions/sf/sc/policy.pdf.

OECD (2007), *Communications Outlook 2007*, Paris.

OECD (2008a), *African Economic Outlook*, Paris.

OECD (2008b), *Review of Agricultural Policies South Africa: Highlights and Policy Recommendations*, Paris

OECD (2008c), *Economic Assessment of South Africa*, Paris.

Sasol (undated), *How fuel prices are calculated in South Africa*. Viewed at: http://www.sasol.com/sasol_internet/downloads/FuelPrice_calculation_SA_07_1170868230705.pdf.

South African Diamond and Precious Metals Regulator (2008), *Annual Report 08*, Johannesburg.

South African National Road Agency (2008), *Annual Report 2008*, Pretoria.

South African Reserve Bank (2008a), *Annual Report 2007/2008*, Pretoria.

South African Reserve Bank (2008b), *Monetary Policy Review*, November. Viewed at: http://www.reservebank.co.za/internet/Publication.nsf/LADV/4D44067FFEB141D7422574FA0045B7E7/$File/MPRNov08(rev).pdf.

South African Reserve Bank (2009), *Quarterly Bulletin*, No. 251, March, Pretoria.

South African Tourism (2008), *2007 Annual Tourism Report*. Viewed at: http://www.southafrica.net/research [13 March 2009].

South African Tourism (undated a), *Business Tourism Growth Strategy 2008-2010*. Viewed at: http://www.southafrica.net/research [20 March 2009].

South African Tourism (undated b), *Gearing up to be Globally Competitive: Tourism Growth Strategy 2008-2010*, Third Edition. Viewed at: http://www.southafrica.net/research [20 March 2009].

State Tender Board (2000), *State Tender Board General Conditions and Procedures*, September. Viewed at: http://www.deat.gov.za/Services/documents/General/ST36%20Preferential%20Procurement%20Regulations.pdf [10 March 2009].

Statistics South Africa (2007), *General Household Survey 2007/2008*, Pretoria.

The Presidency (2008), *ASGISA Annual Report 2007*, Pretoria.

The Presidency (undated), *Accelerated and Shared Growth Initiative for South Africa (AsgiSA): A summary*. Viewed at: http://www.thepresidency.gov.za/main.asp?include=docs/reports/asgisa/index.htm [10 March 2009].

Transnet (2008), *Annual Report 2008*, Johannesburg.

U.S. Department of State (2002), *2001 South Africa Report on Economic Policy and Trade Practices*, February, Washington D.C.

U.S. Energy Information Administration (2008), *Country Analysis Brief: South Africa*, October, Washington D.C.

UNESCO World Water Assessment Programme (2007), *Water: A Shared Responsibility, Section 5: Sharing Responsibilities: South Africa*. Viewed at: http://www.unesco.org/water/wwap/wwdr/wwdr2/ [14 May 2009].

UNWTO (2008), *Tourism Highlights*, Madrid.

USAASA (2008), *Annual Report 2007/2008*, Pretoria.

World Travel and Tourism Council (2002), *South Africa: The Impact of Travel and Tourism on Jobs and the Economy*. Viewed at: http://www.wttc.org/bin/pdf/original_pdf_file/southafrica2002.pdf [18 March 2009].

World Travel and Tourism Council (2009), *Travel and Tourism Economic Impact 2009: South Africa*, March. Viewed at: http://www.wttc.org/bin/pdf/original_pdf_file/southafrica.pdf.

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

WTO (2003), *Trade Policy Review: SACU*, Geneva.

APPENDIX TABLES

Table AI.1
Structure of exports, 2002-08
(US$ million and per cent)

	2002	2003	2004	2005	2006	2007	2008
Total (US$ million)	**23,064.4**	**31,635.8**	**40,263.5**	**46,991.0**	**52,601.8**	**64,026.6**	**73,965.5**
				(per cent)			
Total primary products	38.2	42.2	42.7	43.8	47.4	48.6	48.2
Agriculture	14.5	13.4	11.6	11.2	9.4	8.7	9.5
Food	10.7	9.9	8.7	8.5	7.1	6.6	7.3
1121 Wine of fresh grapes (including fortified wine)	1.2	1.3	1.3	1.3	1.0	1.0	1.0
Agricultural raw material	3.9	3.5	2.9	2.7	2.3	2.1	2.2
Mining	23.6	28.8	31.1	32.6	38.0	39.9	38.7
Ores and other minerals	6.5	5.0	4.8	6.4	7.9	9.0	12.0
2816 Iron ore agglomerates (sinters, pellets, briquettes, etc.)	1.8	1.5	1.4	2.0	2.2	2.4	3.2
2877 Manganese ores and concentrates	0.5	0.4	0.5	0.5	0.5	0.7	2.6
2879 Other non-ferrous base metals ores and concentrates	0.4	0.3	0.4	0.6	0.8	1.0	1.3
2878 Ore and concentrates of molybdenum, niobium, etc.	1.5	1.3	0.8	0.7	1.2	0.9	0.9
2891 Ores and concentrates of precious metals	0.1	0.0	0.0	0.6	0.9	0.7	0.8
Non-ferrous metals	4.8	14.0	17.2	15.9	20.5	20.3	17.0
6812 Platinum unwrought, unworked or semi-manufactured	0.0	10.1	11.5	11.3	15.2	15.3	13.3
6841 Aluminium and aluminium alloys, unwrought	3.1	2.1	2.5	2.3	2.7	2.5	1.8
6842 Aluminium and aluminium alloys, worked	0.8	0.9	0.9	1.2	1.2	0.9	1.0
Fuels	12.4	9.8	9.1	10.4	9.5	10.6	9.6
3212 Other coal, whether or pulverized, not agglomerated	7.8	5.6	6.0	6.9	5.9	5.2	6.3
Manufactures	61.7	57.1	56.4	55.5	52.0	50.7	51.5
Iron and steel	10.5	12.3	14.0	12.5	10.7	11.7	12.0
6715 Other ferro-alloys (excl. radio-active ferro-alloys)	3.4	4.2	5.1	4.4	3.6	4.7	6.1
6714 Ferro-manganese	1.1	0.9	1.4	1.4	0.8	1.0	1.6
6753 Flat-rolled products, stainless steel, hot-rolled	1.5	1.8	1.7	0.8	1.4	1.5	0.8
Chemicals	9.3	7.6	7.8	8.4	7.4	6.8	7.7
5223 Inorganic acid and oxides	0.4	0.3	0.4	0.5	0.4	0.4	1.1
Other semi-manufactures	12.8	10.9	10.0	10.1	8.9	8.3	7.0
6672 Diamonds (excl. industrial, sorted) not mounted/set	6.7	5.5	5.0	5.4	4.6	3.9	3.1
Machinery and transport equipment	22.8	20.7	19.7	20.4	21.5	20.9	21.9
Power generating machines	0.3	0.2	0.3	0.3	0.4	0.4	0.3
Other non-electrical machinery	7.1	6.6	6.1	6.3	7.2	7.9	7.0
7436 Filtering and purifying machines for liquids/gases	4.1	3.7	3.5	3.5	4.6	5.0	4.2
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1	0.2	0.1
Office machines and telecommunication equipment	1.7	1.5	1.5	1.3	1.4	1.4	1.2
Other electrical machines	1.3	1.1	1.0	0.9	1.0	1.1	1.1
Automotive products	10.4	9.8	9.2	9.3	9.3	8.4	10.5
7812 Motor vehicles for the transport of persons, n.e.s.	7.0	6.6	6.1	6.1	5.2	4.1	6.1
7821 Goods vehicles	1.0	0.9	0.6	1.1	2.0	2.0	2.2
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.8	1.7	1.6	1.3	1.3	1.4	1.2
Other transport equipment	1.9	1.5	1.5	2.4	2.2	1.8	1.8
Textiles	1.1	0.9	0.7	0.7	0.6	0.5	0.4
Clothing	1.1	1.0	0.6	0.4	0.3	0.2	0.2
Other consumer goods	4.0	3.7	3.4	3.0	2.6	2.4	2.2
Other	0.2	0.7	0.9	0.7	0.6	0.7	0.3
9310 Special transactions and commodities not classified by type	0.0	0.0	4.7	5.1	3.9	2.8	3.0
Gold	0.1	0.6	0.8	0.7	0.3	0.6	0.2

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

Table AI.2
Structure of imports, 2002-08
(US$ million and per cent)

	2002	2003	2004	2005	2006	2007	2008
Total (US$ million)	**26,212.0**	**34,543.1**	**47,603.3**	**55,032.6**	**68,469.1**	**79,872.6**	**87,593.1**
				(per cent)			
Total primary products	21.5	21.0	23.4	22.4	26.8	28.0	31.8
Agriculture	6.5	6.4	6.2	5.5	5.3	6.1	6.1
Food	5.0	5.0	5.0	4.5	4.3	5.2	5.2
0423 Rice, milled, semi-milled	0.4	0.5	0.4	0.4	0.3	0.4	0.5
0412 Other wheat (including spelt) and meslin, unmilled	0.3	0.3	0.4	0.3	0.2	0.3	0.5
Agricultural raw material	1.5	1.4	1.3	1.1	1.0	1.0	0.9
Mining	15.0	14.6	17.2	16.8	21.5	21.9	25.7
Ores and other minerals	1.7	1.7	1.8	1.7	1.9	2.1	2.4
2852 Alumina (aluminium oxide)	0.9	0.7	0.9	0.8	0.9	0.8	0.7
2741 Sulphur (excl. sublimed/precipitated/colloidal)	0.1	0.1	0.1	0.1	0.1	0.1	0.5
Non-ferrous metals	0.8	1.0	1.0	0.9	1.3	1.2	1.0
Fuels	12.5	11.9	14.4	14.3	18.3	18.6	22.3
3330 Crude oils of petroleum and bituminous minerals	10.7	10.4	12.4	11.8	13.9	13.7	17.1
3212 Other coal, whether or pulverized, not agglomerated	0.3	0.3	0.2	0.3	0.4	0.2	0.5
Manufactures	69.5	69.6	68.0	68.9	65.4	64.7	61.5
Iron and steel	1.3	1.3	1.4	1.5	1.7	2.0	1.8
Chemicals	12.1	11.0	10.0	10.0	8.9	9.0	9.8
5429 Medicaments, n.e.s.	1.5	1.6	1.5	1.5	1.4	1.3	1.3
5621 Mineral or chemical fertilizers, nitrogenous	0.3	0.2	0.3	0.2	0.2	0.3	0.5
Other semi-manufactures	8.0	7.9	7.0	7.4	6.8	7.2	6.4
6672 Diamonds (excl. industrial, sorted) not mounted/set	1.8	1.8	1.4	1.6	1.3	1.3	1.0
Machinery and transport equipment	37.5	39.4	39.6	39.4	37.8	37.3	35.0
Power generating machines	1.4	1.5	1.4	1.1	2.1	1.4	2.2
Other non-electrical machinery	11.4	11.5	10.1	9.7	9.9	10.7	10.6
7232 Mechanical shovels, etc., self-propelled	0.6	0.8	0.7	0.7	0.7	1.1	0.9
7284 Machinery and appliances for particular industries, n.e.s.	0.6	0.6	0.6	0.6	0.8	0.6	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	0.6
Agricultural machinery and tractors	0.8	0.7	0.7	0.5	0.5	0.6	0.7
Office machines and telecommunication equipment	11.1	10.3	11.0	11.2	10.3	9.3	8.4
7643 Radio or television transmission apparatus	2.6	2.3	2.4	2.7	2.4	2.0	1.7
7522 Data processing machines, with at least processing, imput and output units	0.5	0.6	0.6	0.6	0.6	0.6	0.6
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	1.2	1.5	1.8	1.6	1.3	0.8	0.6
Other electrical machines	3.4	3.5	3.1	3.2	3.2	3.3	3.4
Automotive products	6.5	7.2	8.0	10.0	9.5	9.6	7.0
7812 Motor vehicles for the transport of persons, n.e.s.	3.7	4.2	5.4	6.6	6.1	5.5	3.1
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.4	1.4	1.3	1.5	1.4	1.4	1.4
7821 Goods vehicles	0.6	0.7	0.7	1.0	1.2	1.7	1.3
Other transport equipment	3.8	5.3	6.0	4.2	2.8	3.0	3.3
7923 Aeroplanes, etc. (excl. helicopters), > 2 t and ≤ 15 t unladen	1.1	0.9	0.4	0.4	0.3	0.3	1.0
Textiles	2.0	1.9	1.7	1.6	1.4	1.3	1.2
Clothing	0.8	1.0	1.3	1.5	1.6	1.2	1.1
Other consumer goods	7.7	7.2	7.0	7.5	7.3	6.8	6.3
Other	9.0	9.4	8.6	8.7	7.7	7.3	6.7
9310 Special transactions and commodities not classified by type	9.0	9.4	8.6	8.7	7.7	7.3	6.7

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

Table AI.3
Origin of imports, 2002-08
(US$ million and per cent)

	2002	2003	2004	2005	2006	2007	2008
Total (US$ million)	**26,212.0**	**34,543.1**	**47,603.3**	**55,032.6**	**68,469.1**	**79,872.6**	**87,593.1**
				(per cent)			
America	15.9	14.2	13.1	12.6	12.7	13.3	13.4
United States	11.8	9.9	8.6	7.9	7.6	7.7	8.0
Other America	4.1	4.3	4.5	4.7	5.0	5.5	5.4
Brazil	1.8	2.1	2.1	2.4	2.0	2.1	1.9
Europe	44.6	45.3	42.3	40.2	36.5	35.7	33.1
EC(25)	42.4	43.4	40.7	38.1	34.7	33.7	31.1
Germany	15.6	14.8	14.2	14.0	12.5	11.7	11.3
United Kingdom	9.0	8.7	6.8	5.5	5.0	4.8	4.1
France	4.1	6.0	6.1	4.4	3.6	3.4	2.9
Italy	3.6	3.3	3.0	3.0	3.0	2.8	2.4
Sweden	1.2	1.3	1.3	1.4	1.3	1.4	1.8
Netherlands	1.8	1.7	1.5	1.5	1.6	1.6	1.4
Belgium	1.4	1.5	1.3	1.4	1.2	1.2	1.3
Spain	1.3	1.5	1.4	1.6	1.5	1.4	1.2
EFTA	1.9	1.5	1.1	1.4	1.0	1.1	1.1
Other Europe	0.4	0.4	0.5	0.6	0.8	1.0	1.0
Commonwealth of Independent States (CIS)	0.5	0.2	0.2	0.3	0.5	0.7	0.4
Africa	3.4	3.3	4.2	4.6	6.9	7.2	8.6
Angola	0.0	0.0	0.6	0.5	0.5	2.1	3.1
Nigeria	1.3	1.2	1.7	1.2	2.0	2.2	2.2
Middle East	10.0	10.5	11.9	11.7	11.5	10.8	13.9
Saudi Arabia	5.0	5.7	5.6	5.5	5.3	4.5	6.3
Iran Islamic Rep.	3.5	3.6	5.0	4.1	3.9	3.7	3.8
Yemen	0.2	0.1	0.2	0.1	0.1	0.2	1.5
Asia	25.1	26.0	27.8	29.9	31.7	31.3	30.4
China	5.2	6.4	7.5	9.0	10.0	10.7	11.3
Japan	6.9	7.0	6.8	6.8	6.5	6.6	5.6
Six East Asian traders	7.6	7.5	8.1	8.6	9.3	8.2	7.5
Thailand	1.1	1.2	1.4	1.6	1.7	1.8	2.0
Korea, Rep. of	1.6	1.6	2.1	2.6	2.6	2.2	1.6
Malaysia	1.3	1.2	1.2	1.2	1.2	1.3	1.2
Chinese Taipei	2.0	1.8	1.7	1.6	1.7	1.4	1.2
Other Asia	5.3	5.0	5.3	5.6	5.9	5.8	6.0
India	1.1	1.2	1.5	2.0	2.4	2.2	2.6
Australia	2.8	2.3	2.4	2.1	2.1	1.8	1.9
Other	0.5	0.5	0.4	0.8	0.2	1.0	0.2

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

Table AI.4
Destination of exports, 2002-08
(US$ million and per cent)

	2002	2003	2004	2005	2006	2007	2008
Total (US$ million)	**23,064.4**	**31,635.8**	**40,263.5**	**46,991.0**	**52,601.8**	**64,026.6**	**73,965.5**
				(per cent)			
America	13.4	14.3	14.1	12.8	14.2	15.2	13.4
United States	10.6	12.2	11.6	10.4	11.5	11.8	10.8
Other America	2.8	2.1	2.5	2.4	2.7	3.5	2.6
Europe	41.2	39.1	39.7	39.3	39.5	36.1	35.0
EC(25)	39.3	35.9	36.2	36.0	35.3	32.8	31.7
Germany	8.2	7.7	8.0	7.1	7.5	8.0	7.8
United Kingdom	10.9	10.1	10.5	10.6	8.8	7.7	6.6
Netherlands	5.2	4.8	4.6	5.0	5.2	4.5	4.7
Belgium	3.8	3.1	2.8	3.0	2.8	2.7	2.8
Spain	2.8	2.6	2.8	3.0	2.8	2.7	2.5
Italy	3.2	2.9	3.0	2.5	2.6	2.2	2.2
France	2.9	2.3	2.2	2.3	2.4	2.2	2.0
EFTA	1.2	2.6	2.9	2.8	3.4	2.5	2.4
Switzerland	1.0	2.4	2.8	2.7	3.2	2.1	2.1
Other Europe	0.7	0.6	0.5	0.6	0.8	0.7	0.9
Commonwealth of Independent States (CIS)	0.2	0.3	0.3	0.3	0.3	0.3	0.5
Africa	18.0	16.0	14.7	15.3	14.6	14.8	17.0
Zambia	2.3	1.7	1.8	1.8	2.2	2.2	2.7
Zimbabwe	3.0	2.7	2.3	2.5	2.0	1.9	2.3
Mozambique	2.6	2.4	2.0	2.1	1.7	2.0	2.2
D.R. Congo	0.7	0.5	0.5	0.6	0.7	1.0	1.5
Nigeria	1.1	1.1	1.1	1.1	1.1	1.1	1.3
Angola	1.4	1.4	1.2	1.2	1.3	1.2	1.2
Middle East	3.9	3.5	3.5	3.8	3.7	3.6	3.3
Israel	2.3	1.6	1.6	1.6	1.3	1.2	1.1
United Arab Emirates	0.7	0.9	0.9	0.9	1.1	1.1	1.0
Asia	21.3	25.3	26.9	27.6	26.8	29.1	29.9
China	2.0	2.8	2.6	2.9	4.0	6.5	5.8
Japan	6.5	9.9	10.2	11.0	11.8	11.0	11.0
Six East Asian traders	7.8	7.4	8.8	6.7	5.9	6.1	6.6
Korea, Rep. of	2.1	1.8	1.7	1.8	1.9	1.8	2.0
Chinese Taipei	2.1	2.1	3.4	1.7	1.1	1.4	1.5
Other Asia	5.0	5.2	5.3	7.1	5.1	5.5	6.5
India	1.5	1.2	1.4	2.5	1.5	2.1	3.1
Australia	2.1	2.4	2.6	3.0	2.3	2.0	2.0
Other	2.1	1.4	0.7	0.9	0.8	0.8	0.9

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

Table AII.1
Trade-related legislation, 2009

Area	Legislation	Entry into force
Import and export	Board on Tariffs and Trade Act (Act No. 107)	1986
	Customs and Excise Act (Act No. 912)	1964
	Diamond Export Levy (Administration) Act (Act No. 14)	2007
	Diamond Export Levy Act (Act No. 15)	2007
	Diamonds Act (Act No. 56)	1986
	Diamonds Second Amendment Act (Act No. 30)	2005
	International Trade Administration Act (Act No. 71)	2003
	Value-added Tax Act (Act No. 89)	1991
Government procurement	Preferential Procurement Policy Framework Act (Act No. 5)	2000
	Public Finance Management Act (Act No. 1)	1999
	State Tender Act (Act No. 86)	1968
Standards and technical requirements	Abattoir Hygiene Act (Act No. 121)	1992
	Accreditation for Conformity Assessment, Calibration, and Good Laboratory Practice Act (Act No. 19)	2006
	Agricultural Pests Act (Act No. 36)	1983
	Agricultural Pests Amendment Act (Act No. 9)	1992
	Agricultural Product Standards Amendment Act (No. 63)	1998
	Agricultural Products Standards Act (Act No. 119)	1990
	Animal Disease Act (Act No. 35)	1984
	Animal Health Act (Act No. 7)	2002
	Animal Improvement Act (Act No. 62)	1998
	Fertilizers, Farm Feeds, Agricultural Remedies, and Stock Remedies Act (Act No. 36)	1947
	Foodstuffs, Cosmetics, and Disinfectants Act (Act No. 54)	1972
	Genetically Modified Organism Act (Act No. 15)	1997
	Hazardous Substances Act (Act No. 15)	1973
	Health Act (Act No. 63	1977
	International Health Regulations Act (Act No. 28)	1974
	Liquor Act (Act No. 59)	2003
	Liquor Products Amendment Act (Act No. 11)	1993
	Measurement Units and Measurement Standards Act (Act No. 18)	2006
	Meat Safety Act (Act No. 40)	2000
	Medicines and Related Substances Control Act (Act No. 101)	1965
	Merchant Shipping Act (Act No. 57)	1951
	National Building Regulations and Building Standards Act (Act No. 103)	1977
	National Environment Management Biodiversity Act (Act No. 10)	2004
	National Environmental Management Act (Act No. 107)	1998
	National Environmental Management Air Quality Act (Act No. 39)	2004
	National Railway Safety Regulator (Act No. 16)	2002
	National Regulator for Compulsory Specifications Act (Act No. 5)	2008
	National Water Act (Act No. 36)	1998
	Occupational Health and Safety Act (Act No. 85)	1993
	Plant Breeders' Right Act (Act No. 15)	1975
	Plant Improvement Act (Act No. 53)	1976
	South African Maritime Safety Authority Act (Act No. 5)	1998
	Standards Act (Act No.8)	2008
	Trade Metrology Act (Act No. 77)	1973
	Water Services Act (Act No. 108)	1997
Competition	Competition Act (Act No. 89)	1998
	Price Control Act (Act No. 25)	1964
Intellectual property rights	Copyright Act (Act No. 98)	1978
	Copyright Amendment Act (Act No. 9)	2002

Table AII.1 (cont'd)

Area	Legislation	Entry into force
	Counterfeit Goods Act (Act No. 37)	1997
	Designs Act (Act No. 195)	1993
	Intellectual Property Laws Amendment Act (Act No. 38)	1997
	Liquor Products Act (Act No. 60)	1989
	Merchandise Marks Act (Act No. 17)	1941
	Patents Act (Act No. 57)	1978
	Performers' Protection Act (Act No. 11)	1967
	Plant Breeders' Amendment Act (Act No. 15)	1996
	Plant Breeders' Rights Act (Act No. 15)	1976
	Registration of Copyright in Cinematographic Films Act (Act No. 62)	1977
	Trade Marks Act (Act No. 194)	1993
	Trade Marks Regulation (Government Notice R578)	1993
Agriculture	Agricultural Pests Act (Act No. 36)	1983
	Agricultural Product Standards Act (Act No. 119)	1990
	Animal Improvement Act (Act No. 62)	1998
	Fertilizers, Farm Feeds, Agricultural Remedies, and Stock Remedies Act (Act No. 36)	1947
	Genetically Modified Organisms Act (Act No. 15)	1997
	Liquor Products Act (Act No. 60)	1989
	Livestock Improvement Act (Act No. 60)	1997
	Meat Safety Act (Act No. 40)	2000
	Plant Breeders' Right Act (Act No. 15)	1975
	Plant Improvement Act (Act No. 53)	1976
Manufacturing	Manufacturing Development Act (Act No. 187)	1993
Mining	Mineral and Petroleum Resources Development Act (Act No. 28)	2002
	Minerals and Energy Laws Rationalization Act (Act No. 47)	1994
Telecommunications	Telecommunications Act (Act No. 103)	1996
Financial services	Anti-Money Laundering Act	2001
	Financial Intelligence Centre Act (Act No. 38) (anti-money laundering)	2001
	Banks Act (Act No. 94)	1990
	Financial Institutions (Protection of Funds) Act (Act No. 28)	2001
	Financial Markets Control Act (Act No. 55)	1989
	Financial Services Board Act (Act No. 97)	1990
	Mutual Banks Act (Act No. 124)	1993
	South African Reserve Bank Act (Act No. 90)	1989
	Stock Exchange Control Act (Act No. 1)	1985
	Unit Trusts Control Act (Act No. 54)	1981
Transport	Merchant Shipping Act (Act No. 57)	1951
	South African Maritime Safety Authority Act (Act No. 5)	1998
	Aviation Act (Act No. 74)	1962
	National Road Traffic Act (Act No. 93)	1996
	National Railway Safety Regulator (Act No. 16)	2002
	Aviation Act (Act No. 74 of 1962)	1998
	National Land Transport Transition Act (Act No. 22)	2000
Tourism	Tourism Act (Act No. 72)	1993

Source: WTO Secretariat; and information provided by the South African authorities.

Table AIII.1
Import permits, 2009

Tariff heading	Description	Purpose of control
	Schedule 1	
03.02	Fish, fresh or chilled	Health and environment
03.03	Fish, frozen	Health and environment
03.04	Fish, fillets, and other fish meat (whether or not minced), fresh, chilled or frozen	Health and environment
03.05	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; fish meal fit for human consumption but excluding smoked salmon of subheading No. 0305.41	Health and environment
03.06	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine	Health and environment
03.07	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs; live, fresh, chilled, frozen, dried, salted or in brine excluding oyster spat of subheading 0307.10.10	Health and environment
27.07	Oils and other products of the distillation of high temperature coal tar; similar products in which the mass of the aromatic constituents exceeds that of the non-aromatic constituents	Strategic reasons
27.08	Pitch and pitch coke, obtained from coal tar or from other mineral tars	Strategic reasons
27.09	Petroleum oils and oils obtained from bituminous minerals, crude	Strategic reasons
27.10	Petroleum oils and oils obtained from bituminous minerals (excluding 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; waste oils	Strategic reasons
27.11	Petroleum gases and other gaseous hydrocarbons but excluding butanes of subheadings Nos. 2711.13.10 and 2711.29.10	Strategic reasons
27.12	Petroleum jelly; paraffin wax; microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products obtained by synthesis or by other processes, whether or not coloured but excluding petroleum jelly of subheading No. 2712.10	Strategic reasons
27.13	Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous minerals, but excluding petroleum coke of subheadings Nos. 2713.11 and 2713.12	Strategic reasons
27.14	Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks	Strategic reasons
27.15	Bituminous mixtures baud on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (e.g. bituminous mastics and cut-backs)	Strategic reasons
28.44	Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes), and their compounds; mixtures and residues containing these products	Health and environment
28.45	Isotopes, compounds, inorganic or organic, of such isotopes, whether or not chemically defined	Health and environment
40.03	Reclaimed rubber in primary forms or in plates, sheets or strip	Environment
40.04	Waste, patinas, and scrap of rubber (excluding hard rubber), and powders and granules obtained therefrom	Environment
40.11	New pneumatic tyres, of rubber (excluding heading Nos. 4011.90, 4011.40, and 4011.50)	Technical specification
40.12	Retreated or used pneumatic tyres of rubber, solid or cushion tyres, tyre treads and tyre flaps, of rubber	Health and environment
63.09	Worn clothing and other worn articles	Health and environment
63.10	Used or new tags, scrap twine, cordage, rope and cables, and worn out articles of twine, cordage, rope or cables, of textile materials	Health and environment
71.08	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	Environment (Basel Convention)
81.05	Cobalt mattes and other intermediate products of cobalt metallurgy, cobalt and articles thereof including waste and scrap	Environment (Basel Convention)

Table AIII.1 (cont'd)

Tariff heading	Description	Purpose of control
81.07	Cadmium and articles thereof, including waste and scrap	Environment (Basel Convention)
81.10	Antimony and articles thereof, including waste and scrap	Environment (Basel Convention)
81.11	Manganese and articles thereof, including waste and scrap	Environment (Basel Convention)
81.12	Beryllium chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium, and articles of these metals, including waste and scrap	Environment (Basel Convention)
93.02	Revolvers and pistols	Safety and security
93.03	Other firearms and similar devices which operate by the firing of an explosive charge (for example, sporting shotguns and rifles, muzzle-loading firearms; very pistols and other devices designed to project only signal flares, pistols and revolvers for firing blank ammunition, captive-bolt humane killers, and line-throwing guns)	Safety and security
93.04	Other arms (for example, spring, air or gas guns and pistols, and truncheons)	Safety and security
93.05	Parts and accessories of articles of headings Nos. 93.01 to 93.04	Safety and security
93.06	Bombs, grenades, torpedoes mines, missiles and similar munitions of war and parts thereof, cartridges and other ammunition and parts thereof, including shot and cartridge wads projectiles	Safety and security
9504.30	Other machines of games of skill or chance	Technical specification/social reasons
	Schedule 2	
Ex. 2903.19.10	1,1,1-Trichloroethane (methyl chloroform)	Montreal Protocol
2903.30.10	Bromomethane (methyl bromide)	Montreal Protocol
2903.41	Trichlorofluoromethane (CFC 11)	Montreal Protocol
2903.42	Dichlorodifluoromethane (CFC12)	Montreal Protocol
2903.43	Trichlorotrifluoroethanes (CFC 113)	Montreal Protocol
2903.44	Dichlorotetrafluoroethanes (CFC 114)	Montreal Protocol
2903.45.10	Pentachlorofluoroethane	Montreal Protocol
2903.45.15	Tetrachlorodifluoraethanes	Montreal Protocol
2903.45.20	Heptachlorofluoropropanes	Montreal Protocol
2903.45.25	Hexachlorodifluoropropanes	Montreal Protocol
2903.45.30	Pentachlorotrifluoropropanes	Montreal Protocol
2903.45.35	Tetrachlorotetrafluoropropanes	Montreal Protocol
2903.45.40	Trichloropentafluoropropanes	Montreal Protocol
2903.45.45	Dichlorohexafluoropropanes	Montreal Protocol
2903.45.50	Chloroheptafluoropropanes	Montreal Protocol
2903.45.90	Other derivatives perhalogenated only with fluorine and chlorine; other	Montreal Protocol
2903.49.01	Chlorodifluoromethane (CFC 22)	Montreal Protocol
2903.49.03	Dichlorotrifluoroethanes	Montreal Protocol
2903.49.05	Chlorotetrafluoroethanes	Montreal Protocol
2903.49.07	Dichlorofluoroethanes	Montreal Protocol
2903.49.09	Dichlorodifluoroethanes	Montreal Protocol
2903.49.11	Dichloropentafluoropropanes	Montreal Protocol
2903.49.19	Other derivatives of methane, ethane or propane, halogenated only with fluorine and chlorine	Montreal Protocol
2903.49.20	Derivatives of methane, ethane or propane, halogenated only with fluorine and bromine	Montreal Protocol
2903.49.90	Other	Montreal Protocol
2903.46	Bromochlorodifluoromethane (Halon 1211), bromotrifluoromethane (Halon 1301), and dibromotetrafluoroethanes (Halon 2402)	Montreal Protocol
3824.71	Mixtures containing acyclic hydro-carbons perhalogenated only with fluorine and chlorine	Montreal Protocol
3824.79	Other	Montreal Protocol

Table AIII.1 (cont'd)

Tariff heading	Description	Purpose of control
	Schedule 3	
2806.10	Hydrochloric acid	1988 UN Convention
2807.00	Sulphuric acid	1988 UN Convention
2903.41	Potassium permanganate	1988 UN Convention
2903.42	Toluene	1988 UN Convention
2903.43	Diethyl ether	1988 UN Convention
2903.44	Acetone	1988 UN Convention
2914.12	Methyl ethyl ketone	1988 UN Convention
2914.31	1-Phenyl-2-propanone	1988 UN Convention
2915.24	Acetic anhydride	1988 UN Convention
2916.34	Phenylacetic acid	1988 UN Convention
2922.43	Antralinic acid	1988 UN Convention
2924.22	N-acetylanthranillic acid	1988 UN Convention
2932.91	Isosafrole	1988 UN Convention
2932.92	3,4 Methylenedioxyphenyl-2-propanone	1988 UN Convention
2932.93	Piperonal	1988 UN Convention
2932.94	Safrole	1988 UN Convention
2933.32	Piperidine	1988 UN Convention
2939.41	Ephedrine	1988 UN Convention
2939.42	Pseudoepherine	1988 UN Convention
2939.49	Norephedrine	1988 UN Convention
2939.61	Ergometrine	1988 UN Convention
2939.62	Ergotamine	1988 UN Convention
2939.63	Lysergic acid	1988 UN Convention

Note: 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Source: *Government Gazette* No. 31926, 27 February 2009; and information provided by the South African authorities.

Table AIII.2
Technical regulations on foodstuffs, 2009

Regulation (Government Notice No.)	Product or activity
Regulations related to powers and duties of inspectors/analysts: final (R.328/2007)	Inspectors duties
Regulations relating to food-grade salt (R.184/2007)	Salt
Regulations relating to all bottled waters (R.718/2006)	Bottled waters
Regulations relating to objects intended for children in foodstuffs (R.28196/2005)	Objects
Regulations relating to marine biotoxins (R.491/2005)	Marine toxins
Regulations governing tolerance for fungus-produced toxins in foodstuffs (R.1145/2004)	Mycotoxins
Regulation relating to maximum levels for metals in foodstuffs (R.500/2004)	Metals
Regulations governing the labelling of foodstuffs obtained through certain techniques of genetic modification (R.25/2004)	GMO labelling
Regulations relating to the prohibition of the sale of comfrey, foodstuffs containing comfrey, and jelly confectionery containing konjac (R.1408/2003)	Comfrey food
Regulations relating to the application of the Hazard Analysis Critical Control Point (HACCP) system (R.908/2003)	HACCP
Regulations regarding processed foodstuffs (R.723/2003)	Processed foods
Regulations relating to the fortification of certain foodstuffs (fortification mix suppliers) (R.504/2003)	Fortification
Regulations governing the tolerances for certain seeds in certain agricultural products (R.1225/2002)	Toxic seeds
Regulations governing certain solvents in foodstuffs (R.911/2001)	Solvents
Regulation relating to perishable foodstuffs: definition and declaration of certain perishable foodstuffs (R.952/1999)	Perishable foodstuffs
General hygiene requirements for food premises and the transport of food (R.918/1999), as corrected by R.723/2002 and amended by R.1125/2003	Hygiene/transport
Regulations relating to milk and dairy products (R.1555/1997)	Milk/dairy
Regulation governing microbiological standards for foodstuffs and related matters (R.692/1997)	Micro-biological standard food
Regulation relating to edible fats and oils (R.1316/1996)	Edible fats/oils
Regulation relating to food colorants (R.1008/1996)	Colorants
Regulations governing the maximum limits for pesticide residue that may be present in foodstuffs (R.246/1994), as amended by R.1047/2006	Maximum residue limits (MRLs) for pesticide
Labelling and advertising of foodstuffs (R.2034/1993)	Labelling/advertising
Regulation governing the maximum limits for veterinary medicine and stock remedy residues that may be present in foodstuffs (R.1809/1992)	MRLs for vet medicines
Regulation relating to the use of sweeteners in foodstuffs (R.3128/1991)	Sweeteners
Regulations prohibiting guar gum as a foodstuff (R.2554/1991)	Guar gum
Regulations governing the composition and labelling of raw boerewors, raw species sausage, and raw mixed-species sausage (R.2718/1990)	Meat
Regulations relating to baking powder and chemical leavening substances (R.2486/1990)	Leavening substances
Regulation governing radio activity in foodstuffs (R.1931/1990)	Radio activity
Regulation governing emulsifiers, stabilisers and thickeners and the amounts thereof that foodstuffs may contain (R.2527/1987)	Emulsifiers stabilisers
Use of certain food additives in certain foods when wheaten products (R.2417/1987)	Additives
Regulations: jam, conserve, marmalade, and jelly (R.2627/1986)	Jams
Regulations relating to milking sheds and the transport of milk (R.1256/1986)	Milking sheds
Acids, bases, and salts: amounts thereof that foodstuffs may contain (R.115/1986)	Salts
Regulations relating to mayonnaise and other salad dressings (R.92/1986)	Mayonnaise
Regulations: soft drinks (R.1769/1985)	Soft drinks
Regulations relating foods for infants, young children, and children (R.1130/1984), as amended by R.734/2006	Children's food
Regulations relating to irradiated foodstuffs (R.1600/1983)	Irradiated foodstuffs
Regulation relating to anti-caking agents: amounts that may be used in foodstuffs (R.2507/1982)	Anti-caking agents
Regulations governing substances in wine, other fermented beverages, and spirits: additives, amounts, and tolerances (R.2870/1981)	Wine/spirits additives
Regulations: preservatives and antioxidants (R.965/1977)	Preservatives/antioxidants

Table AIII.2 (cont'd)

Regulation (Government Notice No.)	**Product or activity**
Regulation: mineral hydrocarbons in foodstuffs (R.230/1977)	Hydrocarbons
Regulations: restriction on the sale of food additives containing nitrite and/or nitrate and other substances (R.219/1975)	Nitrite/nitrate additives
Regulation: marine food (R.2064/1973)	Marine food
Regulations relating to food and water vessels (Act No. 36 of 1919) (R.1575/1971)	Food/water vessels
General regulations promulgated in terms of the Public Health Act, 1919 (Transportation of Meat) (180 of 1967)	Transport of meat
Regulations (R.575/1930)	
Edible gelatine	Gelatine
Unwholesome or poisonous substances in food	Packaging
Ice-cream and ice-cream products	Ingredients
Meat and fish, and their preparations: edible fats and edible oils	Meat/fish
Tea	Tea
Coffee, coffee mixtures, and preparations of coffee	Coffee
Chicory	Chicory
Cocoa and chocolate	Cocoa and chocolate
Sugar, confectionary, dextrose, and icing sugar	Sugar

Note: Enforcing bodies are provinces for imports and municipalities for local production.

Source: Department of Health online information, "Food legislation". Viewed at: http://www.doh.gov.za/department/foodcontrol/legis.html [9 March 2009]; and information provided by the South African authorities.

Table AIII.3
Export permits, 2009

Tariff heading	Description	Controlling authorities
	Schedule 1	
1209.99.10	Wattle seed[a]	W
2530.90	Lithium ore; sugulite (also known as lavulite or lazulite), unworked or simply sawn or roughly shaped	M
2607.00	Lead ores and concentrates	I
2611.00	Tungsten ores and concentrates	I
26.13	Molybdenum ores and concentrates	I
2615.90	Tantalum ores and concentrates	I
2710.11.02	Petrol	M
2710.11.01	Aviation spirit	M
2710.11.09	Power kerosene	M
2710.11.15 2710.11.26	Illuminating kerosene	M
2710.11.30	Distillate fuel for use in compression ignition internal combustion piston engines (diesel or semi-diesel); and residual fuel oils	M
2711.13	Butanes	M
3002.90.90	Human blood and preparations thereof	H
4403.99	Sawn logs of yellowwood (Podocarpus Falcatus, Podocarpus Henkelii, Podocarpus Latifolius), stinkwood (Ocotea Bullata), and blackwood (Acacia Melanoxylon)	W
4407.99	Sawn yellowwood (Podocarpus Falcatus, Podocarpus Henkelii, Podocarpus Latifolius), stinkwood (Ocotea Bullata), and blackwood (Acacia Melanoxylon)	W
47.07	Recovered (waste and scrap) of paper or paperboard	I
7103.10	"Tigers' eye", including its related varieties and any articles consisting wholly or partly of tiger's eye or its related varieties, but excluding properly finished, and finally and completely polished cabochons, beads, eggs, spheres, tumbled stones, and carvings cut therefrom or otherwise processed or tumbled[b]	M
7103.10	Sugulite (also known as lavulite or lazulite), unworked or simply sawn or roughly shaped	M
72.04	Ferrous waste and scrap; remelting scrap ingots of iron or steel	I
7403.12 7403.13 7403.19	Refined copper: wire bars; billets; and other than cathodes and sections of cathodes	I
7403.21	Copper-zinc base alloys (brass)	I
7403.22	Copper-tin base alloys (bronze)	I
7403.23	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver)	I
7404.00	Copper waste and scrap	I
7503.00	Nickel waste and scrap	I
7602.00	Aluminum waste and scrap	I
7801.10	Lead ingots	I
7802.00	Lead waste and scrap	E
78.04	Lead plates, sheets, strip, and foil; and lead powders and flakes	I
7805.00	Lead tubes, pipes, and tube or pipe fittings (e.g. couplings, elbows, and sleeves)	I
7806.00	Other articles of lead	I
7902.00	Zinc waste and scrap	I
8002.00	Tin waste and scrap	I
81.01	Tungsten (Wolfram) and articles thereof, including waste and scrap	I
81.02	Molybdenum and articles thereof, including waste and scrap	I
81.03	Tantalum and articles thereof, including waste and scrap	I
8104.20	Magnesium waste and scrap	I
81.07	Cadmium and articles thereof, including waste and scrap	E
8110.00	Antimony and articles thereof, including waste and scrap	E
8111.00	Manganese and articles thereof, including waste and scrap	E
81.12	Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), and articles of these metals, including waste and scrap (but excluding Rhenium and Thallium)	E

Table AIII.3 (cont'd)

Tariff heading	Description	Controlling authorities
87.02 87.03 87.04	Motor cars and other motor vehicles principally designed for the transport of persons and goods, but excluding vehicles exported by diplomatic and foreign representatives and new vehicles exported by local manufacturers or their appointed agents (excluding sub-headings No. 8702.10.10, 8703.10.10, 8703.21.23, 8703.21.60, 8703.21.70, 8703.31.80, 8704.10, 8704.21.10, 8704.21.40, 8704.22.10, 8704.22.20, 8704.23.10, 8704.23.20,. 8704.31.30, 8704.31.50, 8704.32.10, 8704.90.05, and 8704.90.30)	I
	Schedule 2	
2903.19.10	1,1,1-Trichloroethane (methyl chloroform)	E
2903.39	Bromomethane (methyl bromide)	E
2903.41	Trichlorofluoromethane (CFC 11)	E
2903.42	Dichlorodifluoromethane (CFC 12(	E
2903.43	Trichlorotrifluoroethanes (CFC 113)	E
2903.44	Dichlorotetrafluoroethanes (CFC 114)	E
2903.45.05	Chlorotrifluoromethane	E
2903.45.10	Pentachlorofluoroethane	E
2903.45.15	Terachlorodifluoroethane	E
2903.45.20	Heptachlorofluoropropane	E
2903.45.25	Hexachlorodifluoropropane	E
2903.45.30	Pentachlorotrifluoropropane	E
2903.45.35	Tetrachlorotrifluoropropane	E
2903.45.40	Trichloropentafluoropropane	E
2903.45.45	Dichlorohexafluoropropane	E
2903.45.50	Chloroheptafluoropropane	E
2903.45.90	Other derivatives perhalogenated only with fluorine and chlorine; other	E
2903.46	Bromochlorodifluoromethane (Halon 1211), bromotrifluoromethane(Halon 1301) and dibromotetrafluoroethanes(Halon 2402)	E
2903.49.01	Chlorodifluoromethane	E
2903.49.03	Dichlorotrifluoethanes	E
2903.49.05	Chlorotetrafluoroethanes	E
2903.49.07	Dichlorofluoroethanes	E
2903.49.09	Dichlorodifluoroethanes	E
2903.49.11	Dichloropentafluoropropanes	E
2903.49.19	Other derivatives of methane, ethane or propane, halogenated only with fluorine and chlorine	E
2903.49.20	Derivatives of methane, ethane or propane, halogenated only with fluorine and bromine	E
2903.49.90	Other	E
3808.91.10	Containing bromomethane (methyl bromite) or bromochloromethane	E
3808.92.30 3808.93.81 3808.94.85 3808.99.10	Other, containing bromomethane (methyl bromite) or bromochlorometane	E
3813.00.17	Other, containing bromochlorodifluoromethane, bromotrichloromethane or dibromotetrafluoroethane	E
3813.00.19	Other, containing methane, ethane or propane hydrobromofluorocarbons (HBFCs)	E
3813.00.21	Other, containing methane, ethane or propane hydrochlorofluorocarbons (HCFCs)	E
3813.00.23	Other, containing bromochloromethane	E
3814.00.10	Containing methane, ethane or propane chlorofluorocarbons (CFCs), whether or not containing HCFCs	E
3814.00.20	Containing methane, ethane or propane HCFCs but not containing CFCs	E
3814.00.30	Containing carbon tetrachloride, bromochloromethane or 1,1,1-trichloroethane (methyl chloroform)	E
3824.71	Containing CFCs, whether or not containing HCFCs, perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs)	E
3824.72	Containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoroethane	E
3824.73	Containing HBFCs	E
3824.74	Containing HCFCs, whether or not containing PFCs or HFCs but not containing CFCs	E
3824.75	Containing carbon tetrachloride	E
3824.76	Containing 1,1,1-trichloroethane (methyl chloroform)	E

Table AIII.3 (cont'd)

Tariff heading	Description	Controlling authorities
3824.77	Containing bromomethane (methyl bromide) or bromochloromethane	E
3824.78	Containing PFCs or HFCs, but not containing CFCs or HCFCs	E
3824.79	Other	E
	Schedule 3[c,d]	
2806.10	Hydrochloric acid	P
2807.00	Sulphuric acid	P
2841.61	Potassium permanganate	P
2902.30	Toluene	P
2909.11	Diethyl ether	P
2914.11	Acetone	P
2914.12	Methyl ethyl ketone	P
2914.31	1-Phenyl-2-propanone	P
2915.24	Acetic anhydride	P
2916.34	Phenylacetic acid	P
2922.43	Anthranilic acid	P
2924.23	N-acetylanthranilic acid	P
2932.91	Isosafrole	P
2932.92	Methylenedioxyphenyl-2-propanone	P
2932.93	Piperonal	P
2932.94	Safrole	P
2933.32	Piperidine	P
2939.41	Ephedrine	P
2939.42	Pseudoephedrine	P
2939.49	Nerophedrene	P
2939.61	Ergometrine	P
2939.62	Ergotamine	P
2939.63	Lysergic acid	P

a Acacia mearnsii De Willd, formerly known as Acacia mollissima Wild (commonly known as Black Wattle); acacia decurrens (Wendl. Willd) (commonly know as Green Wattle); acacia pycnantha Benth; and acacia syanophylla Lindl.

b Definitions: (1) cabochon shall mean a stone of which the top forms: (a) a symmetrically curved convex or concave surface; or (b) flat surface, provided the stone is either round or oval or crescent, heart, cross or tear shaped; the base may be convex, concave or flat; (2) bead shall mean a stone of any shape of a mass not exceeding 50 gr which has been drilled in such a way that it can be strung in a necklace; (3) egg shall mean a symmetrically egg-shaped stone; (4) sphere shall mean a symmetrically sphere-shaped stone; (5) tumbled stone shall mean an uncut, unsawn stone of irregular shape of a mass not exceeding 50 gr which has been properly tumbled to such an extent that it has a pebble-like appearance; (6) carving shall mean a cabochon, bead, egg, sphere or tumbled stone as defined in these regulations which has been artistically carved or sculptured; and (7) polish shall mean the process commonly accepted in the lapidary trade whereby fine abrasives and polishing powders are used to smooth a stone to a perfect mirror-like appearance without applying any lacquer or varnish.

c 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

d The salt and optical isomers of all substances included in this table, where the existence of such salts is possible, with the exception of the salts of hydrochloric acid and sulphuric acid.

Note: I: International Trade Administration Commission.
M: Department of Minerals and Energy.
H: Department of Health.
E: Department of Environmental Affairs and Tourism.
W: Department of Water Affairs and Forestry.
P: South African Police Service.

Source: *Government Gazette* No. 31145, 20 June 2008.

Table AIII.4
Incentive schemes, 2009

Scheme: objective	Criteria	Type of incentive
Investment support		
Black Business Supplier Development Programme (BBSDP): provide majority black-owned enterprises with access to business development services	Majority black-owned (51% shareholding) enterprises; a significant representation of black managers in the management team; maximum annual turnover: R 12 million; minimum trading history of one year; if the enterprise is registered for less than a year, but has been operating previously, registration with local municipality and VAT registration or invoices must be submitted to confirm trade activity; compliance with commercial regulatory requirements	Maximum grant of R 100,000; requested amount must not exceed 25% of the enterprise's previous year's turnover; enterprises select service providers from at least three competitive bids obtained in the selection process; enterprises do not have to select the lowest cost service provider. If a higher quote is selected, a good motivation letter from the grant applicant has to be provided 90:10 cost sharing grant; the DTI contributes 90% and the enterprise contributes 10%
Bridging Finance Scheme: address the short-term financing needs of entrepreneurs that have secured firm contracts (except construction contracts) with the Government and/or the private sector	Entrepreneurs awarded tenders by the Government; with secured contracts to supply services/products to established big, blue-chip companies; and with an annual turnover greater than R 1 million	Minimum financing of R 500,000; short-term loans (maximum 18 months); interest rates are competitive, risk related, and based on the prime bank overdraft rate
Business Process Outsourcing and Offshoring (BPO and O)[a]: create employment opportunities	Incentive is offered to local and foreign investors in projects aimed to serve offshore clients; the applicant: must be a registered legal entity in South Africa; must be a taxpayer in good standing and; must have an accepted investment project; the project: can involve the start up or an expansion of an existing operation; apply and be approved prior to the start of commercial operations; and establish an operation that creates employment for at least 200 people by the end of its 2nd year in operation	Investment grant ranging between R 37,000 and R 60,000; and a training grant to a maximum of R 12,000 per agent
Cooperative Incentive Scheme (CIS): help cooperative enterprises to acquire competitive business development services	Incorporation and registration in South Africa under the 1991 Co-operatives Act; operate (or to operate) in an emerging sector; must be an emerging cooperative owned by historically disadvantaged persons (HDPs); be established in rural or semi-urban areas; employ women, youth, and people with disability	Maximum grant of R 300,000; 90:10 matching grant; the DTI contributes 90% and the enterprise contributes 10%
Critical Infrastructure Programme (CIP): support the construction of infrastructure to enable investment project or to expand existing investment in infrastructure or for new investment	Private sector and public sector enterprises Private/public partnership (PPP)	Non-refundable cash grant; cover between 10% and 30% of the total development costs of the qualifying infrastructure
Empowerment Finance: assist emerging industrialists/entrepreneurs to acquire a stake in formal business	Emerging industrialists interested in small- to medium-sized ventures: the business must be profitable; the entrepreneur should have a meaningful role in the management of the concern; minimum deal size of R 5 million and maximum of R 100 million; and a minimum cash contribution of 10% of the purchase price is required from the entrepreneur	Medium-term finance (loans, equity, and quasi-equity) for management buy-ins, management or leverage buy-outs, and strategic equity partnerships

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Enterprise Investment Scheme (EIP): stimulate growth and employment; and broaden participation. two sub-programmes: (i) Manufacturing Investment Programme (MIP) to stimulate growth; and (ii) Tourism Support Programme (TSP) to stimulate employment and broaden participation	Local and foreign-owned entities	Investment grant of 15% to 30% towards qualifying investment in plant, machinery and equipment, and customized vehicles required for establishing or expanding production facilities or upgrading production capacity in clothing and textiles operation or to ensure that tourism projects create employment and promote tourism in new areas; investment of less than R 5million qualifies for a 30% grant; investment of R 5 million-R 30 million for 30%-15%; and investment of R 30 million-R 20 million for 15% grant; maximum qualifying investment: R 200 million; maximum qualifying grant: R 30 million
Equity Fund: fund joint ventures; expand re-capitalization of company; and buy out existing shareholders	SMMEs with a net asset value of not less than R 500,000 Applicants must be able to demonstrate that they are viable in the medium to long-term, and that investors can anticipate an adequate rate of return	Provide grants for SMMEs that need to expand their activities, enter into joint ventures, re-capitalise the company or buy out the existing shareholders
Foreign Investment Grant: assist foreign investors in investing in manufacturing by compensating them for the cost of relocating new machinery and equipment to South Africa from abroad	Majority foreign-owned company investing in South Africa for the first time, provided it is a registered incorporated legal entity in South Africa	Maximum grant of R 10 million; grant cannot exceed the actual cost of relocation, or 15% of the value of the new machinery and equipment relocated from overseas
Industrial Development Zones Programme: promote the competitiveness of the manufacturing sector	All industries (zones to be designated first) Located next to an international port	A Customs controlled area to provide support for customs and VAT requirements; world-class industrial support infrastructure; international port of entry; duty suspension on imports for production-related raw materials (including machinery and assets used in production with the aim of exporting the finished products); VAT exemptions under specific conditions for supplies procured in South Africa
Risk Capital Facility (RCF): develop entrepreneurial skills, particularly in small and medium-sized businesses	Black Economic Empowerment (BEE)-owned businesses with minimum ownership of 25,1% by historically disadvantaged persons (HDPs) in the SME sector; investments with high developmental impact (e.g. job creation, regional reach, and rural development)	Clients receive business support to solve short-term problems and are provided with long-term assistance; the Industrial Development Corporation pays part of the cost of business support and structures a loan facility for clients to pay the balance of the costs when they are in a financially sound position
Sector Specific Assistance Scheme (SSAS): develop an industry sector and new export markets; broaden the export base; and propose solutions to factors inhibiting export growth, stimulating the participation of SMEs, promote black economic empowerment and women empowerment in the export sector	Non-profit business organizations in sectors and subsectors of prioritized industries; eligible applicants are export councils, industry associations and joint action groups	Reimbursable cost-sharing grant scheme
Spatial Development Initiatives: provide high-level support in areas where socio-economic conditions require concentrated government assistance and where inherent economic potential exists	..	..

Table AIII.4 (cont'd)

Scheme: objective	**Criteria**	**Type of incentive**
Strategic Investment Support for Programme (SIP): support for strategic investments in manufacturing; programme terminated on 31 July 2005	Minimum investment of R 50 million in manufacturing of food products (excl. tobacco and related products) and consultancy in computer hardware, software, and data based processing	Tax allowance of up to 100% (maximum of R 600 million per project) of the cost of buildings, plant, and machinery
Small business development		
Emerging Entrepreneur Scheme	Conditions are mentorship of the loan; the scheme enables the entrepreneur to have access to funds to establish, expand or buy an existing business	Provide up to R 120,000 with the fee payable at 4% p.a. in advance; duration: 24 months initially but can be extended for three periods of 12-months
Empowerment Scheme: promote emerging industrialists/entrepreneurs	Businesses must have one of the following qualifying criteria in relation to the nature, purpose for the business or its effect on SMMEs: substantial job creation in an area where there is very little economic activity; labour-intensive projects; an economic empowerment transaction that entitles the borrower to acquire a controlling interest in the SMME within two years from the date the facility is granted by the bank; management buy-out that entitles the borrower to acquire a controlling interest in the SMME within a period of two years from the date the facility is granted by the bank; sub-contracting; outsourcing transactions; or any similar economic empowerment venture	Medium-term finance (loans or equity) for buyouts or leveraged buyouts, and strategic equity partnerships; for ventures worth R 1-100 million; provide cover up to R 5 million of bank facility at 60%, with the fee payable at 2.5% p.a. in advance; duration: 36 months initially but can be extended twice, for periods of 12 months
Individual Guarantee: enable an entrepreneur to access funding from a participating bank or other financial institution	Individual entrepreneurs	Facilities secured under the Khula guarantee scheme include term loans, bank overdraft, revolving credit, instalment sale, bank guarantees as well as construction performance guarantees; assessment of all applications is done by the bank; upon conformity of the applications, the bank approaches Khula for a guarantee, if it needs cover beyond what the client can provide
Institutional Guarantee: cater for institutions that lend to the SMMEs and are able to source such capital from the commercial banks	Retail financial institutions lending to SMMEs	Business must be conducted within South Africa and benefit South African citizens; guarantees limited to 70% of the financing provided by the bank, not to exceed 10% of Khula capital
Khula Equity Fund: promote SMMEs with potential for growth; and fund joint ventures and buyouts	SMMEs with minimum value of R 500,000; proof of viability required	..
KwaZulu Rehabilitation Trust Fund: cover lack of collateral for businesses wishing to reinstate their operations	Entrepreneurs in KZN whose businesses were adversely affected by the unrest up to 1994; other qualifying criteria as per the Individual Guarantee Scheme agreements held with the various banks	Loans
Land Reform Credit Facility: stimulate and encourage private-sector participation and involvement in the land reform process	..	..

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Micro-Credit Outlets (Khula Start): promote greater access to micro-credit in rural areas, in particular to assist women to start and expand their small businesses; at least 70% of the loans should be given to women	Loans given to groups not individuals; individuals create groups of 3-10 members, that need to meet the criteria established for group participation	Loans disbursed on incremental basis from R 300 to R 3,500 per member within a group; based on the activity of the individual businesses, the group decides how much each member has to receive and will subsequently stand surety for the full amount owed by the group as a whole; initiated through existing NGOs or community based organizations (CBOs)
Regional equity funds: support SMEs	SMEs, in particular those sponsored by historically disadvantaged entrepreneurs	Investment between R 250,000 and R 2.5 million in enterprises that have high potential growth and returns
Retail Financial Intermediaries (RFIs): lend to entrepreneurs for business purposes	Only companies that want to become RFI can apply to Khula	Business and capitalization loans provided by Khula; entrepreneurs must approach RFIs directly and not Khula
SEDA Technology Programme: develop and support innovative technology-based platforms that result in the creation and development of sustainable, globally competititive SMMEs	Consortiums within a given sector including academia, private sector, provincial or local government, science councils, NGOs, financial institutions that establish and support SMMEs	Cash grants to establish and support technology business centres over a period of three years
Small and Medium Enterprises Development Programme (SMEDP): create wealth; generate employment; develop entrepreneurship; promote empowerment; utilize local raw material; ensure sustainability of projects receiving incentives in the long run; and reduce investment lost for small and medium investors	Local and foreign firms with maximum investment of R 100 million in land, buildings, plant, and equipment in new projects or expansion of existing projects; legal entities, and sole proprietors and partnerships (excl. trusts) engaged in qualifying manufacturing, high-value agricultural projects and agri-processing, aqua culture, bio-technology, tourism information, communication technology investments, recycling, culture industry, and business service	Incentive package provides for: (i) an investment grant for two years on approved qualifying assets calculated as follows: first R 5 million investment: 10% p.a.; next R 10 million investment: 6% p.a.; next R 15 million investment: 4% p.a.; next R 20 million investment: 3% p.a.; next R 25 million investment: 2% p.a.; and next R 25 million investment: 2% p.a.; and (ii) an additional investment payable in the third year based on the ratio of human resource remuneration expressed in terms of manufacturing cost must be a minimum of 30%; incentives are tax-exempted
Standard Scheme	Applicant must be South African citizen, must be an owner/manager of the business, live in South Africa, must provide at least 10% own contribution; the business must be financially viable	Provide cover up to R 1 million of the bank facility at 80%, with the fee payable at 3% p.a. in advance; duration: 36 months, but can be extended twice for periods of 12 months
Technology Transfer Guarantee Fund (TTGF): provide loan guarantees for SMEs to acquire local or foreign manufacturing technology	SMEs with an approval certificate from the Council for Scientific and Industrial Research for a technology evaluation on the proposed technology to be transferred before applying to a financial institution for a TTGF guarantee	TTGF will guarantee 90% of the technology transfer transaction to a maximum of R 1 million; maximum term for guarantee: five years; Khula will levy the standard indemnity fee of 3% p.a. on the facility as guaranteed, payable annually in advance

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Industrial Development Zone (IDZ)		
Customs Controlled Area (CCA): South African Revenue Service (SARS) customs officials provide support with customs and excise requirements	..	Duty-free imports of production-related raw materials, including machinery to be used in producing goods for exports; zero-rating on VAT for supplies procured in South Africa; accessibility to most government incentives that will contribute to lowering the cost of production; a one-stop shop centre to prepare all required documents to invest; reduced red tape; provision of efficient services
Export Marketing and Investment Assistance Scheme		
Individual exhibitions and in-store promotions: assistance granted to exhibit products at recognized exhibitions where the DTI does not provide for a national pavilion	Individual exporters	Cost sharing reimbursable grant
Individual inward bound mission: organized by individual entrepreneurs where prospective buyers or investors seek to conclude export orders or attract FDI	South African entities that organize export oriented activities	Cost sharing reimbursable grant
Inward buying trade missions: the DTI provides assistance to organizers of inward buying trade missions, which seek to enable the conclusion of export orders between South African exporters and prospective foreign buyers. Missions are organised by export councils, chambers of commerce , PIPAs or the DTI	Organizers of "inward buying" trade missions for prospective foreign buyers to contact South African exporters and companies who fall under the services sectors the group mission must be organized by a qualifying organization, export council or the DTI	Cost sharing reimbursable grant
National pavilions: assistance provided to introduce South African products into foreign markets by participating in foreign exhibitions	South African manufacturers of products including SMMEs, historically disadvantaged individuals (HDIs); South African trading house (representing at least three SMMEs or HDI entities, Commission agents (representing at least three SMMEs or HDI entities; South African export councils, industry associations and joint action groups (representing at least five South African entities)	Cost sharing reimbursable grant
Outward selling trade missions: the DTI provides assistance to South African exporters who seek to conclude export orders with foreign buyers. Missions are organized by export councils, chambers of commerce, provincial investment promotion agencies (PIPAs) or the DTI	South African exporters who wish to make contact with foreign buyers or investors; the group mission must be organized by a qualifying organization, export council or the DTI	Cost sharing reimbursable grant
Primary export market research: assistance provided for costs incurred in finding and entering new exporting markets	Partially compensate exporters	Cost sharing reimbursable grant

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Innovation/technology, and competitiveness		
Down Stream Aluminium Centre for Technology (DACT): provide infrastructure and access to equipment, raw material, technical expertise, and managerial assistance, to start up businesses in the aluminium casting industry; and provided mentorship and administrative management to increase the success rate of fledgling businesses, assisting them in securing sales and adhering to qualitative production standards	Entrepreneurs who have viable ideas on starting their own enterprises, provided they are investing in aluminium casting	Training provided for entrepreneurs to develop and maintain skills; entrepreneurs receive support from DACT to get funding from other institutions; DACT supports the entrepreneurs until they can survive on their own
Fund for Research into Industrial Development Growth and Equity (FRIDGE): ..	..	..
FURNTECH: globally competitive furniture production	..	..
GODISA: help South Africans to be more innovative	..	..
IDC's Venture Capital Strategic Business Unit (SBU): povide funding to entrepreneurs/SMEs to facilitate the development and commercialization of South African intellectual property into globally new/unique technology-based products	Business must be in the start-up stage Product must be new/unique from a global perspective; ownership of the intellectual property (IP) must vest and remain vested in the company invested in businesses must create/develop their own IP; IP should preferably be patentable, but if not should provide some form of sustainable competitive advantage; businesses should be viable; management teams must include people with all the required key competencies	Funding is in the form of equity (shares plus shareholder loans) of between R 1 million and R 30 million per project (first round funding limited to R 15 million) for a significant minority equity stake (between 25% and 50%)
Innovation Fund: encourage research community	..	Grant of R 1-5 million over three years
Innovation and Technology: enhance industrial development and competitiveness through technology support measures	..	..
Mpumalanga Stainless Initiative (MSI): assist emerging entrepreneurs during the start-up of their small business involving stainless steel; equip them with the necessary technical skills and technology know-how to develop viable products for commercialization; train them in business skills to successfully manage their business; and assist them with establishing their businesses and marketing their products	Emerging entrepreneurs	Provide rental space at a minimal rent per month
National Fibre, Textile, and Clothing (NFTCC): promote growth and global competitiveness	..	..
National Technology Transfer Centre (NTTC): facilitate technology transfer and diffusion to SMMEs	SMMEs	..

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Research and Development: promote research and innovation	..	Tax deduction for operating costs related to R&D of 25% of the cost of capital expenditure approved by the Council for Scientific and Industrial Research
Sector Partnership Fund (SPF): promote collaborative projects to enhance productivity and competitiveness of the manufacturing and agri-processing industries	Available to partnership of five or more organizations that puts forward a qualifying project	Cover 65% of costs of projects up to a maximum of R 1. 5 million
Support Programme for Industrial Innovation (SPII): support innovation through the Matching Scheme, the Partnership Scheme (PII), and the Product Process Development Scheme	Matching Scheme: only SMEs PII: all companies Product Process Development Scheme: small enterprises	Matching Scheme: a 50% taxable non-repayable grant up to a maximum of R 1.5 million with no payback for innovative development of new products/processes; BEE participants receive between 65% and 75% of support; depending on the BEE shareholding in the applying entity; PII: a 50% taxable grant and a payback mechanism based on levy on sales of the new product/process. Minimum grant is R 1.5 million; Product Process Development Scheme: a taxable non-repayable grant between 65% and 85% of the total qualifying costs incurred in specific development projects up to a maximum grant of R 500,000 per project
Techno-Industry Development Finance: develop and expand technology intensive business in the IT, telecom, electronic, and electrical industries	An economically viable business plan Minimum financing requirement of R 1 million	Equity, equity-related, and loan finance for: expanding techno business; new techno ventures with strong local or foreign technology partners and proven technology; and takeovers, buy-ins, and management buy-outs; interest rates are competitive and based on the prime bank overdraft rate
Technology and Human Resources for Industry Programe (THRIP): enhance the competitiveness of industry through developing skills and technology, and encouraging long-term strategic partnerships between industry, research and educational institutions, and the Government	Research groups in natural sciences, engineering, and technology within educational institutions, in collaboration with private company or consortium of companies	Industry and Government contribute to finance the research efforts providing that projects involve training of students; R 1 for every R 2 from industry, and if certain criteria are met R 1 for every R 1 from industry could be granted
Technology Linkages: keep industry well-informed about global technology development trends	..	..
Work Place Challenge: improve South Africa's competitiveness and employment creation by improving industrial performance and productivity	South African firms	..
Sector specific		
Sector (overall)		
Depreciation Allowance: investment in new and used assets	All taxable entities under South African income tax legislation	Depreciation allowed to calculate income tax
National Industrial Participation Programme: support the development of South African industry by effective government procurement	Targeted at South African industries, enterprises, and suppliers of goods and services to government/parastatals, where the imported content of such goods and services equals to or exceed US$10 million	Mandatory on all government and parastatal purchases or lease contracts (goods and services) with an imported content equal to or exceeding US$10 million

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Strategic Industrial Projects (SIP): encourage investment in Maputo Corridor, Gauteng special economic zone, and Wild Coast and Fish River	..	R 3 billion available for investors in strategic industrial projects until 2001; tax allowances of 50% to 100% of an approved investment
Tax Threshold for Small Businesses: encourage development of SMMEs	Small business corporations (SBCs) with gross income not exceeding R 14 million; all shareholders or members of the SBC must be natural persons shareholders or members of the SBC may not hold any shares or interest in equity of any other company; a SBC may not be an employment company or a personal service company	Taxed on the basis of a progressive rate system; 0% of the first R 54,200 of taxable income; 10% on taxable income in excess of R 54,200 but not exceeding R 300,000; and R 24,580 plus a rate of 28% on taxable income in excess of R 300,000; accelerated write-off allowance for depreciable assets (other than manufacturing assets) acquired on or after 1 April 2005 at 50% of cost in the year of assessment in which it was brought into use; 30% in the second year of assessment, and 20% in the third year
Agriculture		
Agro-industries Development Finance: develop and expand the agriculture, food, beverage, and aquaculture sectors	An economically viable business plan; minimum financing requirement of R 1 million	Medium-term finance in the form of loans, equity, and quasi-equity to establish permanent infrastructure in the agriculture sector and aquaculture, and new or expanding undertakings in food and beverage sector; interest rates are competitive and based on the prime bank overdraft rate
Orchards schemes: encourage job creation	Support the development of horticulture; focuses on labour-intensive activities	Discounts provided on interest rates, and more flexible repayment terms
Mining		
Entrepreneurial Mining and Beneficiation Finance: develop small and medium-sized mining and beneficiation activities and jewellery manufacturing	An economically viable business plan; minimum financing requirement of R 1 million (debt finance) and R 5 million (equity)	Medium-term finance in the form of loans, equity, and quasi-equity to establish or expand junior mining houses; acquire mining assets by HDPs; undertake mining-related activities such as contract mining; and establish or expand jewellery manufacturing activities; interest rates are competitive, risk related, and based on prime bank overdraft rate
Manufacturing		
Accelerated Depreciation Allowance: promote acquisition of new assets	Assets acquired after 1 March 2002	Allowance to write off manufacturing asset over four years: +40% for cost in first year and +20% for next three years
Assistance by Individual Primary Steel Producers: rebates determined between producer and exporter on an individual basis	..	Primary steel producers offer price rebate scheme to exporters of secondary steel products
Chemicals and allied industries: support and promote entrepreneurship, industrial development, and strategic partnership by building competitive industries and enterprises (upstream and basic chemicals; ceramic, concrete and stone products; cosmetics and detergents; fine and speciality chemicals; glass products; recycling; rubber products; and plastic products)	An economically viable business plan; for chemicals and allied industries: minimum loan of R 1 million at a prime linked interest rate; minimum equity amount of R 5 million at a minimum of 8% real after internal rate of return (IRR) tax	Shareholders expected to make 35% of total assets and 45-50% for start-ups, depending on the industry norms and risk profile

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Finance for textiles, clothing, leather, and footwear industries: develop and expand the sectors by providing finance for the creation of new or additional production capacity; setting up distribution channels; working capital, and pre- and post shipment trade finance for exports	An economically viable business plan; a financial contribution of at least 35-50% (depending on the nature of the business) by the promoters (10% to 20% for historically disadvantaged persons (HDPs)); minimum financing requirement of R 500,000	Medium-term finance in the form of loans, suspense sales, equity, and quasi-equity; interest rates are competitive, risk related, and based on the prime bank overdraft rate
Finance for the Expansion of a Manufacturing Sector: develop and expand the manufacturing sector by providing finance for the creation of new or additional capacity	An economically viable business plan; a meaningful financial contribution of at least 33% by the promoters (10% to 20% for HDPs); minimum financing requirement of R 1 million	Medium-term finance in the form of loans, suspensive sales, equity, and quasi-equity or creation of new or additional production capacity; interest rates are competitive and are based on the prime bank overdraft rate
Food, beverage, and agri-industries (horticulture primary agricultural, food processing, agro-industrial, beverage, and fishing and aquaculture)	An economically viable business plan	Shareholders expected to make 35% of total assets and 45-50% for start-ups, depending on the industry norms and risk profile
Foreign Investment Grant: assist foreign investors in investing in new manufacturing businesses by compensating them for the cost of relocating new machinery and equipment to South Africa from abroad	Any company, provided it is a registered incorporated legal entity in South Africa	Cash incentive plan; grant not exceeding R 3 million nor the actual cost of relocating, or 15% of the value of the new machinery and equipment relocated from overseas
Fund for the Committee on Secondary Manufacture: encourage the use of primary steel in the manufacture of secondary steel products for export	..	Financially supported by primary steel producers
Metal, transport, and machinery (basic iron, steel and non-ferrous fabricated metal products, plant, machinery and equipment, motor vehicles, components and accessories; and diverse transport products (e.g. boats, planes, and trains):	An economically viable business plan; shareholders financial contribution expected to make up at least 35-50% (depending on the nature of the business) and 10-20% for HDPs; minimum financing requirement of R 1 million	Medium-term finance in the form of loans, equity, and quasi-equity or creation of new or additional production capacity; interest rates are competitive and are based on the prime bank overdraft rate
Motor Industry Development Programme (MIDP)[b]: increase competitiveness and productivity	Motor vehicle assemblers, and component manufacturers and exporters	Enable local vehicle and component manufacturers to increase production; encourage rationalization of the number of models manufactured for export and complementing imports of vehicles and components; rebates are not in excess of the full rate of duty
Motor Industry Development Programme (MIDP) Productive Asset Allowance: encourage fixed capital investment and rationalization of model ranges, in particular light vehicles	Motor vehicle assemblers, and component manufacturers	Duty credit calculated at 20% of the value of expenditure on productive assets; credit against import duties and spread equally over five years
Partnership in Industrial Innovation: stimulate industrial research and innovation	..	Reimbursive grant for up to 50% of development cost of product; amount based on commercial success of product

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Public Private Partnerships (PPP): facilitate the provision of bulk industrial infrastructures in electricity generation, transmission, and distribution; telecom; transport; and bulk water and waste treatment	An economically viable business plan; every project considered on its own merits but preference given to projects that have significant social and financial impact; minimum loan of R 10 million at competitive lending rate; smaller projects with funding from the Industrial Development Corporation of at least R 1 million also considered	Equity contributions of 15% to 25% typical for such projects; all projects evaluated on economic merit with a 8% rate of return after tax considered
Wood, paper, and other industries (forestry, pulp and paper, furniture, saw milling, board production, and renewable energy industries)	An economically viable business plan; minimum loan of R 1 million; compliance with international environmental standards	Reasonable financial contribution from owners, generally 33% (of total assets) for going concerns and 45% for start-ups, depending on the industry norms and risk profiles
Services		
Location Film and TV production Incentive	Rebate available to foreign-owned qualifying productions with qualifying South African production expenditure (QSAPE) of R 12 million and above	Rebate calculated as 15% of QSAPE; maximum rebate capped at R 10 million
Franchising: traditional and non-traditional areas (e.g. fast food/restaurants; communication and IT; health and beauty; speciality stores; travel; retail; petroleum; and hardware/equipment rental)	An economically viable business plan; minimum facility amount of R 1 million	Financing for a maximum of six years; repayments tailored to suit the borrower's cash flow
Health care and education (manufacturing of medical equipment, medical schemes administration and management, medical and dental practices activities, clinics and related services, hospital services, human health services)	An economically viable business plan; minimum financing requirement is R 1 million; compliance with the international environmental standards	Shareholders/owners expected to make a significant financial contribution, generally 35% of total assets for going concerns and 45%-50% for start-ups, depending on the industry norms and risk profile
Media and motion pictures (motion pictures, broadcasting, printing, post-production, publishing, advertising, and music)	An economically viable business plan Minimum financing requirement: R 1 million	
South African Film and TV production and Co production Incentive	Rebate available to qualifying; South African production and official treaty co-productions with total production budgets of R 2.5 million and above	Rebate calculated as 35% of first R 6 million of the QSAPE; thereafter 25% for the remainder; rebate is capped at R 10 million
Financial services		
Business Linkage Challenge Fund: link businesses to ensure transfer of knowledge, technology, skills, information, and market access required for global competitiveness of particular benefit to the poor	..	On bidding basis; must have private-sector partner; projects compete on global basis for available funds; grants range from R 50,000 to R 1 million
Business Loans for Retail Finance Intermediaries (RFIs): provide finance for RFI to finance	..	Less experienced: loans between R 1 and R 10 million More experienced: loans from R 5 to R 100 million
Capacity Building Support for Retail Finance Intermediaries: provide capacity building support to new RFIs to initiate a loan portfolio and assist existing RFIs to expand their loan portfolios	To qualify, an RFI must: be legally constituted; have clearly defined SMME target markets; have sound accounting and financial systems; have sound internal organizational guidelines, policies, and procedures; have capacity to carry out current and proposed projects; and have clear and achievable short and medium term objectives	Support will be structured around the capacity needs to the RFIs; grants range from R 10,000 to R 500,000

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Financial Deepening Challenge Fund: support financial-sector capacity development	..	Cover costs of expansion of financial service products and extension of services to poor; cost-sharing grants range from R 50,000 to R 1 million
Khula Credit Guarantee: promote SMMEs and RFIs through provision of guarantees for securing bank loans	SMMEs and RFIs	Provide maximum guarantee of R 600,000 over three years for SMMEs; firm must have net asset value of at least R 2 million and meet bank's normal lending requirements
Seed Loans for Retail Finance Intermediaries (RFIs): provide initial capital to new organizations to initiate their portfolio, and to fund operational expenses over a predetermined period	To qualify an RFI must: be legally constituted; have clearly defined SMME target markets; have sound accounting and financial systems; have sound internal organizational guidelines, policies, and procedures; have capacity to carry out current and proposed projects; have clear and achievable short and medium-term objectives; and have matching funds of at least 15% of envisaged operating expenses	Amount between R 50,000 and R 20 million; seed loans converted to grants once mutually agreed performance criteria are met
Wholesale Finance: wholesale funding to intermediaries for on-lending to individual entrepreneurs	Franchises and other applicants must have: a good record of business development; a strong financial position; developed/acquired a training and mentorship programme; require financing for on-lending to at least ten projects (at least 60% HDPs); and minimum financing requirement of R 1 million	Medium-term loan (max. six years); interest rates are competitive, risk related, and based on the prime bank overdraft rate
Transport		
Transport promotion: promote entrepreneurship, facilitate transport links and access to financial services in transport services (road freight, logistic, maritime, aviation, and bus sector)	An economically viable business plan; minimum loan of R 1 million; minimum of R 500,000 for bridging facilities; and R 5 million for equity-related transactions	..
Tourism		
International Tourism Marketing Assistance Scheme: promote the marketing of the South African tourism industry	..	Partial compensation of businesses for predetermined costs incurred in promotion of products related to tourism
Tourism Development Finance: develop and expand the tourism industry by providing finance for commercial projects in the medium to large sector of the tourism industry; increase participation in projects related to the 2010 Soccer World Cup	An economically viable business plan with adequate financial support from shareholders; minimum financing requirement of R 1 million	Medium-term finance in the form of loans, equity, and quasi-equity for the creation or upgrading and renovation of tourist facilities (including hotels, and conference and convention centres); interest rates are competitive, risk related, and are based on the prime bank overdraft rate
Tourism Schemes: develop tourism, in particular eco-tourism	..	Capital for development of new or existing tourism facilities

Table AIII.4 (cont'd)

Scheme: objective	Criteria	Type of incentive
Tourism Support Programme: offer a grant up to 30% of an investment to establish or expand existing operations in South Africa	Applicant must be a registered legal entity in South Africa in terms of the Companies Act; available to local- and foreign-owned enterprises, and granted for qualifying investment costs of furniture, equipment, vehicles, land, and buildings of up to R 200 million	Maximum: R 30 million

.. Not available.

a Effective from 6 December 2006 to 31 March 2011.
b Will be replaced by the Automotive Production and Development Programme (APDP) from 2013.

Source: Department of Trade and Industry online information, "Offerings: Incentives and Development Finance". Viewed at: http://www.dti.gov.za [20 February 2009]; Department of Trade and Industry online information, "Offerings: Information, Advice, and Facilitation: National Industrial Participation Programme". Viewed at: http://www.thedti.gov.za/offerings/offering.asp?offeringid=127 [6 March 2009]; Mbendi Information Service online information, "South Africa: Incentives". Viewed at: http://www.mbendi.com/land/af/sa/p0027.htm [20 February 2009]; and Industrial Development Corporation online information. Available at: http://www.idc.co.za/default.asp [29 January 2009]; and South Africa Info online information, "Spatial Development Initiatives". Viewed at: http://www.southafrica.info/doing_business/economy/development/sdi.htm [24 February 2009]; DATC online information, "The Programme". Viewed at: http://www.dact.co.za/programme.asp; TradeInvest South Africa online information, "Foreign Investment Grant (FIG)". Viewed at: http://www.tradeinvestsa.co.za/incentives/983081.htm [6 March 2009]; TradeInvest South Africa online information, "Film Industry Rebate Scheme". Viewed at: http://www.tradeinvestsa.co.za/incentives/983076.htm [6 March 2009]. WTO (2003), *Trade Policy Review: SACU*, Geneva; Department of Trade and Industry online information, "Regulatory Environment: Industrial Development Zones". Viewed at: http://www.dti.gov.za/investing/regulatoryenvironment.htm [4 March 2009]; Department of Trade and Industry online information, "Export Marketing and Investment Assistance Scheme". Viewed at: http://www.dti.gov.za/offerings/offering.asp?offeringid=204 [20 February 2009]; and information provided by the South African authorities.