

# Services Trade in Southern Africa

A Literature Survey  
and Overview

by Nkululeko Khumalo

**The South African Institute of International Affairs**



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SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

Published in May 2006 by

The South African Institute of International Affairs  
Jan Smuts House, East Campus  
University of the Witwatersrand  
Johannesburg, South Africa

P O Box 31596, Braamfontein 2017

[www.saiia.org.za](http://www.saiia.org.za)

[info@saiia.org.za](mailto:info@saiia.org.za)

Tel +27 11 339-2021

Fax +27 11 339-2154

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ISBN 1-919969-55-1

Edited and produced by Acumen Publishing Solutions, Johannesburg  
Printed by Lesedi Litho Printers, Pretoria

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## **ABOUT THE AUTHOR**

Nkululeko Khumalo holds an LLM (*cum laude*) in international trade and investment from the University of the Western Cape, in collaboration with Amsterdam Law School in the Netherlands. He specialises in trade facilitation, international trade and investment laws, trade negotiations, and dispute settlement, and his research interests include multilateral and regional trade policy-making; the status of developing countries in multilateral institutions such as the WTO, IMF, and World Bank; and trade liberalisation, regional integration, and development issues. He is Senior Researcher: Trade Policy at SAIIA.

## **ABOUT THE FUNDERS**

SAIIA's Development through Trade programme is funded by SIDA and AUSAID.

## EXECUTIVE SUMMARY

Services currently comprise more than 20% of world trade, and account for an estimated two-thirds of the world's economic activity and a significant share of global employment. Trade in services is expanding rapidly, and by 2050 world services exports are expected to exceed merchandise exports.

Due to the growing importance of services trade, a multilateral framework for liberalisation was negotiated by the Contracting Parties to the General Agreement on Tariffs and Trade during the Uruguay round of negotiations of the World Trade Organisation (WTO). This resulted in the creation of the General Agreement on Trade in Services. WTO members then began negotiations aimed at mutually beneficial liberalisation of the global services market in January 2000.

Undoubtedly, services are a key driver of economic growth, and fundamentally influence the trade capacity of countries. Core infrastructure services (or producer services) such as transport and communications, for example, can either facilitate or hamper trade and production in other economic sectors. As such, efficiency in the service sector of the Southern African Development Community (SADC) must be pursued if the region is to strengthen its domestic production capacity and international competitiveness.

It is heartening to note that a number of developing countries are already significant global services exporters. And promoting trade in services seems to offer developing countries in general and southern African countries in particular an opportunity to diversify trade, create jobs, and boost overall economic development.

SADC member states have long realised the importance of deeper economic integration as a means of achieving economic growth and human development in the region. In 1996 they signed a trade protocol that came into force in January 2000. Although it provides for the liberalisation of services, it does not impose any specific obligations on members. Its major focus is tariff liberalisation, or the liberalisation of trade in goods.

However, notwithstanding the minimal reference to services in the trade protocol, SADC countries have undertaken integration efforts that are having a considerable impact on services trade across the region. These efforts mainly cover attempts to co-ordinate their activities in key services sectors such as

telecommunications, transport, finance, and tourism, but not trade liberalisation *per se*.

Inadequacies in key services across the SADC region have been identified as seriously constraining its economic growth and competitiveness in international trade. Yet SADC countries ought to be commended for their co-operation in reforming and developing their services sectors, as well as their efforts thus far to harmonise their policies in this area. These initiatives must be strengthened, and co-operation should lead to the actual liberalisation of services trade at a regional level.

This study shows that the following should be done to strengthen services trade in specific sectors:

- **Transport services:** SADC members should step up their efforts to improve transport services in all subsectors (air, maritime, rail, and road). They should focus on improving the efficacy of transport corridors, and enhancing the participation of the private sector by dismantling monopolies in air travel, ports, and rail transport. A case can also be made for further liberalising road freight services by abolishing stringent cabotage laws.
- **Energy services:** Besides increasing the pace of restructuring state-owned power utilities, SADC members should ensure that pricing systems are cost-reflective, in order to attract private investments and extend access to electricity to all consumers.
- **Telecommunication services:** SADC members should give more attention to liberalising this sector, particularly strengthening the regulatory framework once privatisation has taken place in order to prevent large companies from abusing their monopoly positions and blocking benefits from reaching the consumers – thereby stalling economic growth and export competitiveness.
- **Financial services:** These sectors in SADC member states are generally open. Further liberalisation must be preceded by macroeconomic stabilisation, and must be accompanied by a strong regulatory regime. Such liberalisation should also be used to lock in reforms.
- **Tourism services:** SADC should maximise its international competitiveness as a tourist destination by abolishing remaining restrictions relating mainly to immigration policies and visa issues. Specific attention must be given to promoting the intra-SADC movement of visitors. In addition, at the multilateral level these countries should lobby for the removal of anti-competitive

practices in tourist-originating countries and for access to global distribution and computer reservation systems.

- **Mode 4 services:** The free movement of people within SADC must be enhanced. The political will seems to exist to free the movement of people in the region. Member states are therefore encouraged to ratify the recently signed Protocol on the Facilitation of the Movement of Persons in order to increase business mobility, create greater trade opportunities, and achieve economic growth.

It must be recognised that the development of competitive service industries require financial, human, and technological resources that are often not available in African countries, where markets are too small, and financial and human resources too limited. It therefore becomes crucial for these countries to introduce or strengthen policies that take into account the complementary role that market forces and private sector initiative can play in the development of services. This may require the opening of domestic markets to foreign competition through trade and investment, in order to increase both the quality and quantity of available services.





## INTRODUCTION

Services encompass a wide range of economic and social activities, including communications, transport, finance, energy, distribution, construction, and business (intermediate services), and tourism, recreation, education, health, and environmental (final demand services). All these have a crucial role to play in the economic development of the SADC region, as inputs into production processes, sectors in which individual countries have export interests, or both.

Although services represent the most vibrant and dynamic area of global trade, research and information are lacking on how SADC countries could harness them for economic and social development. This report briefly reviews the current dynamics in the services sector and services trade in southern Africa, and links these dynamics to the continuing General Agreement on Trade in Services (GATS) negotiations under the auspices of the World Trade Organization (WTO).

It draws on existing studies<sup>1</sup> on services trade in SADC with the aim of contributing to an understanding of this sector, and laying the platform for subsequent SAIIA work in this area. It pays particular attention to core infrastructure services (transport, energy, telecommunications, and financial services), tourism services, and easing the movement of people involved in service provision in the region.

While all services sectors are important, and deserve attention, this report focuses on core infrastructure services because they create an enabling environment in which other services develop and/or thrive. The tourism sector has been added because it is a significant foreign exchange earner for most SADC countries. Lastly, the movement of people involved in service provision in the region is investigated because this is a cross-cutting issue that has a significant

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1 This report draws primarily on the following studies: Hansohm D, J Hodge and M Ndulo, 'State of trade in services and service trade reform in Southern Africa', *NEPRU Research Report* no 31. Windhoek: Namibian Economic Policy Research Unit (NEPRU), May 2005, <http://www.nepru.org.na/index.php?id=126>; Kritzinger-van Niekerk L and P Moreira, *Regional Integration in Southern Africa: Overview of recent developments*. Washington: World Bank, December 2002, <http://www.sarpn.org.za/documents/d0000329/RegionalIntegration.pdf>; The Coordinated African Programme of Assistance on Services (CAPAS), *National Development of Services and Trade in Services in Africa*, [www.archipress.org/capas/phase4.htm](http://www.archipress.org/capas/phase4.htm).

effect on the efficiency or otherwise of the four core infrastructure services sectors as well as the tourism industry.

The report briefly unpacks services trade liberalisation, and relates this to GATS. It then examines regional reforms in each of the six areas identified above – that is, reforms resulting from regional co-operation initiatives – as well as remaining constraints, and how they could be addressed. The final section recaptures the main findings.

## THE ECONOMICS OF SERVICES

Services currently comprise more than 20% of world trade, and account for an estimated two-thirds of the world's economic activity and a significant share of global employment. In 2001 the value of services trade, estimated from balance of payments statistics, was reportedly greater than \$2 trillion.<sup>2</sup>

As many economies become services-oriented, this area of trade is expanding rapidly, and by 2050 world services exports are expected to exceed merchandise exports. The contribution of the services sector to global gross domestic product (GDP) is already well above 60%, while more than half of annual global foreign direct investment (FDI) flows are in services.<sup>3</sup>

Services are a key driver of economic growth, and fundamentally influence (or determine) the trade capacity of countries. For example, core infrastructure services (or producer services) such as transport and communications can either facilitate or hamper trade and production in other economic sectors. It therefore follows that efficiency in SADC's services sector must be pursued if the region is to strengthen its domestic production capacity and international competitiveness. As a CAPAS study notes:<sup>4</sup>

... because of deficiencies in the production of many services, especially producer services, most African countries either are unable to provide

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2 This value is regarded as significantly understated, because much trade in services takes place through an established presence, ie via FDI, and thus generates local activity and added value that are not captured in balance of payments statistics.

3 See Sauvant K, 'Services: the new frontier'. *FDI Magazine*, 3 December 2003, [http://www.fdimagazine.com/news/fullstory.php/aid/481/Services:\\_the\\_new\\_frontier.html](http://www.fdimagazine.com/news/fullstory.php/aid/481/Services:_the_new_frontier.html).

4 See CAPAS, *op. cit.*

domestically the quantity or quality of producer services demanded by local producers and exporters (undermining their competitiveness), or are forced to import a substantial amount of such services (exacerbating balance of payments difficulties), or both. In short, services have a major impact on the trade efficiency and trade balance of most African countries and on the competitiveness of African producers, both domestically and internationally.

However, the development of competitive service industries require financial, human, and technological resources that are often not available in African countries, where markets are too small, and financial and human resources too limited. It therefore becomes crucial for these countries to introduce or strengthen policies that take into account the complementary role that market forces and private sector initiative can play in the development of services. This may require the opening of domestic markets to foreign competition through trade and investment, in order to increase both the quality and quantity of available services. As such, services trade liberalisation should not be viewed only from a narrow mercantilist standpoint.

Needless to say, this is not an area in which developed countries have a monopoly, as many developing countries have demonstrated that they can speed up their economic growth by providing competitive services. Over the past decade, services exports by developing countries reportedly grew by 9%, exceeding the 5.5% growth achieved by developed countries; the figure for the 49 least developed countries (LDCs) was 6.3%. About 25 developing countries depend on services exports for more than half their total export revenues. As such, promoting trade in services offers developing countries in general and southern African countries in particular an opportunity to diversify trade, create jobs, and boost overall economic development.<sup>5</sup>

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5 See Walters P, 'Why services matter for development: a path to growth'. *International Trade Forum*, Issue 2/2005, <http://www.tradeforum.org/news/fullstory.php/aid/876>.

## THE MULTILATERAL FRAMEWORK FOR SERVICES TRADE LIBERALISATION

As in goods trade, sovereign states often use various policy instruments to restrict the access of foreign services and service suppliers to their domestic markets. In some cases, competition by foreign suppliers is totally prohibited, while in others foreign suppliers may be required to pay an 'entry fee', or heed market share restrictions. In other words, barriers to international trade in services are often similar to those used in respect of goods: subsidies, tariffs, taxes, quotas, and technical standards.

Yet there are differences between goods and services trade restrictions. For example, border measures in general and ad valorem tariffs in particular are often difficult to apply to trade in services since customs agents in many instances are not able to identify the service as it goes through the national frontier. Only service suppliers and/or consumers can be observed as they pass through the frontier. Moreover, the value (or volume) of any service transactions that occur can not be known until after they have been produced/consumed, and are therefore not known to customs and immigration authorities.<sup>6</sup>

The liberalisation of trade in services therefore entails measures that expand market access to foreign service providers and/or diminish discrimination against them vis-à-vis domestic suppliers. Moreover, domestic market regulations in the services sector often act as indirect barriers to trade, and regulatory reform is usually a necessary complement to trade liberalisation.

Although most countries had already liberalised certain sectors of their services markets unilaterally and at a regional level, the GATT<sup>7</sup> Contracting Parties saw the need to come up with a multilateral framework for liberalisation during the Uruguay Round of negotiations. These negotiations resulted in the creation of GATS, which came into force on 1 January 1995.

Subsequently, WTO members began negotiations in January 2000 aimed at the progressive liberalisation of the global services market. GATS provides the

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6 See Braga C and B Hoekman, 'Protection and trade in services', *Policy Research Working Paper* no 1747. Washington: World Bank, 1997, <http://www.worldbank.org/research/trade/pdf/wp1747.pdf>.

7 General Agreement on Tariffs and Trade.

rules and regulations governing international trade in services as well as the schedules of commitments by individual countries to allow external access to their domestic services markets. It embraces 12 services sectors: business, communication, construction and related engineering, education, distribution, environmental, financial, health, and social services; tourism- and travel-related services; recreational, cultural, and sporting services; transport; and other services not included elsewhere.

GATS not only disciplines measures by central governments, but also those adopted at sub-central levels, as well as measures by non-government organisations with delegated powers from government affecting trade in services. The range of transactions covered by GATS is broad, and reflects the need in many service sectors for a direct interaction between supplier and consumer.<sup>8</sup> It covers all services except those 'supplied in the exercise of government authority', and to qualify for this exclusion such services must be supplied 'neither on a commercial basis, nor in competition with one or more suppliers'.<sup>9</sup>

## Modes of supply

Services are supplied or traded in various ways, and GATS (Article 1) divides them into four broad categories, or 'modes' of supply:

- *Cross-border* (mode 1) covers services supplied from the territory of one WTO member in the territory of another. In practice, it allows a service supplier resident in a WTO member country to supply services in another; for example, banking services may be supplied via cross-border telecommunications in any WTO member state. Call centres in India are successfully providing services to developed countries via this mode.
- *Consumption abroad* (Mode 2) covers services supplied in one member state to consumers from another. Examples include tourism or education services in a given country, consumed by visitors from another.
- *Commercial presence* (Mode 3) covers services supplied by any business or

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8 WTO Secretariat, 'GATS, Mode 4 and the pattern of commitments: background information', Geneva, 2002, [http://www.wto.org/English/tratop\\_e/serv\\_e/symp\\_apr\\_02\\_carzaniga\\_e.doc](http://www.wto.org/English/tratop_e/serv_e/symp_apr_02_carzaniga_e.doc).

9 GATS, Article 1.3, ii (b) (c).

professional establishment in one member state in the territory of another. This mode allows a company to set up a branch or a subsidiary in a foreign country. This can take the form of a company, joint venture, or partnership, and as such is best regarded as investment.

- *The presence of natural persons* (Mode 4) deals with the temporary movement of natural persons normally living in a member state to the territory of another as service suppliers or employees of service suppliers. For example, this mode allows South African doctors, nurses, or teachers to supply their services in developed countries. This movement should be temporary, and service suppliers are supposed to return to their home countries after completing a particular mission.

Mode 3 – commercial presence – is particularly important in respect of core infrastructure services because of its relationship with FDI.

## The measurement of liberalisation

GATS has two sets of rules. First, there are general rules that impose obligations on all countries in respect of measures affecting trade in services. A good example of this is Article II that requires each member to ‘accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country’.<sup>10</sup> Second, there is a set of sector-specific commitments (negotiations revolve around these) that determines the extent of liberalisation undertaken by each member.

The GATS framework is built around two principles, namely market access (Article XVI), and national treatment (Article XVII). Market access deals with the extent to which foreign services suppliers have access to a country’s markets, while national treatment requires that foreign suppliers (once inside a member’s territory) be treated in the same way as locals, and be subject to the same regulations. Assessments of a given country’s level of liberalisation in a particular services sector are based on these two principles.

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<sup>10</sup> GATS Article V provides for a notable exception to this principle as it allows members of a regional trade agreement to give each other preferential treatment if the agreement provides substantial sectoral coverage, and substantially eliminates all discrimination.

*Market access*

Six specific limitations are proscribed under the market access provision, but a country is allowed to maintain a limitation provided it inscribes this in its schedule of commitments. The prohibited limitations are:

- limitations on the number of suppliers;
- limitations on the total value of service transactions or assets;
- limitations on the number of service operations, or the total quantity of service output;
- limitations on the total number of natural persons who may be employed;
- measures that restrict or require specific types of legal entity or joint venture; and
- limitations on the participation of foreign capital.

*National treatment*

As in market access, a country may provide for some restrictions under its national treatment obligations by entering them in its commitment schedule. Restrictions on national treatment sometimes take the form of regulations providing for less favourable access to essential facilities such as ports and communications infrastructure to foreign service providers than to their domestic counterparts.

Therefore, each WTO member's specific commitments can be seen as the outcome of a two-step decision. First, the member decides which service sectors will be subject to the market access and national treatment disciplines. Second, it decides which measures violating market access and/or national treatment measures will be kept in place for that sector.<sup>11</sup>

**Negotiating methods**

GATS follows a 'positive list' approach in terms of which countries choose the sectors in which they want to make commitments. This approach differs from the 'negative list' approach adopted under many regional and bilateral free trade agreements (FTAs), in terms of which countries are required to first make

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<sup>11</sup> Mattoo A, 'Trade in services: economics and law'. Mimeo, 2000.



across-the-board commitments, and then qualify them with restrictions or exemptions in certain sectors.<sup>12</sup> The positive list approach used during the Uruguay Round is very flexible, and generally results in very slow liberalisation, with countries mainly making commitments in areas that are already liberalised, thus virtually maintaining the status quo.

Negotiations now proceed on the basis of bilateral offers and requests between countries. This method has proved to be very cumbersome and resource-intensive. During the current Doha Development Round, a number of countries have declared their dissatisfaction with this approach and are calling for a 'benchmarking' system in terms of which members will be required to make commitments in a minimum number of sectors. This is meant to cut down bureaucratic delays, and speed up the process of liberalisation in the services sector. This proposal is opposed by many developing countries which see it as potentially eroding their policy space and undermining the 'spirit' of GATS. It is thus unlikely to see the light of day; yet, for the sake of progress, a compromise solution in terms of which those countries wanting the new system will be allowed to adopt it may be necessary. However, this is unlikely to happen during the Doha Round.

## SERVICES TRADE LIBERALISATION IN SADC

SADC member states have long realised the importance of deeper economic integration as a means of achieving economic growth and human development in the region. In 1996 these countries signed a trade protocol that came into force in January 2000. Although it provides for the liberalisation of services, it does not impose any specific obligations on members. Its major focus is tariff liberalisation, or the liberalisation of trade in goods. Article 23 of the protocol merely states that:<sup>13</sup>

1. Member States recognize the importance of trade in services for the development of the economies of SADC countries.

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12 Bhatnagar P and C Manning, 'Regional arrangements for mode 4 in the services trade: lessons from the ASEAN experience'. *World Trade Review*, 4:2, July 2005.

13 SADC Trade Protocol, Part Six, Article 23, <http://www.sadcstan.co.za/Secure/downloads/protocol.pdf>.

2. Member States shall adopt policies and implement measures in accordance with their obligations in terms of the WTO's General Agreement on Trade in Services (GATS), with a view to liberalizing their services sector within the Community.

Therefore, apart from this formal recognition of its strategic importance, the focus on services trade liberalisation in the region is still insufficient. However, notwithstanding the minimal reference to services in the Trade Protocol, SADC countries have undertaken integration efforts that are having a considerable impact on services trade across the region. These efforts mainly cover attempts to co-ordinate their activities in key services sectors such as telecommunications, transport, finance, and tourism, but not trade liberalisation *per se*.

We will now examine services trade in SADC in each of the six areas under review, by focusing both on policy and on what is happening on the ground.

## Transport services

The importance of adequate transport infrastructure services cannot be overemphasised. In SADC, inadequate transport and transit services (border facilities, rail, harbours, roads, and so on) constitute a serious obstacle to intra-regional trade, and reduce the region's international competitiveness. Transport costs, for example, are currently estimated at about 30%–40% of the total value of goods sold within the subregion, and represent the main constraint on general competitiveness.<sup>14</sup> Under a broad SADC co-operation arrangement, transport falls under the Infrastructure and Services core area and the Transport, Communications and Meteorology Protocol in particular. We will now assess road, rail, air, and maritime transport in turn.

### *Air transport*

Air transport covers freight aircraft repair and maintenance services, computer reservation services, and the selling and marketing of air transport services (soft rights to which GATS rules are applicable). It does not cover services directly related to the exercise of traffic rights; these also fall outside the scope of GATS.

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14 SADC, *Trade, Industry and Investment Review 2003*, [http://www.sarpn.org.za/documents/d0000448/P400\\_SADC\\_Investment.pdf](http://www.sarpn.org.za/documents/d0000448/P400_SADC_Investment.pdf).

As regards SADC integration initiatives, air transport is covered by an article on civil aviation in the Protocol on Transport, Communications and Meteorology. This article is aimed at fostering the competitiveness of regional air transport services through the provision of safe, reliable, and efficient services which conform to International Civil Aviation Organization standards and recommended practices. Accordingly, SADC countries are adopting measures to create a favourable climate for better airline management, including joint ventures and – more importantly – a regional open skies policy. At this point only SA and Zimbabwe have a bilateral open skies agreement, while a number of SADC countries have open skies agreements with third parties (mainly first-world countries). An open skies policy would ensure unlimited access to the regional market with regard to market access, routes, carrying capacity, and prices for member countries. Given that regional airlines, with the notable exception of SA, are scarcely able to service domestic let alone international markets, this could substantially boost regional air traffic, with attendant economic benefits.<sup>15</sup>

Many SADC member countries have made large strides in opening up their domestic airline markets to increased private sector participation, with some even commercialising their on-ground airport services with the goal of privatising them. However, progress on actual privatisation has been very slow thus far, with only a handful of countries privatising their airport services and national carriers. This subsector is still heavily dominated by state-owned enterprises, which carry about 78% of the air passengers and 98% of the air cargo in the region.<sup>16</sup>

### *Maritime transport*

Maritime transport remains the main mode of transporting goods internationally.<sup>17</sup> It encompasses all forms of transport by sea, intermodal links, and inland ports. Most SADC countries are landlocked, the exceptions being Angola, Namibia, SA, Tanzania, Mozambique, and Mauritius. These countries rely on

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15 See Richman A and C Lyle, *The Economic Benefits of Liberalising Regional Air Transport – A Review of Global Experience*. Johannesburg: ComMark Trust, November 2005.

16 See Hansohm D *et al.*, *op. cit.*, 66.

17 *Ibid.*, 67.

their neighbours' ports and other maritime services for the bulk of their exports and imports. Maritime transport is covered by chapter 8 of the SADC Protocol on Transport, Communications and Meteorology, and is seen as an area of strategic importance to regional economic growth. Co-operation in this area is aimed at, inter alia, developing and implementing harmonised international and regional transport policies in respect of the high seas and inland waterways. Significant progress has been made. For instance, the Mozambique-based Southern African Transport and Communications Commission (SATCC) currently co-ordinates the facilities of 12 ports in southern Africa, and is also upgrading and rehabilitating ports in Angola and Mozambique.

While maritime transport services are generally regarded as sufficient to meet the region's medium-term needs, the efficiency of this sector is constrained by limited privatisation and a limited commercial presence. Reported hurdles facing maritime services consumers in SADC include poor rail to road interfaces, inadequate shunting locomotives, insufficient cargo handling equipment, the absence of reliable shipper information, and port congestion. The net effects of these obstacles are high shipping costs and excessive delays. For example, at one stage in 2003 the port of Durban (the busiest port in the region, which handles large volumes of regional goods) was so congested that ships had to wait for up to 10 days to be loaded and offloaded, with significant cost implications for traders.<sup>18</sup>

### *Rail transport*

Rail transport remains a strategic subsector, especially in respect of the overland movement of bulky goods. Efficient and cost-effective rail transport services can contribute to increased regional trade and international competitiveness. Such services include passenger and freight transport, pushing and towing services, as well as the maintenance and repair of rail transport equipment and support for rental transport services.

Due to decades of neglect, and the inadequate maintenance of railway infrastructure, these services are bad, inefficient, unreliable, and expensive.

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18 See *SADC Barometer*, From potholes to prosperity, Issue 3, October 2003, [http://saiaa.org.za/images/upload/SADC\\_Oct\\_03.pdf](http://saiaa.org.za/images/upload/SADC_Oct_03.pdf).

Rail costs in this region are said to be about five times higher than those in developed countries. Besides increasing the burden on other transport sectors, notably road transport (rail has lost much of its freight and passenger traffic to road transport), this trend has increased the costs of merchandise and services trade, thereby constraining the region's economic competitiveness.

This subsector needs to be fundamentally reformed, and made more efficient, reliable, and cost-effective. SADC member states realise the importance of reform in this sector, and commendable efforts have been made via SATCC, including the establishment of the Southern African Railway Association, aimed at improving rail services. Since most challenges faced by this subsector emanate from a lack of investment and maintenance, current reform measures are aimed at attracting private sector participation through the concessioning of railways, encouraging public-private partnerships, and improving the regulatory environment. SADC's model Investment in Transport Act which outlines some necessary reform measures, including a national regulatory framework, is clearly a step in the right direction.

Since the sector is dominated by state-owned railway operators, efforts to increase private sector involvement should be stepped up. Co-operation on and the liberalisation of these services at a regional level would help to speed up the realisation of efficiency targets.

### *Road transport*

Although there are significant differences among and within SADC member states, studies suggest that, while road transport infrastructure and services are relatively developed, they are still inadequate to meet the region's developmental needs.<sup>19</sup> Services provided in this subsector include passenger and freight transport, the rental of commercial vehicles, the maintenance and repair of road transport equipment, and other supporting services.

According to Hansohm et al, road transport services in SADC member states are generally liberalised, with a variety of operators (big and small) competing in domestic markets. This is the case in respect of both freight and passenger services. However, cross-border transport services are still significantly restricted, thus constraining the growth of regional trade. These constraints

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<sup>19</sup> See Hansohm D *et al.*, *op. cit.*, 76.

include different border permits (type, duration, and fees charged) across countries, regional traffic facilitation bottlenecks, and differences in border administrative requirements. Traders also identify stringent cabotage laws as a major barrier to efficient transport services in the region.

These laws restrict the operations of transport companies and distort the market for transport services by preventing transporters operating outside the country in which they are registered from picking up a load en route to a third country. For example, a vehicle registered in Zambia may not pick up a load in Zimbabwe en route to South Africa.

Under the auspices of SATCC, a number of reforms are under way, and the SADC Transport Protocol has encouraged gradual liberalisation in this subsector over the years. These reforms are meant to increase the participation of the private sector in both road infrastructure and management, and to attract investment in this subsector. Among other things, the SADC Investment in Transport Act has led to a number of countries establishing autonomous road agencies and road funds.

A lack of statistics on road transport services in general (available statistics cover road transport infrastructure only) and the cross-border movement of freight and passengers in the region limits an understanding of the actual performance of this subsector.

In a bid to improve transport in the region, SADC countries have identified a number of development corridors aimed at creating integrated production, transport, and development systems along existing railways and roads (see figure 1). Two infrastructure development initiatives – the Trans-Kalahari corridor linking SA, Botswana, and Namibia, and the Maputo corridor linking SA and Mozambique – are relatively successful.<sup>20</sup>

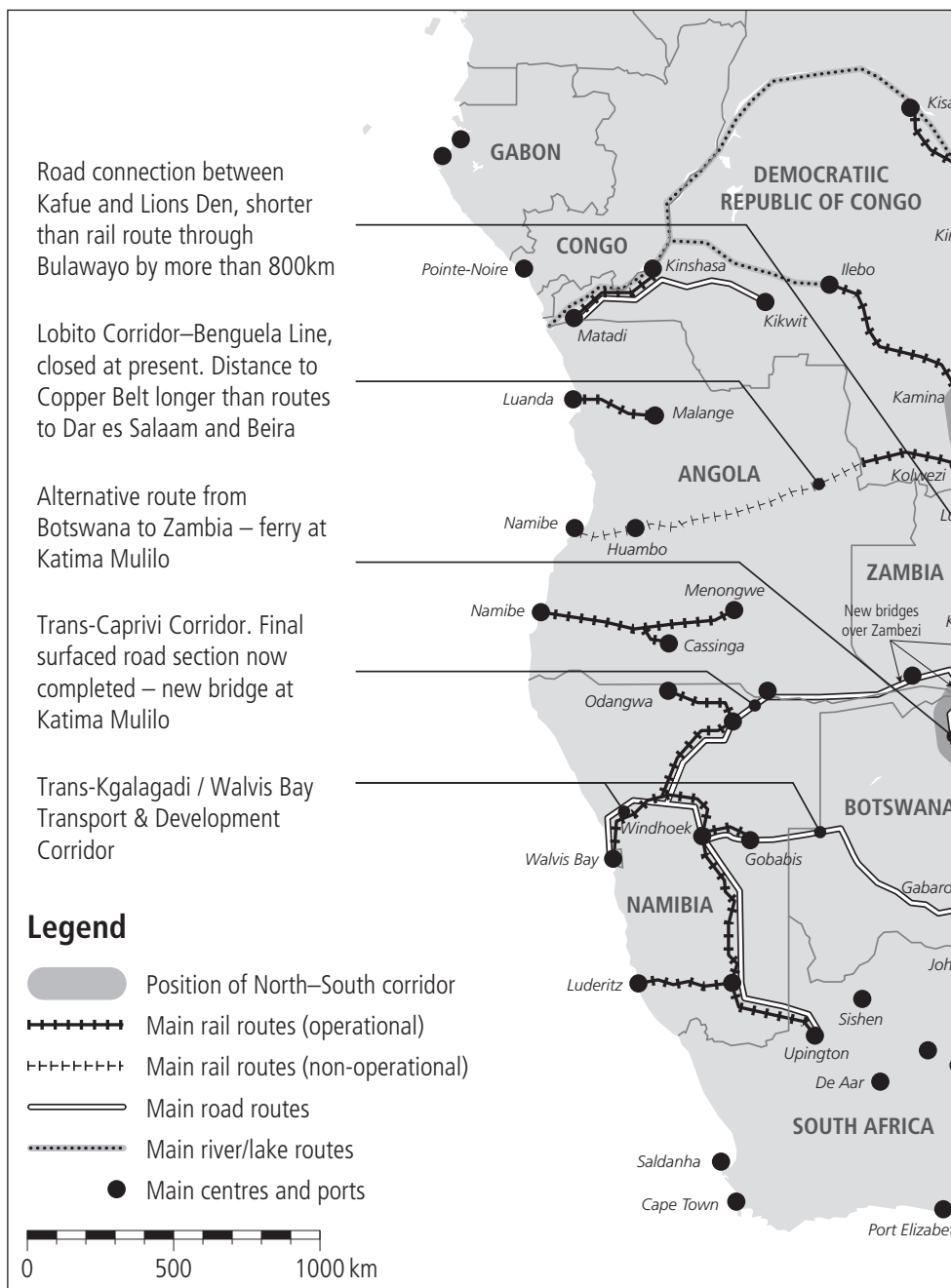
The active involvement of the private sector in these transport corridors is essential for their success. Thus, against the backdrop of poor transport services across the region, the *SADC Barometer*<sup>21</sup> has asserted that '[t]he privatization of transport systems can cure many of the ills of bad management and poor maintenance. But in many SADC countries privatization processes can take between

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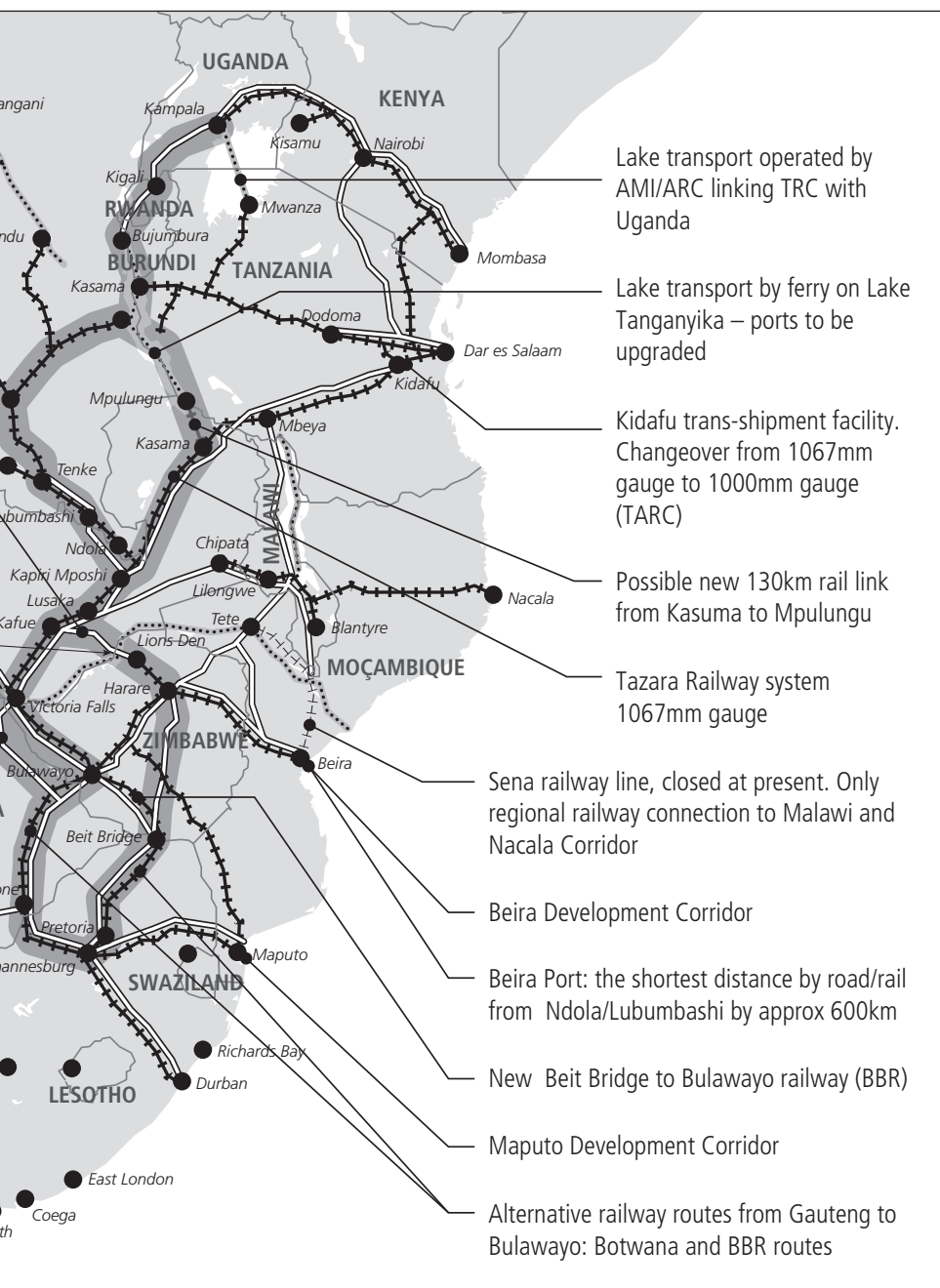
20 Although these two initiatives were also encouraged at the SADC level, their success can be attributed to the co-operation, vision, and political will of the states that signed them.

21 *SADC Barometer*, op. cit., 4.

**Figure 1: SADC regional transport corridors and ports**



Source: SADC Barometer, Issue no 3, October 2003





10-15 years to finalise.’ These delays are helping to deter potential investors, as companies may lose up to 6% of their net value every year.<sup>22</sup>

Privatisation alone is not sufficient to successfully reform this subsector. This must be complemented by a strong regulatory framework aimed at curbing anti-competitive and monopolistic practices. Yet most of the literature suggests that, besides greater co-operation on infrastructure development, the liberalisation of the regional transport market is desirable.

### Energy services

The SADC region is endowed with significant reserves of coal, petroleum, and natural gas. The optimal utilisation of these resources is hampered by a shortage of equipment, the inability of regional energy utilities to meet demand, and inefficient tariff and pricing regulations. Electricity, for example, is generated mainly from thermal or hydroelectric resources (there is one nuclear facility, in SA). In some cases, even where energy is available, high costs and unreliability create an uncompetitive business climate. Unsurprisingly, only about 22% of SADC’s population have access to electricity; the rest depend on biofuel (wood and charcoal) to meet their energy needs.

In a bid to tackle the energy challenges in the region, and foster co-operation in this sector, SADC countries signed the Energy Protocol in 1996, which entered into force in 1998. The objectives of the protocol include co-operation on developing and utilising energy, and pooling energy in order to ensure the security and reliability of energy supply in the most efficient and cost-effective manner.

A number of reforms (mainly targeting electricity generation and trade) have been introduced at a national and regional level, aimed at reducing inefficiencies and technical weaknesses (especially in distribution), and improving the generally poor financial performance of electricity suppliers. These reforms are also aimed at attracting private investment, and increasing consumers’ access to electricity. However, the restructuring process has been disappointingly slow. As table 1 shows, by 2001 no SADC member state had privatised state-owned electricity assets. The reform efforts have also been undermined

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<sup>22</sup> *Ibid.*

by a lack of regulatory bodies in almost all SADC countries (except for SA and Zambia). Furthermore, only Mozambique and Zimbabwe have, to a certain extent, independent power producers (IPP), namely Hidroelectrica de Cahora Bassa (HCB) and the Zimbabwe Electricity Supply Authority (ZESA).

**Table 1: The state of electricity reform in SADC member states, 2001**

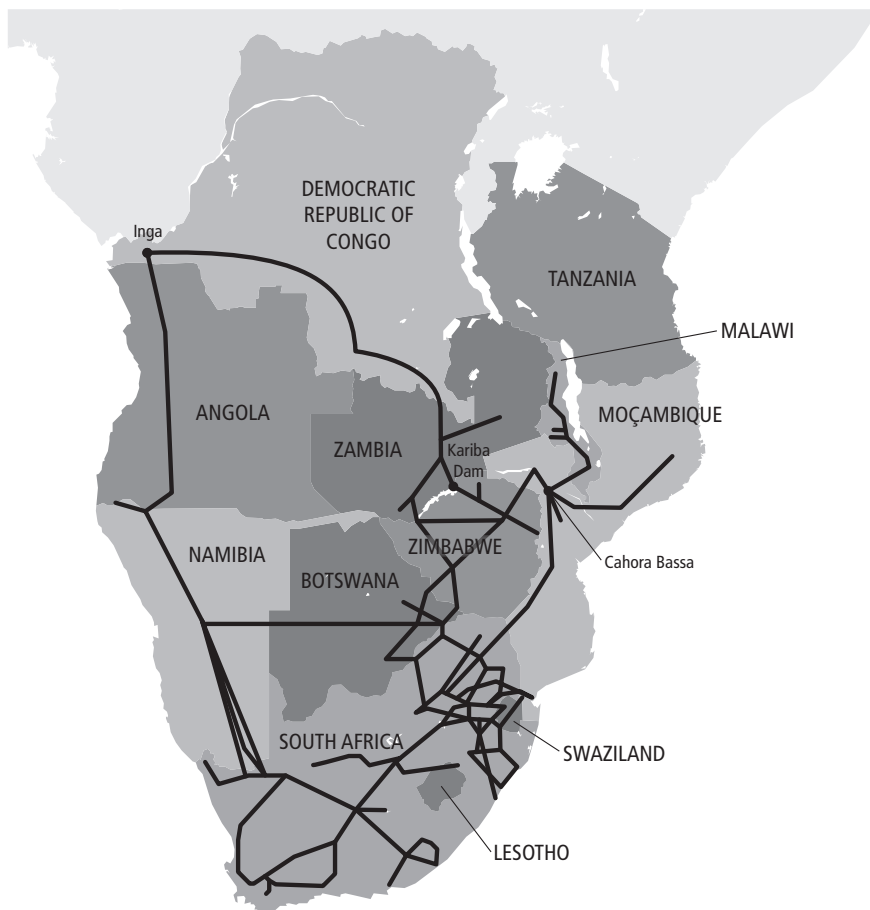
Country	Average electricity price, US cents/kWh	Private Power IPPs	Privatisation of assets	Restructuring	Regulatory body	Inter-connects
Angola		No	No	No	No	No
Botswana	15	No	No	No		Yes
Lesotho			No		No	Yes
Malawi	4.6	No	No	In progress	Quasi	No
Mozambique	5.0	Yes	No	No	No	No
Namibia	2.9	No	No	In progress	In progress	Yes
SA	2.0	No	No	In progress	Yes	Yes
Swaziland			No		No	Yes
Tanzania	10		No		No	No
Zambia	3	Yes	Some	Yes	Yes	Yes
Zimbabwe	3	Quasi	No	No	Yes	No

*Source: Kritzinger-van Niekerk L and P Moreira, op. cit.*

However, commendable progress has been made in respect of regional electricity trade. Following the creation, in 1995, of the Southern African Power Pool (SAPP) electricity trade within the SADC region has increased significantly, reaching the impressive value of \$150 million in 1999.<sup>23</sup>

23 M Njiranga Margaret, 'Pooling African power: issues, developments and outlook of a reforming and integrating Southern African power sector'. In Hansohm D, W Breytenbach, T Hartzenberg and C McCarthy (eds), *Monitoring Regional Integration in Southern Africa*, 4. Windhoek: NEPRU, 2004.

**Figure 2: The Southern African power pool**



*Source: Charpentier J, D Minogue, and D O' Leary D, 'Promoting Regional Power Trade – the Southern African power pool'. Public Policy for the Private Sector, Note No 145, June 1998, World Bank.*

The regional electricity market is dominated by SA's power utility, Eskom, followed by Mozambique's HCB. In 1998 Eskom's exports represented about 50% of regional electricity trade. HCB is the other major regional trading player, with an estimated annual output of about 12 000 GWh. Regional power supply significantly outstrips demand, and the region is a net exporter of electricity.

To help develop a viable regional power market, the Regional Electricity Regulatory Association (RERA) was created in 2002. Among other things, it is meant to:

- foster capacity-building, information-sharing, and skills training in this sector at the national and regional level;
- provide a framework for cross-border trading, and develop policy, strategy, and legislation for co-ordinating electricity trade;
- foster regional regulation, the main goals being the design of economic regulation for electricity interconnections and trade among SADC member states.

Although, as noted previously, the region as a whole is a net exporter of energy, much remains to be done to make energy more accessible to consumers within it. Efficiency in this sector would have a multiplier effect on a number of production and consumption sectors, and would help to make the region more economically competitive.

## Financial services

Financial services encompass banking services, insurance, and the securities market. According to Hansohm et al, the potential benefits to a country from trade liberalisation in this sector may be greater than those of liberalisation in any other services sector. The financial infrastructure in any country or region is central to creating an enabling environment for economic growth.

The financial sectors of SADC member states differ significantly:<sup>24</sup>

- SA has a very sophisticated financial sector consonant with the needs of its relatively large economy. Its stock exchange is by far the largest in the region, with a large market capitalisation.
- Although they are less sophisticated, and much smaller, the financial systems of Lesotho, Swaziland, and Namibia closely resemble that of SA.
- Angola, Mozambique, and Tanzania have histories of state intervention in their financial sectors (all adopted socialist economic policies for a period

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24 D Rweyemamu, 'SADC's financial infrastructure'. *SADC Barometer*, 3, Johannesburg: SAIHA, 2003.

after independence from colonial rule). Reforms have led to the development of new products and services, though banking services are still limited to short-term, trade-related finance. These countries have also embraced market principles in their monetary policies.

- The financial sectors of Malawi, Zambia, Zimbabwe, and the DRC are hybrids of state and private sector participation. Reforms have been aimed at stimulating competition, developing money markets, making interest rates more flexible, and moving towards indirect money control. Zimbabwe's financial sector is quite well developed, offering a range of financial services as well as a stock exchange.
- Botswana has made considerable progress in reforming and developing its financial sector. It has introduced foreign exchange bureaux and foreign accounts, and abolished exchange controls.
- The financial services sector in Mauritius has been significantly liberalised; direct control over bank credit has been abolished, and the country has moved towards using indirect monetary policies.

Except for SA, Mauritius and Botswana, financial services in SADC countries are generally inadequate, and can not even support domestic economic activities. Only limited trade takes place in this sector, mainly in trade facilitation-related services such as trade insurance and financing, and almost all member states import rather than export financial services. SA is an obvious exception; its banking and insurance industry has expanded into the region as a whole. For example, SA's Standard Bank offers services through Stanbic Africa to 14 other African countries, eight of which are SADC members.<sup>25</sup> Thus regional trade in this sector is generally a one-way affair, with SA as the exporter and other SADC countries as importers.

When it comes to liberalisation at a multilateral level, at least seven countries – Angola, Lesotho, Malawi, Mauritius, Mozambique, SA and Zimbabwe – have made commitments under GATS. As table 2 shows, all seven countries have made commitments in banking (represented by B in the table), while only three have made commitments in insurance (represented by A in the table).

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25 See Hansohm D *et al.*, *op. cit.*, 37.

**Table 2: Financial services commitments by SADC countries at the WTO**

Country	Financial services commitment	Market access limitations	National treatment limitations
Angola	B	1-R;2-R;3-R;4-R	1-N;2-N;3-N;4-N
Botswana	No commitment	—	—
Congo DR	No commitment	—	—
Lesotho	AB	A:1-U;2-N;3-R;4-H B:1-U;2-U;3-R;4-H	A:1-U;2-N;3-N;4-H B:1-U;2-U;3-N;4-H
Malawi	B	1-N;2-N;3-N;4-H	1-N;2-N;3-N;4-H
Mauritius	AB	A:1-R;2-R;3-N;4-H B:1-U;2-N;3-R;4-H	A:1-N;2-N;3-N;4-H B:1-N;2-N;3-N;4-H
Mozambique	B	1-N;2-N;3-R;4-H	1-N;2-N;3-N;4-N
Namibia	No commitment	—	—
South Africa	AB	A:1-U;2-N;3-R;4-H B:1-U;2-U;3-R;4-H	A:1-U;2-N;3-N;4-H B:1-U;2-U;3-R;4-H
Swaziland	No commitment	—	—
Tanzania	No commitment	—	—
Zambia	No commitment	—	—
Zimbabwe	B	1-N;2-N;3-R;4-H	1-N;2-N;3-N;4-H

*Notes: A = commitment in insurance; B = commitment in banking; U = unbound; H = unbound except as indicated in the horizontal section; N = bound with no restrictions; R = bound with restrictions. Modes of supply: 1 = Cross-border; 2 = consumption abroad; 3 = commercial presence; 4 = presence of natural persons. Source: Adapted from Hansohm et al.*

However, the GATS commitments by SADC countries do not adequately reflect the actual state of liberalisation of their financial services sectors. Most of these countries' services sectors were significantly reformed in the 1990s under IMF and World Bank programmes as well as unilaterally.<sup>26</sup> Most of these reforms have in fact been unilateral, and have not been introduced under GATS. Those SADC countries that have not yet done so should introduce these reforms in exchange for market access in other areas where they have export interests.

<sup>26</sup> Botswana is a typical example; limited barriers have remained after its removal of exchange controls, and it has not made a commitment to remove them under GATS.

Yet there are still barriers to trade in the financial services sector. These usually take the form of legislation and other measures inhibiting services trade such as the state ownership of banks and insurance companies, determination of interest rates, and administration of credit, as well as foreign exchange controls. Other legal and organisational issues that should be addressed include the need for a clear separation of commercial and central banking functions; the lack of clear definition of the role and degree of independence of central banks; and the need to curtail the fiscal functions of central banks to allow them to focus on their monetary roles.<sup>27</sup>

This is a very sensitive sector, and liberalisation measures should be well-timed, well-sequenced, and ideally undertaken when certain preconditions have been met. These include the stabilisation of the macroeconomy and fiscal deficits (to avoid shocks and banking crises); balance sheet restructuring and the recapitalisation of banks where necessary; and the improvement of regulatory oversight (to avoid risky behaviour by banks responding to competitive pressure).

Further reform is required to increase competition and efficiency in this sector, and to ensure that services extend to rural areas and poorer people. In this regard the introduction of alternative financial institutions, such as micro finance, and alternative means of financing such as leasing and equity markets has been suggested. Liberalising trade in financial services is also seen as a means of creating regional financial markets and economies of scale, and of extending the range of services offered. This could build on the limited regional financial market already in existence – as manifested by SA banks operating in SADC. Thus current SADC macroeconomic policies integration initiatives should be strengthened in order to complement liberalisation in the sector.

However, if financial services are to be made more efficient, competition must be effectively regulated. A lack of robust regulation could undermine reform, and may only benefit oligopolistic financial institutions. This trend has been – and is still partly – evident in SA, where banks have been accused of fixing prices, resulting in high costs for consumers (high ATM charges and handling fees, and so on).

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<sup>27</sup> Rweyemamu, *op. cit.*

Hansohm et al underscore the need to build capacity in this sector before any further liberalisation is undertaken. They suggest that further GATS commitments must be preceded by developments at the domestic and regional level.

## **Telecommunication services**

These are among the backbone infrastructure services that play a profound role in determining the economic performance and trade competitiveness of any country. Although progress has been made in reforming and modernising this sector, telecommunications services in SADC are still relatively underdeveloped compared to other regions in the world, though fairly developed in a sub-Saharan context.

Chapter 10 of the SADC Protocol on Transport, Communications and Meteorology provides for regional co-operation in telecommunications, and outlines regional policy and regulatory frameworks in this sector. Regional reforms are meant to ensure the provision of reliable, effective, and affordable telecommunications services. Co-operation is seen as a vehicle for achieving regional universal services; access to advanced information services; enhanced regional and global interconnectivity; and high-quality and efficient services to meet the diverse needs of the region.

To strengthen the regional co-operation processes, associations for both regulators and operators – the Southern Africa Telecommunications Administrations (SATA) and Telecommunications Regulators Associations of Southern Africa (TRASA) – have been formed.

Owing to both unilateral and regional measures (under SATCC), significant progress is being made in this sector.

As table 3 shows, the number of telephone operators in SADC countries are increasing, Internet connectivity is growing, and institutions are being revamped to create competitive markets. For example, Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, SA, Tanzania and Zambia all have independent telecommunications regulatory bodies. Although privatisation is progressing steadily, full private sector participation remains limited, while the process of enabling other fixed service operators to establish is slow. Lesotho is still the only country that has completely privatised its telecommunications subsector, while SA has partially privatised its national telecommuni-



**Table 3: Regulatory frameworks and the status of privatisation and competition, 2001**

Country	Policy and regulation		Regulation	Market operation		
	New policy	New law	Autonomous regulator	Incumbent privatisation	Competition	
					Mobile	Internet
Angola	Y	Y	Y	N	N	F
Botswana	Y	Y	Y	N	D	F
DRC	n/a	n/a	n/a	n/a	n/a	n/a
Lesotho	Y	Y	Y	Y	N	N
Malawi	Y	Y	Y	Y	I/P	F
Mauritius	Y	Y	Y	Y	F	N
Mozambique	Y	Y	Y	N	I/P	F
Namibia	Y	I/P	I/P(R)	N	N	F
SA	Y	Y	Y	Y	F	F
Swaziland	I/P	I/P	N	N	N	F
Tanzania	Y	Y	Y	I/P	F	F
Zambia	Y	Y	Y	Y	F	D
Zimbabwe	I/P	I/P	I/P	N	F	F
Progress/Y	10	9	8	5	6	9

*Notes: n/a = not available; Y = yes; N = no; I/P = in progress; Non-basic = services other than fixed telephone; F = more than two service providers; D = duopoly progressing to full; R = regulatory authority exists, but has yet to be strengthened under new law.*

*Source : Kritzinger-van Niekerk and Moreira, op. cit.*

cations operations and plans to introduce a second network operator (SNO). In Lesotho, Malawi, Mauritius, SA and Zambia, fixed network providers are operating privately with some equity partners. At least six countries – Botswana, Mauritius, SA, Tanzania, Zambia and Zimbabwe – already have two or more cellular phone operators, while nine countries have more than two Internet services providers in their domestic markets. Mobile phone penetration has outgrown fixed line teledensity, indicating the potential and importance of this new technology.

However, economic growth in the region is still undermined by a very low level of teledensity, and access to basic telephony is limited and expensive. For example, recent studies<sup>28</sup> show that:

- In 2000 SADC countries had an average teledensity of about 3.4 per 100 persons. A teledensity of 25–30 per 100 persons is required to support economic activities in a ‘knowledge-based economy’.
- Except for SA, Tanzania, Botswana and Mauritius, the region has a very low personal computer penetration of less than 0.1 per 100 persons.
- While all member states have several licensed Internet service providers, the cost of access is high, resulting in low subscription rates.

The advances in information and communications technology pose a number of regulatory and structural challenges to SADC. The region must step up its efforts to create a legal environment that will facilitate the transition to knowledge-based economies. Research on the operations of existing telecommunications providers in the region stress the fact that besides establishing an appropriate framework for ICT development, ‘a prerequisite for growth in the IT sector is the opening of national markets and the formulation of a coherent set of regulations and tariffs to achieve this’.<sup>29</sup>

More needs to be done to develop this sector in order to allow the region to participate in and benefit from international technological advances, including the growth in e-commerce. Regulatory and institutional reforms, privatisation, and the attraction of foreign capital must be given greater priority.

## Tourism services

Tourism is potentially the biggest foreign currency earner in the region. Services falling under this sector include hotels and restaurants, travel agencies, and tour operator and tourist guide services. In SADC there are vast export opportunities in tourism which, except in SA and a few other countries, remain

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28 See Fricke M R, *Framework for the Development of Telecommunications within an Interoperator Environment in the SADC*. Master’s dissertation, University of Pretoria: electronic dissertations and theses, 2004, <http://upetd.up.ac.za/thesis/available/etd-01312005-142741/>; *SADC Barometer*, Issue 3: From Potholes to Prosperity, Johannesburg: SAIIA, October 2003.

29 See <http://www.mbandi.co.za/indya/cotl/af/p0020.htm>.

largely unexploited. Due to its labour-intensive nature, this sector could also play a very important role in job creation and human and social development.

Although tourism services in SADC have grown significantly over the past decade, they need to be further reformed and modernised. Efforts to develop this sector are undermined by inadequate infrastructure (including inefficiencies in supporting services sectors such as telecommunications, transport, and financial services) and marketing/promotion, as well as a shortage of skilled labour.

Perhaps owing to a wider awareness of its importance, and a strong desire to attract more FDI, the tourism sector is generally more open than other services sectors. Consistent with the general trend towards liberalisation in tourism, SADC countries (except for Mozambique, which has made no commitments at all) have also made considerable GATS commitments in this sector. Yet a number of barriers still remain. Within the region, they include regulations limiting the market access of natural persons and commercial enterprises (these barriers mainly involve immigration, security, and development issues). The growth of tourism in southern Africa is also inhibited by constraints in tourist-originating countries or export markets. For example, the absence of SADC tourist suppliers in travel-originating distribution centres and a lack of access to the Global Distribution System (GDS) and Computer Reservation Systems (CRS) have been identified as significant barriers.<sup>30</sup>

The political will to develop tourism in the region seems to exist. Regional co-operation initiatives are underpinned by the need to avoid unnecessary and expensive duplication, and achieve economies of scale through the joint development of infrastructure, facilities and services; joint marketing efforts; the pooling of scarce resources for research and development; and education and training.

A Protocol on the Development of Tourism was signed in 1998, and came into force on 26 November 2002.<sup>31</sup> It is aimed at enhancing the region's competitiveness vis-à-vis other destinations by creating a favourable investment climate for tourism, improving standards of safety and security for tourists, and facilitating intra-regional travel by removing travel and visa restrictions and harmonising immigration policies. The Regional Tourism Organisation of

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<sup>30</sup> Hansohm D *et al.*, *op. cit.*

<sup>31</sup> Angola, Zambia, Malawi and the DRC have not yet acceded to the protocol, thereby delaying the harmonisation process.

Southern Africa (RETOSA) has been created to boost marketing and promotional activities in this sector.

Particular attention needs to be paid to enhancing intra-SADC tourist movements. Although intra-regional tourism comprises a major portion of the tourism industry in several SADC countries, including SA, regional tourists have been relatively neglected in promotional activities in favour of international tourists from traditional markets in the West. As table 4 shows, in 2003 SADC countries represented five of the ten most significant source markets for SA in terms of direct spend.<sup>32</sup>

**Table 4: Ten most significant source markets for SA, 2003  
(measured in terms of direct spend)**

Countries (in descending order)	Tourist direct spend in SA (Rm)
Mozambique	7 473
United Kingdom	5 767
Zimbabwe	5 695
Botswana	3 421
Lesotho	3 386
Swaziland	2 905
Germany	2 587
US	2 000
Netherlands	1 421
France	1 146

*Source: Southern African Migration Project, Migration Policy Brief, 13, 2003.*

As such, the existing 'flow-through' of tourist travel across the region must be strengthened. Current proposals for a universal visa system that will ease or remove travel restrictions as well as harmonised immigration procedures should be implemented soon, at least before the 2010 Soccer World Cup tournament in SA.

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<sup>32</sup> Crush J and V Williams, 'The rise of African tourism to South Africa'. *Migration Policy Brief, 13*, Southern African Migration Project (SAMP), <http://www.queensu.ca/samp/migrationnews/index.php>.

## Mode 4 liberalisation

The economic policies adopted by WTO members after the Uruguay Round are meant to encourage the free flow of goods, services, capital, and technology across national boundaries. However, the global movement of people has not improved at the same rate as other factors, although it is a major factor of production. This asymmetry is generally attributed to administrative, legal, and institutional barriers at the national level.

Mode 4 is defined in GATS Article I:2(d) as entailing ‘the supply of a service ... by a service supplier of one Member, through [the] presence of natural persons of a Member in the territory of any other Member’. Two kinds of control measures are defined:

1. those affecting persons who are ‘service suppliers of a Member’, ie self-employed suppliers who obtain their remuneration directly from customers; and
2. those affecting persons who are ‘employed by a service supplier of a Member in respect of the supply of a service’. These natural persons can be employed either in their home country and be present in the host market to supply a service, or be employed by a service supplier in the host country.<sup>33</sup>

Of all the service sectors under GATS, Mode 4 is currently the least liberalised. Sector-specific commitments have focused on measures regulating commercial presence rather than those regulating the movement of natural persons involved in supplying services. In general, countries have not significantly opened markets in their sector-specific commitments on Mode 4. As for horizontal commitments, they do not refer to the movement of people in all categories and occupations. The main categories scheduled are mainly those related to Mode 3, such as inter-corporate transferees, business visitors, independent professionals (including those providing services within a service contract), executives, managers, and specialists.<sup>34</sup>

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<sup>33</sup> WTO, *op. cit.*, 2.

<sup>34</sup> Haque S, ‘Quest for an implementation mechanism for movement of service providers’. *TRADE Occasional Papers*, 7, 2001.

Freeing the movement of people involved in supplying services is adversely affected by political considerations, and in many countries immigration rules have not changed to reflect GATS commitments. For example, though GATS focuses on the temporary movement of service suppliers, some countries fear that this may facilitate permanent migration.<sup>35</sup> The fact that 'temporary' movement is not defined (perhaps for reasons of flexibility), and can last from a few months to a few years, has reinforced this concern.

For this reason, most southern African governments are ambivalent about GATS Mode 4. On the one hand, they regard it as a potentially dangerous instrument that could worsen the trend whereby industrialised countries poach the brightest and the best from poor countries, and put up barriers to the rest.<sup>36</sup> On the other, like most developing countries, they believe that they have a comparative advantage in possessing large pools of semi-skilled and unskilled labour which could be 'exported', and would therefore like to see effective liberalisation in Mode 4.<sup>37</sup>

However, SADC countries themselves have not made significant WTO commitments in respect of Mode 4. As table 5 shows, five countries have made no horizontal commitments at all (though some have made sectoral commitments), while those that have made commitments have restricted market access to highly skilled people. The level of market access granted is further limited to employees of companies formally established in their country, thus excluding both individual and lower skilled service providers. Interestingly, SA does not seem to have imposed any formal restrictions on the entry of skilled foreigners based on the 'development of locals'. How this squares with its black economic empowerment thrust since 1994 is unclear.

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35 Pillay P, 'The General Agreement on Trade in Services (GATS): implications and possible ways forward for the Southern African Development Community (SADC)'. Paper presented at UNESCO Conference on 'Globalization and Higher Education', Oslo, 26–27 May 2003.

36 Sexton S, 'Trading health care away? GATS, public services and privatisation'. *The Corner House Briefing* 23, July 2001, [http://www.pnhp.org/news/2001/january/trading\\_health\\_care\\_.php](http://www.pnhp.org/news/2001/january/trading_health_care_.php).

37 Whether African countries in general have a comparative advantage in semi-skilled and unskilled work categories is still open to debate in the light of their competition from the densely populated countries of Asia and some Latin American states.

**Table 5: Horizontal commitments by SADC countries in respect of GATS Mode 4**

Country	Market access limitations	National treatment limitations
Angola	No commitment	No commitment
Botswana	ABC	DE
DR Congo	No commitment	No commitment
Lesotho	ABC	None
Malawi	ABC	D
Mauritius	A	D
Mozambique	No commitment	No commitment
Namibia	AB	No commitment
South Africa	ABE	D
Swaziland	No commitment	No commitment
Tanzania	No commitment	No commitment
Zambia	ABC	D
Zimbabwe	ABC	D

*A = limited access to highly skilled persons only; B = limited to employees of companies operating in the country; C = development of locals required; D = no discrimination for those permitted to enter under market access commitment only; E = professionals need to be domestically registered. Source: Adapted from Hansohm et al.*

However, recent migration trends are characterised by relative increases in labour movements both within and outside SADC. Within the region, the variation in wealth and remuneration are resulting in net flows of skilled personnel from poor to richer countries. As could be expected, South Africa, by far the richest country in the region, is the biggest recipient of SADC migrants. It is also experiencing a huge outflow of semi-skilled and skilled people to developed countries such as the UK, Canada, and Australia.<sup>38</sup>

Yet it is increasingly acknowledged that the emigration of highly skilled people is not necessarily a net loss, and that this may in fact benefit both receiving and sending countries. Countries of origin potentially stand to benefit from

<sup>38</sup> See Pillay P, *op. cit.*, 5.

the inflow of remittances, but also from access to knowledge, new technologies, and new markets via linkages with their migrant communities, as well as the eventual return of skilled expatriates with their superior training and skills, management experience, ties to foreign institutions, and networking capacity acquired while abroad.<sup>39</sup> Seen in this light, the temporary movement of service providers as envisaged by the GATS seems to offer greater benefits to both host and home countries.

Further, it is submitted that the concerns that GATS might exacerbate brain drains are sometimes exaggerated. Mode 4 liberalisation could provide a panacea to this pandemic as it explicitly seeks to promote circulatory flows as opposed to permanent migration. Admittedly, the GATS mechanism still needs to be improved, particularly by ensuring that movement of people really is temporary and that visa holders do not use GATS Mode 4 processes to gain permanent citizenship. Notwithstanding this, the liberalisation of the temporary movement of people, as envisaged by GATS, potentially offers great benefits to both host and home countries.

Mode 4 liberalisation provides SADC countries with an opportunity to import scarce skills from the region or other world regions, and also to expose their workers to new technologies in more developed countries through temporary migration. In this respect, addressing the shortage of people with essential skills is regarded as one of the biggest challenges facing business employers in the region.

The bureaucracy and cost involved in obtaining entry visas and temporary residence permits are significant barriers to the freer movement of people involved in service provision in the region. While the movement of consumers is also restricted, the real difficulty has been to obtain temporary residence permits, and particularly work permits, in these countries. Prospective employers in SADC often find it very difficult to recruit specialists and professionals from elsewhere in the region and abroad when local skills are inadequate or unavailable. This barrier also adversely affects trade in health and educational services.

The underlying policy goals behind these restrictions are mainly twofold: to protect low-skilled local people against excessive competition from foreigners for

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39 Singh K, 'Brain gain vs brain drain'. *The Indian Express*, 26 April 2004, [http://www.indian-express.com/full\\_story.php?content\\_id=45762](http://www.indian-express.com/full_story.php?content_id=45762).



scarce work, and to avoid a situation in which importing foreign skills becomes a substitute for firms investing in domestic labour. These are legitimate social obligations for any government; however, problems often arise from the way in which the measures aimed at achieving these goals are applied in practice. SA's immigration regulations and their application illustrate this problem, and therefore deserve some attention.

### *Recruiting foreign skills in SA*

Generally, SA restrictions on the entry of temporary service providers take the form of an economic needs test, based on annual quotas for temporary work permits in each occupational category. The key challenge is to ensure that the criteria for selection and the total numbers are transparent.

SA and other SADC countries<sup>40</sup> currently have a less transparent approach characterised by less formal assessments of economic needs, and non-transparent criteria for selection. Hansohm et al outline the following weaknesses (stemming mainly from a lack of transparency) in SA's migration law as applied to the temporary movement of labour, which makes it more restrictive in practice than on paper:

- There is no public document detailing the criteria for selection, and economic needs assessments are performed on the basis of informal arrangements with the Department of Labour.<sup>41</sup>
- The lack of a clear policy also leaves open to interpretation important aspects of the law, such as what constitutes a commercial presence (is this a wholly owned business only, or could it entail a certain level of shareholding or association as well?).
- There is a lack of clarity on skills that cannot be provided locally. Skills are usually broadly defined to make it difficult to justify the entry of a foreign recruit on the grounds that they have skills that are not available locally.

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40 The recruitment of foreign services suppliers is not only problematic in SA; this is a general trend in SADC countries, mainly because of it is subject to immigration legislation.

41 This is still a major issue, and by October 2005 the SA Department of Home Affairs had not yet published quotas identifying occupations in which the country was experiencing a shortfall, resulting in a lack of skilled professionals able to apply for work permits in the country. For details, see Verwey B, 'Home Affairs chases away skilled foreigners'. *The Mercury*, 24 October 2005.

Particularly problematic are skilled positions that are not associated with formal qualifications, such as restaurateurs or marketing experts.

- The discretionary nature of recruitment processes leaves them vulnerable to influence and corruption. As a result, requests by powerful commercial interests are processed quickly and efficiently, but those of less powerful ones are not. In addition, according to a study cited by Hansohm *et al.*,<sup>42</sup> in certain instances SA government officials deliberately delay applications for skilled foreign workers in order to allow favoured local recruitment agencies to find suitable people.

Needless to say, recruiting foreigners to work in SA is a frustrating process, with many uncertainties about what the outcome will be. The SA business sector has consistently pointed out that these policies hamper economic growth.

#### *Mode 4 reforms in SADC*

It is encouraging to note that SADC member states are currently engaged in a number of developments aimed at liberalising the movement of persons within the region. The SADC Treaty<sup>43</sup> mandates its signatories to progressively 'eliminate obstacles to the free movement of capital and labour, goods and services and of people in the region generally among Member States'.

At their 2005 summit in Botswana, SADC states adopted a comprehensive Protocol on the Facilitation of the Movement of Persons whose immediate objective is to facilitate visa-free entry (for a renewable period of 90 days), residence, and establishment by individuals or families in territories of member states. These objectives must be achieved within five years of the date of entry of the protocol. Half of the 14 SADC member states have signed the protocol; however, it will only come into force when two-thirds of members have ratified it as well.

However, the ratification process may be delayed because some countries are uncertain about the potential political and economic outcomes of the protocol when and if it comes into force. Thorough research into what the protocol might mean to each SADC country is needed. Furthermore, such a

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42 See Hansohm D *et al.*, *op. cit.*, 32.

43 Article 5.2(d) of the treaty.

study should also examine the current bilateral pacts on the free movement of persons between regional countries with a view to extracting lessons on how the protocol should be applied.<sup>44</sup>

Perhaps with a view to enhancing tourism, the protocol seems strong on facilitating the general movement of persons,<sup>45</sup> but weak on liberalising the temporary movement of skilled service providers.<sup>46</sup> Yet this is counterbalanced by the general trend towards reviewing and relaxing the criteria used by SADC member countries to grant residence permits to citizens of fellow SADC members.<sup>47</sup>

As the previous discussions of the tourism sector have indicated, there seems to be a strong desire in the region to liberalise the movement of natural persons, especially to boost the tourism industry. However, reforms in this area should be far-reaching and encompass both the movement of independent natural service providers as well as movements related to commercial presence, especially in areas experiencing serious skills shortages. Furthermore, while the regional efforts towards Mode 4 liberalisation are laudable, they are not sufficient to solve the skills problem in the region. In fact, all SADC members are experiencing severe skills shortages in one service sector or another, so enlightened multilateral liberalisation via GATS and, most importantly, unilateral liberalisation should still be pursued.

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44 In fact, Article 39 establishes a Committee of Ministers on the Facilitation of the Movement of Persons whose functions include 'conducting worldwide research on the movement of persons and utilizing the results of such research to assist the development and the achievement of the objectives of the protocol'.

45 Article 13 of the protocol covers the harmonisation of immigration practices and the adoption of 'simple and uniform' migration forms for use by the citizens of SADC member states and of third states who wish to enter or exit the region. Article 14 deals with visa-free entry and is primarily aimed at general visitors who may be tourists or consumers but not service providers as such.

46 Under Article 19, which deals with employment permits, the granting of work permits is still subject to national labour laws.

47 This is covered in article 18 of the protocol.

## CONCLUDING REMARKS

Service inputs are virtually indispensable as intermediate inputs into the production and trade of all goods and services, in all economies. Therefore, their price and quality are pivotal to determining the competitiveness of goods and services in the national, regional, and international arena.

Unsurprisingly, this literature survey has found that inadequacies in key services (such as transport, energy, telecommunications, and finance) across the SADC region are seriously constraining its economic growth and competitiveness in international trade.

SADC countries ought to be commended for their co-operation and harmonisation thus far to reform the services sectors discussed above. These initiatives must be strengthened, and co-operation must lead to the actual liberalisation of services trade at a regional level. As trade liberalisation negotiations continue both at the WTO in terms of GATS, and through bilateral agreements with certain external parties, it has become imperative for SADC countries to urgently liberalise their service sectors among themselves in order to have co-ordinated positions *vis-à-vis* third parties, and gain clout at the multilateral level.

The literature studied suggests that SADC should take the following steps in the sectors under review:

- **Transport:** SADC countries must step up their efforts to improve transport services in all sub-sectors (air, maritime, rail, and road). They must focus on improving the efficacy of transport corridors, and enhancing the participation of the private sector by dismantling monopolies in air travel, ports, and rail transport. A case can also be made for further liberalising road freight services by abolishing stringent cabotage laws.
- **Energy:** Besides increasing the pace of restructuring state-owned power utilities, SADC countries should ensure that pricing systems are cost-reflective, in order to attract private investments and extend access to electricity to all consumers.
- **Telecommunications:** SADC countries should give more attention to liberalising this sector, particularly strengthening the regulatory framework once privatisation has taken place in order to prevent large companies from abusing their monopoly positions and blocking benefits from reaching the consumers – thereby stalling economic growth and export competitiveness.

- **Financial services:** These sectors in SADC countries are generally open. Further liberalisation must be preceded by macroeconomic stabilisation, and must be accompanied by a strong regulatory regime. Such liberalisation should also be used to lock in reforms.
- **Tourism services:** Although this sector is generally open worldwide, SADC should maximise its international competitiveness as a tourist destination by abolishing remaining restrictions that relate mainly to immigration policies and visa issues. Specific attention must be given to promoting the intra-SADC movement of visitors. In addition, at the multilateral level these countries should lobby for the removal of anti-competitive practices in tourist-originating countries and for access to global distribution and computer reservation systems.
- **Mode 4:** The free movement of people within SADC must be enhanced. The political will seems to exist to free up the movement of people in the region. Member states are therefore encouraged to ratify the recently signed Protocol on the Facilitation of the Movement of Persons in order to increase business mobility, create greater trade opportunities, and achieve economic growth.

However, the costs of negotiating services liberalisation are substantial. This will particularly be the case if SADC countries decide to follow the laborious GATS-style request-and-offer approach whereby each member country individually induces its trade partners into making commitments in each sector of export interest. Therefore, the decision to negotiate services must be preceded by a thorough analysis of each country's defensive and offensive interests as well as sectors in which liberalisation at a regional level would be beneficial, taking into account the potential risk of trade diversion in some areas.

The Trade Policy Reports series examines topical issues concerning South Africa's international trade relations. Coverage ranges from the World Trade Organization, through regional economic integration, to South Africa's bilateral free trade area negotiations. Reports are written in an accessible manner for non-specialist but concerned readers; contain cutting edge analysis; and put forward recommendations for improving South Africa's international economic positions through the use of trade policy.

**SAIIA's Development Through Trade Programme  
is funded by SIDA and AusAid.**



ISBN: 1-919969-55-1

The South African Institute of International Affairs (SAIIA)

P O Box 31596 Braamfontein 2017, South Africa

Jan Smuts House, East Campus

University of the Witwatersrand, Johannesburg

Tel: 27-11-339-2021

Fax: 27-11-339-2154

[www.saiia.org.za](http://www.saiia.org.za)

e-mail: [info@saiia.org.za](mailto:info@saiia.org.za)

