ITC

BUSINESS BRIEFING
Trade Policy

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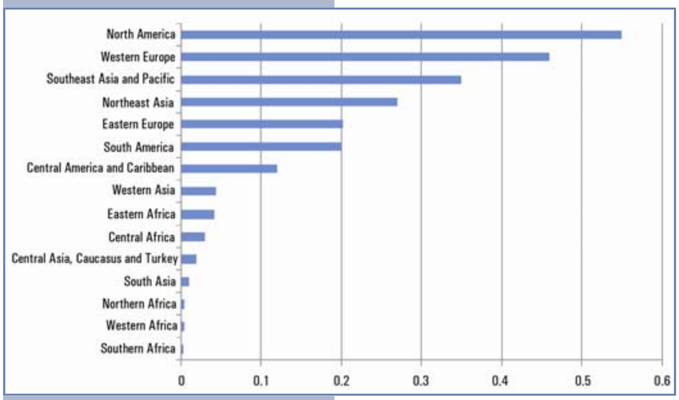
Private sector views of the implementation of the SADC FTA
Part 2

- **IMPLICATIONS FOR THE PRIVATE SECTOR**

Tariffs

Although tariff reductions have helped to expand trade, the World Bank notes that intra-SADC trade only accounts for 3% of the region's GDP and, further, that South Africa, which is viewed as a growth pole in the region, continues to import low value commodities from neighbouring countries such as nickel from Zimbabwe and copper from Zambia among others. This is disappointing because the Trade Protocol had hoped to encourage diversification and the emergence of regional value chains but it seems that it has had little impact in promoting diversification into higher value added manufacturing exports to the region or even the world. Thus unlike Asia, where advanced production networks have deepened regionally and led export growth, figure 1 below shows that factory Southern Africa is not yet in its germination stage.



Intra-industry trade by region (Greuebl-Lloyd index, 2008) in IMF World Economic Outlook Database

Nonetheless, through the FTA Mozambique and Zambia have been able to improve their agriculture sectors. Mozambique by attracting investment into the sector and crafting strategies and programs that encourage agro-processing and the inclusion of small medium enterprise. Zambia by importing seeds, fertilizers and other inputs from the region to boost agricultural production and agro-processing (as one respondent put it, Zambia imports from the SADC to export to COMESA).

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Rules of Origin

SADC's RoO are a thorn in the flesh for many business players in the region and were reported to be restricting trade under the FTA. In fact in many cases the rules of origin are so strict that some producers and retailers in the region cannot be bothered to satisfy them therefore preferences are not granted and the FTA has no impact. The challenge with RoO stems a) from their character, which is built into the Trade Protocol and b) the administrative difficulty of adhering to them.

For instance with regards to the character of the RoO under the Protocol, restrictive RoO remain on wheat flour and wheat millers are required to start the milling process with wheat from the region to establish SADC origin. This is impractical as all the countries in the region are net importers of wheat. Further, like other members of SADC's MMTZ Agreement, Mozambique has a special quota to allow assembly of garments from imported fabrics but it has not filled that quota because SADC rules of origin require double transformation-essentially from yarn to garment when most fabric in the region is imported; a requirement which many apparel manufacturers cannot meet.

The administrative challenge lies in the acquisition of certificates of origin. A Zambian exporter with interests in agriculture and motor vehicle parts reported that in his company had run into "one too many customs officials" that could not classify his goods correctly. The redundancy of the rules is also captured by Woolworth's experience; which despite having a significant presence in the region does not use SADC preferences in non-SACU SADC markets because it finds the process of administering and acquiring certificates of origin to be too costly relative to the benefit of the preference gained under the FTA.

Non-tariff barriers and technical barriers to trade

In addition to RoO, low intra-SADC trade is also attributed to the persistence of non tariff barriers which discourage the private sector from gaining access to markets and creating value chains across the region.

Interviews with businesses operating in the region confirmed that NTB's were a big hurdle to trading in SADC and a good number of the complaints on NTBs relate to SPS and TBT measures. Such requirements are supposed to be used to protect human, animal and plant health and life but are perceived as veiled attempts to protect certain local industries. For example, Zambia demands that imported sugar be fortified with vitamin A, by 45%, for the purpose of bridging a deficiency of the mineral among children. This measure was widely criticized because it did not target other products, such as maize meal or wheat flour, and was deemed to favour sugar producers in the country at the expense of other producers in the region such as Zimbabwe. Zimbabwe on its part has been known to lock out Zambian milk products from its market on the grounds that the milk packets were not labeled in the local Ndebele language, which has nothing to do with safety or health requirements.

There is also concern that NTBs are erected by governments specifically to raise revenues. To illustrate, the Tanzanian certification and testing agency for pesticides charges relatively high fees to register an agro-chemical and also requires three years of field testing. It does not recognize the testing done and registration of equivalent or more efficient products in neighboring countries. Hence, there are a broad range of newer, more effective and safer chemicals which do not get registered in Tanzania because of the high cost and which are prevented from being legally imported from neighboring countries hence "closing" the market to producers in the region. The chemical registration revenue imperative of the testing agency thus appears to take precedence over a feasible solution of mutual recognition of other regulations and standards. Interestingly, the Zambian Bureau of Standards was also reported to be frustrating Zambian exporters by creating pre-export requirements that are expensive to meet and are deemed be a revenue raising tool.

Subsidies were also found to be diminishing the gains that can accrue from the FTA, especially for the least developing countries in the region. Article 19 of the Protocol discourages the use of new subsidies by Member States, but allows them to continue to fund subsidy programmes that were in place at the time of entry into force of the Protocol. Further, countervailing duties to offset the subsidy are permitted if the provisions of Article 19 are met. The concern about subsidies was voiced by a government official who argued that new subsidies had been introduced in South Africa and questioned the legitimacy of the FTA and dream of economic integration if some countries are competing at different levels.

The examples above naturally diminish the effectiveness of the FTA, reduce transparency of trade negotiations and the level of certainty that businesses crave while increasing the cost of doing business for the private sector in the region.

Customs Cooperation and Trade Facilitation

Given the many interventions and parties involved in the international transport of goods, and perhaps the need to cross several borders, the trade facilitation measures undertaken by SADC have to some extent allowed a) trade operators to cut the time and cost involved in meeting duplicate customs requirements and b) given an impetus to small scale (cross border) traders from Zambia to increase their exports to neighbouring Botswana, DRC and Tanzania. However, much still needs to be done in order to fully implement the FTA by creating greater cooperation amongst SADC countries on trade facilitation issues. To illustrate, Zambia's most important transport and trade facilitation issues are outside the country's direct control and if its coastal neighbors offer poor trade facilitation, through ports, rail and road transit, the flow and cost trade in the region is affected. This further underlies the need for sound infrastructural services that will help to increase the movement of goods and enhance growth e.g. finance and credit facilities, transport, communication, pipelines, and energy among others.

Trade remedies and dispute resolution

The private sector in Tanzania and Zambia reported on the difficulty of accessing trade remedies, the main complaint being that it was a long and administratively burdensome with lengthy forms to complete and no guarantee of government support in settling trade disputes. Government officials in both countries defended their governments' attitude by underscoring the political nature and history of SADC as an organization and therefore the unwritten rule of first and foremost "treating and dealing with each other as brothers" and trying to settle disputes in a informal and conciliatory fashion before using the formal processes in the Protocol. Despite governments reluctance to engage in formal consultations, Zambia's cement and cooking oil industries are examples of sectors that managed to secure trade remedies.

Overlapping membership

The issue of overlapping membership of regional bodies continues to create challenges for the private sector. All of SADC's members, except Mozambique and Angola, belong to two or more regional groupings (including SACU). This creates difficulties in implementation because different groups have conflicting operational or liberalization modalities and so member countries will have to make different, incompatible commitments. Traders in Tanzania and Zambia admitted to being confused as to which commitments or tariff schedules or rules of origin to apply to a particular shipment. As a result, unnecessary transaction costs are created as businesses are obliged to find their way around different trade regimes.

• ADDRESSING THE CHALLENGES

- The business community expressed the view that there was very little awareness and discussion among business groups of the benefits arising from the SADC Trade Protocol or even between governments and the private sector. Governments and the private sector need to act together in partnership to achieve results. Greater engagement with the private sector could involve building awareness about regional decisions and processes; the provision of relevant and user friendly information; support for exporters; capacity building for business organisations; and more open debates about key policy issues.

- Businesses in the region must also take the responsibility of improving their dynamism and resolve to gain from the FTA by deliberately collaborating and complementing each other and also advising their governments on opportunities or programmes that can assist them. Being proactive, will also eliminate the prescriptive and somewhat non-collaborative approach that governments have employed in the past to handle trade policy matters. For example, Zambia has created four special economic zones in its Copper Belt region and, instead of linkages being created to the local economy, a lot of the equipment, material and labour in the mining area is being sourced from Asia and South Africa.

- As shown by the programmes supporting SMEs and geared to attracting investment initiated by government of Mozambique, some of the challenges to trading in the region are as a result of national regulations or policies that hinder business and are not obstacles arising from the structure of the FTA. These barriers can actually be ameliorated by unilateral policies that reduce the cost of doing business in individual SADC countries to the benefit of the entire region.

- In order to fully implement the FTA, greater trade facilitation within the region, as well as the scrapping of non-tariff obstacles to trade, should be prioritized or the agenda will remain a pipe dream. Further, liberalisation of the transport and logistics sectors in the region in order to reduce the costs of doing business, especially for land-locked countries, would be beneficial for the private sector as a whole.

- On SPS measures and TBT the harmonisation process of technical regulations, standards, SPS and other constraining measures is essential for increasing intra-SADC trade. It should be accelerated as there are benefits for neighboring countries to be part of one system rather than developing their own regulations, testing systems and standards.

- On rules of origin, governments would assist businesses immensely if they could improve the administrative capacities of customs officials that issue or check certificates of origin as well as by offering informational programmes or material to the private sector on the matter. Another approach, that would tackle the problem at its roots, is to adopt economically sensible rules of origin and harmonize rules of origin under the Tripartite Free Trade Agreement (between COMESA, SADC and EAC) in the direction of the less restrictive rules of origin used in COMESA.

- Enlargement of the SADC FTA to include the partners in the other regional economic communities would also solve the problem of overlapping membership (Zambia, Malawi, Mauritius and Zimbabwe have already completed liberalization of their markets to COMESA members) and expand the size of the potential market as well. The Tripartite FTA is welcomed by the private sector for these reasons.

• CONCLUSION

In spite of the varied pace and style of implementation, it will not be fair to accuse SADC countries of lacking in political will or completely undermining the FTA. The progress thus far indicates that there is some level of commitment to opening markets and reducing or completing eliminating barriers to trade. However, all stakeholders, particularly the private sector should be vigilant in reminding governments of their commitments under the SADC Trade Protocol as well as proactive and dynamic in creating opportunities for themselves under the FTA.