OCCASIONAL PAPER NO 148

Economic Diplomacy Programme

October 2013

What Shoprite and Woolworths can tell us about Non-tariff Barriers

Nick Charalambides

South African Institute of International Affairs

African perspectives. Global insights.

ABOUT SAIIA

The South African Institute of International Affairs (SAIIA) has a long and proud record as South Africa's premier research institute on international issues. It is an independent, non-government think tank whose key strategic objectives are to make effective input into public policy, and to encourage wider and more informed debate on international affairs with particular emphasis on African issues and concerns. It is both a centre for research excellence and a home for stimulating public engagement. SAIIA's occasional papers present topical, incisive analyses, offering a variety of perspectives on key policy issues in Africa and beyond. Core public policy research themes covered by SAIIA include good governance and democracy; economic policymaking; international security and peace; and new global challenges such as food security, global governance reform and the environment. Please consult our website www.saiia.org.za for further information about SAIIA's work.

ABOUT THE ECONOMIC DIPLOMACY PROGRAMME

SAIIA's Economic Diplomacy (EDIP) Programme focuses on the position of Africa in the global economy, primarily at regional, but also at continental and multilateral levels. Trade and investment policies are critical for addressing the development challenges of Africa and achieving sustainable economic growth for the region.

EDIP's work is broadly divided into three streams. (1) Research on global economic governance in order to understand the broader impact on the region and identifying options for Africa in its participation in the international financial system. (2) Issues analysis to unpack key multilateral (World Trade Organization), regional and bilateral trade negotiations. It also considers unilateral trade policy issues lying outside of the reciprocal trade negotiations arena as well as the implications of regional economic integration in Southern Africa and beyond. (3) Exploration of linkages between traditional trade policy debates and other sustainable development issues, such as climate change, investment, energy and food security.

SAIIA gratefully acknowledges the Swedish International Development Cooperation Agency, the Danish International Development Agency, the UK Department for International Development and the Swiss Development Corporation, which generously support the EDIP Programme.

Programme head: Catherine Grant, catherine.grant@saiia.org.za

Please note that all currencies are in US$ unless otherwise indicated.

ABSTRACT

The paper discusses the impact of non-tariff barriers (NTBs) in the Southern African Development Community region. It draws on the growing body of literature on NTBs pertaining to regional trade in Southern and Eastern Africa, but importantly it supplements this with the experience of the private sector in the region. It reviews the current processes and achievements in addressing NTBs within Southern Africa. Practical measures are proposed to facilitate the removal of NTBs within Southern Africa, informed by the lessons from other regions.

The paper focuses particularly on how to address those NTBs to regional trade that are the result of inappropriate design and implementation. These include, but are not necessarily limited to: licensing rules, import permits, standards (as well as their implementation) and customs procedures. It does not look at those barriers that are overtly trade restricting by intention (for example, antidumping duties, quantitative restrictions, import levies). The former subset of NTBs is likely to be less transparent but more prevalent and representative of the constraints Southern African traders face in selling merchandise across borders on a day-to-day basis.

The paper draws on work undertaken with Ian Gillson from the World Bank, to whom I am very grateful.

ABOUT THE AUTHOR

Nick Charalambides is an international trade economist and Director of Imani Development, South Africa, and Sustainable Commerce, Botswana. He has worked extensively throughout Southern and Eastern Africa and the Caribbean and Pacific. Following his Doctorate in Quantitative Economics from the Centre for the Study of African Economies, Oxford University, he worked for DfID on globalisation and poverty, was seconded to the European Commission as trade and poverty adviser for the Everything But Arms initiative and the Economic Partnership Agreements. Since returning to Africa, he has worked with COMESA, the EAC, SACU and SADC, and a wide range of governments and non-state actors.

ABBREVIATIONS AND ACRONYMS

ASEAN	Association of Southeast Asian Nations
COMESA	Common Market of Eastern and Southern Africa
EAC	East African Community
EEA	European Economic Area
EFTA	European Free Trade Association
ETI	Enabling Trade Index
FTA	free trade area
IT	information technology
ITC	International Trade Centre
LAC	Latin America and the Caribbean
MMTZ	Malawi–Mozambique–Tanzania–Zambia
NAMC	National Agricultural Marketing Council
NTB	non-tariff barrier
NTBMM	NTB Monitoring Mechanism
NTM	non-tariff measure
RMIF	Red Meat Industry Forum (South Africa)
RoO	rules of origin
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCSTAN	SADC Co-operation in Standardisation
SARS	South African Revenue Service
SME	small and medium enterprise
SPS	sanitary and phytosanitary
SQAM	Standards, Quality Assurance and Metrology
SSA	sub-Saharan Africa
TBT	technical barriers to trade
TMCM	Trade Monitoring and Compliance Mechanism
UNCTAD	UN Conference on Trade and Development
VAT	value-added tax
WTO	World Trade Organization

INTRODUCTION

The paper provides an overview of the incidence and impact of non-tariff barriers (NTBs) in the Southern African Development Community (SADC) region. The analysis draws on the growing body of literature on NTBs pertaining to regional trade in Southern and Eastern Africa, but importantly it supplements this with the experience of the private sector in the region. It reviews the current processes and achievements in addressing NTBs within Southern Africa. Practical measures are proposed to facilitate the removal of NTBs within Southern Africa, informed by the lessons from other regions.

The paper focuses particularly on how to address those NTBs to regional trade that are the result of inappropriate design and implementation. These include, but are not necessarily limited to: licensing rules, import permits, standards (as well as their implementation) and customs procedures. It does not look at those barriers that are overtly trade restricting by design (for example, antidumping duties, quantitative restrictions, import levies). The former subset of NTBs is likely to be less transparent but more prevalent and representative of the constraints Southern African traders face in selling merchandise across borders on a day-to-day basis.

The paper has seven sections. The first reviews progress in implementation of the SADC Free Trade Area (FTA). The status of tariff liberalisation and market potential are outlined as a precursor to the discussion on NTBs. The second looks at the issue of defining NTBs, and in particular the conditions under which non-tariff measures (NTMs) that are required to manage international trade might become NTBs. The third section reviews the incidence of NTBs in Southern Africa, while the fourth discusses the barriers reported using the Tripartite NTB Monitoring Mechanism (NTBMM). The fifth section assesses the impact of NTBs at both the macro and sectoral levels. The sixth section establishes a baseline for addressing NTBs in Southern Africa by, first, looking at international experience with removing these barriers at the regional level and, second, comparing these with the approach used by the SADC. The seventh section presents conclusions and concrete proposals to enhance the elimination of NTBs in the region.

THE SADC FTA: PROGRESS IN TARIFF REDUCTION AND MARKET POTENTIAL

This section briefly addresses the achievements of SADC in tariff liberalisation and the potential of the regional market in Southern Africa. The key finding is that for the full potential of the SADC FTA to be realised in terms of increasing real trade flows, NTBs must be addressed.

The SADC FTA process

The SADC Protocol on Trade was signed in 1996 and entered into force in January 2000. The implementation period for tariff reductions was to be completed by the end of 2012 (2015 for Mozambique). The tariff reduction schedules for each country are asymmetric. Countries in the Southern African Customs Union (SACU) liberalised their tariffs facing imports from non-SACU SADC countries early on. And liberalisation of non-SACU countries to each other has been faster than to SACU. The tariff reduction schedules were also relatively 'back loaded', with most liberalisation happening in 2008, immediately prior to the official launch of the FTA. For Malawi, Mozambique, Tanzania, Zambia and Zimbabwe, only 42% of tariff lines had been liberalised to SACU members by 2007;[1] this increased to 89% in 2008.

Table 1: SADC tariff phase down offers (% of duty-free tariff lines)

Country	No of tariff lines	2001	2005	2006	2007	2008	2012
Offers to non-SACU SADC countries							
Malawi	5 443	33.4	33.4	48.7	85.3	85.3	99.7
Mauritius	5 479	69.7	90.5	90.5	90.5	90.5	100.0
Mozambique	5 246	30.1	30.1	30.1	30.1	94.0	99.6
SACU	7 802	63.9	94.6	99.3	99.3	99.3	99.3
Tanzania	6 215	17.5	24.4	42.8	43.1	86.3	99.3
Zambia	6 066	54.2	54.2	95.9	95.9	95.9	100.0
Zimbabwe	7 167	30.7	30.7	72.2	72.2	89.8	98.7
Offers to SACU							
Malawi	5 443	33.4	33.4	34.8	34.8	84.9	99.7
Mauritius	5 479	69.4	69.7	69.7	90.5	90.5	100.0
Mozambique	5 246	28.1	28.1	28.1	28.1	92.6	92.6
Tanzania	6 215	15.7	15.7	15.7	15.9	84.6	99.3
Zambia	6 066	32.1	32.1	40.0	40.0	95.9	100.0
Zimbabwe	7 167	32.1	44.0	48.4	55.4	71.6	82.1

Source: The Services Group, *Study on the Implementation of the SADC Protocol on Trade*. Gaborone: Southern Africa Global Competitive Hub, 2007.

Regional trade within the SADC FTA has been increasing, but in recent years this has barely kept pace with increases in trade with the rest of the world (see Table 2).

Table 2: Intraregional imports (% of total imports)

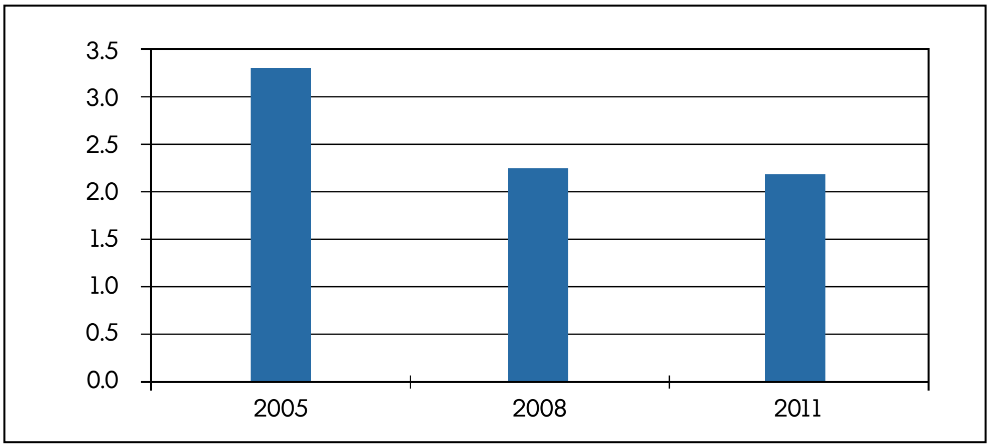
	1990–92	1998–2000	2004–06
SADC FTA	7.40	10.96	8.72
COMESA[a] FTA	3.27	2.73	3.41
EAC[b]	5.53	10.40	9.38

a COMESA represents the Common Market of Eastern and Southern Africa.
b EAC represents the East African Community.

Source: World Bank, *Regional Trade Agreements in Southern Africa and Their Impact on Intra – and Inter – Regional Trade Flows*, Poverty Reduction and Economic Management 1 and Africa Regional Integration Southern Africa. Washington DC: World Bank Mimeo, 2009.

There is some suggestion that the modest performance of intra-SADC trade could be affected by the 'back loading' of tariff liberalisation towards SACU members, though the evidence for this is not compelling. For example, the share of non-SACU SADC countries' exports (Mauritius, Mozambique, Tanzania, Zambia and Zimbabwe) that benefited from early liberalisation within the region – in total the share of SADC imports from non-SACU SADC countries – rose in 2005 but then fell, stabilising to just over 2% (see Figure 1).

Figure 1: SADC imports from Mauritius, Mozambique, Tanzania, Zambia and Zimbabwe (% of total imports)



Source: Author's own calculations based on TradeMap data, ITC (International Trade Centre), http://www.trademap.org, accessed March 2013.

In proportional terms, South Africa's exports to non-SACU SADC countries relative to its exports to the rest of the world fell from 14.9% in 1996 to 6.9% in 2006. However, in recent years South Africa's regional exports have been picking up (see Table 3), and in 2012 accounted for just over 13% of total exports.

Table 3: South Africa's exports to non-SACU SADC countries, 2009–12

ZAR (m)	60,991	65,310	78,356	96,407
% of total exports	11.9	11.1	11.1	13.4

Source: Author's own calculations based on data from SARS (South African Revenue Authorities), Trade Data, http://www.sars.gov.za, accessed 13 March 2013.

South Africa's exports to Malawi, Mozambique, Tanzania, Zambia and Zimbabwe have increased from 4.7% of total exports in 2006 to 6.1% in 2010 to 7.4% in 2012; the main increase was in exports to Mozambique (see Table 4). There has also been a change in the composition of exports coinciding with these tariff reductions, mostly from South Africa to the smaller Southern African countries.[2] For example, Malawi's liberalisation of machinery, optical equipment and miscellaneous manufacturing to SACU in 2008 happened at roughly the same time as technology exports from South Africa to Malawi increased by 38.3% – with total exports to Malawi growing by 76% in that year. However, given the relatively low base of exports and the turbulence caused by the global crisis, any emerging patterns must be viewed with caution. The SADC tariff phase down is being implemented as agreed with the exception of Tanzania (sugar, paper products) and Zimbabwe (Categories C until 2014), but only a small share of SADC trade is affected by these remaining duties.[3]

Table 4: South Africa's exports to selected SADC countries and tariff phase down (%)

	2006	2007	2008	2012
Malawi				
% of total SA exports	0.4	0.4	0.6	0.5
Offer to SACU (% of tariff lines liberalised)	34.8	34.8	84.9	99.7
Mauritius				
% of total SA exports	0.3	0.4	0.5	0.4
Offer to SACU (% of tariff lines liberalised)	69.7	90.5	90.5	100
Mozambique				
% of total SA exports	1.6	1.8	2.0	2.7
Offer to SACU (% of tariff lines liberalised)	28.1	28.1	92.6	99.6
Tanzania				
% of total SA exports	0.7	0.5	0.6	0.8
Offer to SACU (% of tariff lines liberalised)	15.7	15.9	84.6	(99.3)[a]
Zambia				
% of total SA exports	2.0	2.0	2.4	3.0
Offer to SACU (% of tariff lines liberalised)	40	40	95.9	100
Zimbabwe				
% of total SA exports	1.8	1.7	2.1	2.7
Offer to SACU (% of tariff lines liberalised)	72.2	72.2	89.9	(98.7)[b]

a Tanzania reimposed duties on certain sugar and paper products in 2011 – this only affects a very limited number of tariff lines.

b Zimbabwe requested a two-year extension of its tariff phase down for Category C products until 2014.

Sources: SARS, Trade Data, http://www.sars.gov.za, updated 13 March 2013; USAID Southern Africa Trade Hub, *2011 Audit of the Implementation of the SADC Protocol on Trade,* submitted by AECOM International Development, August 2012.

NTBs now need to be addressed to fully realise SADC's potential to increase merchandise trade.

As will be explored further in the Barriers Reported section, NTBs within Southern Africa are pervasive; the impact on the private sector is widely felt. In a recent survey of the private sector by COMESA,[4] roughly 80% of respondents indicated some level of trade barriers in the region, and 40% experienced very severe NTBs.

NTBs affect trade throughout the entire region. In an inventory of NTBs in SADC,[5] all member states were found to have at least 'moderate' NTBs in a range of categories. NTBs continue to be a challenge even within SACU.[6]

DEFINING NON-TARIFF BARRIERS

Categorisation of non-tariff measures

NTMs are measures, other than tariffs, that cause trade distortions – increasing the price of imported goods. The World Trade Organization (WTO) has defined seven categories of NTMs, as set out in Table 5 (see Annex 1 for a fuller description).

Table 5: WTO classification for inventory of NTMs

Parts	Description
Part I	Government participation in trade and restrictive practices tolerated by governments (eg subsidies, state trading, countervailing duties)
Part II	Customs and administrative entry procedures (eg antidumping duties, customs classification, rules of origin or RoO, import licensing)
Part III	Technical barriers to trade or TBT (eg technical regulation and standards)
Part IV	Sanitary and phytosanitary measures (eg SPS measures, certification, conformity assessment)
Part V	Specific limitations (quantitative restrictions, exchange controls, export taxes)
Part VI	Charges on imports (prior import deposits, surcharges)
Part VII	Other (eg intellectual property issues, safeguard measures, distribution constraints)

Source: WTO, *Inventory of Non Tariff Measures*, Negotiating Group on Market Access, TN/MA/S/5/REV.1. Geneva: WTO, 2003.

However, in recognition of the difficulties of defining and classifying NTMs, and the lack of a commonly agreed definition and classifications, a Group of Eminent Persons on NTMs was established by the UN Conference on Trade and Development (UNCTAD) in 2006. The tasks of the group also include setting out how to address the problem of data availability on NTMs.

One output of this group has been the UNCTAD/WTO categorisation of NTMs. This categorisation expands on the framework of the WTO (2003), relating NTMs to imports on the one hand and exports on the other. They are then further broken down into technical and non-technical measures. See Table 6.

Table 6: UNCTAD classification of NTMs

Imports	**Technical measures**	A	SPS measures
		B	TBT
		C	Pre-shipment inspections and other formalities
	Non-technical measures	D	Contingent trade-protective measures
		E	Non-automatic licensing, quotas, prohibitions and quantity-control measures other than for SPS or TBT reasons
		F	Price-control measures, including additional taxes and charges
		G	Financial measures
		H	Measures affecting competition
		I	Trade-related investment measures
		J	Distribution restrictions
		K	Restriction on post-sale services
		L	Subsidies (excluding export subsidies)
		M	Government procurement restrictions
		N	Intellectual property
		O	RoO
Exports		P	Export-related measures

Source: UNCTAD, *Classification of Non Tariff Measures,* Division on International Trade in Goods and Services, and Commodities, UNCTAD. Geneva: UN Publications, February 2012.

From NTMs to NTBs

An NTM becomes an NTB when: (a) it is not transparent; (b) it is discriminatory; (c) it is not based on internationally agreed standards or scientific evidence; (d) there is an alternative, less trade distorting measure or approach that could be used to achieve the same policy objective; or (e) the measure is not proportional to the risk it tries to protect against.

Clearly, barriers that are overtly trade restricting by *design* (for example, antidumping duties, quantitative restrictions, export taxes, levies) are NTBs. However, NTBs can also include those measures that seek to achieve legitimate public policy objectives but may nevertheless have a negative impact on trade through problems of inappropriate *application*. Barriers can, therefore, relate to the administration of the measure as well as the measure itself.

As regional integration initiatives begin to address NTBs, they face the practical challenge of agreeing on a working definition. Box 1 sets out the main NTMs one such regional grouping – ASEAN – has classified as NTBs.

Box 1: ASEAN:[a] A working definition of NTBs

Para-tariff measures

Other measures that increase the cost of imports in a manner similar to tariff measures, ie by a fixed percentage or by a fixed amount, calculated respectively on the basis of the value and the quantity, are known as para-tariff measures. Four groups are distinguished: customs surcharges; additional charges; internal taxes and charges levied on imports; and decreed customs valuation.

Price-control measures

Measures intended to control the prices of imported articles for the following reasons: (a) to sustain domestic prices of certain products when the import price is inferior to the sustained price; (b) to establish the domestic price of certain products because of price fluctuation in the domestic market or price instability in the foreign market; and (c) to counteract the damage caused by the application of unfair practices of foreign trade.

Finance measures

Measures that regulate the access to and cost of foreign exchange for imports and define the terms of payment.

Monopolistic measures

Measures that create a monopolistic situation, by giving exclusive rights to one or a limited group of economic operators, for earlier social, fiscal or economic reasons.

Single channel for imports: All imports or imports of selected commodities have to be channelled through state-owned agencies or state-controlled enterprises. Sometimes the private sector may also be granted exclusive import rights.

Compulsory national services: Government-sanctioned exclusive rights of national insurance and shipping companies on all or a specified share of imports.

Technical measures

Measures referring to product characteristics such as quality, safety or dimensions, including the applicable administrative provisions, terminology symbols, testing and test methods, packaging, marking and labelling requirements as they apply to a product. The implementation of these measures can be used to restrict trade in sensitive product categories.

a ASEAN represents the Association of Southeast Asian Nations.

Source: The ASEAN Secretariat website, ASEAN Economic Community, 'Non-tariff barriers', http://www.asean.org/communities/asean-economic-community/item/non-tariff-barriers, accessed February 2013.

THE INCIDENCE OF NTBs IN SOUTHERN AFRICA

Having defined NTBs, this section identifies what might be termed 'priority' barriers that have a generic impact, across all sectors, as well as those that may have a particularly strong impact at the sector level. It also compares the experience of NTBs in Southern Africa with other developing regions.

Customs administration, transit-related barriers and corruption at the border are priorities for the private sector in Southern Africa

Customs administration, problems with transit traffic and corruption appear to be the biggest NTBs in the Southern African region in terms of trade costs. Table 7 summarises key studies and surveys that underpin these findings.

Corruption, including payments made at unofficial road blocks and at weighbridges that 'seem to defy gravity', were also cited as the most significant NTBs in the region by several of the export councils interviewed for this study. Corruption, along with payment default, was reported as the greatest constraint to trade with Southern and Eastern Africa for South African small and medium enterprises (SMEs) in a survey undertaken in 2004.[7]

Table 7: Studies and instruments identifying NTBs in Southern and Eastern Africa

Study/mechanism	Coverage and approach	Findings relating to priority barriers
Inventory of SADC Non-Tariff Barriers, Imani (2007)[a]	The review covered all SADC member states. It drew on desk research and interviews with the private sector and government officials.	The three most severe NTBs for the region were: • cumbersome customs procedures and documentation; • cumbersome import licensing/permits; and • cumbersome visa requirements.
Non-Tariff Measures on Goods Trade in the EAC, World Bank (2008)[b]	Interviews with the private sector undertaken in EAC member states recorded the importance of, and number of complaints regarding, categories of NTBs.	The ranking of NTBs in descending order of importance: • customs and administrative entry and passage procedures; • government participation in trade and the restrictive practices tolerated by it; and • distribution restrictions.
Non-Tariff Barrier Impact Study for COMESA Region, Imani (2009)[c]	Coverage of 11 COMESA countries, including six SADC countries (Malawi, Mauritius, Swaziland, Tanzania, Zambia, Zimbabwe). Draws on 212 questionnaires answered by the private sector (38 to the public sector).	The three major factors affecting private sector operators were: • corrupt practices; • lengthy clearance processes; and • variable transport documentation procedures.

Study/mechanism	Coverage and approach	Findings relating to priority barriers
Tripartite (COMESA–EAC–SADC) Non-Tariff Barrier Monitoring Mechanism.[d] (Note: there is some overlap between the cases reported in Imani (2007) and the monitoring mechanism.)	An online database for private-sector operators to report NTBs. Open to all private-sector operators trading with Tripartite countries. 363 cases were reported online as of 12 March 2013.	The top three barriers reported are: • trade-related administrative barriers; • export–import licences; and • transit issues.

a Imani Development, *Inventory of Regional Non Tariff Barriers: Synthesis Report*, prepared for the Regional Trade Facilitation Programme. Cape Town: Imani Development, 2007.

b World Bank, *Non-Tariff Measures on Goods Trade in the EAC*, Report 45708-AFR. Washington DC: World Bank, 2008.

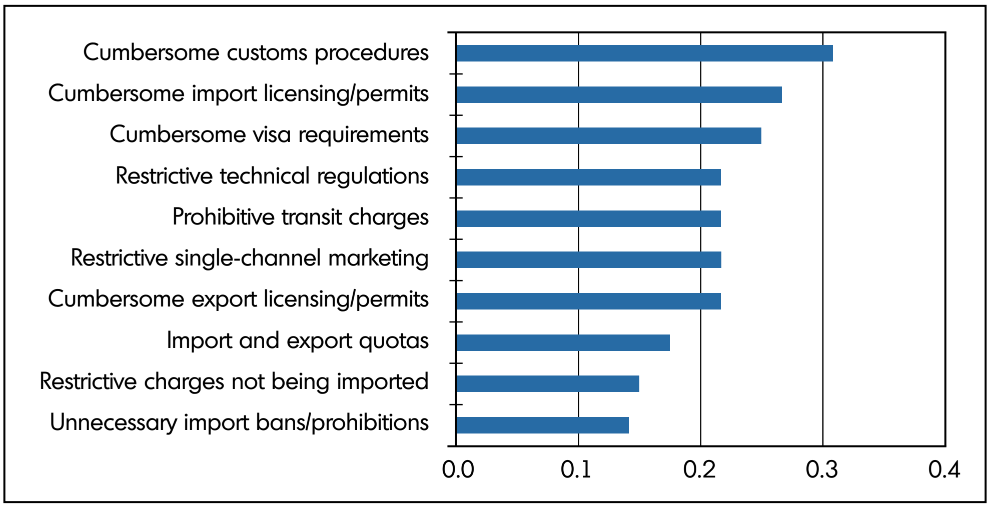
c Imani Development, *Non Tariff Barrier Impact Study for COMESA Region*, prepared for the COMESA Secretariat and the Regional Trade Facilitation Programme. Cape Town: Imani Development, 2009.

d SADC, EAC & COMESA, Non-Tariff Barriers Reporting, Monitoring and Eliminating Mechanism, http://www.tradebarriers.org.

Source: Author's own research drawing on sources cited above.

Examining these previous studies in more detail, the Imani inventory[8] of NTBs in SADC allows for a ranking of the most severe NTBs as perceived by countries, provided in Figure 2.

Figure 2: Most severe NTBs in the SADC region (3 = moderate; 5 = very serious)



Source: Calculated on the basis of work by Imani Development, *Inventory of Regional Non Tariff Barriers: Synthesis Report*, prepared for the Regional Trade Facilitation Programme. Cape Town: Imani Development, 2007.

The inventory also assesses the severity of a range of NTBs in the region. Table 8 shows that for every SADC country, at least 'moderate' NTBs to trade exist in one of the categories covered in the study.

Table 8: Severity of NTBs in the SADC countries

Activity	SADC member states											
	Angola	Botswana	Lesotho	Malawi	Mauritius	Mozambique	Namibia	South Africa	Swaziland	Tanzania	Zambia	Zimbabwe
Unnecessary import bans/ prohibitions	1	3	1	2	2	1	1	1	1	1	2	1
Restrictive charges not being import or export duties	3	1	1	1	2	3	2	1	1	1	1	1
Import and export quotas	1	2	2	1	2	2	2	3	2	1	1	2
Cumbersome export licensing/ permits	3	2	2	2	3	3	2	1	2	2	2	2
Restrictive single-channel marketing	4	2	1	2	3	2	2	1	3	2	1	3
Prohibitive transit charges	3	3	1	2	1	4	2	2	1	3	2	2
Restrictive technical regulations	1	2	2	2	2	2	3	3	2	3	2	2
Cumbersome visa requirements	4	3	3	2	2	3	2	3	2	2	2	2
Cumbersome import licensing/ permits	4	3	2	3	2	3	3	2	2	2	3	3
Cumbersome customs procedures and documentation	5	2	3	3	1	5	3	2	3	4	3	3

Key: 1–5. 5 = Very Serious 4 = Serious 3 = Moderate 2 = Low 1 = Nil

Source: Imani Development, *Inventory of Regional Non Tariff Barriers: Synthesis Report*, prepared for the Regional Trade Facilitation Programme. Cape Town: Imani Development, 2007.

A recent COMESA study on NTBs[9] covers six SADC member states: Malawi, Mauritius, Swaziland, Tanzania, Zambia and Zimbabwe. It uses private-sector surveys to assess the most restrictive NTBs in the region. Clearance of goods' documentation and transit traffic/

trucking issues are found to create the most significant barriers to regional trade. Roughly 80% of the sample indicates that there was some level of barrier to trade in each of these two categories. More than 40% identified transit traffic/trucking issues as very significant. Although less than the previous two categories, nearly 60% of the responses reported that restrictive trade practices caused at least some friction to trade within the region. The application of COMESA RoO had the lowest incidence of reported obstacles to trade. More than 50% indicated that RoO were no barrier to trade; about 20% indicated them to be a significant barrier; and just over 10% ranked them as a very significant barrier.

The top four NTBs by category reported by the private sector in the COMESA study are listed in Table 9 under the classification of restrictive trade practices, RoO, clearance of goods documentation and transit traffic/trucking issues. In every classification, corruption is a key concern.

Table 9: Private-sector top-four NTBs by categories

Restrictive trade practices	
1	Corruption
2	Permits and licences
3	Exchange controls
4	Non-automatic licensing
COMESA and EAC RoO	
1	Corruption
2	Arbitrary tariff application
3	Arbitrary product classification
4	Non-acceptance of RoO
Clearance of goods documentation	
1	Lengthy clearance processes
2	Lengthy classification and valuation of imports processes
3	Arbitrary documentation requirements
4	Corruption
Transit traffic/trucking issues	
1	Variable documentation requirements
2	Inefficient port operations
3	Variable weighbridge checks

Source: Imani Development, *Non Tariff Barrier Impact Study for COMESA Region*, prepared for the COMESA Secretariat and the Regional Trade Facilitation Programme. Cape Town: Imani Development, 2009.

A World Bank study[10] of the five EAC countries assesses NTMs that apply to intra-EAC trade, with the broad categories organised as per the WTO inventory categorisation. These measures are ranked on the number of private-sector complaints from their interviews in the five EAC countries. The rankings, in descending order of importance, were found to be: (a) customs and administrative entry and passage procedures; (b) government participation in trade and restrictive practices tolerated by it; (c) distribution restrictions; (d) specific limitations; (e) TBT; and (f) SPS measures.

Specific sectors are strongly affected by RoO and restrictive trade practices

Problems with customs, transit, and (often closely related) corruption have the potential to touch every operator involved in trade across borders; whereas RoO and more ad-hoc restrictive trade practices (for example, import bans) affect specific sectors. As such, they are less widely reported by the private sector but are nevertheless still significant for regional trade in certain products.

The Imani inventory[11] concludes that the biggest barriers face regional trade in agricultural commodities. The main reasons given to justify these barriers are food security, protecting local producers, health and safety, and single-channel marketing. The commodities that are most regularly affected by these restrictions include sugar, maize, meat products (including poultry), dairy products, tea, timber products, and seasonal vegetables.

RoO are most important for intra-SADC trade in clothing and textiles, and in particular the Malawi–Mozambique–Tanzania–Zambia (MMTZ) derogation to these. This derogation has allowed the non-SACU least-developed countries in the SADC to export certain items of clothing duty free to SACU countries, within a quota system, under less stringent RoO (single transformation) than those which apply to the SADC as a whole (double transformation). Other products affected by RoO (in some cases their absence) include wheat flour and electrical products.[12]

Regional trade in some other products, for example, cement and to some extent electrical products, are also affected by a lack of harmonised standards that, although having been developed, are yet to be *applied* in the region.

BARRIERS REPORTED USING THE TRIPARTITE NTB MONITORING MECHANISM

The NTBMM[13]

The NTBMM is a web-based 'post box' where the private sector can report complaints in the Southern and Eastern African region. It is a platform shared among COMESA, the EAC and SADC. Its origin and operation are explored further in section six.

Complaints to date

Under this, 363 complaints of NTBs have been made, the earliest of which date back to January 2004. Two hundred and ninety complaints have been listed as resolved and 73 are currently active. The greatest number of complaints have been made by South Africa (74), followed by Zimbabwe (66) and Namibia (47). (See Table 10.)

Table 10: NTBMM: Number of complaints made by reporting countries

Reporting country	Active complaints	Resolved complaints	Total complaints
South Africa	29	45	74
Zimbabwe	16	50	66
Namibia	5	42	47
Malawi	1	34	35
Tanzania	8	27	35
Zambia	3	22	25
Mozambique	2	20	22
Swaziland	1	16	17
Seychelles	1	13	14
Botswana	3	10	13
Lesotho	1	7	8
Madagascar	3	4	7
Total complaints	**73**	**290**	**363**

Source: SADC, EAC & COMESA, Non-Tariff Barriers Reporting, Monitoring and Eliminating Mechanism, http://www.tradebarriers.org, accessed 12 March 2013.

To date all Southern African countries have made complaints against NTBs affecting regional trade under the NTBMM. Elsewhere, only Kenya, Rwanda, Burundi, Uganda and Egypt have reported the imposition of NTBs on their exports.

Countries cited as imposing NTBs

Under the NTBMM, 17 countries have been cited to impose NTBs within the region (resolved and active). The three most-cited countries are South Africa (48), Zambia (45) and Zimbabwe (43). Mozambique was cited 40 times but 90% of all complaints relate to resolved NTB cases. (See Table 11.)

Table 11: NTBMM: Countries cited in complaints

Country cited in complaint	Active complaint	Resolved complaint	Total complaints
South Africa	8	39	48
Zambia	13	32	45
Zimbabwe	15	28	43
Mozambique	4	36	40
Malawi	1	25	26
Namibia	0	24	24
Tanzania	4	19	23
Botswana	7	15	22
Lesotho	0	14	14
Seychelles	0	14	14
Kenya	2	11	13
Swaziland	2	11	13
DRC	5	6	11
Angola	1	7	8
Madagascar	2	6	8
Mauritius	0	4	4
Burundi	0	2	2

Source: SADC, EAC & COMESA, Non-Tariff Barriers Reporting, Monitoring and Eliminating Mechanism, http://www.tradebarriers.org, accessed 12 March 2013.

The types of NTBs being reported

An assessment of the types of barriers cited on the NTBMM is set out in Table 12. The greatest number of complaints falls under 'Customs and administrative entry procedures' (143 total), mainly relating to 'Lengthy and costly customs clearance procedures'. The highest number of outstanding, active complaints falls under 'Transport, clearing and forwarding' (33), especially complaints relating to 'Costly road user charges and fees' (15).

Table 12: NTBMM: NTBs reported by category and selected subcategories

	Active complaints	Resolved complaints	Total complaints
Government participation in trade and restrictive practices tolerated by governments	4	28	32
Incl government monopoly in import/export	2	10	12
Incl import bans	–	8	8
Customs and administrative entry procedures	18	125	143
Incl RoO related	3	18	21
Incl arbitrary customs classification	3	4	7
Incl additional taxes and other charges	3	4	7
Incl lengthy and costly customs-clearance procedures	3	52	55
Incl international taxes and charges levied on imports and other tariff measures	1	15	16
Incl inadequate or unreasonable customs procedures and charges	2	12	14
TBT measures	2	15	17
SPS measures	4	18	22
Specific limitations	1	43	44
Incl quantitative restrictions	1	16	17
Incl export restraint arrangements	–	10	10
Charges on imports	1	5	6
Other procedural problems such as arbitrariness, complex documentation, lengthy procedures	10	55	65
Incl inadequate trade-related infrastructure	3	19	22
Incl costly procedure	3	4	7
Incl lack of information on procedures (or changes thereof)	1	10	11
Incl consular and immigration issues	1	7	8
Transport, clearing and forwarding	33	19	52
Incl government policy and regulations	11	–	11
Incl costly road user charges/fees	15	15	30

Source: SADC, EAC & COMESA, Non-Tariff Barriers Reporting, Monitoring and Eliminating Mechanism, http://www.tradebarriers.org, accessed 12 March 2013.

NTBs facing South Africa in the regional market

South Africa has used the NTBMM to make 73 complaints, 45 of which have been logged as resolved and 28 of which are still active. It can be noted that 23 out of 28 active complaints relate to 'Transport, clearing and forwarding'; of which nine fall under 'Costly road user charges' and nine under 'Government policy and regulations'. Thirteen out of the total of 45 resolved complaints relate to NTBs in 'Government participation in trade and restrictive practices tolerated by governments'; 10 cases relate to NTBs caused by 'Customs and administrative entry procedures'.

The types of barriers notified by South African traders are set out in Table 13.

Table 13: NTBMM: NTBs reported by South Africa

	Active complaints	Resolved complaints	Total complaints
Government participation in trade and restrictive practices tolerated by governments	2	13	15
Customs and administrative entry procedures	–	10	10
TBT	1	–	1
SPS measures	1	2	3
Specific limitations	1	10	11
Other procedural problems such as arbitrariness, complex documentation, lengthy procedures	–	7	7
Transport, clearing and forwarding	23	3	26
Total	**28**	**45**	**73**

Source: SADC, EAC & COMESA, Non-Tariff Barriers Reporting, Monitoring and Eliminating Mechanism, http://www.tradebarriers.org, accessed 12 March 2013.

As in SADC so in SACU

The challenges of NTBs faced in SADC are also to be found within SACU. The recent WTO review of SACU identifies a range of NTBs restricting intra-SACU trade. These include seasonal import bans, price controls, levies and surcharges, infant industry protection, customs administration procedures and border transport charges. Within SACU, which maintains a common external tariff, various key NTMs have not been harmonised: quantitative restrictions; customs procedures; standards and technical regulations; SPS measures; public procurement; competition policy; incentives and internal taxes. Again, the main barriers faced by traders in SACU affect trade in agricultural commodities.[14]

NTB challenges in Southern Africa relative to other developing regions

The World Economic Forum has established the Enabling Trade Index (ETI). The ETI is a comprehensive index that measures the factors, policies and services facilitating the free flow of goods over borders and to destinations. It allows a comparison across regions. The trade enablers are broken down into: (a) market access; (b) border administration; (c) transport and communication; and (d) the business environment. Measures of these indices are constructed by indicators of: tariffs and NTBs; proclivity to trade; efficiency of customs administration; efficiency of border administration; transparency of border administration; availability and quality of transport services; availability and use of ICT; regulatory environment; and the physical environment.

Table 14 compares indicators across developing regions, and provides a benchmark on two top exporting countries – Germany and China. In general, the performance of sub-Saharan Africa (SSA) is similar to Latin America and the Caribbean (LAC) and often better than North Africa's. Nevertheless, relative to ASEAN, key areas of underperformance are: efficiency of customs administration; transparency of border administration; transport and communications infrastructure; availability and use of ICT; and physical security.

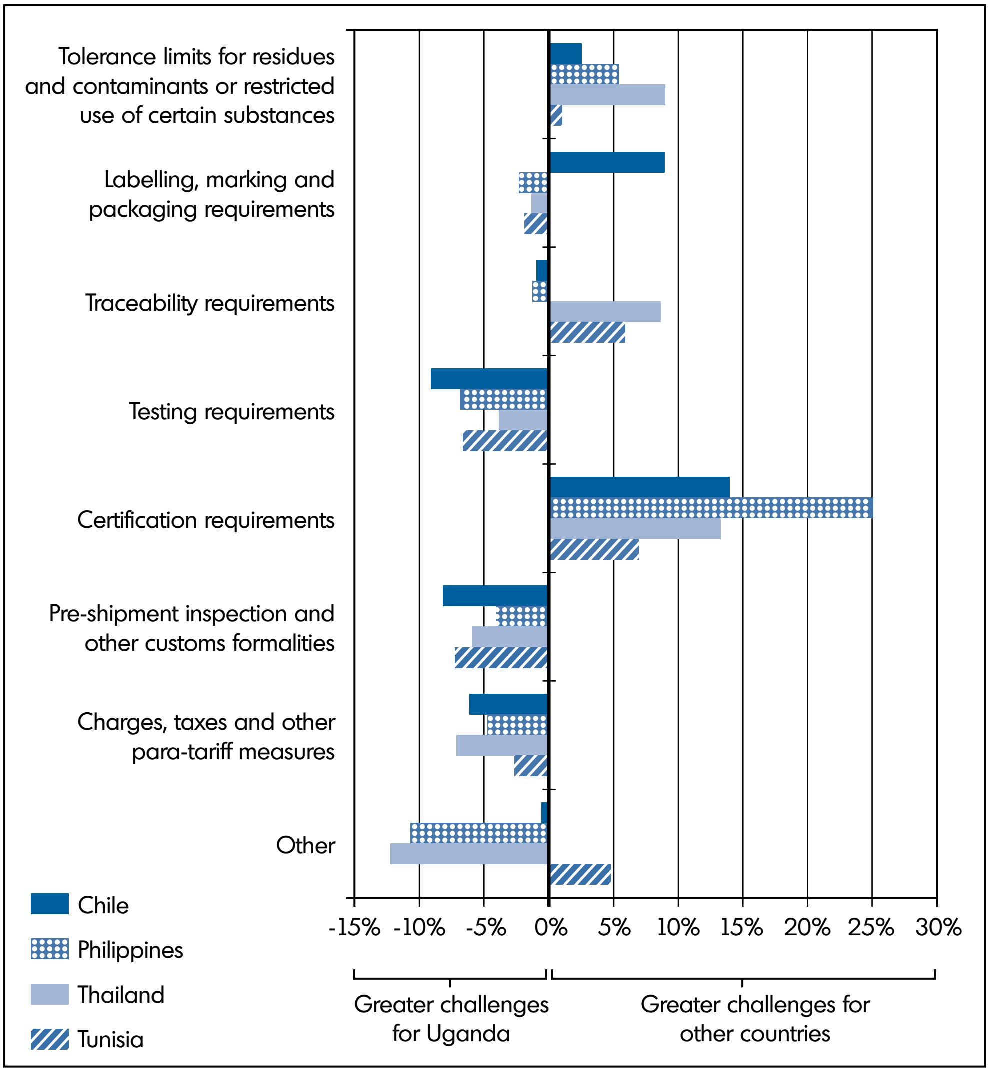
Table 14: Comparison of the ETI

	Market access	Border administration	Efficiency of customs administration	Efficiency of import–export procedures
North Africa	2.63	4.11	3.97	4.34
SSA	4.27	4.04	3.74	4.40
ASEAN	4.76	3.89	5.50	4.36
LAC	3.79	3.83	3.46	4.38
China	3.60	4.43	4.15	5.28
Germany	3.79	5.65	5.17	5.97
	Transparency of border administration	**Transport and communications infrastructure**	**Availability and quality of transport infrastructure**	**Availability and quality of transport services**
North Africa	3.79	3.21	3.57	2.76
SSA	4.05	3.41	3.89	3.55
ASEAN	4.88	4.85	4.78	3.48
LAC	3.64	3.27	3.57	3.30
China	3.85	4.16	4.48	4.87
Germany	5.81	5.77	5.28	5.85
	Availability and use of ICT	**Business environment**	**Regulatory environment**	**Physical Security**
North Africa	2.34	4.34	4.41	5.22
SSA	2.57	4.35	4.51	4.32
ASEAN	4.19	4.96	4.85	5.07
LAC	2.93	4.29	5.02	3.57
China	3.12	4.58	3.90	5.27

Source: *Global Enabling Trade Report*. Davos: World Economic Forum, 2009.

There is also evidence that the challenges in complying with NTBs in Southern and Eastern Africa's export markets are different to other developing regions. Evidence is emerging from an ITC and UNCTAD project, launched in January 2008, to collect and classify data on NTMs faced by seven developing countries. In each country company-level surveys, comprising 300–400 face-to-face interviews, were carried out. Preliminary findings suggest that relative to Chile, the Philippines, Thailand and Tunisia, Ugandan exports, for example, face greater challenges in meeting testing requirements, pre-shipment inspection, and charges, taxes and other para-tariff measures in destination markets. Figure 3 shows where countries in other regions have greater challenges (a positive percentage) versus where Uganda has greater challenges (a negative percentage).

Figure 3: Relative challenge of meeting NTB requirements in different regions: Uganda as the baseline



Source: Adapted from Mimouni M, Averbeck C & O Skorobogatova, 'Obstacles to trade from the perspective of the business sector: A cross country comparison', in *The Global Enabling Trade Report*. Geneva: World Economic Forum, 2009.

THE IMPACT OF NTBs ON REGIONAL TRADE FLOWS

This section reviews the macroeconomic costs of NTBs in terms of higher costs and reduced competitiveness in the region. It also provides examples of the impact of specific NTBs in SADC, where possible presenting the actual costs these impose on the private sector. Finally, the section summarises how NTBs undermine regional trade preferences in Southern Africa as provided, for example, under the SADC FTA.

The macroeconomic impact of NTBs

Quantitative assessment of the impact of NTBs is challenging, in particular given the large errors that exist in the data on them. However, there is a growing body of literature attempting to estimate the tariff equivalence of NTBs. A recent survey[15] of analytical work indicates that, in general, NTBs are more restrictive than existing tariffs. The average tariff equivalent of NTBs in place is 40%, which, for most products, is generally higher than the actual tariff applied. Again, agricultural products are found to be disproportionately affected by NTBs.

A recent quantitative analysis[16] estimates the impact, by region, of improving key indicators for trade facilitation to half the level of the best performer in the region. In SADC, for physical infrastructure it suggests such an improvement would be equivalent to an average tariff reduction faced in all export markets (not just regional) of 10–30%. Improvements in the SADC business environment would be equivalent to a 3–9% reduction in tariff; and greater availability and use of ICT equivalent to a drop of 2–8%. Improvement in SADC border and transport efficiency yielded only limited results – this may reflect that border and transport barriers affect the region's trade with the main OECD markets less than they do regional trade.

NTBs increase costs and reduce competitiveness

At the macroeconomic level, the impact of NTBs is also felt in terms of higher cost structures for businesses that face them and through higher prices for traded products that are passed on to consumers. In the survey of NTBs undertaken for the COMESA region,[17] over half the respondents indicated that the cost of NTBs, combined, was equivalent to 5% of the landed costs of imports. A further 24% of respondents indicated a 5–15% cost attribution to NTBs; and 23% of respondents indicated a cost attribution of over 15%.

Box 2

In the context of this study, Woolworths reported that retail prices in its franchise outlets in non-SACU SADC countries are up to 1.8 times higher than its stores within SACU because of the costs associated with meeting additional barriers to regional trade.

Source: Personal interview, Franchise General Manager International, Woolworths, Cape Town, South Africa, 2010.

NTBs increase transport prices and uncertainty of delivery that are key factors in pushing up costs of doing business

A key channel through which NTBs raise the cost of imported inputs and final goods is through their impact on transport costs. Higher transport costs and delays also increase the costs of exporting. Transport costs are higher in Southern Africa than in most other regions, in particular for African landlocked countries where transport costs account for between 15% and 20% of import costs – three to four times higher than in developed countries. Although infrastructure and market structure play a key role in the high cost of transport, reductions in border-crossing times have been estimated to have the biggest impact on reducing transport costs along transport corridors in Southern Africa, for example, the Durban–Lusaka–Ndola corridor.[18]

Uncertainty regarding the timing of deliveries matters as much as transport costs, and inefficiencies often require traders to hold costly inventories. For those retailers interviewed in the context of this study, up to twice the optimal level of stocks are kept in case of delays receiving orders (see Box 3). More significantly, high cross-border transaction costs and uncertainty severely constrain the potential for the development of regional supply chains. Integrated regional production is not feasible if inputs are often delayed at the border – irrespective of the cost of transporting them.

Box 3

One retailer operating across borders in Southern and Eastern Africa reports holding optimal stock in Kenya, equivalent to 14 weeks of sales, and close to optimal stocks in Uganda. Stock supplying these countries is transported via air freight and arrives within as little as one week. For Tanzania, however, air freight is not feasible and by ship the stock can take over one month to transport. As a consequence, stock levels in its stores in Tanzania are kept at 30 weeks of sales – twice the optimal levels.

A recent analysis[a] benchmarks Africa's costs and competitiveness by looking at, inter alia, the average cost to firms in Africa of the working capital necessary to finance the additional stock required as a result of transport problems. It finds that the average firm in Africa loses an estimated $850 per year as a result; 40% higher than for an average firm in East Asia.

a Iarossi G, Benchmarking Africa's Costs and Competitiveness, The Africa Competitiveness Report. Geneva: World Economic Forum, 2009.

Delays in the transport of goods are therefore also of key importance to competitiveness, and here too the region does not perform well. According to the World Bank's Doing Business Indicators, the time taken to import for SADC countries ranges from 13 days for Mauritius to 73 in Zimbabwe – compared with the OECD average of just under 11 days.[19]

It should also be noted that to a large extent the cost of transport and delays are inextricable. As a rule of thumb, it is estimated that each day saved in shipping is equivalent to a cost reduction of 0.8% of the ad valorem tariff.[20] Put another way, Shoprite[21] reports that every day one of its trucks is delayed at a Southern African border costs ZAR 3,500.

Examples of the impact of specific NTBs in the SADC

Some categories of NTBs, such as inefficiencies in customs administration and transit traffic or dysfunctional fiscal borders, affect regional trade in all goods. However, some NTBs, such as RoO, restrictive trade practices and differences in product standards, are important for limiting regional trade in specific sectors. Table 15 provides a summary of some of the impacts of these barriers.

Table 15: Impact of specific NTBs in the SADC

Barrier	Example of impact
Cost of paperwork for compliance with RoO and forwarding	Shoprite benefited by ZAR 93 million from SADC tariff preferences on exports in 2009. The cost of administration to manage the paperwork required for compliance to RoO and forwarding: ZAR 40 million. The introduction of electronic data processing and authorised trading in SADC would reduce the workload by 40%.
Cost and administration of import licensing	Shoprite spends an average of ZAR 136,000 per week on import permits for Zambia.
Licensing for new products	Can take up to three years to get new products (products that are not already exported) authorised.
Fiscal borders	The application of different VAT[a] and sales tax systems on intra-SACU trade costs an estimated 2% of the value of each transaction (0.5% for Lesotho–South Africa because of a bilateral agreement on administration at the border).
Uncertainty of payment	The absence of credit bureaus can be a significant constraint to developing export sales, for SMEs in particular. It can take between three and six months for SARS to return to traders duty paid erroneously.
Differences in product standards	Significantly raises the costs of trading in hazardous chemicals.
Restrictive RoO	Moving to more restrictive RoO for textiles (with the end of the MMTZ derogation) puts at risk an estimated 5 500 jobs in Malawi. Exports to South Africa already fell by 40% between 2008 and 2009.
Restrictive trade practices (eg export restrictions)	Namibia has imposed a restriction on live sheep exports. Between July 2004 and May 2008 exports of live sheep to South Africa from Namibia has decreased by 84%. According to a recent study, potentially 975 full-time job opportunities could be lost in South Africa owing to the scheme.

a VAT represents value-added tax.

Source: Author's own drawing on original research and sources cited in text.

RoO and restrictive trade practices have been widely documented and so will not be further examined here. Box 4 provides a recent example of the costs associated with export taxes imposed by Namibia on live sheep exports.

Box 4: Intervention in Namibia's meat scheme requested

The South African Red Meat Industry Forum (RMIF) requested a meeting in 2011 with the minister of agriculture to discuss the negative economic impact of the Namibian small-stock marketing scheme. In a letter to the minister of agriculture, the RMIF alleged that the Namibian small-stock marketing scheme has a particularly negative impact on the Northern Cape and consists of a number of illegal measures.

Background

During 2004 the Namibian government established the scheme to encourage local slaughtering of small stock in Namibia.

A quantitative export restriction coupled with a discretionary permit system on live sheep has been unilaterally imposed by the Namibian government. Since 2004 the quantity of live sheep exportable has been a function of the number of sheep slaughtered locally in Namibia. This ratio has been changing continuously. At the inception of the scheme in 2004, the ratio was 1:1; ie for every sheep slaughtered in Namibia, one live sheep was allowed to be exported on the hoof (almost exclusively to South Africa). The current ratio is that for every six sheep slaughtered in Namibia, one can be exported on the hoof. At the same time, Namibia also imposed a 30% export duty on the export of live bovine animals: slaughter-ready mature cattle.

Economic impact on South Africa

The negative impact of this unilateral measure by the Namibian government on the sheep value chain, and more specifically on the abattoirs situated in the Northern and Western Cape, has been substantial. Between July 2004 and May 2008 exports of live sheep to South Africa from Namibia has decreased dramatically by 84%, according to a study commissioned by the Red Meat Producer Organisation and the South African National Agricultural Marketing Council (NAMC). The report calculates that a potential 975 full-time job opportunities can be lost in South Africa owing to the scheme.

Conversely, the export of sheep meat to South Africa increased significantly over the period of time by more than double to thrice the amount exported before 2004 (from an average of 500 thousand tons to between 1 million to 1.5 million tons).

The study found that the increase of imported mutton and lamb into South Africa also had a negative effect on producer prices in South Africa.

Legal perspective
Part of the study looked at the legality of the scheme under the rules of the WTO, the SADC Protocol on Trade, and the SACU Agreement. After interrogating the legal texts of these international trade instruments dealing with export restraints, the study concluded the following.

- The scheme, in so far as it imposes an export tax, is in line with WTO rules, but in breach of both the SADC Protocol on Trade as well as the SACU Agreement.
- The scheme, in so far as it imposes quantitative export restrictions with or without discretionary permits, violates the WTO rules, the SADC Protocol on Trade, and the SACU Agreement.

The RMIF met with the Meat Board of Namibia during 2008 in Windhoek in an attempt to find some common ground. This was done following a meeting with officials of the Department of Agriculture and the Department of Trade and Industry. Despite these efforts, the matter could not be resolved on an industry-to-industry level.

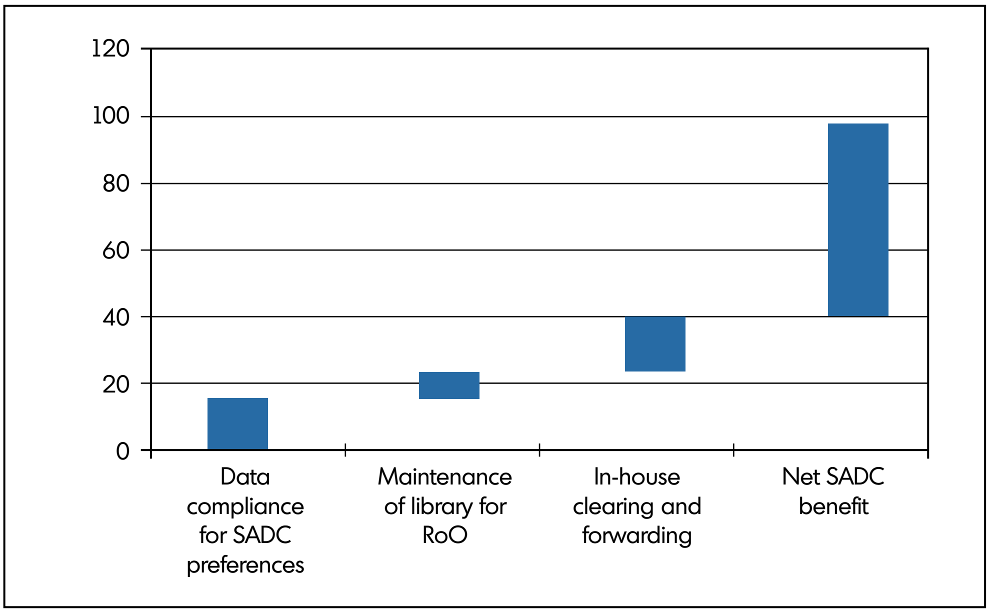
Source: Taljaard P *et al*., *The Impact of the Namibian Small Stock Marketing Scheme on South Africa*. Publisher location: NAMC, June 2009.

High costs of compliance in securing eligibility for regional tariff preferences

A key finding from interviews undertaken for the current study was *the extent to which paper work is limiting the benefits of improved market access of the SADC Trade Protocol*. For example, Shoprite PTY spends an estimated ZAR 40 million to secure ZAR 93 million worth of SADC tariff reductions – on administrating compliance with RoO and import documentation. It should be noted that Shoprite is considered to be highly efficient, by global standards, and is one of the top 40 listed companies in South Africa. The costs it incurs should therefore be taken as a minimum achievable.

Another example in Southern Africa is Woolworths, a leading retailer with a growing presence in SADC countries. Motivated by a need to increase the competitiveness of its products in SADC markets, Woolworths has only recently taken the decision to invest in its capacity to administer the red tape needed to be eligible for SADC trade preferences in distributing goods to its stores throughout the region. Prior to this, Woolworths deemed it too costly and simply paid full most-favoured-nation tariffs on its consignments to regional markets. Estimates provided for this study indicate that it could have benefited from duty savings of ZAR 4.2 million on ZAR 21.7 million of its exports to Mozambique, Tanzania and Zambia in 2009 – a cost saving on imports for franchise holders in these markets of up to 19%.

Figure 4: The cost of complying with paperwork to be eligible for preferential tariffs under the SADC



Source: Personal interview, Compliance Manager International Trade, Shoprite, Cape Town, South Africa, 2010.

The following challenges have been noted by Woolworths in trying to use SADC trade preferences: (a) the extensive paper trail (for example, proof of compliance with origin) must be kept on record; (b) the verification of wholly produced goods requires detailed production information from suppliers and their input suppliers: a time-consuming and tedious process; (c) requirements for submission of SADC certification can differ between different border posts and customs offices, often at the discretion of individual customs officials; and (d) SADC certification remains a manual (ie not computerised) process carried out by SARS. Shoprite reports similar concerns, as reflected in Box 5.

Box 5: Shoprite's challenges trading into the SADC

Over 15% of Shoprite's revenues in 2009 came from stores based outside of South Africa. The company is therefore targeting SADC and the rest of Africa for its growth. In doing this:

1 A key challenge has been administrating compliance with the RoO to qualify for SADC preferences on consignments sent to its stores outside of South Africa.
2 The value of SADC preferences was ZAR 93 million in 2009, on ZAR 3.8 billion of exports (an average preference margin on 2.4%).
3 The cost of ensuring qualification for preferences for the company is approximately ZAR 40 million per year. These costs comprise 40% for staff to maintain data

compliance; 40% for in-house clearing and forwarding; and 20% for maintenance of a library for RoO compliance of suppliers' products.

4 Up to 750 tariff-line items are shipped per truck. To cross an SADC border and be eligible for tariff preferences, there can be up to 1 600 documents accompanying each delivery.

5 Shoprite produces up to 8 000 SADC certificates of origin per month, all done manually, with up to 150 certificates of origin required per load.

6 If a single concession allowing grouping of Harmonized System codes were granted, this could potentially reduce Shoprite's workload in administering tariff preferences by 40%: an estimated cost saving of ZAR 1.08 million per year for the company.

7 The move to electronic data transfer and authorised economic operator states would cut costs by a further ZAR 30 million.

8 In Zambia, becoming accredited with the Zambia Revenue Authority and using a pre-market approval process for permit applications has been highly beneficial for the company, saving up to four days each truck must wait at the border – at an average cost of ZAR 3,500 per truck per day.

Import licensing

The cost and administrative burden of import licensing in the region is also significant. Shoprite spends an average of ZAR 136,000 per week on import permits for meat, milk and plant-based products for its exports to Zambia alone. About 100 permits (single entry) are applied for every week; this can rise to 300 in peak periods. Up to 1 600 documents can accompany each truck in order to cross a SADC border.

Lack of co-ordination across government ministries and authorities can also cause significant delays in getting authorisation for newly traded products. One South African retailer interviewed took three years to get permission to export processed beef and pork from South Africa to the Zambian market.

Fiscal borders

Unnecessarily complicated and inefficient fiscal borders also contribute to the costs of regional trade in Southern Africa. In particular, the application of different VAT systems on intra-SACU trade costs an estimated 2% of the value of each transaction.[22] Costs on trade between Lesotho and South Africa are less (0.5%) simply because a bilateral agreement between the two governments has been implemented to improve efficiency in VAT collection at the border and has assigned this role to a single agency (rather than two national ones).

Another challenge for business in the region was revealed in interviews with a small information technology (IT) service provider, based in Botswana, which is currently working in Lesotho to provide a client with an integrated IT system. This involves the sale of both IT hardware and system programming. A key challenge to its competitiveness is that in order to be able to zero rate the VAT on sales to Lesotho, imported hardware has to first be brought to Botswana and from there sent to Lesotho. Importing via South Africa direct to its location in Lesotho would attract VAT that it could not claim back. This is a case where de jure equal treatment in indirect taxes results in discriminatory treatment de facto. South African-based companies benefit from the fact that South Africa is an entry point for imports to the region – so the requirements for zero rating do not involve costs of transporting to their domestic tax jurisdiction.

Uncertainty of payment

Cross-border transactions are also affected by uncertainty of payment. This is in part the consequence of the absence of credit bureaus in several destination markets. Cash flow can also be affected by delays of between three to six months in SARS refunding money due (attribution). This problem has been reported by South African exporters and traders from Swaziland, relating to transit consignments in particular.

Adding up the cost of trading across borders in SADC: undermining tariff preferences

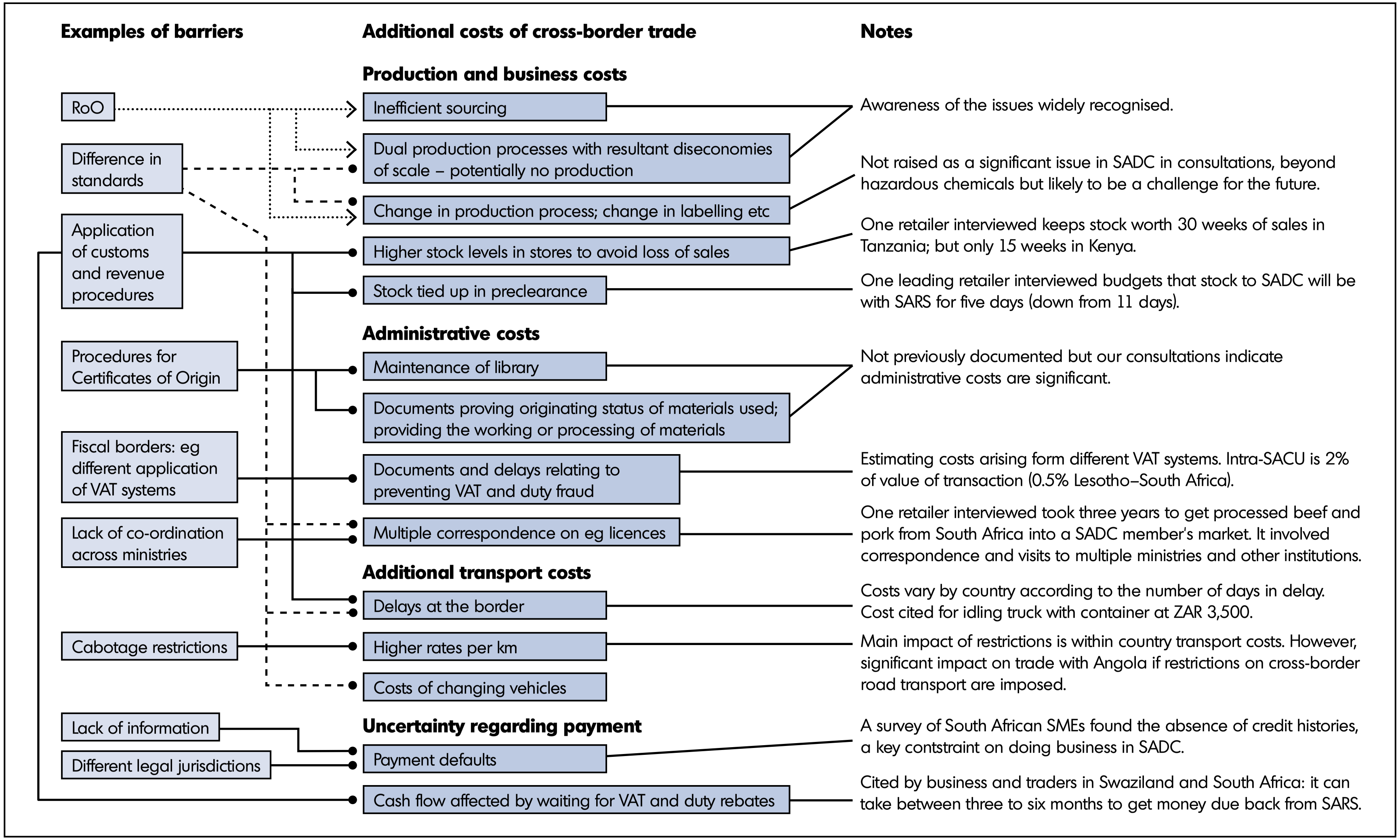
SADC preferences on the total exports for the retailers interviewed ranged from 3% to a potential 19%. This offers an incentive to expand trade within the region.

However, the costs of getting to market can be high. As we have seen from the experiences of Shoprite and Woolworths, the cost of qualifying for SADC preferences can be high. Of course doing business incurs costs. Getting goods to market will inevitably involve transport costs, irrespective of whether that market is foreign or domestic. And every formal business is in some way subject to red tape and administrative hassles. However, the focus of this report is the additional cost incurred in trading across borders.

The costs of producing and selling for the SADC markets as opposed to the domestic market include the following.

- Additional production costs: compliance with standards in production and labelling (where different); RoO.
- Additional administrative costs: including compliance costs to benefit from trade preferences, such as maintenance of records for originating status; compliance requirements for certificates of origin; and completion of paper work for customs procedures and transport.
- Additional transport costs: resulting from delays at the border as a result of trade administration procedures.
- Greater uncertainty regarding payment.

Figure 5: Cost of cross-border trading



Source: Author's own graphic.

ADDRESSING NTBs IN SOUTHERN AFRICA

The first part of this section reviews international experience with addressing NTBs and develops a baseline, against which the processes and progress made in SADC at removing these barriers is compared in the section's second part.

Developing a baseline for addressing NTBs

Removing NTBs at the regional level is facilitated by the creation of an overarching framework, in the context of which specific and evolving policy reforms to specifically address priority barriers to trade can take place.

An overarching framework

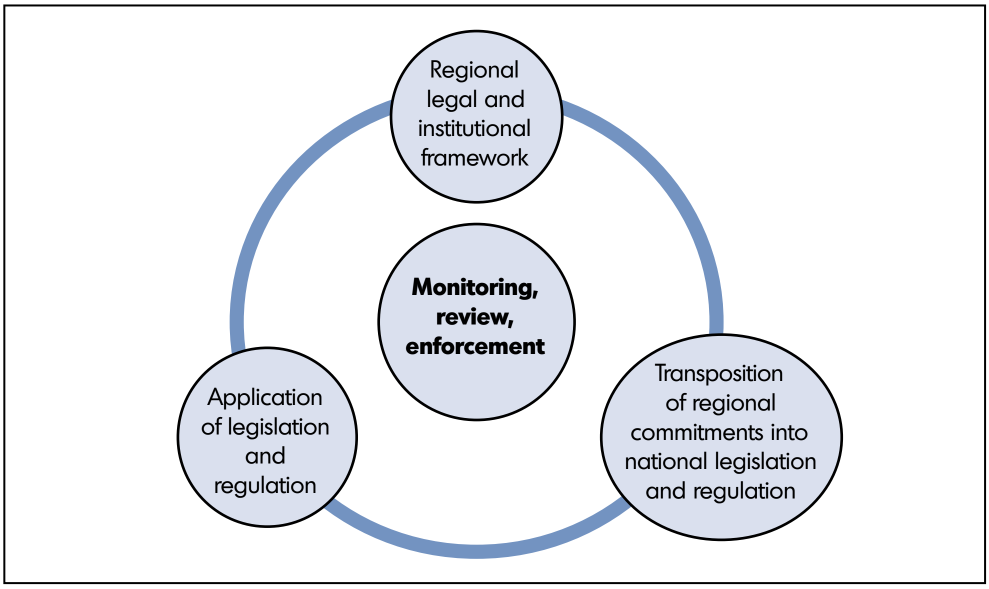
Legislation and regulation, institutions, and implementation

Addressing NTBs at the regional level requires the establishment of a legal framework committing member states to their removal; the establishment of appropriate regional and national institutions to implement SADC instruments, and monitor, report and deal with NTBs; correct implementation and transposition of regional commitments into national legislation; and correct application of legislation at the national level to minimise the trade restrictiveness of such measures (see Figure 6).

Management of the process

A mechanism for monitoring progress and challenges; a review process to adapt the regional legal and institutional framework to these evolving challenges; and an enforcement mechanism are also needed to facilitate the elimination of NTBs.

Figure 6: Characterisation of the overarching framework for addressing NTBs



Source: Author's own graphic.

Pursuing NTB elimination

The effective and efficient elimination of NTBs requires them to be categorised and prioritised. At the initial stages, when regions are faced with systemic challenges, activities are co-ordinated and focused through use of the road map or an action plan, with a metric to assess progress at country level. In the case of the EU, the process for addressing NTBs has devolved to citizens and businesses – in part reflecting the success of the EU in addressing systemic, widespread NTBs.

Categorisation and prioritisation

Categorisation of NTBs

Given the broad range of NTBs, classification itself is a challenge. A practical approach, and one taken by ASEAN, is to use the four principles required of NTMs (to ensure NTMs are not trade barriers), namely transparency; non discrimination; the existence of a scientific basis in the case of SPS measures; and the absence of a better alternative. This approach underpins the WTO classification of 'legitimate' NTMs. However, we have already highlighted that an NTM may become an NTB due to its implementation: efficient regulations can become barriers to trade if they are poorly implemented. This is one reason why the new UNCTAD–WTO–ITC classification introduces the concept of 'procedural obstacles'. These refer to the application of an NTM rather than the measure itself.

Prioritisation of NTBs for removal

The process of prioritisation is considered in both the World Bank[23] and Carrere.[24] The two approaches these propose are as follows.

- Vertical: Barriers are categorised by both how much they restrain intraregional trade and their ease of removal – the first targets for removal would be those that have a high impact on trade and are relatively easy (politically) to eliminate.
- Horizontal: Priority sectors are identified and the barriers affecting them are prioritised. This approach was adopted by ASEAN, identifying 11 priority sectors and classifying barriers into red, amber and green categories. The classification was based on the trade restrictiveness of each barrier, together with their regulatory objectives and WTO consistency.

Developing an action plan for NTB removal

An 'action plan' of some description has been an integral part of NTB elimination in several countries and regions.

- The EU adopted a Single Action Plan in 1997 to speed up the realisation of the single market by eliminating barriers to the movement of goods, services, labour and capital. The plan included putting in place a scoreboard of implementation and setting out formal infringement procedures.
- The ASEAN roadmap for integration specifies precise NTBs to be eliminated by 2010 for the ASEAN6 and 2018 for Cambodia, Laos, Myanmar and Vietnam. ASEAN has

also eliminated NTBs in, for example, selected standards through specific regional initiatives.

- As part of its wide-ranging reforms in the latter part of the 1990s, Mexico adopted a roadmap that, inter alia, effectively targeted NTBs. For example, the number of licences, permits and other information requirements in the commerce and transport sectors was cut from about 1 000 in 1995 to fewer than 400 in 2000.

An evolving process

To address barriers to the single market in 1997, the EU initially focused on the systemic issues, such as legislative reform and standards harmonisation. Monitoring involved directly comparing and publicising member states' performance. As compliance with the single market improved, the commission introduced the SOLVIT[25] initiative in 2003, based on an online reporting mechanism and the creation of SOLVIT centres in member states. SOLVIT is better suited to problems of, for example, incorrect application of the single-market provisions – which are likely to be very specific to the country and product or issue context.

Driven by different stakeholders at different stages

The processes driving NTB elimination also appear to vary by region. The road maps and action plans that have been developed are generally driven by regional bodies or at least by member state action co-ordinated at the regional level. However, SOLVIT in the EU is led by citizens and business much in the same way that the SADC NTB monitoring mechanism is in Southern Africa (see below).

The example of the EU single market

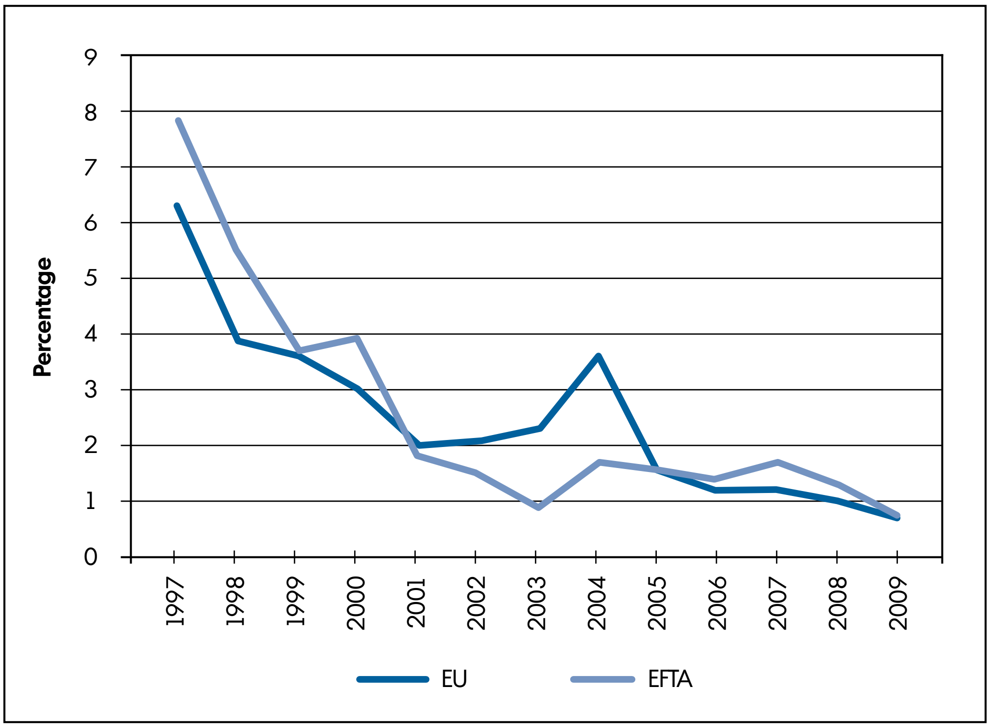
The treaties and a growing body of case histories provide the legal framework for the EU's single market. The objectives of EU single-market legislation remain frustrated to the extent that (a) EU legislation is not implemented at member-state level, or the legislation implemented is not in conformity with EU legislation; and (b) single-market legislation is not applied, or is applied incorrectly.

The dispute settlement mechanism in the EU gives the European Court of Justice the authority to make rulings on single-market legislation. However, the commission and member states have adopted two processes to enhance the implementation of the single market, which include addressing NTBs. The first is the Single-Market Scoreboard, which monitors the implementation of single-market legislation (EU directives) by member states of the EU and the European Free Trade Association (EFTA), both of which are party to the European Economic Area (EEA). It also monitors whether member states' transposition of EU directives is correct and in conformity. The second process is SOLVIT, which focuses on addressing challenges arising from the misapplication of single-market legislation. SOLVIT has established contact points in member states and facilitates a process for problems to be addressed at the member-state level.

The Single-Market Scoreboard

Launched in 1997, the scoreboard has contributed to a significant improvement in the adoption of single-market legislation. The gap between the number of single-market directives that should have been notified to the commission by member states and the actual number has dropped from 6.3% in 1997 to 0.7% in 2009 for the EU, and from 7.8% to 0.7% in EFTA countries (see Figure 7).

Figure 7: Transposition deficit in single-market legislation (%), 1997–2009



Note: In 2004 the EU enlarged to 25 countries.

Source: EU, *Internal Market Scoreboard*. Brussels: EU, 2010, http://ec.europa.eu/internal_market/score/docs/score20_en.pdf.

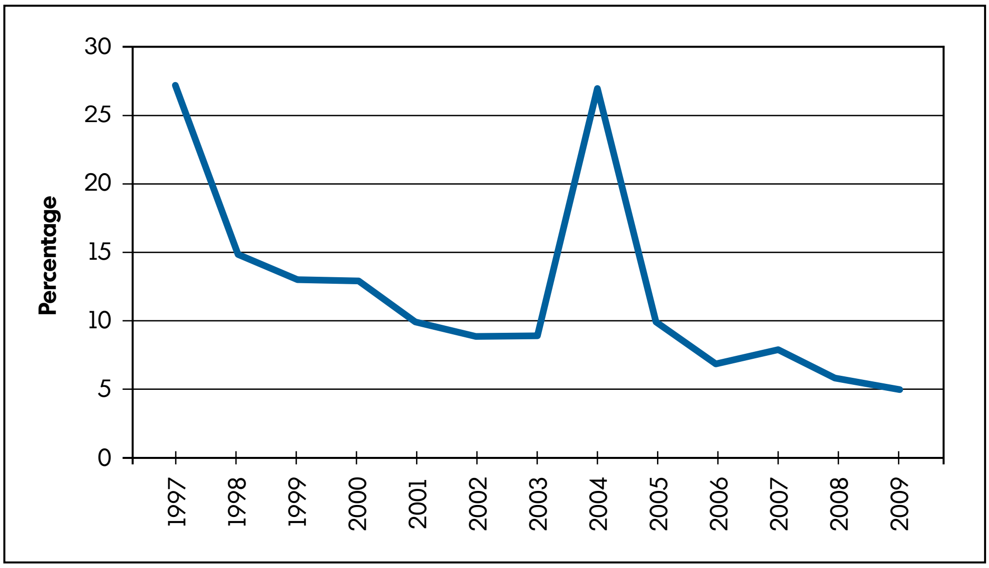
The scoreboard approach has the flexibility to adapt to evolving priorities in implementation of the single market. It has been used to improve the performance of member states in adopting long-overdue directives; in 2009 the number of long-overdue directives fell from 22 to 16. The scoreboard has also added as a target the reduction of delays in adoption and notification of single-market legislation.

Where member states fail to adopt directives, they become infringement cases. The majority of cases are solved before the European Commission brings the case to the European Court of Justice. This is illustrated by the fact that as of November 2009, of the 401 infringement cases open 334 were at the early stages of proceeding. However, the European Court of Justice has given its ruling on 39 cases, with penalties initiated in 12 instances.

A further challenge is the correct transposition of EU legislation. In November 2009 the scoreboard identified 343 directives which member states had not correctly transposed into domestic legislation – greater than the 292 directives not adopted by member states. The challenge of correct transposition of directives – also termed 'non conformity' – is even greater than the failure to adopt directives. A total of 73% of infringement cases are to do with the misapplication of EU directives by member states, and 27% are to do with not transposing single-market directives. Non-conformity has improved little. In November 2009 there were 1 200 infringement cases relating to non-conformity for the EU-25; lower than November 2007 but higher than November 2005.

The scoreboard also monitors the fragmentation factor, which is an indicator of the legal gaps in the single market. Whenever one or more member states fail to adopt single-market legislation, they leave a gap in the EU legal framework with the single market not covering all member states. There has been a significant improvement in this indicator, with gaps in the single market of 5% in 2009 compared with 27% in 1997 (see Figure 8).

Figure 8: Fragmentation factor (%), 1997–2009



Note: In 2004 the EU enlarged to 25 countries.

Source: EU, *Internal Market Scoreboard*. Brussels: EU, 2010, http://ec.europa.eu/internal_market/score/docs/score20_en.pdf.

SOLVIT

SOLVIT provides a system for EU citizens and businesses to report, and resolve, problems relating to the misapplication of single-market rules by public authorities. SOLVIT is made up of an online database and SOLVIT centres in each of the member states. It was established in 2002 to deliver effective problem solving in the single market, and offers a parallel process to legal dispute. However, taking up complaints via SOLVIT does not preclude legal redress.

In 2009, 86% of the complaints reported to SOLVIT were resolved. Complaints relating to the recognition of professional qualifications accounted for 21% of the cases taken up via SOLVIT, 16% for market access for products, 14% relating to social security and 11% to taxation. Complaints relating to market access for products included: products classified differently in different countries; companies unable to use the results of tests performed in certified laboratories in other member states; and unjustified requirements to pack products in certain prescribed quantities. There were 64% of complaints concerning market access for products that were resolved in 2009.

Since its establishment, SOLVIT has become a more popular route for problems relating to the single market than registered complaints. In 2003 there were 680 registered complaints versus 180 complaints using SOLVIT; by 2009 the figures were 990 and 1 550 respectively.

However, the participation of the private sector has been low – the origin of only 11% of SOLVIT cases in 2009 – and this significantly weakens the system. A survey of European businesses in 2009 found that the low participation was not because they had no problems or that they wished to use other means. The problem is rather that they simply were unaware of the system. Of the participants in the business surveyed, 83% suggested they would have considered using SOLVIT had they known about it.

There are other challenges for the SOLVIT system. With the big increase in workload, staffing constraints are becoming an issue in some offices, as is access to sound legal advice. Resources are also stretched because 69% of the cases submitted to SOLVIT are outside of its remit. Other constraints identified by a survey of SOLVIT centres include: co-ordination between authorities (34% of centres reported this as a bottleneck); lack of co-operation with other centres (31%); and lack of legal expertise (20%).

Addressing NTBs in SADC: How does it compare?

The SADC Trade Protocol directly addresses NTBs as follows.

- Article 6 commits member states to: a) adopt policies and implement measures to eliminate all existing forms of NTBs; and b) refrain from imposing any new NTBs – subject to general exceptions to protect public morals, human health etc, as well as safeguards and an infant industry provision.
- A wide range of provisions relate to SPS measures, TBT, transit, trade facilitation, subsidies and countervailing measures, generally benchmarked to WTO disciplines in these areas.
- Dispute settlement procedures are stipulated.
- The Protocol on Standards, Quality Assurance and Metrology (SQAM) signed in 2008 operationalises Article 17 of the Trade Protocol on standards and technical regulations on trade. An institutional framework and process for the harmonisation of standards has been established (see Box 6).
- There is also an institutional framework to support customs co-operation and modernisation; and tax co-ordination.

Box 6: The SADC SQAM

The SADC Co-operation in Standardisation (SADCSTAN) of product standards in the region was mandated by the SADC Council of Ministers in 1997. The SADC Memorandum of Understanding on Cooperation in Standardization, Quality Assurance, Accreditation and Metrology (SQAM) was signed in 2000. The SQAM body is responsible for co-ordinating standards activities in the region and comprises SADCMEL (Legal Metrology), SADCMET (Measurement and Traceability) and SADCA (Accreditation) in addition to SADCSTAN.

Source: SADCSTAN, http://www.sadcstan.co.za, accessed March 2013.

Greater attention and direction at the political level

The issue of NTBs has been rising up the SADC political agenda since the Mid-Term Review of the SADC Trade Protocol in 2004, motivated by the work already cited on RoO and the various inventories of NTBs already undertaken in the region.

By 2008 SADC Ministers of Trade and Industry identified the following NTBs for elimination:

- documentation and customs procedures;
- import licensing/permits;
- export licensing/permits; import and export quotas (quantitative restrictions);
- import bans/prohibitions;
- services or charges not falling within the definition of import duties;
- single-channel marketing;
- transit charges;
- visa requirements; and
- technical regulations.

Progress towards eliminating NTBs

There has been some progress within the region.

- Although customs administration remains one of the most important NTBs in the region, the 2007 'audit' (see Table 16) on the implementation of the trade protocol found all SADC members were implementing many of the trade facilitation instruments that had been rolled out by SADC. However, important trade facilitation instruments governing a regional customs' transit system had yet to be implemented.
- The SADC SQAM has harmonised over 100 regional standards. However, member states are not adopting these standards at the national level. Furthermore, the process of prioritising which standards to harmonise is unclear.
- RoO were revised for SADC in 2007 following the Mid-Term Review of the Trade Protocol. These revisions were gazetted but, to date, have only been implemented by Mauritius.

- At the country level there have been some significant achievements. Over 95% of all goods imported into Malawi are now import licence free. Mauritius has made substantial progress in the automation of customs clearance and port management procedures. Zambia is implementing a vigorous anti-corruption programme with customs.

Table 16: Implementation of NTB-related SADC legislation as of 2007

Instrument	Botswana	Lesotho	Malawi	Mauritius	Mozambique	Namibia	South Africa	Swaziland	Tanzania	Zambia	Zimbabwe
WTO Valuation Agreement	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
HS Coding System											
a) Schedule of Concessions	Y	Y[a]	Y	Y[a]	Y	Y[a]	Y[a]	Y	Y	N	Y
b) Migration to 2007	On-going	Y	On-going	Y	N	Y	Y	On-going	Y	Y	Y
SADC Certificate of Origin	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Regulations on SADC RoOs	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
RoOs Manual for Customs	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
RoOs Manual for Trader	N	N	N	N	N	N	Y	N	N	N	N
SADC Single Administrative Document (SAD)[b]	SAD 500	SAD 500	n/a[C]	n/a	n/a	SAD 500	SAD 500	SAD 500	n/a	n/a	n/a
Voucher for correction of SAD	Y	Y	N	N	N	Y	Y	Y	N	N	N
Guidelines for completion of SADC Customs Documentation	Y	N	N	N	N	N	N	N	N	N	
SADC Transit Regulations	N	N	N	N	N	N	N	N	N	N	N
SADC Transit Documentation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SADC Transit Customs Bond Guarantee	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Instrument	Botswana	Lesotho	Malawi	Mauritius	Mozambique	Namibia	South Africa	Swaziland	Tanzania	Zambia	Zimbabwe
SADC Integrity Plan to fight corruption	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
MOU for SADC Customs Administration	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y
Conformity Assessment	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

a Offer/Schedule of Concessions has been reviewed by the member states and is now based on HS 2007.

b SACU member states have a common document, the SAD 500, while the rest of SADC have national forms that are similar to the SADC SAD and the SAD 500.

c n/a means not yet adopted for implementation.

Source: The Service Group, *Audit of the Implementation of the SADC Protocol on Trade*. Gaborone: Southern Africa Global Competitiveness Hub, 2007.

Progress in other areas has been largely in terms of improving monitoring and reporting on NTBs that affect trade within the region.

- Audits of the implementation of the SADC Protocol on Trade have been undertaken annually since 2007. Although these focus on progress made in reducing tariffs on regional trade, as per countries' regional trade commitments, they also include NTBs, in particular trade facilitation and RoO. The audits are currently used to monitor rather than encourage enforcement through 'naming and shaming' underperforming member states.
- A SADC Trade Monitoring and Compliance Mechanism (TMCM) has been established. The TMCM requires member states to notify all trade laws and regulations to the SADC Secretariat; and will function as a system for notification, consultations and negotiation between member states as well as implementing judgments and sanctions determined by the dispute settlement system. The SADC TMCM has two distinct elements: the online NTBMM (which records all the reported barriers to trade); and the elimination or reduction of barriers following negotiation or outcomes from the dispute settlement system.
- The online NTB monitoring mechanism is now in operation. However, there remain challenges, including limited private-sector awareness of the mechanism and misidentification of barriers reported. To date 290 reported NTBs have been notified as resolved. However, it is not clear whether the actual issue has actually been resolved from the point of view of the trader.

A summary of how SADC compares with the baseline is given in Table 17. The most notable deficiency *vis-à-vis* best practice in other regions is the complete absence of an action plan to deal with NTBs. Furthermore, while member states remain reluctant to resort to the dispute settlement mechanism established by the legal provisions of the treaty, a practical and effective approach for dealing with disputes over NTBs needs to be put in place.

Table 17: SADC processes for NTB elimination compared with the baseline

	Status	Monitoring	Enforcement
Overarching framework			
Legal provisions	Clear commitments within the SADC Protocol on Trade to eliminate NTBs (subject to certain provisions)	Regional institutional framework and 'audit' of implementation established	There is legal provision for dispute settlement, but this is not used. 'Naming and shaming' might become relevant
National implementation	Mixed with regards to institutions and adoption of regional legislation and standards	As above	As above
NTB specific			
Categorisation/ Prioritisation	Clear priorities in the area of customs and transit		
Action plan	Not established		
Devolved process (eg SOLVIT)	Tripartite NTBMM established	Online website and national contact points in government and private sector	Where disputes are not resolved there is scope to revert to dispute settlement. 'Naming and shaming' could become relevant

Source: Author's own drawing on original research and sources cited in text.

CONCLUSIONS AND RECOMMENDATIONS

NTBs in SADC are pervasive, costly, and must now be addressed

The extent and cost of NTBs in the SADC have become clear following the completion of several recent studies, including this one. Across this body of work, one conclusion appears consistently: NTBs are critically constraining regional trade in Southern Africa and undermining the value of tariff preferences offered by the various regional trade agreements.

The impact of NTBs is felt at the macroeconomic level in terms of higher costs and lower levels of competitiveness. They also reduce the potential for regional supply chains to develop. At the sector level restrictive trade practices, in agricultural products in particular, are widespread. The impact of restrictive RoO, especially on the textiles and clothing sector, effectively prohibits preferential trade using lower-cost third-country inputs. The costs of red tape and paperwork relating to customs administration, compliance with RoO and freight forwarding as well as the challenges relating to transit traffic are also very high. NTBs require urgent attention if real trade flows in the region are to increase and if traders are to fully take advantage of regional trade preferences.

Southern African countries are well placed to approach the elimination of NTBs

SADC has a strong foundation for eliminating NTBs. There is an established SADC legal and institutional framework that commits member states to the elimination of NTBs (subject to some relatively standard provisions on, for example, national security, health and safety, and the environment).

Recent work on NTBs in the region has also identified some clear priority NTBs that need to be addressed first. There is a significant amount of information on reforms that might be considered 'low hanging fruit' – easy barriers to remove that are less politically sensitive but nevertheless still have a high impact on trade. More sensitive NTBs might include liberalisation of measures affecting agricultural products or labour-intensive sectors, such as textiles and clothing. Technical issues must also be dealt with and include customs modernisation to allow for improved trade facilitation, such as through electronic data transfer or the acceptance of authorised economic operator authorities in the granting of import permits and licences.

There is also information on the extent to which NTBs are the result of the following shortcomings.

- The failure to implement SADC protocols at the national level, for example, in not replacing national standards with harmonised SADC standards.
- The failure to apply measures correctly, for example, import licensing procedures or transit provisions relating to, for example, weighbridges and road charges.
- Domestic fiscal deficiencies, for example, on timely administration of duty and VAT rebates to exporters.
- Missing institutions in destination markets, such as credit bureaus.

Furthermore, SADC has already established a reasonably effective internal monitoring mechanism, or audit, on the implementation of the Trade Protocol as well as an online NTB monitoring mechanism with potentially strong linkages to the private sector.

Nevertheless, there is a clear absence of an action plan or road map to address the systemic NTBs that affect Southern African regional trade in a focused or co-ordinated manner, along the lines of what other regional groups in Europe or Asia have successfully implemented.

Proposed reforms

Recommendations to better address NTBs in Southern African regional trade from this study relate to the establishment of an action plan to address existing NTBs in a co-ordinated and focussed manner, and to improving the effectiveness and efficiency of current initiatives that aim at preventing the introduction of new barriers.

Develop an action plan or road map

At the regional strategic level a SADC action plan or road map should be developed. This should include concrete proposals for the following.

- *A vertical approach:* Given scarce resources and the generic nature of many of the remaining barriers, a 'vertical' approach should be adopted, with action initially focusing on removing 'easy' barriers that appear to have a high impact on trade but are not politically sensitive.
- *Focusing on the priority NTBs already identified by the region:* Although analysis of NTBs to date in SADC has been unable to provide a comprehensive assessment of the severity of the different NTBs in terms of loss of welfare or loss of trade, the weight of evidence is sufficient to immediately start prioritising NTBs for elimination.
- *A new approach to categorisation of NTMs and NTBs:* In practical terms, many measures already indicated by the region as constituting NTBs will need to be assessed as to whether they have been accurately categorised as NTBs. The WTO approach should be adopted to identify those NTMs that tip over into NTBs. But the categorisation should include 'procedural obstacles'. These refer to the application of the NTM rather than the measure itself.
- *'Naming and shaming':* Any targets established for member states should be accompanied by a mechanism that not only monitors progress in removing NTBs but also contributes to enforcement through naming and shaming those countries that are slow to reform. The current 'audit' process could be adapted for this purpose, drawing on the example of the Single-Market Scoreboard.

Enhancing the effectiveness of current initiatives

The SADC SQAM

The SADC SQAM process needs to be incorporated within any scoreboard system – in particular to try to encourage the adoption of harmonised standards at the national level. A clear process for prioritising which standards are to be harmonised should also be considered.

The NTBMM

The NTBMM is currently being publicised to the private sector throughout SADC. This is important.

In addition to sensitisation, the following steps could be taken to enhance the performance of the mechanism.

- Proper identification of the barriers and the process appropriate to them being addressed.
- Prioritisation of barriers, in particular linking them to the action plan or road map.
- Development of a pilot project between two SADC countries (for example, South Africa and Mauritius) to ensure the mechanism is better adapted to the needs of its

users, as well as providing valuable demonstration effects to the rest of the region on the benefits of removing NTBs.

Preventing the introduction of new barriers

Many of the NTBs affecting regional trade in Southern Africa are the result of the introduction of regulation not intended by design to inhibit trade, but doing so in application. This makes it all the more important to adopt a proactive approach to preventing new NTBs arising, as well as in disciplining the existing NTBs. This can be achieved through the greater use of regulatory impact assessments and would operationalise a key provision on NTBs in the SADC Trade Protocol.

ANNEX 1: NON-TARIFF MEASURES

INVENTORY OF NTMS

Parts and Sections	Description
Part I	**Government participation in trade and restrictive practices tolerated by governments**
A	Government aids, including subsidies and tax benefits
B	Countervailing duties
C	Government procurement
D	Restrictive practices tolerated by governments
E	State trading, government monopoly practices, etc
Part II	**Customs and administrative entry procedures**
A	Anti-dumping duties
B	Customs valuation
C	Customs classification
D	Consular formalities and documentation
E	Samples
F	RoO
G	Customs formalities
H	Import licensing
I	Preshipment inspection
Part III	**TBT**
A	General
B	Technical regulations and standards
C	Testing and certification arrangements
Part IV	**SPS measures**
A	General
B	SPS measures including chemical residue limits, disease freedom, specified product treatment, etc
C	Testing, certification and other conformity assessment

Parts and Sections	Description
Part V	**Specific limitations**
A	Quantitative restrictions
B	Embargoes and other restrictions of similar effect
C	Screen-time quotas and other mixing regulations
D	Exchange controls
E	Discrimination resulting from bilateral agreements
F	Discriminatory sourcing
G	Export restraints
H	Measures to regulate domestic prices
I	Tariff quotas
J	Export taxes
K	Requirements concerning marking, labelling and packaging
L	Others
Part VI	**Charges on imports**
A	Prior import deposits
B	Surcharges, port taxes, statistical taxes, etc
C	Discriminatory film taxes, use taxes, etc
D	Discriminatory credit restrictions
E	Border tax adjustments
Part VII	**Other**
A	Intellectual property issues
B	Safeguard measures, emergency actions
C	Distribution constraints
D	Business practices or restrictions in the market
E	Other

Source: WTO, *Table of Content of the Inventory of Non-Tariff Measures*, WTO DOCUMENT TN/MA/S/5/REV.1, Negotiating Group on Market Access. Geneva: WTO, November 2003.

ENDNOTES

1 WTO (World Trade Organization), *Protocol on Trade in the Southern African Development Community*, Report by the Secretariat. WTO WT/REG176/4. Geneva: WTO, 2007.

2 World Bank, *Trade Liberalisation and Trade Performance in South Africa: Has Greater Openness Brought Structural Change to South Africa's Trade with SADC and the Rest of the World?*, Poverty Reduction and Economic Management 1, Southern Africa. Washington, DC: World Bank PREM, 2009.

3 Southern Africa Trade Hub, *Impact of Derogations from Implementation of the SADC FTA Obligations on Intra-SADC Trade*, Tomasz Iwanow, submitted to SADC. Gaborone: SATH, June 2011.

4 Imani Development, *Non Tariff Barrier Impact Study for COMESA Region*, Prepared for the COMESA Secretariat and the Regional Trade Facilitation Programme. Cape Town: Imani Development, 2009.

5 Imani Development, *Inventory of Regional Non Tariff Barriers: Synthesis Report*, Prepared for the Regional Trade Facilitation Programme. Cape Town: Imani Development, 2007.

6 *WTO*, *Trade Policy Review Southern African Customs Union*, Report by the Secretariat, WT/TPR/S/114. Geneva: WTO, 2009; Denner W, *Non Tariff Barriers to intra Southern African Customs Union (SACU) Trade*. Stellenbosch: tralac, 2009.

7 Charalambides N, *The Private Sector's Perspective, Priorities and Role in Regional Integration and Implications for Regional Trade Agreement,* ECDPM (European Centre for Development Policy Management) Discussion Paper, 66. Brussels: ECDPM, 2005.

8 Imani, 2007, *op. cit*.

9 Imani, 2009, *op. cit*.

10 World Bank, 2008, *op. cit*.

11 Imani, 2007, *op. cit*.

12 Brenton P, Flatters F & P Kalenga, *Rules of Origin and SADC: The Case for Change in the Mid Term Review of the Trade Protocol,* Africa Region Working Paper Series, 83. Washington DC: World Bank, 2005; World Bank, *Regional Trade Agreements in Southern Africa and their Impact on Intra – and Inter – Regional Trade Flows*, Poverty Reduction and Economic Management 1 and Africa Regional Integration Southern Africa. Washington DC: World Bank Mimeo, 2009.

13 SADC, EAC & COMESA, Non-Tariff Barriers Reporting, Monitoring and Eliminating Mechanism, http://www.tradebarriers.org.

14 WTO, 2009, *op. cit*.

15 Carrere C & J De Melo, *Notes on Detecting the Effects of Non Tariff Measures*, CERDI Working Document, E 2009.32. Auvergne, France: CERDI, 2009.

16 Wilson J, *Export Performance and Trade Facilitation Reform: Hard and Soft Infrastructure*, Policy Research Working Paper. Washington DC: World Bank, 2010.

17 Imani, 2009, *op. cit*.

18 World Bank, 2009, *op. cit*.

19 World Bank and IFC, *Doing Business in a More Transparent World*. Washington DC: The International Bank for Reconstruction and Development & World Bank, 2012.

20 Hummels D, *Time as a Trade Barrier*. West Lafayette, Indiana: Purdue University, 2001.

21 Personal interview, Compliance Manager International Trade, Shoprite, Cape Town, South Africa, 2010.

22 Jitsing A & M Stern, *VAT practices within SACU and Possibilities for Harmonisation*, Southern African Regional Integration Project. Washington DC: World Bank, 2008.

23 World Bank, 2008, *op. cit*.

24 Carrere C & J De Melo, *Non Tariff Measures: What do we know? What should be done?*, CERDI Working Document, E 2009.33. Auvergne, France: CERDI, 2009.

25 European Commission SOLVIT, 'SOLVIT handles problems with a cross-border element that are due to bad application of EU law by public authorities within the EU member states', http://ec.europa.eu/solvit/site/index_en.htm.

SAIIA'S FUNDING PROFILE

SAIIA raises funds from governments, charitable foundations, companies and individual donors. Our work is currently being funded by, among others, the Bradlow Foundation, the United Kingdom's Department for International Development, the European Commission, the British High Commission of South Africa, the Finnish Ministry for Foreign Affairs, the International Institute for Sustainable Development, INWENT, the Konrad Adenauer Foundation, the Royal Norwegian Ministry of Foreign Affairs, the Royal Danish Ministry of Foreign Affairs, the Royal Netherlands Ministry of Foreign Affairs, the Swedish International Development Cooperation Agency, the Canadian International Development Agency, the Organisation for Economic Co-operation and Development, the United Nations Conference on Trade and Development, the United Nations Economic Commission for Africa, the African Development Bank, and the Open Society Foundation for South Africa.

SAIIA's corporate membership is drawn from the South African private sector and international businesses with an interest in Africa. In addition, SAIIA has a substantial number of international diplomatic and mainly South African institutional members.

South African Institute of International Affairs
Jan Smuts House, East Campus, University of the Witwatersrand
PO Box 31596, Braamfontein 2017, Johannesburg, South Africa
Tel +27 (0)11 339-2021 • Fax +27 (0)11 339-2154
www.saiia.org.za • info@saiia.org.za

South African Institute of International Affairs

African perspectives. Global insights.