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TOWARDS SADC SERVICES LIBERALIZATION:
Balancing Multiple Imperatives

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Note

This paper was commissioned and reviewed by UNCTAD in the context of its project of support to the Southern African Development Community (SADC) regional integration and the multilateral trading system, co-funded by the European Commission (EC) and UNCTAD. It is based on UNCTAD/SADC national assessment studies with inputs from a team of the South African Institute for International Affairs (SAIIA) led by Peter Draper[1] and from Martine Julsaint Kidane of UNCTAD and was prepared under the supervision of Mina Mashayekhi, Head of the Trade Negotiations and Commercial Diplomacy Branch and Officer-in-Charge of the Division on International Trade and Commodities, UNCTAD.

The regional assessment study provides the SADC member States and the SADC secretariat with elements necessary for them to participate in a more informed manner in regional, interregional and multilateral trade negotiations relating to services and to ensure coherence in trade policymaking at these different levels.

Each of the six priority sectors for intra-SADC liberalization (construction, communication, transport, energy-related, financial, and tourism and transport services) is briefly assessed in terms of its economic role in the member States concerned and across the region; then the regulatory and institutional structures governing the conduct of business within each sector is discussed with a view to identifying an initial list of regulatory issues suited to liberalization. The final sections proffer a suggested overarching approach to liberalization of services in SADC, and conclusions.

[1] SAIIA is a non-governmental research institute focused on South Africa's and Africa's international relations. SAIIA's research agenda is informed by South Africa and Africa's international engagement on key issues related to addressing the continent's political and economic marginalization; furthering good governance and political stability in the region, and ensuring that Africa is placed on a more sustainable growth path. SAIIA seeks to undertake solid, forward-looking research on issues of concern to the continent and to build research capacity in South Africa and the region, by providing a platform for informed debate and by making input into policymaking on issues of concern to Africa. Contact: Peter Draper (Draperp@mweb.co.za).

Contents

Acronyms and abbreviations

ACP	African, Caribbean and Pacific Group of Countries
ASANRA	Association of Southern African National Road Agencies
BEE	black economic empowerment
BPC	Botswana Power Corporation
COMESA	Common Market for Eastern and Southern Africa
DSTV	digital satellite television
EAC	East African Community
EPA	economic partnership agreement
ESAF	Eastern and Southern African Banking Supervisors Group
EC	European Commission
EU	European Union
FDI	foreign direct investment
FIP	finance and investment protocol
FTA	free trade area
GATS	General Agreement on Trade in Services
GDP	gross domestic product
ICT	information and communication technology
IPP	independent power producer
IRRN	Interconnected Regional Rail Network
LDC	least developed country
MEFMI	Macroeconomic and Financial Management Institute of Eastern and Southern Africa
MFDP	Ministry of Finance and Development Planning
MFN	most favoured nation
NTB	non-tariff barrier
PPP	public–private partnership
RERA	Regional Electricity Regulatory Association of Southern Africa
RETOSA	Regional Tourism Organization of Southern Africa
RISDP	Regional Indicative Strategic Development Programme
SABC	South African Broadcasting Corporation
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAIIA	South African Institute for International Affairs
SAPP	Southern Africa Power Pool
SATCC	Southern African Transport and Communications Commission
SME	small and medium-sized enterprises
SRII	SADC Regional Information Infrastructure
SSBS	SADC Subcommittee on Bank Supervisors
TAZARA	United Republic of Tanzania–Zambia Railways
TFCA	Transfrontier Conservation Areas
VANS	value added networks
WESTCOR	Western Corridor Project
WTO	World Trade Organization
ZESA	Zimbabwe Electricity Supply Authority
ZTV	Zimbabwe Television

1 Background

The Southern African Development Community (SADC) has set itself an ambitious regional integration agenda. Where economic integration is concerned, the Regional Indicative Strategic Development Programme (RISDP) [2] envisages the creation of a free trade area by 2008, a customs union by 2010, a common market by 2015, and a monetary union by 2016.

As is the norm in many regional economic communities across the world, the SADC agenda covers the intraregional liberalization of trade in services. SADC countries affirmed their intention to liberalize trade in services in the region since the signing of its Trade Protocol in 1996. And while initiatives relating to services trade have been successfully launched in recent years (including through a number of sectoral protocols) and member States are engaged in a number of negotiations relating to services liberalization (e.g. in the context of the World Trade Organization (WTO) and the economic partnership agreement (EPA) negotiations between the European Union (EU) and African, Caribbean and Pacific Group of Countries (ACP)), the adoption of a framework for the liberalization of services in the region is still pending.

The trade protocol was signed in 1996 and came into force on 1 September 2000. Its objectives are to (a) further liberalize intraregional trade in goods and services; (b) ensure efficient production; (c) contribute towards the improvement of the climate for domestic, cross-border and foreign investment; and (d) enhance economic development, diversification and industrialization of the region. In practical terms, it aims to have 85 per cent of all intra-SADC trade at zero tariffs by 2008 and the remaining 15 per cent to be liberalized by 2012.

While the major focus of the trade protocol is the liberalization of trade in goods, article 23 underlines the importance of trade in services for overall economic development and encourages member countries to adopt policies and implement measures with a view to liberalizing their services sectors within the region. In order to implement the provisions of article 23, SADC countries decided to have a separate Protocol on Trade in Services, which was approved in July 2007 and is expected to be adopted and signed in 2008. The draft protocol sets out the framework for the liberalization of trade in services between SADC members and will serve as a basis for negotiations. Starting with six key services sectors (construction, communication, transport, energy-related, tourism and financial services), [3] the envisaged liberalization process seeks to eventually cover substantially all sectors and modes of

[2] RISDP seeks to provide strategic direction with respect to SADC programmes, projects and activities. It aligns the strategic objectives and priorities with the policies and strategies to be pursued towards achieving those goals over a period of 15 years.
[3] These are backbone infrastructure services and, by starting with them, SADC countries are demonstrating that their interest in trade liberalization is driven by the need to foster development.

supply. The aim is to reach a stage where each member State will treat the services emanating from other members, and the suppliers of such services, in the same way as its own services suppliers, and the services they supply. In terms of this plan, substantial liberalization of intraregional trade in services is to be achieved no later than 2015.

Under its project of support to SADC regional integration and the multilateral trading system, UNCTAD has provided technical assistance in institution- and capacity-building to the SADC secretariat, SADC negotiating machinery and SADC government officials in initiating and conducting negotiations on trade in services, with a view to supporting regional integration as well as building a coherent and mutually supportive approach for the SADC region in interregional and multilateral trade negotiations. The project assisted the process of negotiations of trade in services in SADC which takes place through the Trade Negotiating Forum for services. It also provided capacity-building assistance at national level and to delegates in Geneva in relation to WTO services negotiations and the EPA negotiations with the EU. In addition, UNCTAD undertook assessment studies for SADC member States.[4] This report reviews studies received from SADC member States, covering the six services sectors slated for liberalization under the SADC Protocol on Trade in Services.[5]

This regional assessment study contributes to supporting regional integration as well as building a coherent and mutually supportive services trade liberalization approach for the region by providing the SADC member States and the SADC secretariat with elements necessary to them to participate in a more informed manner in regional, interregional and multilateral trade negotiations relating to services and to ensure coherence in trade policy-making at these different levels.

Each sector is briefly assessed in terms of its economic role in the member States concerned and across the region; then the regulatory and institutional structures governing the conduct of business within each sector is discussed with a view to identifying an initial list of regulatory issues suited to liberalization. The final two sections proffer a suggested overarching approach to liberalization of services in SADC, and give conclusions, respectively.

[4] For more information on UNCTAD's work in the areas of trade negotiations and commercial diplomacy, see
http://www.unctad.org/Templates/StartPage.asp?intItemID=1917&lang=1
and for more information on its assistance to SADC see
http://www.unctadxi.org/templates/Startpage____6748.aspx.

[5] A caveat is necessary here. The quality and coverage of the country and sector reports we reviewed was highly variable; hence, we have supplemented from our own sources where possible and when time permitted.

2 Role of services in SADC and negotiating approaches

2.1 Economic importance

Services are critical to the development of most economies in the SADC region. They provide the bulk of employment and income in many countries and they are major contributors to gross domestic product (GDP) and trade. In 2006, the services sector contributed an average of 50 per cent to the region's GDP. The contribution varied across countries, with Madagascar, Mauritius, Namibia, South Africa, Swaziland, Zambia and Zimbabwe exceeding 50 per cent in 2000 and 2006 (see table 1 below). Services exceeded 40 per cent of GDP in Botswana, Lesotho, Malawi and Mozambique.

Table 1. Distribution of GDP (% share of GDP)

	Agriculture		Services		Manufacturing		Industry	
	2000	2006	2000	2006	2000	2006	2000	2006
Angola	5.66	--	22.21	--	2.89	--	72.12	--
Botswana	2.41	1.97	38.64	44.52	4.38	3.75	58.95	53.51
Congo, Dem. Rep. of	49.97	45.67	29.73	26.60	4.82	6.49	20.30	27.73
Lesotho	17.92	17.17	40.69	41.85	16.96	18.07	41.38	40.98
Madagascar	29.21	27.54	56.56	57.21	12.24	13.40	14.23	15.25
Malawi	39.54	35.52	42.54	44.71	12.88	12.84	17.92	19.77
Mauritius	5.95	5.56	62.85	67.57	23.71	19.13	31.20	26.87
Mozambique	26.06	21.74	47.33	49.28	13.29	13.37	26.61	28.98
Namibia	10.96	11.26	60.69	57.73	11.09	12.88	28.35	31.01
South Africa	3.27	2.52	64.94	67.03	18.98	18.19	31.78	30.45
Swaziland	15.51	10.94	39.73	43.47	35.84	36.77	44.76	45.59
Tanzania, United Republic of	45.04	45.30	39.22	37.33	7.45	6.91	15.74	17.37
Zambia	22.31	16.05	52.40	59.20	11.42	11.54	25.29	24.75
Zimbabwe	18.49	21.91	56.52	50.69	15.80	15.49	24.98	27.40

Source: World Bank Development Indicators.

On average, regional services' contribution to GDP in the region has grown from 48.6 per cent in 2000 to 49.8 per cent in 2006. Botswana, Zambia, Swaziland and Mauritius recorded modest growth rates between 2000 and 2006, whereas the contribution services in Zimbabwe, the United Republic of Tanzania and Namibia declined.

The economic structures of the SADC countries also reflect great heterogeneity. They fall into two broad groups: those that rely on agriculture and those that are mineral-based. The main economic activity of Mozambique, Malawi and the United Republic of Tanzania remains the agricultural sector. All three are also least developed countries (LDCs). In Mauritius, the economy has for quite some time been driven by the agricultural sector. But due to adjustment programmes undertaken from the early 1980s, economic development has been fostered through export-led industrialization, agricultural diversification and the expansion of the tourist industry. The mining sector also continues to be one of the most important sectors for some countries, such as Botswana and Angola. Whereas this sector previously played a key role in the economies of South Africa, Namibia and Zimbabwe, it has been relegated to a secondary economic role in the past two decades.

Table 2. Basic economic indicators of SADC member States (2006)

	Land area (million km^2)	Population, total (millions)	GDP (current billion $)	GDP per capita
Angola	1.200	16.4	44.0	1 970
Botswana	0.582	1.8	10.3	5 570
Congo, Dem. Rep.	2.267	60.6	8.5	130
Lesotho	0.030	1.8	1.5	980
Madagascar	0.587	19.1	5.5	280
Malawi	0.119	13.2	2.2	230
Mauritius	0.002	1.3	6.4	5 430
Mozambique	0.802	20.1	7.6	310
Namibia	0.824	2.1	6.4	3 210
South Africa	1.200	47.4	255.0	5 390
Swaziland	0.017	1.1	2.6	2 400
Tanzania, United Republic of	0.945	39.5	12.8	350
Zambia	0.753	11.9	10.9	630
Zimbabwe	0.391	13.1	5.0	340
Total	**9.719**	**249.4**	**378.7**	

Source: World Bank Development Indicators.

SADC countries vary considerably in population and land area (see table 2 above). Together, the 14 member countries of SADC cover 9.7 million square kilometres (the equivalent of the United States or China), have a population of approximately 249 million and had a combined GDP of $378 billion in 2006. The Democratic Republic of the Congo is the largest country of the region, with a population of about 60.6 million. At the other extreme, the island of Mauritius covers only 2,000 square kilometres and has a population of 1.3 million. The other remaining countries vary widely in both land area and population size.

One of the main aspects of economic performance in the SADC region is South African dominance. The country represents more than 67 per cent of the combined regional GDP and about 19 per cent of its population. The role of South Africa is also important through trade and transport. With respect to transport, Botswana, Lesotho, Malawi, Swaziland, Zambia and Zimbabwe – all landlocked countries – are highly dependent on South African ports, with 90 per cent of their trade passing through South Africa.[6] Countries in the subregion also depend significantly on South Africa's railways, highways, airports and other transit transport facilities. South Africa is a major player in the export of services as it is among the top 15 developing country services exporters, which account for 80 per cent of all developing country services exports.

[6] Mpata et al. (2004 and 2005). Improving Transportation of Logistics for Competitiveness of Lesotho, Namibia and Swaziland. Southern Africa Global Competitiveness Hub. Regional Center for Southern Africa, United States Agency for International Development (USAID).

Beyond the services sector's immediate contribution to GDP, it plays a critical role in the broader development of economies. Furthermore, the structure of foreign direct investment (FDI) has shifted toward services sectors such as finance, electricity, water and telecommunications over the past three decades. This sector accounted for approximately 25 per cent of FDI in the 1970s and has since grown to an estimated $4 trillion in 2002.[7] Key producer services such as telecommunications and financial services have been shown to be closely linked with economic growth. The role of services as inputs to many production processes means that a country with an efficient services sector is also likely to gain more from goods liberalization.

According to the theory and models of comparative advantage, the benefits of liberalization accrue to consumers of imports through cheaper services and to the producers of services exports, if they have a comparative advantage in the production of the service. In the case where service liberalization results in the equalization of factor income, there will be no gains from the liberalization of services as services will be traded by being embodied in goods – for example, if a country does not have the skills necessary to exploit a natural resource or where local transport services are substandard. Should factor equalization not occur (the more likely case given differences in technology and domestic policy), then the gains from trade would be similar to that for trade in goods. These models also predict that the gains from goods liberalization will be larger if accompanied by services liberalization. In scenarios like these, where local and foreign factors are complements, trade liberalization results in increased productivity and demand for local factors. This may imply that small countries can gain significantly from services liberalization because of their limited domestic markets.[8]

This conventional economists' view of the gains to liberalizing services trade lends itself to unilateral approaches to liberalization. It also supports multilateral liberalization via WTO, particularly through recourse to the General Agreement on Trade in Services (GATS) article 2, which requires application of the most favoured nation clause to multilateral liberalization.

On the other hand, many developing countries remain committed to developing domestic capabilities in order to underpin diversification of their economies. In this paradigm, temporary protection for local producers may be necessary, which translates into maintaining policy space to pursue such actions. Hence, liberalization is approached cautiously, and the gains from specialization and greater efficiencies may be deliberately postponed to achieve broader societal goals as defined by Government. This approach lends itself to regional liberalization approaches, or a case of testing the market regionally before opening to the world. It also suggests a cautious approach to liberalization in WTO, for fear of foreclosing policy space.

[7] UNCTAD (2004). World Investment Report 2004: The Shift Towards Services. United Nations. Geneva.

[8] Copeland B (2002). Benefits and Costs of Trade and Investment Liberalization in Services: Implications from Trade Theory.

The broad debate discussed in the preceding two paragraphs has been raging for years, with no resolution in sight. The choice of approach to liberalization in any country hinges on domestic political–economic factors, which in the SADC case vary widely and consequently cannot be analysed here. Yet this debate has a direct bearing on the approaches SADC countries may take to services liberalization, and is reflected in varying policy stances to the six sectors covered in this paper across the countries surveyed.

Negotiations on the liberalization of trade in services are taking place in different forums and at different levels (bilateral, regional and multilateral). All negotiations are interrelated, since commitments adopted at one level influence developments in others, making the whole negotiating process rather complex. The deeper the level of commitments adopted in the multilateral framework and the wider their scope, the smaller is the space left for preferential liberalization to take place in the framework of bilateral or regional agreements. For instance, in the tourism sector, most of the countries have put no limitations to market access under consumption abroad, i.e. Mode 2.[9] Whereas this might be beneficial, as Mode 2 is critical to the tourist industry, it means that even if commitments were made under SADC in Mode 2, they would either be more restrictive than at the multilateral level or would be the same. Thus, it would be meaningless to make commitments under SADC when countries already have a better deal at the multilateral level. It would also mean that giving preferential market access treatment to SADC countries under Mode 2 would virtually be impossible unless done at the horizontal level. Furthermore, according to Fink and Jansen,[10] if one assumes that the effects of "learning by doing" are important and have an impact, then liberalization at the regional rather than at the multilateral level will encourage efficiency as service providers within the free trade area (FTA) will face competition from within the FTA but will be protected from global competition. This will prepare service providers within the FTA for competition at the global level and reduce adjustment costs once countries within the FTA open up to global competition. Countries which therefore make deeper and wider commitments at the multilateral level lose out on this learning process and its benefits.

All regional services agreements offering preferential liberalization concluded among WTO members are supposed to be compatible with article V of GATS[11] and ensure a greater depth of liberalization among members than that of the GATS (known as GATS plus). It is important to bear in mind, however, that there is no

[9] See table on GATS commitments in the tourism sector below.
[10] Services Provisions in Regional Trade Agreements: Stumbling or Building Blocks For Multilateral Liberalization at page 6 available at www.wto.org/english/tratop_e/region_e/con_sep07_e/fink_jansen_e.pdf.
[11] Article V stipulates that RTAs should: (a) have substantial sectoral coverage; and (b) provide for the "absence or elimination of substantially all discrimination" through elimination of existing discriminatory measures and/or through the prohibition of new or more discriminatory measures either at the entry into force of the agreement or on the basis of a reasonable time-frame. The "substantial sectoral coverage" refers to the number of sectors, volume of trade affected and modes of supply. In order to meet this condition, agreements should not provide for the *a priori* exclusion of any mode of supply.

consensus on what this means, practically, in terms of extent and levels of liberalization. Unlike the General Agreement on Tariffs and Trade (GATT) article XXIV, covering the liberalization of goods trade in a regional agreement, there are no tariffs or flows of goods to measure; rather, the GATS countries grapple with regulations and serious data constraints. Therefore, GATS article V is open to substantial interpretation.

Many regional trade agreements offer greater predictability to service providers through their provisions than does GATS. Several preferential agreements in the western hemisphere include an explicit “status quo” or “standstill” provision for the treatment of existing service measures, which precludes the introduction of any new restrictions on services trade among members, while other agreements provide for this implicitly. RTAs can in principle target deeper integration among members than can an agreement at the multilateral WTO level, which currently encompasses approximately 151 members. So if substantial liberalization is the aim, a regional trade agreement may be the most politically feasible means to achieve it.

But regional services trade liberalization will be more complicated than liberalization of goods. Supply of services mostly requires proximity between producers and consumers. This requires movement of either service producers or service consumers, or movement of capital to invest in service activities. Further, barriers to services trade are mostly embedded in national laws and regulations. Liberalizing regulations is a more challenging task than simply reducing tariffs. It requires careful design of an appropriate way, timing and forum in which to carry out the liberalization. Successful liberalization will require introducing competition (not just changing ownership) and effective regulation to correct market failure and in some sectors ensures social goals such as universal access. Appropriately designed domestic regulations can help reform at the national level and provide meaningful market access at both regional and international levels.

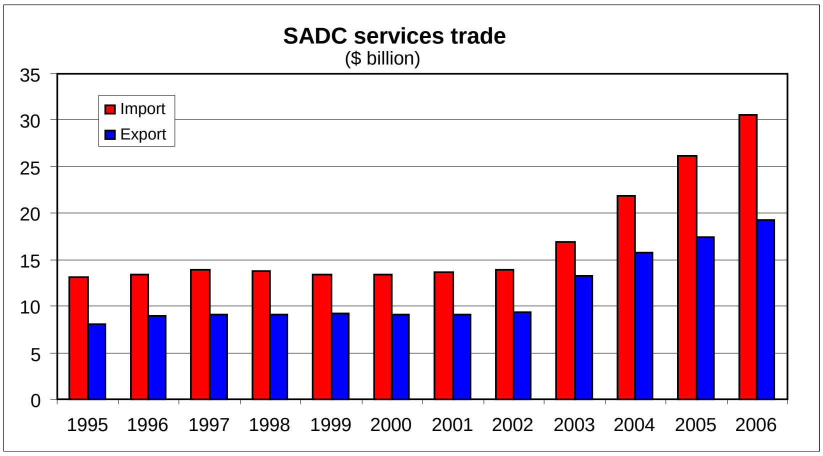
Furthermore, although some developing countries have been able to implement successful service export strategies aimed at the world market, for most SADC countries export markets are primarily neighbouring countries. Thus, on the face of it regional (SADC) and sub-regional (Southern African Customs Union (SACU)) integration is better suited to providing opportunities for regional firms to expand trade in services and strengthen their capacities prior to exporting to the world market.

However, private sector capacities in the region are very weak, so the supply response is likely to be weak; thus, the economic objectives associated with regional services liberalization are not likely to be met through regional liberalization alone. Consequently, in the analysis below, we point out where we think unilateral and/or multilateral liberalization may bear more fruit. Offsetting this in some cases, such as Mode 4 liberalization, there are serious constraints to pursuing liberalization in WTO.

2.2 Trade

Figure 1 shows that total SADC services trade was over $30 billion in 2006. This was 37.9 per cent of regional GDP.

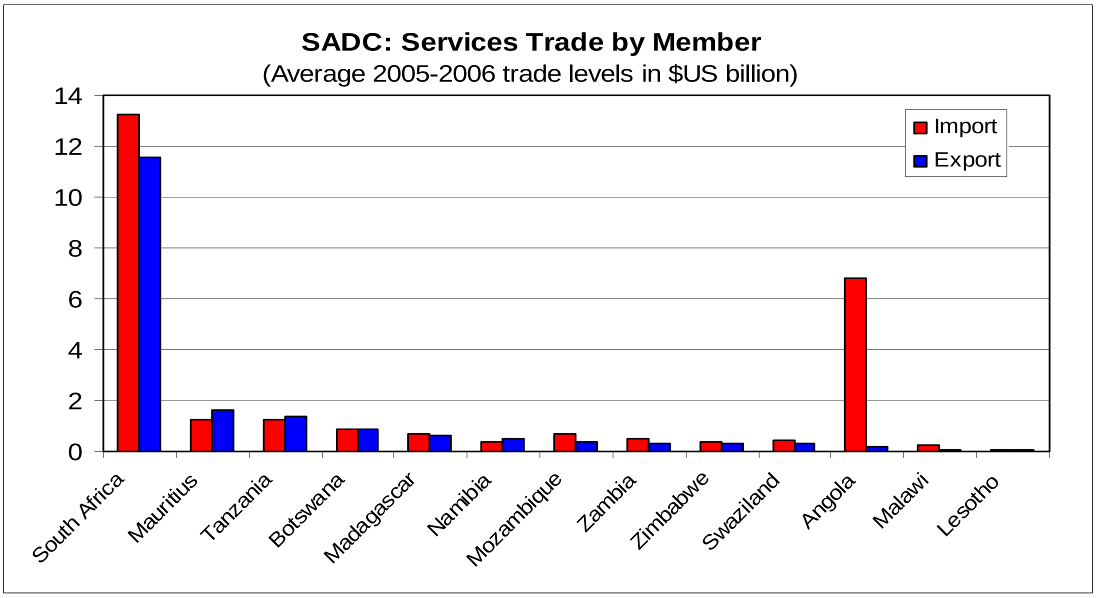
Figure 1. SADC services trade



Source: UNCTAD Handbook of Statistics 2007.

Total services trade was highest in South Africa and Angola (see figure 2 below). It was lowest in Malawi and Lesotho. Furthermore, most countries are net services importers. Only Mauritius, Namibia and the United Republic of Tanzania had a surplus on their services account in 2006. This pattern of external trade in services exhibits a great potential to increase services exports and diversify SADC trade in goods into services trade.

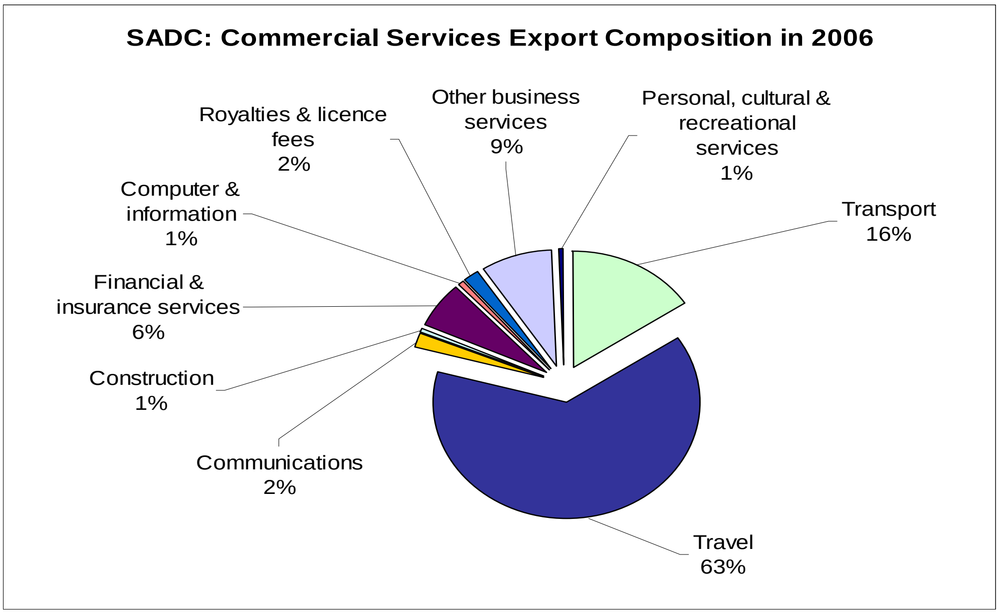
Figure 2. SADC services trade by member country



Source: UNCTAD Handbook of Statistics 2007.

Figure 3 below shows that tourism services dominated the export composition of total services exports in 2006. This was followed by transport services (16 per cent), other business services (9 per cent), financial services (6 per cent) and communication services (2 per cent). Construction services accounted for a mere 1 per cent.

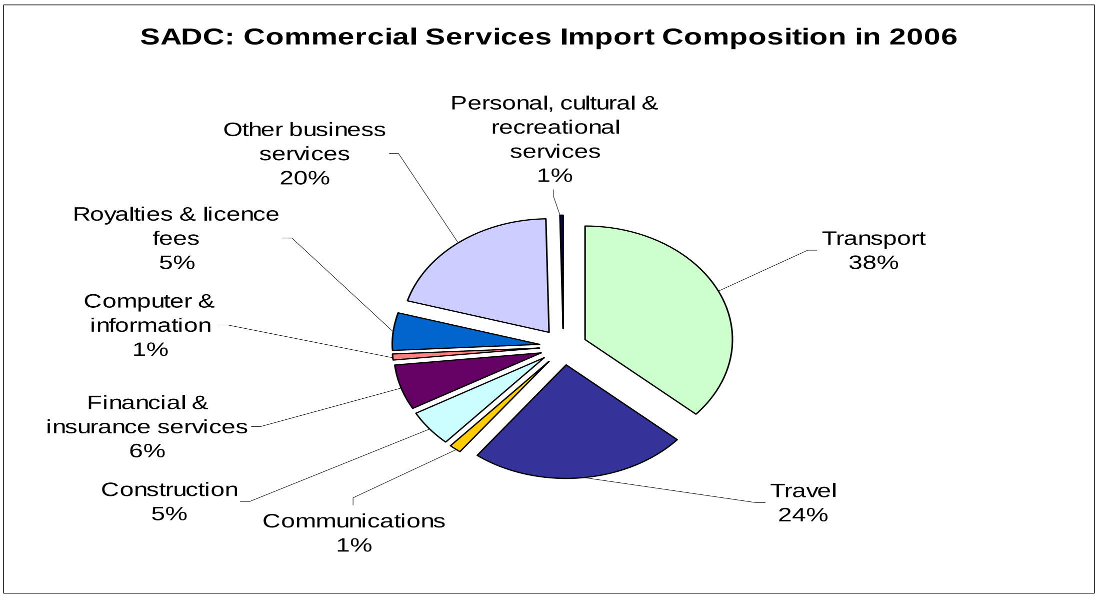
Figure 3. SADC composition of services export



Source: UNCTAD Handbook of Statistics 2007.

According to figure 4 below, transport and tourism services were the dominant services imports to the region in 2006, both accounting for over 60 per cent of total services imports. Other banking, financial and construction services accounted for 20 per cent, 6 per cent and 5 per cent, respectively, of total services imports in 2006.

Figure 4. SADC composition of services imports



Source: UNCTAD Handbook of Statistics 2007

3 SADC priority services sectors[12]

This chapter assesses the six services sectors. The assessment covers both economic and regulatory/institutional aspects pertaining to each sector from a regional perspective. A summary of key sector-specific recommendations is contained in the annex.

Overview of WTO commitments

All of the countries studied are members of WTO and are parties to GATS. Article XVI:2 of GATS lists six categories of restrictions which may not be adopted or maintained. A country is allowed to maintain any of these limitations provided it inscribes such limitation in its schedule of commitments.[13] The prohibited limitations are: (a) limitations on the number of suppliers; (b) limitations on the total value of service transactions or assets; (c) limitations on the number of service operations or on the total quantity of service output; (d) limitations on the total number of natural persons that may be employed; (e) measures which restrict or require specific types of legal entity or joint venture; and (f) limitations on the participation of foreign capital. Market access limitations in schedules therefore fall into one of these categories.

Most countries have put no restrictions in the financial services sector. The only restrictions which exist relate to Mode 4, where they are unbound and apply horizontally. This includes the fact that for a non-resident to work in another member country, he/she has to have the necessary visas and there are limitations as to how much money can be carried. In the tourism sector, some countries have opened completely. For example Zambia and Zimbabwe have opened their sectors while the United Republic of Tanzania hasn't. Telecommunications is also an area where the majority of countries have not made any restrictions except for fixed line services. The energy sector is also unbound and hence restrictions to market access as well as national treatment apply.

Some horizontal measures which apply in all of the countries are with regard to Mode 4. This area requires that foreign entities should have work and residency permits in order to supply certain services. Furthermore, where a supplier of a service belongs to a professional body, proof of membership in such professional body has to be shown. Next we turn to the sector studies, beginning with construction.

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[12] During the Second Trade Negotiation Forum-Services, held in Geneva from 30 November to 1 December 2000, member States agreed to start negotiations in six priority sectors: communication, construction, energy-related, financial, tourism and transport services.

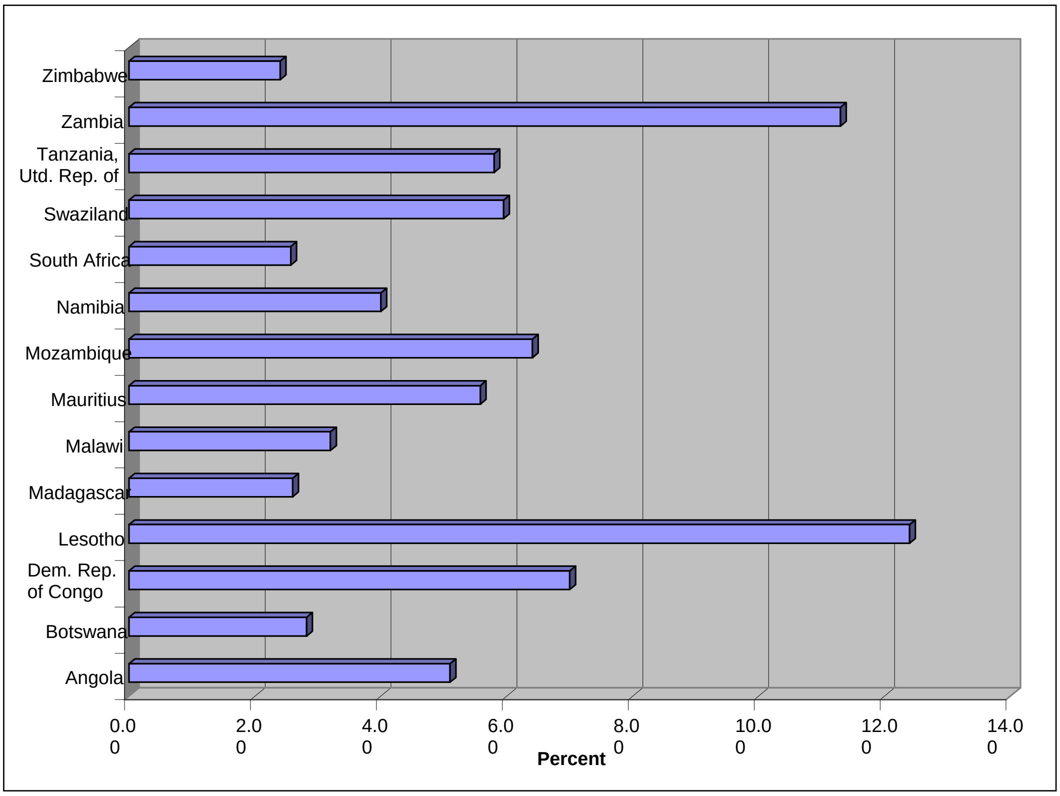
[13] If a country decides to offer market access on Mode 3, for example, it has to specify any or all of the six limitations in GATS article XVI.2 if it wishes to maintain them. Failure to do so means that it cannot be allowed to introduce such limitation. This provision also fosters transparency, as it allows trading partners to have a clear idea about the extent of openness a country has agreed to.

3.1 Construction sector

3.1.1 Economic issues

SADC countries view construction as a key infrastructure service and as a tool for upgrading welfare. Development of this sector directly contributes to the attainment of Millennium Development Goals. The construction sector contributes 12.4 per cent and 11.3 per cent of GDP in Lesotho and Zambia, respectively (by far the highest in the countries surveyed), 7 per cent in the Democratic Republic of the Congo, 6.4 per cent in Mozambique, 5.9 per cent in Swaziland, 5.8 per cent in the United Republic of Tanzania and less than 3 per cent in Zimbabwe. Furthermore, this sector accounts for approximately 5 per cent and 9 per cent of national employment in the United Republic of Tanzania and Zimbabwe, respectively.

Figure 5. Contribution of construction services to GDP (2006)



Source: SADC.
Note: Figures for Mozambique, Swaziland and Zambia are for 2005. Data for Angola is not available.

South Africa boasts a number of large and extremely competent construction firms that dominate the regional market. Though South Africa has a large number of highly skilled engineers in the region, this is dwindling owing to emigration, ageing and inadequate replenishment. Yet other SADC countries experience chronic skills shortages in the sector and are forced to import relevant skills, primarily from South Africa (which has its own shortages), India and China.

The movement of foreign nationals in developed countries is often subject to visa and residency requirements, and economic needs tests, even for project-related work of short duration, and frequently with little transparency as regards the criteria applied in the issuance of visas and work permits, which may penalize nationals of developing countries. Therefore, the construction sector and the regional economy as a whole would benefit from a more open and transparent approach to skilled migration.

In recent years sensitivities to immigration have worsened owing to increases in international terrorism and organized crime. This makes it unlikely for the GATS negotiations to effectively liberalize Mode 4 in the near future, even though this is a viable option in dealing with migration, as it promotes temporary and circulatory flows as opposed to long-term or permanent migration. Because of these difficulties, unilateral reforms and regional or bilateral Mode 4 liberalization pacts are increasingly seen as an alternative option. The multilateral framework is weak in the sense that it fails to provide guarantees that the movement of persons will be temporary. This may require both the receiving and sending country to work together. Indeed, international experience shows that it is relatively easier to make headway on certain issues of developmental importance (i.e. regulatory harmonization in transport etc) in RTAs among a smaller subset of countries than in the slow-moving multilateral negotiations forum in terms of GATS. These RTAs are also important as means of "testing the waters" and then provide lessons for the multilateral trading system. The liberalization of movement of natural persons is a classic example in this regard.

Furthermore, the strengthening of domestic and export supply capacity relies upon the ability of SADC countries to continuously upgrade their technological capacity. SADC countries may seek to attach requirements of associations and joint ventures, so as to include local companies in the design and implementation of construction projects. This is seen as an effective way of obtaining technology transfer. A SADC services deal could assist in developing regional approaches to such transfers.

Currently, there seems to be little foreign competition in the regional market, though most major firms enjoy some minority level of foreign ownership. Small market sizes, complex domestic procurement practices and the dominance of a few large South African construction firms suggest that future competition is likely to be limited. Offsetting this is the growing presence of Chinese construction firms in several SADC countries, and the potential for Indian investments down the line. The potential for Asian firms in particular to invest in regional markets again suggests that a multilateral and/or unilateral liberalization approach would be more beneficial than a purely regional one which simply opens to South African firms already entrenched in the region.

Since the majority of firms doing construction work within the region are foreign, this could imply that most of the funding for these works does not stay within the country. SADC countries therefore lose out substantially. In order to minimize this loss, it is necessary that SADC member States leverage procurement in construction in order to promote certain developmental gains. For instance, procurement of construction works could be subject to conditions that construction firms employ locals or enter into joint ventures with local construction firms. This could promote local participation and would have the added advantage of retaining funds for the projects. However, there is a danger that this may violate article XVI of GATS, which prohibits certain restrictions unless they are specifically mentioned in each country's schedules. This could present problems for SADC countries which have already made commitments in the construction sector, as they have made no limitations to market access and national treatment. The only restrictions which apply are those mentioned in the horizontal commitments within the sector. Thus, for these SADC member States, their only recourse could be to resort to these horizontal commitments. However, their impact would be minimal, as they only apply to Mode 4. As for the other countries which haven't made any commitments at all, they have to factor in these limitations when making their commitments at the multilateral level.

However, it should be noted that the fact that some countries have in essence liberalized the construction industry while others haven't could make it difficult to come up with one regional policy on leveraging construction procurement to promote local participation and to offset some of the consequences of liberalization, as it would be difficult to reconcile the different commitments made at the multilateral and regional level.

3.1.2 Regulatory issues

The construction industry is one of the highly regulated sectors within the SADC region. It is regulated by Government as well as a plethora of professional bodies performing different functions, from setting quality standards to determining procurement procedures and enforcing codes of conduct in the different professions within the construction industry. Construction firms within this industry operate as companies with subsidiaries or branches, and in some cases they operate as joint ventures. The industry within the region[14] allows 100 per cent private ownership of construction firms and foreign participation in the countries for which information is available is allowed without any limitation as to the equity which foreigners can own in such firms, except in the United Republic of Tanzania. Table 3 summarizes regulatory constraints regarding operations of foreign companies in the construction sector.

[14] This refers to Mauritius, Namibia, South Africa, the United Republic of Tanzania, and Zimbabwe. There is no information on ownership for the rest of the SADC countries.

Table 3. Regulation in the construction sector

Country	Maximum equity	Licences	Membership in professional body	New entrants	Minimum capital requirements	Preferences in tenders
Angola	100%(no information)	no information	required	allowed	no information	no information
Botswana	no information	no information	no information	no information	no information	no information
Dem. Rep. of Congo						
Lesotho	no information	yes	no information	not allowed	no information	no
Madagascar						
Malawi	100 %(100%)	yes	no information	allowed	no information	no
Mauritius	100%(100%)	yes	required	allowed	not required	no information
Mozambique	100%(100%)	yes	no information	not allowed	no information	no
Namibia	no information	yes	required	allowed	no information	Yes
South Africa	100%(100%)	yes	required	allowed	required	Yes
Swaziland	100%(no information)	no information	no information	no information	no information	no information
Utd. Rep. of Tanzania	100%(100%)	yes	required	allowed	required	Yes
Zambia	100%(100%)	yes	required	allowed	required	Yes
Zimbabwe	100%(100%)	yes	required	allowed	no information	no information

Source: UNCTAD questionnaires.

Furthermore, professionals such as civil engineers and architects have to be registered under and belong to a professional body. The requirements for belonging to these professional bodies are very similar within the region in that one must have the minimum qualification, which is a degree from a recognized university, and must have some practical experience for a specific time-frame, usually between one to two years, depending on the profession and country. These apply to foreigners as well. There are no mutual recognition agreements within the region. This is probably because most of the countries within the region are construction services importers and hence only import from developed and developing countries such as South Africa and China. There is therefore an informal recognition of the standards and qualifications of these construction service providers by the mere fact that they originate from a country which is more developed than the importing country. However, if countries within the region, especially the LDCs, were to export construction services, the need for mutual recognition agreements would arise. As to whether developing countries within the region have mutual recognition agreements, there is no information available.

For those countries within the region for which information is available,[15] licences are required for firms to provide construction services within those countries. Requirements for acquiring these licences are also similar. For instance, the following requirements have to be met before such a licence is issued: payment of

[15] I.e. Mauritius, Namibia, South Africa, the United Republic of Tanzania, Zambia and Zimbabwe.

licence fees, proof of qualifications, cash bond, proof of previous works and enrolment in a professional or trade register.

The sector also has regulators in all the countries studied. However, some of these regulators are simply government departments. For instance, in Mauritius, Zimbabwe, Botswana and Namibia, the construction industry is regulated by the ministry responsible for public works and infrastructure. This ministry works hand in hand with the different professional bodies. In Zambia and South Africa, there is a body independent from the Government which regulates the construction sector. In South Africa, all of the professional bodies fall under the regulator, which is called the Council for the Built Environment. In addition to this body, there is another regulator called the Construction Industry Development Board, whose role is to regulate all companies wishing to compete for public sector work by grading them according to the size and type of project for which they may compete.

For all the countries which submitted information on procurement procedures,[16] all the countries provide preferences to local contractors in their tendering processes when awarding contracts. In addition, for all the countries which submitted information – with the exception of Mauritius – firms have to meet minimum capital requirements before applying for contracts, whether such contracts are donor-funded or government-funded.

However there are a number of problems relating to education, exchange control, taxation, quality, standards and government procurement practices in the construction sector. Together, these appear to impose severe constraints on the development of a safe and competitive industry. Addressing these constraints requires greater coordination and action.

Most striking is the prevalence of preferences within the region. That is, some countries[17] have adopted measures which favour the awarding of contracts to local firms. The rationale is to ensure that locals also benefit economically from these projects.

Closely linked to this is the need to provide opportunities to previously disadvantaged groups of people. For instance, Namibia has a national employment policy and legislation which gives priority to employment of Namibians, including in the public works framework, where skills transfer to Namibians is part of the sectoral policy. Employment of non-nationals is permitted when the required expertise is not available at the local level. Construction works are usually awarded on a tender basis. However, due to Namibia's affirmative action policy, procurement policy provides for preferences which favour Namibian-domiciled contractors and consultants. Namibia also has an affirmative action act which applies to all sectors – private or public – with regards to employment of previously disadvantaged Namibians. Further preferences are awarded if the project employs a number of

[16] I.e. Namibia, South Africa, the United Republic of Tanzania and Zambia.
[17] South Africa, Namibia, the United Republic of Tanzania, and Zambia.

small local industries, develops rural areas or implements Namibia's affirmative action policy.

This is similar to South Africa, which has a black economic empowerment (BEE) charter within the construction sector and, though companies are not forced to implement it, they get an added advantage in the tender awarding process if their proposals take the charter into account. Just like Namibia, the country's immigration policy also affects trade in construction services, as foreigners can work in South Africa only if they have a work permit; for a local or foreign company to employ a foreigner, it has to prove there is no one with the appropriate skills available locally. The immigration policy has incorporated a different permit, called a quota permit, which has less stringent requirements, but the quotas are usually too low to make a significant impact. On the other hand, South Africa has managed to export construction services to the rest of Africa as its firms possess the skills, capital and material to undertake basic infrastructure projects in nearby countries, which gives them a comparative advantage.

Zambia also has requirements that favour local construction companies as preferences are awarded to local construction firms. However, these rules have been watered down, apparently due to World Bank and donor pressure as they fund most construction projects in Zambia. The construction industry is therefore dominated by foreign construction companies. However, it is likely that foreign companies would dominate the local market even in the absence of the mentioned liberalization policies and if the playing field was levelled.

The United Republic of Tanzania has similar requirements to Zambia and South Africa with regard to employment. It also has requirements that limit foreign participation; for instance, a construction company can only have 49 per cent of its equity in the hands of foreigners. Still, private ownership of construction companies is allowed. Contracts are also awarded on a tender basis and the Procurement Act encourages joint ventures with locals by awarding preferences to companies which team up with locals. Furthermore, foreign construction firms can only tender for works whose value is more than 1 billion shillings or more. All firms have to have licences to operate and there are four different licences that a firm can possess. The fees for these licences are lower for local companies than for foreign companies. Furthermore, minimum capital requirements are lower: domestic firms need to have minimum capital of $100,000 while foreign firms need to have a minimum of $300,000. Only locally established foreign companies and domestic companies can participate in construction of donor-funded works procured by government entities. Thus, foreign companies with no commercial presence cannot participate. Locally-based foreign firms can be prime contractors and therefore the Government does not restrict their role to that of mere subcontractors. Immigration rules are not too strict. For instance, a firm can automatically employ five expatriate workers without having to apply for a work permit. The Government also does not offer any incentives to any companies local or foreign.

3.1.3 GATS commitments

For those WTO members that made commitments on construction services, their schedules mainly covered general construction work for building and for civil engineering. Most such commitments focus on commercial presence and Mode 1, while Mode 4 has the lowest number of commitments; and there are few most favoured nation (MFN) exemptions on construction services. In SADC countries, only Lesotho, Malawi, South Africa, the Democratic Republic of Congo, and Zambia made GATS commitments in this sector.

Table 4. Construction services: WTO GATS commitments of the SADC countries

Country	Limitation on market access				Limitation on national treatment			
	Mode 1	Mode 2	Mode 3	Mode 4	Mode 1	Mode 2	Mode 3	Mode 4
Angola	***	***	***	***	***	***	***	***
Botswana	***	***	***	***	***	***	***	***
Dem Rep. of the Congo	None	None	None	"Unbound"	None	None	None	"Unbound"
Lesotho	Unbound*	None	None	"Unbound"	Unbound*	None	None	"Unbound"
Madagascar	***	***	***	***	***	***	***	***
Malawi	None	None	None	"Unbound"	None	None	None	"Unbound"
Mauritius	***	***	***	***	***	***	***	***
Mozambique	***	***	***	***	***	***	***	***
Namibia	***	***	***	***	***	***	***	***
South Africa	Unbound*	None	None	"Unbound"	Unbound*	None	None	"Unbound"
Swaziland	***	***	***	***	***	***	***	***
Tanzania, Utd. Rep. of	***	***	***	***	***	***	***	***
Zambia	None	None	None	"Unbound"	None	None	None	"Unbound"
Zimbabwe	***	***	***	***	***	***	***	***

Source: WTO.

Explanatory notes: Restrictions=bound with restrictions; Unbound=MFN not applicable, "Unbound"=unbound except as indicated in the Horizontal section; Unbound*= Unbound due to lack of technical feasibility; ***= No commitments; None= no limitations. Where the subsector is mentioned, it means the country made commitments in that subsector only. For instance, in the financial services, table banking is mentioned for Angola because it made commitments in this area. Where no subsector is specifically mentioned, as for South Africa in the construction table above, it means that the commitments made in all the subsectors within the construction sector are the same. Hence, South Africa made no limitations for Mode 2 in the construction sector as a whole from CPC 512-517.

3.1.4 Remarks

The supply of construction industry services is affected within the region by the lack of skills in this sector. This lack of skills means that the supply and quality of construction works is compromised. This in turn restricts the capability of SADC countries to export these services. Apart from South Africa, most SADC countries do not export construction works and hence their role in trade in these services is that of importers. Furthermore, the lack of technological capacity has the effect of hindering Mode 1 supply of construction services such as the electronic supply of design, and project management services, as these services can be provided through the Internet, especially with the construction industry increasingly becoming more dependent on computer use. The lack of these skills within the SADC region means that the region cannot become an exporter of these services and therefore they cannot benefit from outsourcing. Therefore, it would appear there is much to gain through introducing greater competition and technologies into regional construction markets.

Secondly, most of the countries do not recognize each other's qualifications, and this makes it harder for Mode 4 movement of workers. Coupled with this is the need for natural persons in these sectors to belong to certain professional bodies before they can undertake any construction projects. If the process for attaining membership in these bodies is restrictive or if qualifications are not duly recognized, this can be a barrier to entry. Therefore, mutual recognition agreements need to be put in place.

Furthermore, restrictions arise during the procurement of these works. Since in all the countries it is a legal requirement that most construction works are awarded based on a tendering process, the manner in which this process is conducted is critical. For instance, in South Africa, the documentation for tendering is apparently so large that the process becomes cumbersome. And some Governments, such as that of the United Republic of Tanzania, provide preferences to local firms or to firms which have a majority local shareholding. This unequal treatment means that foreign entities face barriers to trade, whilst construction efficiency may be compromised. It could therefore be important for procurement processes to allow for more participation of foreign firms by limiting the extent of preferences granted to local firms. This could be achieved by, for instance, extending preferences to foreign firms if they have a good track record in similar projects. Furthermore, the criteria for awarding tenders should not look at the price only but also other factors such as the quality of the work. This will ensure that more firms participate in construction projects. Owing to the potential political sensitivity of these proposals they could be adopted initially on a regional basis.

While BEE has contributed to expansion of opportunities for small and medium-sized enterprises (SMEs) – and black- and women-owned enterprises – in the general contracting category both in Namibia and South Africa, it hasn't created similar opportunities in specialist contracting sectors that require specialist skills and greater capital resources including, for example, electrical and mechanical engineering. This would seem to indicate the limitations of BEE and preferential procurement as drivers of empowerment and the need for programmes aimed at development of specialist enterprises.

3.1.5 Specific policy recommendations

These include:

- Establish mutual recognition agreements to encourage portability of skills within the region;
- Consider loosening procurement policies in order to encourage greater participation by regional firms;
- Adopt unilateral liberalization measures for Mode 1 supply of technology-based services, notably design, on an MFN basis;

- Promote Mode 4 liberalization on an MFN basis in order to attract skills from outside the region; and
- Bind commitments in these areas in the WTO.

3.2 Energy sector

Unlike other services, energy-related services are often very difficult to categorize because the energy sector has elements of both goods trade and services trade. For instance, electricity itself is considered a good. However, transmission and distribution of electricity is a service, as is consulting in the electricity industry.

3.2.1 Economic issues

The region has proven reserves of coal, oil and natural gas. Below we focus on trade in electricity, which in Southern Africa is generated mainly through thermal or hydroelectric resources (with one nuclear facility in South Africa). Natural gas is also becoming more significant to the region's energy sector as fields off Mozambique, Namibia, South Africa and the United Republic of Tanzania are developed. Furthermore, a majority of Southern Africa's population still relies on the use of bio fuel (wood and charcoal) as its primary source of energy.

As shown in table 5 below, SADC total electricity production was 308.762 billion kWh in 2005. The leading electricity producers were South Africa at 264 billion kWh, followed by Mozambique (13.170 billion kWh), Zimbabwe (9.950 billion kWh) and Zambia (8.850 billion kWh). In the same year, total regional electricity consumption was 286.773 billion kWh, led by South Africa (241.400 billion kWh), Zimbabwe (12.270 billion kWh), Mozambique (9.127 billion kWh) and Zambia (8.655 billion kWh).

Table 5. SADC electricity production and consumption

Country	Electricity			
	Production (bil. kWh, 2005)	Consumption (bil. kWh, 2005)	Exports (bil. kWh, 2005)	Imports (bil. kWh, 2007)
Angola	2.585	2.201	0.000	0.000
Botswana	0.912	2.602	0.000	1.754
Dem. Rep. of Congo	0.352	0.572	0.000	0.418
Lesotho	0.350	0.339	0.000	0.013
Madagascar	1.046	0.973	0.000	0.000
Malawi	1.397	1.299	0.000	0.000
Mauritius	2.122	1.973	0.000	0.000
Mozambique	13.170	9.127	12.000	9.588
Namibia	1.688	2.863	0.078	1.567
South Africa	264.000	241.400	13.420	11.320
Swaziland	0.460	1.300	0.000	0.872
Tanzania, Utd. Rep. of	1.880	1.199	0.000	0.136
Zambia	8.850	8.655	0.243	0.465
Zimbabwe	9.950	12.270	0.000	3.013
Total	**308.762**	**286.773**	**25.741**	**29.146**

Source: CIA World Factbook and authors' own calculations.

The SADC region is a net importer of electricity, by virtue of having exported 25.741 billion kWh and imported and 29.146 billion kWh in 2005. South Africa and Mozambique were the leading exporter and importer countries, together accounting for approximately 45 per cent and 39 per cent of total electricity trade in SADC respectively.

Notwithstanding the existence of huge power generation potential in the region, in most SADC countries energy generation is not enough to meet domestic needs. Consequently, some countries purchase power from their neighbours within the SADC region and elsewhere. The region is overly dependent on South Africa's electricity parastatal, Eskom, for electricity provision. Yet Eskom is currently running out of excess capacity as regional demand is outstripping supply. This chronic shortage is expected to grow if investment in new energy projects is not made.

The Democratic Republic of the Congo has extensive potential energy resources to relieve the shortage, with reported hydroelectric reserves of approximately 100,000 MW. The Inga Dam alone, on the Congo River, has a potential capacity of 40,000–45,000 MW, which could supply all of Southern Africa's electricity future needs.[18] However, due to political and economic risks in the country, investment is lacking to optimally develop this amount.

Additional salient country features include, inter alia:

Mozambique: the country is seeking funds to modernize the Cahora Bassa facility at an expected cost of $40 million. This facility has a potential capacity of 2.075 MW. Furthermore, the country is seeking investment for a new 2,400 MW hydroelectric facility on the Zambezi River, and South Africa's Eskom has expressed interest in constructing a 100-MW power station adjacent to Mozambique's Moatize coal fields.[19] Recent media reports point out that Riversdale Mining has initiated a study into building a 500-MW power station in the country and this could be commissioned by 2012.[20] To this end, the company has signed a memorandum of understanding with the Mozambican energy authorities to begin work on the coal-fired power station.

Botswana: the country plans to provide electricity to 70 per cent of the population by March 2009 and to the rest of its citizens by 2016. Currently, only 22 per cent of Botswana's population has access to electricity. The generating capacity of the Botswana Power Corporation (BPC) is centred on the 132-MW Morupule power station. Currently, nearly 70 per cent of national demand is fulfilled by power imports.

[18] United States Energy Information Administration, 2005, SADC Country Analysis Brief. See http://www.eia.doe.gov/emeu/cabs/SADC/Full.html.
[19] United States Energy Information Administration, 2005, SADC Country Analysis Brief. See http://www.eia.doe.gov/emeu/cabs/SADC/Full.html.
[20] Hill M (2008). Mozambique may get new 2000-MW coal fired power station. *Engineering News*. 18 April. See http://www.engineeringnews.co.za/print_version.php?a_id=131604.

Namibia: About 50 per cent of Namibia's electricity is generated domestically, mainly from the 240-MW Ruacana hydropower plant. The production level is cyclical – dependent on adequate rainfall – so imports from South Africa are needed to cover the periodic gaps in production. The Namibian Government is actively seeking new energy sources, including the proposed 800-MW gas-fired power plant at the Kudu gas fields, a wind powered plant at Luderitz and potential hydroelectric supplies from the Kunene River on the Angolan border.

Zimbabwe: Zimbabwe imports about 35 per cent of its electricity requirements and the country's power supply has grown increasingly irregular over the past year. In 2004, Eskom and HCB of Mozambique both refused to renew contracts with the Zimbabwe Electricity Supply Authority (ZESA). In late 2004, however, Zimbabwe's Government signed contracts with China's National Aero-Technology Import (Caltic) and China Electric Technology Import and Export Corporation (Cetic) to expand the Karib and Hwange stations, and with the Islamic Republic of Iran for the construction of an additional gas-powered plant. In March 2005, a transmission failure in the Democratic Republic of the Congo left ZESA unable to import electricity from SNEL. At the same time, generators at Zimbabwe's Kariba and Hwange power stations went offline due to a shortage of spare parts. Construction of a thermal plant at the Sengwa coal mine has been delayed due to lack of investor interest.

Zambia: The 100-MW gas-powered Songas plant in Ubungo went online in August 2004 and was expanded to 180 MW in June 2005. Zambia, the United Republic of Tanzania and Kenya are also pursuing a $230 million project to connect their grids. Rwanda and Uganda have expressed interest in joining the Zambia–United Republic of Tanzania–Kenya interconnection. Zambia has abundant hydroelectric resources and meets most of its energy needs from its own hydroelectric stations; Zambia exports electricity to its neighbours, especially the United Republic of Tanzania and Kenya.

Mauritius: This is the only country in SADC and, more broadly, all of Africa to boast full electrification, largely thanks to its early start and political commitment to electrification. Liquefied petroleum gas is becoming an increasingly popular energy source on the island.

3.2.2 Regulatory issues

Studies focused mainly on electricity services. Key regulatory issues are summarized in Table 6.

Table 6. Regulations in energy (electricity)

Country	Incumbent generator	Licences	No. of regulators	New entrants (IPPs)	Cross-border supply	No. of generators
Angola	100% govt owned	yes	1	not allowed	no information	1
Botswana	100% govt owned	yes	1	info not available	allowed to Import	at least 1
Dem. Rep. of the Congo						
Lesotho	100% govt owned	yes	1	allowed (100%)	allowed to import	2
Madagascar						
Malawi	100% govt owned	yes	1	allowed (100%)	no information	more than 1
Mauritius	100% govt owned	yes	1	allowed (100%)	not possible	more than 1
Mozambique	100% govt owned	yes	1	allowed (100%)	allowed to Import	4
Namibia	100% govt owned	yes	1	not allowed	allowed to Import	1
South Africa	100% govt owned	yes	1	allowed (100%)	allowed	more than 1
Swaziland	100% govt owned	yes	1	no information	allowed to Import	1
Tanzania, Utd. Rep. of	100% govt owned	yes	1	allowed (100%)	allowed to Import	3
Zambia	100% govt owned	yes	1	allowed (100%)	allowed to Import	6
Zimbabwe	100% govt owned	yes	1	allowed (100%)	allowed	1

Source: UNCTAD questionnaire.
Note: Incumbent Generator is the electricity supplier within a country which produces at least 50% of electricity in that particular country.

Currently, the energy sector in SADC is dominated by Governments through State-owned enterprises[21] which generally monopolize the electricity supply chain, although Zambia allows SMEs to provide services such as generation, transmission, distribution and supply of electricity.

Some Governments in the region are reluctant to allow a bigger role for private investors in the energy sector, which remains largely funded and owned by the public sector. In Namibia, for example, the Government has repeatedly stated that private investors will be allowed to participate in regional energy distribution, but it has not taken any serious steps to facilitate such participation. This has been augmented by associated policies that discourage competition. In South Africa, Eskom has recently been confirmed by the cabinet as the single buyer of all electricity generated in the country, thus forcing any prospective independent power producer (IPP) to negotiate with only one player to purchase its electricity. As South Africa

[21] Botswana Power Corporation (BPC) in Botswana; Central Electricity Board in Mauritius; Electricity Supply Commission in South Africa; Namibia Power Utility in Namibia; Independent Power Tanzania Ltd. and Songas in the United Republic of Tanzania; ZESCO Limited in Zambia; and ZESA in Zimbabwe.

remains by far the biggest market for any potential IPP, this significantly limits the opportunity to investigate and find alternative markets, and brings into question the longer term success of the Southern African Power Pool (SAPP) [22] market mechanisms and regional competition.

Nonetheless, Governments in the region are looking to IPPs, or combinations of IPPs and State-owned utilities, to meet the rapidly growing regional demand. In South Africa, for example, the Government requires that 30 per cent of all new generation capacity come from IPPs – although it is not clear whether producers will want to move into a monopsonistic market.

SADC countries are thus faced with the challenge of achieving more reliable and efficient access to energy through the enhanced availability of energy services, particularly those provided by IPPs. To allay concerns over energy sovereignty, regional Governments could ensure that the link between market access and development is clearly established by making access to energy markets conditional on:

- Transfer of technology and managerial know-how;
- The acceptance by foreign suppliers of public services obligations; and
- Setting up alliances between foreign and domestic firms, including SMEs.

The electricity subsector within SADC was previously regulated by government ministries responsible for energy. However, from 2000 there has been a move towards creating independent regulators such that ministries in most countries have been stripped of their powers to regulate this subsector and such powers have been vested in independent regulators. The only exceptions in our sample group are Angola, Mauritius and Botswana. But the last two countries are looking into ways of creating independent regulators.

The regulators within the region are responsible for issuing licences to new entrants within the specific country involved and hence promoting competition. They are also responsible for regulating energy prices. Licences within the region are granted after certain conditions are met. However, information on what these conditions are was not available for our sample group except for Zimbabwe. This makes it hard to assess and compare the conditions for licences within the region – a major gap.

In Zimbabwe, licences are granted once the applicant has shown that it has experience in the energy field, conformed to technical and safety standards, and has paid licence fees which are a certain percentage of the applicant's revenue. These licences are granted either in perpetuity or for a specific period.

[22] The SAPP currently has an installed capacity of about 53,000 MW, out of which about 41,000MW is dependable capacity. During the 2006 winter peak, the non-coincidental peak for the interconnected SAPP grid was about 42,000 MW, leading to a supply shortfall of about 1,000 MW without the provision for reserve margin (4,000 MW).

In Angola, where IPPs are not allowed, licences are granted in perpetuity to State-owned enterprises which produce and distribute the electricity. However, this will change as Angola has a bill which will allow IPPs into the market once it is enacted. The same applies to Botswana as it is considering allowing IPPs to enter the market. In the other countries licences are granted for a specific period.

The market for electricity comprises different players, depending on the country. In Botswana, for instance, there is only one company involved in the generation, transmission and distribution of electricity. Namibia is currently considering letting IPPs operate, but in the meantime there is only one supplier of electricity, a monopoly which is protected from competition by government policies and laws. In Zimbabwe, this used to be the case until the Government divided the sole electricity company into three companies: one responsible for generation, another for transmission and one for distribution. It also encouraged IPPs to be established within the country.

This is similar to the approach adopted by the Government of the United Republic of Tanzania, which has allowed IPPs; currently, there are two which produce electricity from gas and residual fuel oil, respectively. Two more are about to enter the market – one each in gas and residual fuel oil segments. The Tanzanian approach has been more successful than the Zimbabwean one, despite the fact that they have similar policies on foreign entry; the United Republic of Tanzania is attracting more investment and hence entrants in this sector than Zimbabwe. Private investment in the provision of electricity services is not allowed for existing operators, except in the generation subsector, and new entrants for generation, transmission and retail are allowed to service only one segment. However, there are no entry restrictions for foreign and local private firms (i.e. commercial presence) in power generation and retailing. Since 1999, IPPs have been allowed to enter the market with guaranteed access to the grid under long-term contracts on wholesale prices (tariffs). The transmission grid is not linked to that of neighbouring countries, although Uganda informally sells electricity to the United Republic of Tanzania and Zambia sells to the United Republic of Tanzania in the South-West. This is probably along the Uganda–United Republic of Tanzania border, where the United Republic of Tanzania citizens purchase there electricity from Uganda. In order to promote competition within the generation segment in the United Republic of Tanzania, commercialization has occurred in the three subsectors. Privatization has also occurred, though only in the generation subsector, where up to a maximum of 40 per cent of a firm’s equity can be privately owned.

In Zambia, the only electricity supplier was also commercialized in order to improve efficiency. In terms of supply of electricity, SMEs are allowed to provide services to encourage competition in the sector. Unlike in the United Republic of Tanzania, SMEs can provide any type of services, including generation, transmission, distribution and supply. So far, there isn’t an SME that supplies electricity on a large scale.

Swaziland is the only country which has privatized its State-owned electricity producing company by changing it from a parastatal to a company registered under Swaziland's companies act. According to the Central Bank of Swaziland's 2007 annual report, this has led to an increase in generation of electricity and the number of people with access to electricity. As noted above, the rest of the region seems to favour commercialization rather than privatization. This is probably due to the fear that once privatized, Government will lose control of the electricity company and will not be able to achieve certain public policies – such as universal access – as the company will become more profit-orientated.

With the exception of the United Republic of Tanzania, these countries are connected to regional power grids and thus import power.

Except for Mauritius and Namibia, countries have a regulator in the energy sector; Mauritius and Namibia are in the process of establishing a regulator. In most countries studied,[23] the regulatory frameworks governing the energy sector are based on single, vertically integrated, State-owned entities that act as primary generator, wholesaler and, in most cases, also significant retail suppliers of electricity. Consequently, regulators face difficult challenges in promoting competition and associated pricing of energy as uncompetitive acts are promoted and protected legally and deliberately. This means that competition regulators cannot reprimand any acts which are detrimental to competition within this sector. Moreover, national regulatory bodies in the region are often hindered by lack of clear government policy and proper legislative frameworks to guide their participation in a competitive energy market. For example, regulations on exports and imports of energy are not well developed and licensing regimes are often incomplete. Furthermore, political imperatives often drive the setting of prices in the consumer's favour, hampering private sector involvement and new investments – not only because new IPPs' generation costs are unaffordable, but also because associated transmission infrastructure – owned by the same utilities – is often insufficient.

In order to promote universal access, countries within the region have universal service policies. This is the case for Botswana, South Africa, Swaziland, the United Republic of Tanzania, Zambia and Zimbabwe.[24] Universal service is defined as access to electricity for everyone and different policy instruments are used to achieve this. In Swaziland and Botswana, rural electrification schemes have been set up to provide electricity to those who do not currently have it. In South Africa and the United Republic of Tanzania, the Government provides consumer/producer subsidies. This usually entails keeping prices low and providing government funding to the incumbent electricity generating company. In Zambia, the Government has developed appropriate policy, legal, institutional and regulatory frameworks promoting universal service. It also allows firms to import all types of equipment for generating, transmitting, distributing and supplying electricity duty free. Zimbabwe has enacted a rural electrification fund act which provides for the

[23] Botswana, Namibia, Mauritius, South Africa, United Republic of Tanzania, Zambia, Zimbabwe and Angola.
[24] There is no information for the rest of the countries.

funding of universal service through cross subsidization, budget allocation and levies, among other things.

3.2.3 GATS commitments

There is no separate classification of energy services in the current WTO Sectoral Classification List, which is based on the United National Central Product Classification. Under GATS, energy services were not negotiated as a separate sector during the Uruguay Round. Therefore, there are no Uruguay Round commitments made by SADC countries in energy services. Only a few WTO members made specific commitments in energy-related services, i.e. pipeline distribution of fuels (a subsector of transportation services), services incidental to energy distribution and services incidental to mining. Much of the global energy services industry is therefore not covered by specific commitments under GATS.

Moreover, there is no single definition or clear notion of what is understood under energy services and the existing classification does not explicitly include many new energy services, such as the operation of power pools, energy trading and brokering and energy management. Some developed countries have proposed the development of a new, comprehensive classification for energy services in the Doha Round of talks. Therefore, the first task of a regional energy services liberalization process is to define and categorize the services to be subject to liberalization.

Table 7. Energy-related services: WTO GATS commitments of the SADC countries

Country	Limitation on market access				Limitation on national treatment			
	Mode 1	Mode 2	Mode 3	Mode 4	Mode 1	Mode 2	Mode 3	Mode 4
Angola	***	***	***	***	***	***	***	***
Botswana	***	***	***	***	***	***	***	***
Dem. Rep. of Congo	***	***	***	***	***	***	***	***
Lesotho								
• F. (h). Services incidental to mining	Unbound	Unbound	Unbound	"Unbound"	Unbound	Unbound	Unbound	"Unbound"
• Wholesale Trade Services	None	None	None	"Unbound"	None	None	None	"Unbound"
• Retailing Services	None	None	None	"Unbound"	None	None	None	"Unbound"
Madagascar	***	***	***	***	***	***	***	***
Malawi								
• Banking	None	None	None	"Unbound"	None	None	None	"Unbound"
Mauritius	***	***	***	***	***	***	***	***
Mozambique	***	***	***	***	***	***	***	***
Namibia	***	***	***	***	***	***	***	***
South Africa								
• F. (h). Services incidental to mining	Unbound	Unbound	None	"Unbound"	Unbound	Unbound	None	"Unbound"
• Wholesale Trade Services	None	None	None	"Unbound"	None	None	None	"Unbound"
• Retailing Services	None	None	None	"Unbound"	None	None	None	"Unbound"
Swaziland	***	***	***	***	***	***	***	***
Tanzania, Utd. Rep. of	***	***	***	***	***	***	***	***
Zambia	***	***	***	***	***	***	***	***
Zimbabwe	None	None	Restricted	"Unbound"	None	None	None	"Unbound"

Source: WTO.

Explanatory notes: Restrictions=bound with restrictions; Unbound=MFN not applicable; "Unbound"=unbound except as indicated in the Horizontal section; Unbound*= Unbound due to lack of technical feasibility; ***= No commitments; None= no limitations. Where the subsector is mentioned, it means the country made commitments in that subsector only. For instance, in the financial services table, banking is mentioned for Angola because it made commitments in this area. Where no subsector is specifically mentioned – as for South Africa in the Construction table above – it means that the commitments made in all the subsectors within the construction sector are the same. Hence, South Africa made no limitations for Mode 2 in the construction sector as a whole from CPC 512-517.

3.2.4 Remarks

It is important to note that trade in energy services (electricity) is already taking place in the region through SAPP, established to expand electricity trade and reduce energy costs. The Protocol on Energy (box 1) in particular seems to combine cooperation in development of the energy sectors and the creation of a conducive climate for intraregional trade in services.

Significant measures have been made to implement the provisions of the Protocol. These efforts include (covering both current and envisaged projects):

(a) Multi-stakeholder participation in SAPP – In 2006, SAPP member States signed the Revised Inter-Governmental memorandum of understanding in Gaborone, Botswana. Because of this amendment, apart from the national power utilities and independent power producers, other stakeholders can now participate in SAPP activities;

(b) SAPP Power Market Plan – The objective of this project is to help promote regional multi-country competitive electricity trade in order to foster regional integration and economic development in SADC;

(c) The Short-Term Energy Market (STEM) – This facilitates contracts of periods up to a month long for the supply of electrical energy to individual customers and utilities. It is the "stock exchange" of regional power supply, and the SAPP Coordination Centre is the facilitator. Its primary objective is to offer attractive economical energy through competition. STEM complements the existing long-term bilateral contract among members, but it is increasingly viewed as a first stage towards full competitive electricity trade in the region. However, not all SAPP members participate in STEM, as there are only eight participants; Botswana Power Corporation, Botswana; Eskom, South Africa; Electricidade de Mozambique and Hidroeléctrica de Cahora Bassa, Mozambique; Kariba North Bank, Zambia; NamPower, Namibia; Swaziland Electricity Board, Swaziland; and ZESA, Zimbabwe.

(d) The Western Corridor Project (WESTCOR) – This is a SADC project conceived through the combined initiative of the SADC secretariat and the power utilities of Angola, Botswana, the Democratic Republic of the Congo, Namibia and South Africa. The project's aim is to harness the large water resources of the Congo River at Inga, to produce and supply electric power, initially for the five countries involved but ultimately to the whole SADC subregion. The project will comprise the construction of a 3,500-MW hydroelectric dam, a transmission line and a telecommunications line.

(e) Transmission Expansion Plans – A number of priority projects that would enable the exchange of energy to improve system economy have been identified. These include several interconnectors to counter the situation where some countries are not linked to the SAPP network. For example, currently Angola, the United Republic of Tanzania and Malawi are not connected to the SAPP network and are therefore not in a position to participate in the SADC power pooling arrangements.

(f) Regional Electricity Regulatory Association of Southern Africa (RERA)[25] – The overall objectives of this body are to facilitate the operation of the national electricity regulators to exchange information on their activities, identify areas of common interest and engage in regional cooperation in electricity regulation by, inter alia: (a) building regulatory understanding, capacity and skills among regulators and other entities with regulatory responsibilities; (b) promoting the timely creation and establishment of regulators in countries where such

[25] RERA has six members, namely, Zambia, Namibia, Malawi, South Africa, Lesotho and Zimbabwe. Some of the remaining SADC member States have promised to form regulators once all formalities have been completed in their respective countries.

presently do not exist; (c) assisting the harmonization of legal and regulatory systems and practices governing electricity markets in the region; and (d) undertaking economic regulation of electricity interconnection and trade between SADC member States

SADC is undergoing a process of restructuring which has to date resulted in the SADC Energy Sector Utilities being administered from SAPP in Harare, Zimbabwe, and regulatory issues being administered by RERA from Windhoek, Namibia. The process of consolidating and updating information on SADC energy programmes and projects is in line with RISDP. Some of the more prominent challenges and constraints are:

- Inadequate financial resources to implement projects;
- Inadequate human resources capacity due to scale down of personnel in the new SADC structure; and
- The limited resources at the disposal of RERA, which remain a major constraint and continue to hamper the implementation of some of the planned projects and activities. Its major challenge is to enhance its institutional capacity and develop a multi-year strategic plan that is able to, among other things, ensure continued commitment and involvement of members and other relevant stakeholders in implementing its work programmes, and accelerate the establishment of regulators and harmonization of the regulatory environment in the region.

The power demand in the SADC region is increasing at a rate of about 3 per cent per annum, implying an addition of 1,200 MW per year. The total installed capacity in SAPP is about 52,000 MW and the available or effective capacity is about 42,000 MW. Accordingly, by the year 2007, the region had run out of generation surplus capacity. This is a major challenge to SAPP – addressing the decreasing generation reserve capacity in the region.

To address these challenges, the region should, inter alia, increase the pace of restructuring loss-making State-owned power utilities. SADC countries should ensure that pricing systems are cost-reflective, in order to attract private investments and extend access to electricity to all consumers.

It is clear that for SADC countries to achieve the objectives of the SADC Energy Protocol, incentives have to be put in place to encourage IPPs to enter the market. This will entail Government removing some, if not all, regulations that protect State-owned energy companies. Furthermore, in light of future Kyoto commitments for non-annex 1 countries, alternative sources of energy generation ought to be adopted rather than relying solely on coal-fired and hydroelectricity generation.

It is commendable that some countries have already started promoting IPPs by, for instance, guaranteeing them access to the transmission grid, as in the United Republic of Tanzania. Restrictions on entry into this sector have also been scaled down to allow for foreign participation. This is crucial, as electricity generation and transmission is very capital-intensive, hence well-resourced foreign entities ought to be allowed to participate.

Box 1. SADC Protocol on Energy

In a bid to tackle the energy challenges in the region and to foster cooperation in this sector, SADC countries signed the Energy Protocol in 1996, which entered into force in 1998. The protocol provides the broad legal and policy framework for cooperation in the energy sector and identifies four priority areas:

- Energy trade;
- Information and experience exchange;
- Training and organizational capacity-building; and
- Investment and funding.

The subsectors for cooperation include wood fuel, petroleum and natural gas, electricity, coal, new and renewable sources, and energy efficiency and conservation1.

The protocol's overall objectives are to:

- Foster harmonization of national and regional energy policies;
- Cooperation in the development of energy and energy pooling;
- Promote the provision of reliable and sustainable energy services in the most efficient and cost-effective manner;
- Promote joint development of human resources and organizational capacity-building;
- Cooperation in research, development, adaptation, dissemination and transfer of low-cost energy technologies.

These processes have given rise to a number of projects designed to give effect to the protocol, including:

- Establishment of SAPP, whose objective is to help promote regional multi-country competitive electricity trade to foster regional integration and economic development in SADC.
- The Western Corridor Project (WESTCOR). The project's aim is to harness the large water resources of the Congo River at Inga, to produce and supply electric power, initially for the five countries involved but ultimately to the whole SADC subregion. The project will comprise the construction of a 3,500-MW hydroelectric dam, several transmission lines and a telecommunications line.
- Transmission expansion plans. A number of priority projects that would enable the exchange of energy to improve system economy have been identified. These include several inter-connectors to counter the situation where some countries are not linked to the SAPP network.
- SADC Regional Energy Planning Network Project. The project aims to empower the national energy planning institutions of the member States to efficiently and effectively perform energy planning tasks, undertake energy forecasting and projections, and formulate energy projects.

The development of international power grids is another way of encouraging trade in energy services. However, this is curtailed when demand in exporting countries outpaces supply. This is the case with South Africa, which used to export surplus electricity to Swaziland (which imported up to 80 per cent of its electricity supply from South Africa), Namibia and Botswana, but has had to stop as there isn't enough supply to meet domestic demand – the country has had to resort to "load shedding". Owing to the central role South Africa plays in SAPP, this has potentially serious implications for meeting regional power needs and reinforces the case for seeking to introduce private providers into domestic and regional networks.

Despite the usual horizontal measures which affect Modes 3 and 4 supplies, Mode 1 supply of electricity services has no doubt been affected by the inadequate generating capacity within the region. This has been well documented above.

Regulation of prices within the region has also had a trade barrier impact on Modes 1 and 3. For Mode 1, regulation of prices means that generators of electricity often are not able to sell electricity at a price high enough to cover the cost of production. This in turn means that profits cannot be generated which can be reinvested to improve generating capacity. Where price controls are too rigid, this can be a deterring factor for IPPs which intend to establish a commercial presence. Some of these negative effects can be mitigated by, for instance, giving IPPs tax breaks and incentives which exempt them from paying import duty.

Still, the regulation of prices is central to universal service policies as price is one of the factors which affect access to electricity for predominantly poor consumers. Thus, the region needs to come up with a way of balancing the need to increase generating capacity and the need for universal service.

3.2.5 Specific policy recommendations

Recommendations include:

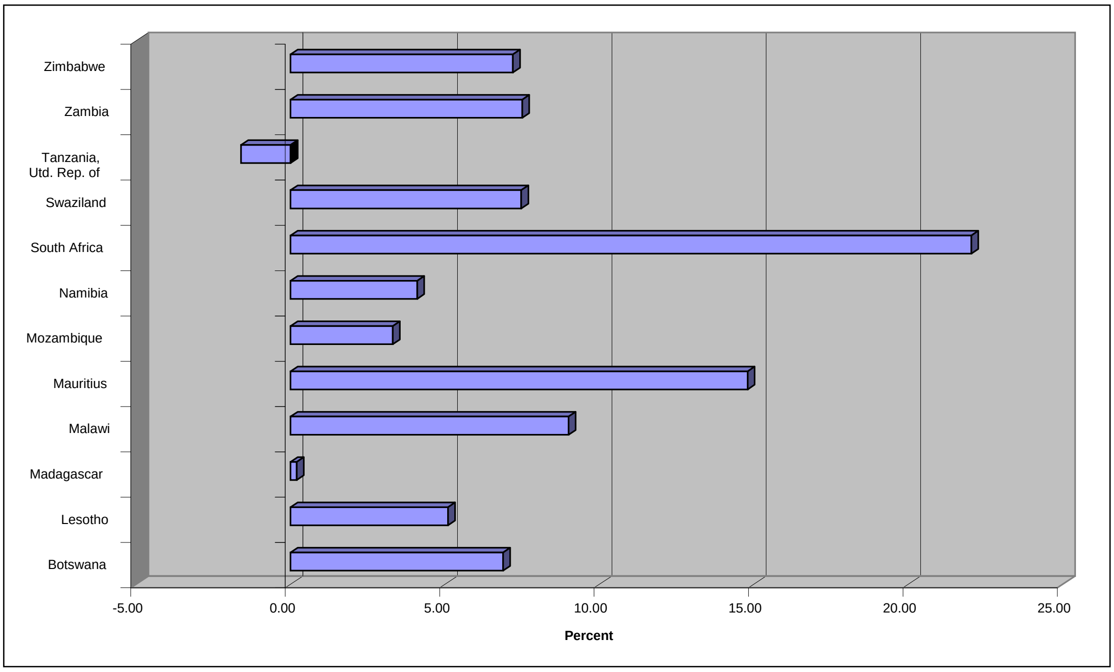
- Increase oversight and powers of regulatory agencies, specifically in respect of State-owned company pricing policies concerning purchase of electricity from IPPs;
- Define and categorize energy-related services to be subject to liberalization and support a multilateral process on this issue at WTO;
- Speed-up restructuring of State-owned electricity companies with a view to introducing greater competition, on an MFN basis concerning Mode 3 in particular, into national and regional markets;
- Investigate where restrictions in cross-border trade in energy and related energy services may obtain and remove them where universal service obligations will not be compromised, particularly those pertaining to pricing; and
- Formulate and implement projects on new and renewable sources of energy. The high cost of grid electrification and conventional energies in rural areas makes renewable energies and other alternative energy sources an economic option for the provision of energy services. On the other hand, recent worldwide concern about environmental and climate change, and the escalation of the price of fossil fuels, has stimulated interest in new and renewable sources of energy technologies in the region, as one way of mitigating greenhouse effects caused by increased use of fossil fuels.

3.3 Financial services

3.3.1 Economic issues

Financial services are divided into banking and other financial services (e.g. financial leasing, guarantees and commitments), and insurance and insurance-related services (e.g. broking and agency services).[26] South Africa is by far the major player in the region, and has a significant outward investment stock in financial services. Figure 6 show that financial services contribute approximately 22 per cent to South Africa's GDP (which is the highest in the region). SADC countries are mainly importers of financial services, from South Africa and elsewhere. Hence, most SADC countries are not in a position to engage in international export of financial services. However, financial services are crucial inputs into many economic activities; therefore, importing them should be regarded as enabling economic development.

Figure 6. Contribution of financial services to GDP (2006)



Source: SADC.
Note: Figures for Mozambique, Swaziland and Zambia are for 2005. Data for Angola and the Democratic Republic of the Congo are not available.

Furthermore, there is potential for greater intraregional trade. To the extent it is developed and extends beyond South African exports, it could be used as a platform for building the necessary capacity to export internationally. South Africa forms a large part of regional penetration, followed by Zimbabwe. Moreover, Mauritius endeavours to establish itself as a global financial centre and Botswana intends to establish itself as a regional financial centre.

[26] WTO (1991), Services Sectoral Classification List, Geneva.
See http://www.wto.org/english/tratop_e/serv_e/mtn_gns_w_120_e.doc.

The potential problem with South Africa's dominance is that the South African "oligopoly" is exported to other countries, restricting competition in each market. For example, the dominance of South African banks in Namibia has limited competition and raised lending rates. Further, Namibia relies heavily on South African human capital in the form of bank managers and other managerial staff "imported" from South Africa to run its subsidiaries in Namibia. The sector is stigmatized as having an "outpost mentality" due to the posting of the more conservative South African managers to these posts.

However, in some quarters, concerns have been expressed that concluding a regional financial services liberalization pact would lock in imports of allegedly high-cost South African financial services, which slow down adoption of the latest techniques and impose a higher cost burden than more competitive markets would afford. To the extent that this is true, unilateral and multilateral liberalization remain important policy tools that should not be ignored.

3.3.2 Regulatory issues

All banking and non-banking institutions are generally regulated by the central bank in each country. Some banks are allowed to deposit some of their money with banks in other countries. Banking regulations in countries for which information is available are summarized in table 8.

Table 8. Regulation in financial services (banking)

Country	Maximum equity	Licences	Regulator	Cross-border supply	Legal form	Minimum capital requirements
Angola						
Botswana	100%(100%)	Yes	central bank	no information	subsidiary	required
Dem. Rep. of the Congo						
Lesotho	100%(100%)	Yes	central bank	allowed	branches	required
Madagascar						
Malawi	100%(100%)	Yes	central bank	allowed for banks	subsidiary	required
Mauritius	100%(100%)	Yes	central bank	allowed	no information	no information
Mozambique						
Namibia	100%(100%)	Yes	central bank	no information	no branches	required
South Africa	no information	no information	no information	no information	no information	no information
Tanzania, Utd. Rep. of	100%(100%)	Yes	central bank	allowed for banks	no branches	required
Zambia	100%(100%)	Yes	central bank	restricted	all forms	required
Zimbabwe	no information	no information	no information	no information	no information	no information

Source: UNCTAD questionnaire.

However, in some countries, non-banking financial services such as stock brokers and insurance are regulated by other bodies which in some cases are independent from the central bank but fall under the ministry responsible for finance. For instance, in Mauritius, the banking sector is regulated by the Bank of Mauritius while the Financial Services Commission regulates all non-banking services. In Botswana, the central bank regulates all deposit-taking institutions while the Ministry of Finance and Development Planning (MFDP) serves as regulator of the building committees, insurance companies and pension funds. The Stock Exchange Committee runs the Botswana Stock Exchange but is supervised by the MFDP. In Zambia, the pensions and insurance subsectors are regulated by the Registrar of Pensions and Insurance, which is a semi-autonomous entity without a distinct legal personality. In Namibia, whereas the central bank regulates all banking institutions, all non-banking institutions, including the insurance and securities sectors, are regulated by the Namibian Financial Institutions Supervisory Authority.

Legislation objectives are generally to oversee (a) the licensing process and qualification as a bank; regulation of market entry; (b) the management and liquidation of banks in distress; (c) the enforcement of prudential requirements such as capital adequacy, restrictions on exposures, liquidity, quality of management and provision of information to the regulatory authority; and (d) general compliance with international standards.

Competition within this sector is present, especially in the banking sector. In order to enhance competition, foreigners are allowed to have 100 per cent shareholding. This is the case in all countries for which information is available. In Botswana, Namibia and the United Republic of Tanzania, there are no limits as to how many foreigners can sit on the board of directors.

In Zambia, only 25 per cent of the members of the board of directors can be foreign citizens, while a bank cannot employ more than five expatriates. In Zambia's securities sector, no foreign-incorporated securities firm is allowed to do securities dealing, mergers and acquisitions or any other services offered by such companies in the Zambian or domestic market. Furthermore, security services firms can only operate in Zambia if they have established commercial presence through local incorporation or a subsidiary.

In Namibia, foreign ownership in the provision of investment banking, stock brokerage and mutual funds is allowed for both existing operators and new entrants. A maximum of 50 per cent foreign equity for the provision of stock brokerage is allowed for both the existing operators and new entrants.

In Botswana, investment banking, mutual funds and stock brokerage services can be provided by existing operators and new entrants, both local and foreign. There are no limits to the maximum foreign equity permitted.

Within the insurance industry, all countries require that insurance service providers have the requisite qualifications as well as licences. For instance, in Botswana, insurance agents should possess professional qualifications and all insurers and brokers should renew their licences annually. Also, the same person is not allowed to manage more than one insurance company.

In some countries, domestic residents and firms can purchase cross-border insurance. However, the types that can be purchased are limited. For instance, in Namibia, residents cannot purchase life insurance, medical insurance, or brokering cross-border from a foreign insurance company, while in Mauritius, they cannot purchase motor insurance across borders.

3.3.3 GATS commitments

It is not surprising that the financial sector is one of the most open sectors within the SADC region. Angola, Lesotho, Malawi, Mauritius, Mozambique, South Africa and Zimbabwe have made GATS commitments in financial services. Most countries have made commitments in the banking sector, but only three – Lesotho, Mauritius and South Africa – have made commitments in insurance as well. Most countries applied their horizontal GATS commitments to Mode 4 (movement of natural persons). Access is limited to skilled labour linked to commercial presence. Apart from South Africa and Lesotho,[27] the SADC countries have imposed few restrictions on national treatment, but have restricted market entry. The restrictions are mainly on commercial presence and cross-border supply. Exchange controls are a common reason for limiting cross-border supply, whereas restrictions on commercial presence revolve mostly around complying with domestic regulations and being incorporated locally.

SADC countries' GATS commitments do not provide a complete picture of the extent of trade liberalization in the region. A number of SADC countries have undergone significant reform of their financial systems, but have not committed the reforms in GATS. For example, Botswana abolished all forms of exchange control but made no commitment in GATS. The failure to commit the reforms in GATS is a reflection of lack of SADC countries' participation in GATS negotiations, and also an indication that some countries may not want to bind themselves until they are certain that those reforms will bear fruit.

[27] The restrictions are of a prudential nature, i.e. South Africa specifies in its schedule of commitments that branches of banks not incorporated there must maintain a minimum balance of R1 million on the deposit accounts of natural persons. Therefore, Mode 3 will be entered as bound with restrictions. Exchange control regulations are the motivation behind restrictions on Mode 1 for both South Africa and Lesotho.

Table 9. Financial services: WTO GATS commitments of the SADC countries

Country	Limitation on market access				Limitation on national treatment			
	Mode 1	Mode 2	Mode 3	Mode 4	Mode 1	Mode 2	Mode 3	Mode 4
Angola: • Banking	Restrictions	Restrictions	Restrictions	Restrictions	None	None	None	None
Botswana	***	***	***	***	***	***	***	***
Dem. Rep. of Congo	***	***	***	***	***	***	***	***
Lesotho • Banking • Insurance	Unbound Unbound	Unbound None	Restrictions Restrictions	"Unbound" "Unbound"	Unbound Unbound	Unbound None	None None	"Unbound" "Unbound"
Madagascar	***	***	***	***	***	***	***	***
Malawi • Banking	None	None	None	"Unbound"	None	None	None	"Unbound"
Mauritius • Banking	Unbound	None	Restricted	"Unbound"	None	None	None	"Unbound"
Mozambique	***	***	***	***	***	***	***	***
Namibia	***	***	***	***	***	***	***	***
South Africa • Banking • Insurance	Unbound Unbound	Unbound Unbound	Restricted Restricted	"Unbound" "Unbound"	Unbound Unbound	Unbound Unbound	Restricted None	"Unbound" "Unbound"
Swaziland	***	***	***	***	***	***	***	***
Tanzania, Utd. Rep. of	***	***	***	***	***	***	***	***
Zambia	***	***	***	***	***	***	***	***
Zimbabwe • Banking	None	None	Restricted	"Unbound"	None	None	None	"Unbound"

Source: WTO.

Explanatory notes: Restrictions=bound with restrictions; Unbound=MFN not applicable, "Unbound"=unbound except as indicated in the Horizontal section; Unbound*= Unbound due to lack of technical feasibility; ***= No commitments; None= no limitations. Where the sub-sector is mentioned it means the country made commitments in that sub-sector only. For instance in the financial services table banking is mentioned for Angola because it made commitments in this area. Where no sub-sector is specifically mentioned as for South Africa in the Construction table above, it means that the commitments made in all the sub-sectors within the construction sector are the same. Hence South Africa made no limitations for Mode 2 in the construction sector as a whole from CPC 512-517.

3.3.4 Remarks

Financial services sectors in SADC countries are generally open. The Protocol on Finance and Investment (once ratified and implemented) would clearly be an important complement to the Trade Protocol and the Protocol on Trade in Services.

Box 2. SADC Protocol on Finance and Investment

The importance of financial services to the region is reinforced by the recent adoption of the SADC Protocol on Finance and Investment, which seeks to:

(a) Provide a framework for co-operation in the area of finance;
(b) Promote the development of sound investment policies and encourage savings; and
(c) Facilitate and stimulate investment flows and technology transfer and innovation in the region.

It has a range of annexes covering, inter alia, tax cooperation, macroeconomic convergence, investment cooperation, cooperation amongst development finance institutions, cooperation amongst non-bank financial institutions and cooperation amongst stock exchanges. Ten of the fourteen SADC member States have signed and ratified it, with the remaining four being in the process of doing so. This clearly attests to the importance SADC member States attach to developing regional financial services.

Already, there has been substantial liberalization of the banking, finance and capital markets, as well as investment services in SADC unilaterally and through a number of agreements and memoranda of understanding. Further liberalization, for instance in insurance services, must be preceded by macroeconomic stabilization, and must be accompanied by a strong regulatory regime. Such liberalization should also be used to lock in reforms.

Trade in services in this area is robust and covers almost all modes of supply. However, despite the fact that market access in this sector has improved tremendously, the objectives prescribed by the protocol on finance and investment have not been achieved as there has not been an increase in competition and/or savings have not risen. Furthermore, access to credit and capital still remains an area of concern for SMEs and vulnerable groups such as the disabled and women. However, on the basis of documents reviewed, it is difficult to see how a regional liberalization process of financial services could address these gaps, given the current openness of the sector. For this reason, we only have two broad policy recommendations.

As early as 1993, there was a drive to harmonize the prudential and supervision regulations of the financial services sector with the establishment of the Eastern and Southern African Banking Supervisors Group (ESAF). This was due to the belief that harmonization would encourage regional expansion as banks would be subject to one set of rules and this would make mutual recognition easier. It would also reduce the costs, including compliance costs.[28] ESAF was a grouping of 16 central banks from SADC countries as well as from East Africa, including Kenya, Uganda and Rwanda.[29]

The harmonization programmes under ESAF were endorsed by the SADC Committee of Central Bank Governors, and these programmes include the harmonization of licensing standards, harmonization of supervision information and communication technology (ICT) systems and the harmonization of accounting and auditing standards.[30] The harmonization of licensing standards programme aims at ensuring that banks meet international standards. The harmonization of supervision of ICT systems aims at developing common information systems which will support bank supervision processes within the region. The overall goal is to enhance the member countries' ability to monitor regional banks' efficiently and improve bank supervision operations. The harmonization of accounting and auditing standards programme is involved with the development of common enhanced standards for the publication of financial statements by banks of the region, in keeping with international accounting standards and providing for the necessary disclosures.

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[28] See *Liberalizing Financial Services Trade In Africa: Going Regional and Multilateral* by Marrion Jansen and Yannick Vennes pp. 9–10, available at http://www.wto.org/english/res_e/reser_e/ersd200603_e.pdf.

[29] This group consists of Angola, Botswana, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, the United Republic of Tanzania, Uganda, Zambia and Zimbabwe.

[30] See Reserve Bank of Zimbabwe's *Banking Supervision 2000 Annual Report* available at www.rbz.co.zw/bsannual/2000g.asp.

ESAF cooperates with the Basel Committee to come up with these standards and programmes which are modelled on the Basel Committees Core Principles for Effective Banking Supervision. According to the South African Reserve Bank, ESAF was disbanded in 2004 and its functions have now been taken over by the SADC Subcommittee on Bank Supervisors (SSBS), which focuses solely on SADC countries. Though the SSBS has adopted the harmonization programmes, the body, just like its predecessor, is more focused on being a training and reporting body rather than one that sets agendas on Basel II compliance. This is because there are divergent views within SADC as to when countries should become Basel II compliant. South Africa and Mauritius have committed themselves to become Basel II compliant by 2008, in line with other G10 countries. This is because both countries have intentions of becoming financial centres of Africa. However, other SADC members who do not share these goals have only agreed in principle to become Basel Compliant by 2010. These members belong to a grouping called Macroeconomic and Financial Management Institute of Eastern and Southern Africa (MEFMI). Thus, most of their Basel activities and agendas are performed under this grouping. Strangely enough, this group comprises non-SADC members such as Uganda and the United Republic of Tanzania. This inevitably creates a problem for harmonization similar to those created by the overlapping of memberships of certain countries in both SADC and Common Market for Eastern and Southern Africa (COMESA). That is, as long as countries have different goals, especially targets for achieving Basel II compliance, the SADC region cannot converge to have similar rules and regulations. It also means that, though the SSBS was established to focus on SADC membership only, by belonging to the MEFMI, these countries have virtually reverted to the ESAF system by simply substituting one organization for another. Thus, the SSBS will not be as effective as envisioned and hence defeating the purpose for which it was created will be defeated.

To make the situation more complex, the Finance and Investment Protocol (FIP) also intends to adopt Basel II principles in regulating the banking subsector. However, only 10 countries have signed the FIP. This means that those countries which have not signed the FIP cannot partake in the harmonization process unless they do so on an informal basis. Since before its 2004 dissolution, ESAF was not involved in the FIP process as most of the memorandum of understandings under the FIP relating to regulation and supervision of financial services were signed in September 2005. It would further seem that, because some of the members of ESAF, e.g. Kenya, were not SADC members, ESAF did not follow the FIP process, as the latter was exclusive to SADC members. However, the SSBS has been mandated by the Committee of Central Bank Governors, which focuses on implementing the FIP process, to develop a memorandum of understanding on Cooperation and Coordination in the Area of Banking Regulatory and Supervisory Matters, which it finalized in 2007. To this extent, it can be argued that the SSBS is not merely a reporting and training body. It also conducts workshops, collecting financial soundness indicators and banking industry information, and develops a regional database using the Compilation Guide on Financial Soundness Indicators by the

International Monetary Fund. So it is clear that the SSBS has played a significant role in promoting the FIP process.

3.3.5 Policy recommendations

These include:

- If harmonization is going to occur, it is clear that it will first occur at the regional level. This is because there is already a lot of work being done on the regional front and this means that once some of the challenges on the regional front have been sorted out, then SADC can try to harmonize multilaterally. The major problem affecting regional harmonization is the different goals which different member States are following which seems to divide the SADC group into two camps – those who participate fully in the Basel II processes and the MEFMI group which is taking a cautious approach. It is therefore recommended that these member States first revert to the SSBS structure where all non-SADC members are asked to leave the grouping. Secondly, once this has been done, then member States can try to work out how to achieve Basel Compliance. Since South Africa and Mauritius are already ahead of the pack, time-frames should be set for the remaining member States to achieve compliance. Perhaps those member States which are struggling could be given some form of assistance. Clearly, since the Basel II principles are recognized internationally, harmonization at the multilateral level will not be a long step from the regional situation;
- Bind unilateral reforms, where politically feasible, in WTO – the gains to a country from an efficient financial system far outweigh any potential gains from keeping an inefficient and restricted system in place. It was for this reason that most SADC countries embarked on liberalization in the first place. As such, it makes little sense to go ahead with liberalization, regardless of the GATS process; and
- Consider extending GATS commitments to insurance in those countries where no commitments have been made.

3.4 Communication sector

3.4.1 Economic issues

Telecommunications are a key enabling technology at the centre of the ICT revolution. Modern manufacturing processes such as just-in-time production and supply-chain management are inconceivable in the absence of secure, affordable access to both basic and advanced telecommunications. A telecommunications sector that is efficient will impact other sectors such as tourism and the financial sectors. Similarly, the digital entertainment industry depends on the communications infrastructure. In all cases, it is not enough to have a self-sufficient telecommunications sector; it has to be plugged into global networks via a variety of cross-border channels such as fibre-optic cables and satellite systems.

Fixed-line, mobile and Internet communication services

Table 10 shows the level of development of the SADC telecommunications sector. When comparing fixed-line, mobile and Internet penetrations in SADC, it becomes evident that mobile cellular telephony is the most widely used medium of communication. Affordability, mobility and easy use favour mobile cellular technology.

Table 10. Communication network in SADC (2006)

Country	Main telephones		Mobile cellular		Internet	
	Lines (millions)	Density (p/100 inhabitants)	Subscribers (millions)	Density (p/100 inhabitants)	Users (millions)	Density (p/100 inhabitants)
Angola	0.098	0.62	2.264	14.33	0.950	0.60
Botswana	0.137	7.78	0.823	46.78	0.800	4.55
Dem. Rep. of the Congo	0.010	0.02	4.415	7.44	0.180	0.30
Lesotho	0.053	2.97	0.358	19.99	0.515	2.87
Madagascar	0.130	0.68	1.046	5.47	0.110	0.58
Malawi	0.103	0.80	0.222	1.80	0.597	0.45
Mauritius	0.357	28.45	0.772	61.50	0.320	8.00
Mozambique	0.067	0.33	2.339	11.60	0.178	0.90
Namibia	0.139	6.84	0.495	24.37	0.806	3.97
South Africa	4.729	9.97	39.662	83.33	5.100	10.75
Swaziland	0.054	4.27	0.250	24.29	0.042	4.08
Tanzania, Utd. Rep. of	0.157	0.40	5.767	14.78	0.384	1.00
Zambia	0.093	0.79	1.663	14.02	0.500	10.75
Zimbabwe	0.336	2.56	0.849	6.49	1.220	9.32
Total	**6.463**	**4.749**	**60.925**	**24.019**	**11.702**	**4.151**

Source: International Telecommunication Union.

Most of the region's main (fixed) telephone lines are concentrated in just four of its 14 economies: Botswana, Mauritius, Namibia, and South Africa account for approximately 80 per cent of all fixed lines in SADC. Similarly, South Africa, the United Republic of Tanzania and the Democratic Republic of the Congo registered high subscribers for 2006, together accounting for over 80 per cent of the region's mobile subscribers. If we use the number of mobile phones per 100 people, Botswana, Mauritius, Namibia and South Africa are relatively more developed than the other SADC countries. These countries also have higher incomes per capita than the region as a whole. During 2006, SADC had 60.9 million mobile subscribers. Vodacom South Africa and MTN South Africa are the leaders in SADC with regards to the numbers of mobile cellular subscribers, with 21.8 and 12.5 million subscribers in 2006.[31]

[31] International Telecommunication Union (2007). *Telecommunications/ICT Markets and Trends in Africa* 2007, ITU.

SADC countries vary greatly in their Internet penetration rate. While the average Internet user penetration stands at 4.2 per cent in the whole of SADC, South Africa and Zambia, for example – as countries with the highest rate – report penetration of 10.5 per 100 inhabitants. On the other extreme, the Democratic Republic of the Congo and Malawi had an Internet penetration rate of 0.3 and 0.45, respectively

It is clear that this sector still faces numerous challenges. Accordingly, the SADC Regional Information Infrastructure (SRII) project has been launched as part of efforts to develop this sector at the regional level. The objective is to provide the necessary telecommunications infrastructure connectivity within the region and bridge the digital divide. Still, this objective will not be met because most countries haven't opened up their fixed-line subsector – which is crucial, as the fixed-line infrastructure often provides the underlying infrastructure (e.g. leased line and international gateway services), for nearly every other telecom service, including mobile services, thus establishing an artificially high floor on many prices. Furthermore, private ownership is restricted in some countries. In these circumstances, this sector cannot develop because it requires huge capital investment which can only be provided by large, generally foreign-owned companies, especially those from developed countries. Hence, limitations on foreign equity held by foreign shareholders are detrimental as such shareholders are less likely to pump capital into the sector if they cannot exercise effective control over their investments.

High tariffs also affect access to telecommunication facilities. The fact that most regulators are not independent means that they are less likely to check such anticompetitive acts. This is because, in the telecommunications sector, most anticompetitive practices or most monopolies occur within the fixed-line segment, which is dominated by government-owned entities. This means that regulators closely tied to Government are less likely to take to task government entities.

Postal services

In most SADC countries, postal and courier services are provided by State-owned enterprises such as Lesotho Postal Services, Mauritius Post Limited, Namibia Posts Limited and South African Post Office, among others. All these institutions have demonstrated operating self-sufficiency and the ability to fund their capital expenditure programmes through retained profits. In recent years, however, privately owned courier companies in South Africa and Mauritius, for example, have been spearheading the courier of parcels and other goods. This move has been exponentially growing, due to the efficiency and certainty of the delivery process by privately owned courier companies. Notable companies include DHL, FedEx and Cargo Express, among others.

Audiovisual services

Radio and television services are State-owned in all SADC countries and access is now by digital satellite, which allows for more universal coverage. The South African Broadcasting Corporation (SABC) is the largest radio and television transmission company in the region, comprising 18 radio stations targeting a combined audience of over 20 million. South African has also by far the largest television audience in SADC, comprising over 4 million licensed television households. Furthermore, South Africa's M-Net, a privately-owned subscription television, has over 1.2 million subscribers in 49 countries across Africa, including SADC.

Piracy of music and videos is a real problem and this is due to non-existence or lack of enforcement of regulatory measures and or laws in the industry.

3.4.2 Regulatory issues

One of the most important issues facing the SADC region is the promotion of competition in the telecommunications industry as it is characterized by both monopolistic and oligopolistic competition.

In 1998, the Southern Africa Transport and Communications Commission's (SATCC's) Committee of Ministers approved the Telecommunication Policy Document as a common policy guideline for adoption and implementation at the national level, and the Model Telecommunication Bill as a guideline for national legislation for implementing the agreed telecommunications policies. SADC countries were urged to expeditiously adopt and implement the policies and the model bill in the interest of early regional integration and economic development.

SADC telecommunications strategy is outlined in the SADC Telecommunications Policy Document and the Model Telecommunications Bill. The bill deals with principles for the design of policies aimed at providing information and communication services crucial to the overall achievement of universal service and universal access. The bill also deals with the establishment of regulatory authorities, licensing of telecommunication services and the duties of public telecommunication service providers. In 1998, the SADC Protocol on Transport, Communications and Meteorology was adopted (see box 3).

Box 3. SADC Protocol on Transport, Communications and Meteorology

The SADC Protocol on Transport, Communications and Meteorology, which came into force in 1998, provides the legal and broad policy framework for cooperation, and defines the strategic goals for the transport, communications and meteorology sectors.

Article 10.2 of the protocol requires SADC countries to develop harmonized regional telecommunications policies. The pace and actual sequence of reform in SADC will, however, depend on the circumstances of individual countries. The protocol is implementing an orderly economic and institutional restructuring of the telecommunications sector, expanding and strengthening the institutional capacity to manage the sector, policy development and legislation.

Key regulations governing the different subsectors within communications are summarized in table 11 below.

Table 11. Regulation in communications

Country	Maximum equity	Licences	No. of regu-lators	New entrants: fixed	New entrants: mobile	New entrants: postal	Legal form	Labour market testing
Angola	100% (100%)	yes	1	allowed	allowed	allowed for courier	no information	no information
Botswana	100% (100%)	yes	1	not allowed	limited to 2	allowed for courier	no information	required
Dem. Rep. of the Congo								
Lesotho	100% (100%)	yes	1	allowed	not allowed	allowed for courier	any form	no information
Madagascar								
Malawi	100% (100%)	yes	1	not allowed	not allowed	allowed for courier	any form	no information
Mauritius	100% (100%)	yes	2	allowed	allowed	allowed for courier	no information	no information
Mozambique								
Namibia	100% (49%)	yes	1	not allowed	allowed	allowed for courier	no information	required
South Africa	100% (100%)	Yes	1	not allowed till expiry of a specific timeframe which can be extended	Allowed	No information	Any form	required
Swaziland	100% (51%)	yes	1	Not allowed	Allowed after November 2008	allowed for courier	No information	No information
Tanzania, Utd. Rep. of	100% (65%)	yes	1	allowed	allowed	allowed for courier	any form	required
Zambia	100% (75%)	yes	1	not allowed	allowed	allowed for courier	any form	not available
Zimbabwe	100% (49%)	yes	1	allowed	allowed	allowed for courier	any form	required

Source: UNCTAD questionnaires.
Explanatory note: Under the maximum equity column, the figures in parentheses represent foreign ownership in an entity, while the figures with no parentheses represent private as opposed to government equity owned in the entity. Number of regulators represents the different regulatory bodies which oversee the sector. Legal form represents the kinds of incorporation vehicles that foreign entities can be established in the country i.e. a company, subsidiary, branch or joint venture.

Fixed-line basic telecommunications

All the SADC countries have adopted a cautious liberalization strategy on telecommunications. Within the fixed line sector, the liberalization strategy has generally involved:

- Separation of the incumbent from government ministries;
- Granting of an exclusivity period during which a foreign equity partner is found to inject capital and technical know-how while the incumbent prepares itself for competition; and
- Introduction of a second national operator.

As far as the telecommunications sector is concerned, there is generally a similar trend in all the countries. There is one fixed-line operator that provides fixed-line services, except for Mauritius, which opened up its fixed-line segment and has allowed the entry of another fixed-line operator, which has already introduced rates that are 20 per cent lower than the incumbent. Zimbabwe also opened up its fixed-line sector. Botswana is in the process of developing a services-neutral licensing framework for both mobile and fixed-line operators, which will allow operators to provide a wide range of services including both fixed-line and mobile services. In some countries – notably the United Republic of Tanzania, Namibia and Zambia – the law prohibits the entry of new operators into the fixed-line segment. The reasons given are that the Government wants the sector to develop before it is exposed to international competition. Furthermore, Governments have universal service obligations and thus would want to ensure that all their citizens have access to fixed-line services. If these sectors are opened, up Government purportedly won't be able to provide these services across the board.[32] However, alternatives to this approach to universal services are increasingly common, as mobile telephones and wireless broadband technologies can now offer the potential to make available a full range of consumer and business services once possible only by means of fixed networks.

Mauritius and the United Republic of Tanzania have partially privatized the national operator, Zambia has immediate plans to privatize, and Botswana is still conducting feasibility studies. Most SADC countries have begun exclusivity periods that will see a second national operator being licensed in the near future. However, with the rising popularity of mobile services over the last decade, it has become increasingly difficult for late liberalizers to attract new fixed-line operators to their markets, resulting in a de facto monopoly and a continuation of the associated infrastructure inadequacies and high costs of network services. As a result, in this respect as well, outside the region alternative approaches have been introduced. Possible remedies include allowing mobile or other companies to establish

[32] Mobile telephony has become so competitive with fixed-line services that it is not inconceivable mobile operators would provide such services into poor and rural areas more efficiently. In South Africa, for example, the mobile companies have pioneered "pay-as-you-go" systems, ensuring ever-greater penetration into poorer customer segments.

independent international gateways, converting operators to "next-generation" IP-based networks, and allowing value added networks to evolve.

Further policy issues that significantly reduce the potential to provide lower cost service to consumers include:

- In terms of voice resale competition, only the United Republic of Tanzania has opened up while Botswana permits domestic resale only;
- Zambia allows voice over Internet protocol, but only in rural areas;
- Most SADC countries, except the United Republic of Tanzania and Zambia, require Mobile and value added networks (VANS) operators to lease networks from the incumbent for international and domestic long-distance traffic routing. Botswana allows domestic networks only in the VANS sector.

Mobile telecommunications

The most striking feature of telecommunications development in Southern Africa is the rapid rise of mobile telephones. In the last 8 to 10 years, mobile subscribers have grown from being non-existent to outnumbering fixed-line subscribers. Mobile subscribers on average make up almost 70 per cent of all subscribers. SADC countries made significant gains in access to telephones (mostly in Botswana and Mauritius). However, the number of fixed lines has been declining over the past two years due to increasing numbers of subscribers disconnecting.

All the SADC countries underestimated the demand for mobile phones. Most countries began with one or two licences. The market has grown substantially and there is an urgent need to introduce new operators in order to bring down costs. All the SADC countries have licensed mobile operators and have some limited competition in the sector with the exception of Swaziland. The United Republic of Tanzania has a fully liberalized market with no foreign ownership restrictions. Zambia has a 60 per cent domestic partner requirement, which is 29 per cent higher than the standard for the region.

Cross-cutting issues

Some countries have restrictions on the equity which foreign suppliers can hold in a telecommunications company. In Namibia and the United Republic of Tanzania, the maximum is respectively 49 per cent and 65 per cent for both facilities-based service suppliers and retail-based service suppliers. In Zambia, however, foreigners can only own a maximum of 75 per cent of an existing facilities-based operators' equity and can only own 25 per cent of a new entrant facilities-based operator. There are no limitations on equity held by foreigners in retail-based operators in Zambia, such that these can be 100 per cent owned by foreigners whether it is in an existing entity or a new entrant.

In the United Republic of Tanzania, foreign retail-based service suppliers can only establish as a joint venture or partnership, while in Zambia there are no restrictions on the legal form. This means that joint ventures are in any case required.

Routing restrictions also exist in Zambia and Namibia, while in the United Republic of Tanzania there are no restrictions. For Zimbabwe and Botswana, the studies did not mention anything, so the picture is not clear. The picture is also not clear for Mauritius; however, since it has taken a liberal approach to telecommunications, it is most likely that there are few if any restrictions on cross-border supply and consumption of telecommunication services.

In all of the countries, the communications sector is regulated by statutory bodies. In some countries, there is one regulatory body which regulates both the telecommunications subsector and the postal/couriers. This is the case in the United Republic of Tanzania and Zimbabwe, while in Mauritius the two subsectors are regulated by two different regulators. Some of these entities are independent from Government. For example, in Mauritius the regulator reports to the National Assembly rather than a particular ministry or the executive. On the other hand, the regulator in Namibia is not independent as it reports to the Minister of Information and Broadcasting, and 80 per cent of its funding comes from the national budget. In the United Republic of Tanzania, the regulator is also independent as it is institutionally separate from the minister responsible for postal/couriers, and its funding is 100 per cent from licences and other fees.

Postal services

Postal operators in the region are now reporting on performance as a way to evaluate performance against targets, including mail delivery standards, reducing mail violations, and improving on the overall level of quality of service provided by determining the optimum mail routes and measurements systems to be used at central sorting offices in each member State.

The postal sector is embarking on a number of projects to improve quality of service, namely, the regional project to improve quality of service, regional approach to field support of service improvement, and a feasibility study to improve mail circulation in the SADC region. The postal sector is also embarking on a project to install a regional network to facilitate electronic money transfer and payment system through the postal network for which the Universal Postal Union has made a commitment. The SADC ministers responsible for postal, telecommunications and ICT directed that a technical committee be formed comprising of the operators, regulators and member States to come up with a policy and legislative framework that will guide the implementation of the project.

In Mauritius, postal services are provided by Mauritius Post Limited, which is wholly owned by Government. In Namibia, Government does not restrict the entry of new suppliers into the postal and courier services sector. In terms of the posts and telecommunications legislation, new firms may freely engage in postal and courier services for the supply and delivery of letters and parcels to different destinations. However, limitations on the entry of new suppliers have been set for counter services and mailbox rental services for both local and foreign-owned firms. Private ownership of services suppliers is permitted for all forms of postal and courier service. Foreign ownership is also permitted, provided that the majority shareholding (51 per cent) is maintained by locals. This condition applies to all possible services in the sector. A standard approach is utilized to license all candidate suppliers of postal and courier services.

In the United Republic of Tanzania, Zambia and Zimbabwe, the supply of letters weighing up to 500g, counter services and mailbox rental services is restricted to one supplier, which is State-owned. For the other segments, private ownership as well as foreign ownership is open. In Mauritius and Zambia, a foreign supplier can own up to 100 per cent of a courier supplier; in the United Republic of Tanzania, up to 65 per cent; and in Zimbabwe and Namibia, up to 49 per cent.

In the United Republic of Tanzania, there are restrictions on the cross-border supply or consumption of postal/courier services in any of the subsectors listed, especially re-mailing, while in Zambia there are no restrictions.

Overall, regulations vary widely, so if regional trade is to take off, the harmonization process established by ministers under the SADC umbrella needs to be expedited.

Audiovisual services

Audiovisual services comprise motion picture projection services, motion picture and videotape production and distribution services, radio and television services and transmission services. This subsector is one of the most important, especially the radio and television services and transmission services. This importance is reflected at the multilateral level, where very few SADC countries have made commitments. Even where commitments are made, it is mostly in motion picture projection services and motion picture and videotape production and distribution services, while very few commitments are made in the areas of radio and television services or transmission services. This is because:

- The audiovisual sector has a high value owing to its social, economic and cultural influence, which can impact on a country’s growth, development, innovation and job generation;
- The audiovisual sector is of particular interest to developing countries because it generates jobs while it also is a vehicle of expression of cultural identities; and therefore
- Countries feel compelled to protect the audiovisual sector and are reluctant to conduct negotiations or take on specific liberalization commitments within the framework of WTO.

This trend is reflected at the regional level within SADC, as audiovisual services have not been addressed in the SADC Protocol on Transport, Communications and Meteorology.

Furthermore, the regulatory framework within the SADC region is very restrictive in radio and television transmission services, while the motion pictures projection services and motion picture and videotape production and distribution services is quite liberal. For instance in Zambia, Zimbabwe, South Africa, the United Republic of Tanzania, and Namibia,[33] the sector regulator is mainly responsible for regulating radio, television and transmission services. It is responsible for issuing licences, maintaining standards, and resolving disputes. It rarely regulates motion picture projection services and motion picture and videotape production and distribution services. The last is mostly regulated by copyright and censorship boards.

Ownership of radio and television services or transmission services suppliers in the above-named countries is similar in that there is no exclusive right to supply public service (i.e. not for profit) broadcasting, and hence both Government and privately-owned broadcasters can supply these services whether on a commercial or public service basis. In the United Republic of Tanzania however, only a State-owned broadcaster has the right to supply public service broadcasting. Foreign ownership of suppliers of radio and television services or transmission services is also allowed, however in the United Republic of Tanzania foreign ownership of suppliers is limited to 49 per cent, while in Zimbabwe the study states that foreign ownership is not permitted but at the same time also mentions that locals must have a 10 per cent maximum equity in a foreign-owned supplier.

Licences have to be acquired in order to provide audiovisual services. In the radio and television or transmission services subsector, an entity has to possess two licences before operating: an operational licence which allows the entity to supply the audiovisual service, and a spectrum licence which is a licence for the use of certain frequencies.

Conditions for acquiring licences vary from country to country. In Zimbabwe, the applicant for a licence has to (a) ensure that majority domestic ownership; (b) pay licence fees; (c) present a business plan; and (d) meet minimum domestic content (75 per cent) requirements. In the United Republic of Tanzania, the same requirements have to be met, with additional requirements that the supplier must have minimum capital to invest. In Zambia, the new entrant does not have to prove that majority ownership is domestic, nor does it have to meet any minimum capital requirements. It, however, must adhere to limitations on opening hours and floor space or screen size. A new entrant from another country also has to show that it has adhered to its home-country regulations for providing audiovisual services.

[33] The available studies do not provide much information on the audiovisual sector except for Zambia, South Africa and Zimbabwe. The motion picture projection services and motion picture and videotape production and distribution services part of the United Republic of Tanzania report is blank, while it deals with the radio and television services or transmission services.

The communications sector in each country in the region is regulated by a single regulator. In the United Republic of Tanzania, however, the telecommunications sector has its own regulator (i.e. the United Republic of Tanzania Communications Regulatory Authority), while the postal services has its own (i.e. the United Republic of Tanzania Regulatory Authority). The independence of these regulators varies. For instance, in the United Republic of Tanzania, the decisions of the United Republic of Tanzania Regulatory Authority are not self-executing and require the minister of information to approve them, while the decisions of the United Republic of Tanzania Communications Regulatory Authority are self-executing.

In South Africa, the Independent Communications Authority of South Africa regulates the whole sector and is run by councillors who were appointed by the President after recommendations from Parliament. However, there was an amendment to the communications act and now the councillors are appointed by the Minister of Communications. Some feel this has weakened the regulator by making it answerable to the executive rather than Parliament, which is less likely to interfere in the regulator's operations.

Cross-border supply or consumption of communication services is generally not restricted within the SADC area. This is particularly so for the audiovisual sector and to a large extent the telecommunications sector. Television services are restricted by some countries. For instance, under the Digital Satellite Television[34] (popularly known as DSTV) only Botswana's local television station can be viewed in other countries. Other stations such as the South African SABC TV and Zimbabwe Television (ZTV) can only be viewed in the home countries. This is for different reasons. For instance, in South Africa, one has to pay an annual licence fee to watch these channels. Since people outside South Africa do not pay this licence, they are restricted from watching, even though previously they did. In Zimbabwe, the cross-border supply and consumption of audiovisual services which are a threat to national security is prohibited.

3.4.3 GATS commitments

In SADC, only Mauritius, South Africa, Zimbabwe and Lesotho made GATS commitments in the telecommunications sector. Only Lesotho has made commitments on audiovisual services, while Botswana, Lesotho and South Africa have made commitments in the couriers subsector. Furthermore, South Africa is the only SADC member to have subscribed to the Telecom reference paper. Most of the commitments were made to liberalize value added services and did not open the fixed-network market. Zimbabwe bound the existing level of domestic liberalization while South Africa and Mauritius went beyond the status quo.[35]

34 This is a subscription-based digital satellite television service which broadcasts on K- and C-Band.
35 See Hansohm D, Hodge J, and Ndulo M, (2005). State of Trade in Services and Service Trade Reform in Southern Africa.

Table 12. Communication services: WTO GATS commitments of the SADC countries

Country	Limitation on market access				Limitation on national treatment			
	Mode 1	Mode 2	Mode 3	Mode 4	Mode 1	Mode 2	Mode 3	Mode 4
Angola	***	***	***	***	***	***	***	***
Botswana • Courier	None	None	Restricted	"Unbound"	None	None	Restricted	"Unbound"
Dem. Rep. of the Congo • Telecommunications	None	None	Restricted	"Unbound"	None	None	Restricted	"Unbound"
Lesotho • Courier • Telecommunications	None None	None Unbound*	None None	"Unbound" "Unbound"	None None	None None	None Unbound*	"Unbound" "Unbound"
Madagascar	***	***	***	***	***	***	***	***
Malawi	***	***	***	***	***	***	***	***
Mauritius • Telecommunications	None	None	Restricted	"Unbound"	None	None	Restricted	"Unbound"
Mozambique	***	***	***	***	***	***	***	***
Namibia	***	***	***	***	***	***	***	***
South Africa • Courier • Telecommunications	None Restricted	None None	None Restricted	"Unbound" "Unbound"	None None	None None	None None	"Unbound" "Unbound"
Swaziland	***	***	***	***	***	***	***	***
Tanzania, Utd. Rep. of	***	***	***	***	***	***	***	***
Zambia	***	***	***	***	***	***	***	***
Zimbabwe • Telecommunications	None	None	Restricted	"Unbound"	None	None	None	"Unbound"

Source: WTO.

Explanatory notes: Restrictions = bound with restrictions; Unbound = MFN not applicable; "Unbound" = unbound except as indicated in the Horizontal section; Unbound* = Unbound due to lack of technical feasibility; *** = No commitments; None = no limitations. Where the subsector is mentioned, it means the country made commitments in that subsector only. For instance, in the financial services table, banking is mentioned for Angola because it made commitments in this area. Where no subsector is specifically mentioned, as for South Africa in the Construction table above, it means that the commitments made in all the subsectors within the construction sector are the same. Hence, South Africa made no limitations for Mode 2 in the construction sector as a whole from CPC 512-517.

3.4.4 Remarks

Much progress has been made in ensuring telecommunications infrastructure network connectivity and implementation of the agreed regulatory framework as part of the Protocol on Transport Communications and Meteorology. Nonetheless, SADC countries should give more attention to liberalizing this sector, particularly strengthening the regulatory framework once privatization and liberalization have taken place in order to prevent large companies from abusing their dominant positions and blocking benefits from reaching consumers.

However, the way competition in the telecommunications industry is developing is likely to produce a substantial change in the way the industry operates. Most observers predict that decades of regulatory scrutiny will give way in the near future to a competitive marketplace from which detailed regulation will withdraw. Legislators, regulators, and antitrust authorities all envision a transitional period followed by the substitution of competition policy for regulatory supervision.

In a multi-operator environment, interconnection is a crucial regulatory issue for telecommunications policy. No new entrant into the market will be able to compete effectively unless it is able to interconnect its network with the facilities of the incumbent operator and to do so at terms that allow the entrant to provide quality service at an affordable price. In the course of transition to competition, a pivotal issue is how best to meet the requirements of interconnection of each of the service providers. Competition in the market can flourish only if entrants are able to interconnect their facilities with those of the incumbent. A "fair and reasonable" interconnection policy is a critical input in promoting competition in telecommunication markets in SADC.

Linked to interconnection and competitive efficiency is the issue of tariffs and tariff policy. It is widely recognized that enhancing efficiency and investment in telecommunications requires the introduction of competition, which in turn needs a regulatory mechanism to facilitate competition. An essential ingredient of transition from a protected market to competition is alignment of prices to costs (i.e. cost-oriented or cost-based prices), so that prices better reflect their likely levels in a competitive environment.

It is clear that a substantial agenda for services liberalization, spanning access, competition, and ownership exists within the region. What is less clear is the form(s) this should take. Clearly, a regional agenda should address interconnectivity and cross-border supply, whereas a multilateral agenda could address ownership and competition issues.

3.4.5 Specific policy recommendations

These include:

- Promote interconnection across borders and within national jurisdictions through appropriate regulatory harmonization;
- Promote consequent competition through establishing robust competition frameworks with regional jurisdiction where feasible, in order to ensure appropriate pricing;
- Limit the monopoly perquisites of national fixed line companies through greater deregulation, taking care to ensure universal access goals are not compromised;
- Revisit ownership restrictions, especially in fixed line communications and postal services, with a view to encouraging greater foreign ownership in order to promote productivity improvements; and
- Initiate discussions on provision of audiovisual services, especially radio and television transmission, in order to probe flexibilities in this sub-sector.

3.5 Transport sector

Owing to the complexity of this sector, in this section we have merged the economic and regulatory issues discussion into sections covering the four dominant modes of transportation: road; rail; ports, maritime and inland waterways; and air transport.

The transportation system in the SADC region comprises road, railway, air and port systems principally serving regional transit traffic. Most of the infrastructure and operating organizations are owned wholly or partly by States. The operational and financial problems being faced are gradually being resolved through restructuring and increased involvement of the private sector in the provision of transport services.

The transformation of the traditional transport corridors into development corridors or Spatial Development Initiatives represents a landmark achievement for SADC's long-term development. The concept of Development Corridors is to view the major transport routes from the sea ports to the hinterlands that they serve not merely as transport, but as economic corridors with activities related to agriculture, industry, commerce, communications and tourism. The development corridors such as Maputo, Beira, Walvis Bay, Nacala and Lobamba have already shown that they can generate sustainable growth for the underdeveloped areas of the region. Nonetheless, as table 13 reveals, transport infrastructure is still predominantly located in South Africa.

Table 13. SADC transport network (2007)

Country	Airports	Railways (km)	Roads (km)	Waterways (km)	Ports	Pipelines (km) Gas
Angola	232	2 761	51 429	1 300	4	1 220
Botswana	85	888	24 355	0	0	0
Dem. Rep. of the Congo	237	5 138	153 497	15 000	11	133
Lesotho	28	0	5 940	0	0	0
Madagascar	104	854	49 827	600	4	0
Malawi	39	797	15 451	700	5	0
Mauritius	5	0	2 020	0	1	0
Mozambique	147	3 123	30 400	460	3	1 242
Namibia	137	2 382	42 237	0	2	0
South Africa	728	20 872	362 099	0	6	3 648
Swaziland	18	301	3 594	0	0	0
Tanzania, Utd. Rep. of	124	3 690	78 891	0	1	1 178
Zambia	107	2 157	91 440	2 250	1	771
Zimbabwe	341	3 077	97 440	0	2	0
Total	**2 332**	**46 040**	**1 008 620**	**20 310**	**40**	**8 192**

Source: CIA World Factbook.

The costs of international transport services are also crucial determinants of SADC countries' competitiveness, a problem that is particularly acute for the many landlocked countries in the region (see table 14 below).

Table 14. Pricing of transportation in SACU (2006)

Country	Average time to ship 20-ft container from port to final destination (days)		Average cost to ship 20-ft container from port to final destination ($)	
	Import	Export	Import	Export
Angola	58	64	2 325	1 850
Botswana	43	33	2 595	2 328
Dem. Rep. of the Congo	62	50	3 308	3 120
Lesotho	49	44	1 210	1 188
Madagascar	48	48	1 282	982
Malawi	54	45	2 500	1 623
Mauritius	16	16	683	683
Mozambique	38	27	1 185	1 155
Namibia	24	29	1 550	1 539
South Africa	35	30	1 195	1 087
Swaziland	34	21	1 820	1 798
Tanzania, Utd. Rep. of	51	30	917	822
Zambia	64	53	2 840	2 098
Zimbabwe	67	52	2 420	1 879
Total	**46**	**39**	**1 845**	**1 582**

Source: Africa Development Indicators 2007; n.a. = information not available.

The lowest-cost country is Mauritius, both in terms of number of days and dollar cost. Zambia is the most expensive country to conduct international trade in SADC as indicated by the number of days and the cost of trade. Several factors contribute to differences in cost levels and structure, including the efficiency of distribution systems, the quality of transportation infrastructure, and the regulatory and institutional frameworks.

The SADC Protocol on Transport, Communications and Meteorology was adopted in 1998 to address these problems. It lays out a comprehensive framework for cooperation in all modes of regional transport. Its general objective in the transport sector is to establish transport systems which provide efficient, cost-effective and fully integrated infrastructure and operations, which best meet the needs of the customers and promote economic and social development, while being environmentally and economically sustainable.

3.5.1 Air transport

Air transport services comprises aircraft repair and maintenance services, computer reservation services, selling and marketing of air transport services.

Chapter 9 of the SADC Protocol on Transport, Communications and Meteorology creates a framework for cooperation in civil aviation. The main objective is to ensure the provision of safe, reliable and efficient services in support of socio-economic development in the region. It also aims to overcome the constraints of small national markets, market restrictions and the small size of some SADC airlines in order to further ensure the competitiveness of regional air services in a global context. The protocol seeks to encourage the involvement of the private sector, and underlines the need for the restructuring of State-owned enterprises and integration of regional systems through compatible policies and legislation.

In pursuit of a common objective, namely, liberalization of air transport services, COMESA, the East African Community (EAC) and SADC decided to base their activities on the Yamoussoukro Declaration of 1988, elaborated upon in November 1999 with the adoption of the Yamoussoukro Decision concerning the Liberalization of Access to Air Transport Markets in Africa.

Accordingly, a joint meeting of COMESA, EAC and SADC ministers responsible for transport was held in November 2006, in Harare, Zimbabwe at which they:

- Adopted the Guidelines, Provisions and Procedures for the Implementation of Regulations for Competition in Air Transport Services within COMESA, EAC and SADC; and
- Urged the COMESA, EAC and SADC secretariats to develop action plans to facilitate the implementation of the Regulations for Competition in Air Transport Services within COMESA, EAC and SADC by December 2007. We do not know if this deadline was met.

The air transport sector in each of the countries studied is regulated by legislation enacted with a general objective of prescribing how airlines are to operate within the country, creating a national regulator, providing for licences as well as the different ownership structure, i.e. how much a foreign entity can own in a particular service supplier or how much equity can be held in private hands. In some countries, legislation has been enacted to establish a statutory body which supplies services incidental to the airline business, including, inter alia: ground administration and supervision; passenger and baggage handling; freight and mail handling; ramp handling; and aircraft services, i.e. small planes, fuel and oil handling. For all the countries except South Africa,[36] these services are provided by a single company and hence there is no competition. However, some countries, such as the United Republic of Tanzania, are planning on privatizing these services and are in the process of formulating laws which will facilitate the privatization process.

Competition within this sector occurs in the international air scheduled transportation segment. In this segment, airline carriers other than national flag carriers are allowed to operate. For instance, in Botswana, Air Botswana competes with South African Airways and Air Namibia. On the other hand, international airlines are not allowed to operate within the domestic air scheduled transportation segment in Botswana. In some countries, this segment is dominated by the national flag carrier. In other countries, such as the United Republic of Tanzania, foreign airlines are allowed to serve the domestic market, as long as they do not own the majority of shares in the airline company. Hence, South African Airways and Air Tanzania own a domestic airline called ATC. One hundred per cent private ownership of domestic airlines is also permitted, but foreigners can only own a maximum of 49 per cent in such entities.

[36] South Africa is an exception because there was no sectoral study available for this sector.

Air ticket prices are generally determined by market forces, with little intervention from Government. This encourages competition. However, there is also a risk of price fixing, which can stifle competition. In countries like South Africa, which has a competition commission which operates efficiently, price fixing can in principle be checked properly.

Within this sector, there is one regulator which generally issues licences and ensures that international standards are met. Regulators are generally statutory bodies falling under the supervision of the ministry responsible for transportation, or are themselves government departments. Funding is usually from the Government, supplemented by licence fees.

GATS does not apply to traffic rights and the services related to air traffic rights. Its disciplines only apply to services related to aircraft repair and maintenance, selling and marketing, and the computer reservation systems. No SADC country made commitments to liberalize the above-mentioned services under GATS.

3.5.2 Road transport

Road transport services cover passenger and freight transport, rental of commercial vehicles, maintenance and repair of road transport equipment, and supporting services for road transport services.

The SADC regional road network is extensive, comprising more than 1 million km. The SADC regional trunk road network connects capital cities, regional ports and major industrial areas. With the exception of Angola and Mozambique, the region’s main road system is generally good or in fair condition.

Road transportation is the main mode of transport for landlocked countries within the SADC region. There has been significant growth in the road transport sector in the last 10 years, as SADC countries have continuously shifted from rail transport to road transport for moving both freight and passengers. This has created a problem of overloading, which has increased the cost of maintaining roads. Hence, SADC countries are carrying out major reforms in the road services sector.

Chapters 4 (road infrastructure), 5 (road transport) and 6 (road traffic) of the SADC Protocol on Transport, Communications and Meteorology provide a framework for achieving harmonization of regional road traffic and transport systems.

Article 13 of the protocol encourages the creation of regional bodies that should play an important role as equal partners in the implementation of the protocol through collective participation with the member States. Such regional bodies are to become consultative members of the technical committees to which they report on progress regarding implementation of the protocol in their areas of responsibility.

Some of the regional associations in place and already taking part in the implementation of the protocol include the Federation of East and Southern African Road Transport Associations, and the Association of Southern African National Road Agencies (ASANRA)[37] which aims to enhance regional policy coordination and enhance the management of the region's road infrastructure.

In addition to building the necessary implementation framework, significant progress has been made to give effect to the above-mentioned chapters of the protocol. Such achievements include:

- *SADC Driver's Licence.*[38] In 1999, SADC adopted the SADC Driver's Licence as an annex to the SADC Protocol on Transport, Communications and Meteorology. The licence is part of several proposals to harmonize the way in which drivers are trained, examined and licensed across the region. Since the adoption of the annex on the driver's licence, all countries covered here except Zimbabwe now issue the SADC Driver's Licence.
- *Corridor Infrastructure Development.*[39] A number of measures have been taken to enhance the performance of trade routes or development corridors in Southern Africa. Major progress has been made with the evaluation of corridor facilitation effectiveness for the Beira, Walvis Bay, North–South, and Dar es Salaam–Kapiri-Mposhi corridors, and preparation of measures for corridor performance improvement have been concluded.
- *Provision of Rural Roads*. In order to raise awareness of these recent developments and current knowledge in the provision of rural roads, a study was commissioned to develop Guidelines for Low Volume Sealed Roads in the SADC Region. The final version of the document was completed in 2004 and distributed to each of the SADC member States in early 2005. The guidelines provide a compendium of recent approaches to the planning and investment appraisal techniques, innovative technology in construction and maintenance and latest knowledge in labour-based and other construction techniques, which will ensure the cost-effective provision and sustainable integrity of these roads through local participation and ownership. The guidelines were produced with participation of regional experts from the public and private sectors in the region.

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[37] http://www.asanra.int.mw/.

[38] See, Kritzinger-van Niekerk L and P Moreira, Regional Integration in Southern Africa: Overview of recent developments. Washington: World Bank, December 2002, http://www.sarpn.org.za/documents/d0000329/Regional_Integration.pdf.

[39] For more information on corridor infrastructure development see, Kritzinger-van Niekerk L and Moreira P, Ibid.

- *Regional Traffic Facilitation.* Efforts are underway to improve cross-border traffic facilitation. These include regional projects on:
  - Road user charges;
  - Overload control; and
  - Vehicle equipment and dimensions.

Each country has legislation whose main objective is to license vehicles, provide for different classes of licences for different vehicles, and establish regulatory bodies which issue licences. In some countries, such as South Africa, legislation aimed at protecting the environment has affected the transportation industry, including the road transport sector. Whereas in some countries all these functions were performed by the ministry responsible for transport, due to World Bank and other donor influences, certain agencies have been established which have limited the role of such ministries. For instance, in Zambia there are three semi-autonomous agencies in the road sector: The Road Transport and Safety Agency, the Road Development Agency, and the National Road Fund Agency. Each has a Board of Directors comprising private and public sector membership. The Road Transport and Safety Agency is the regulator of traffic and safety management, while the Road Development Agency is charged with the responsibility of developing, rehabilitating and maintaining the entire road network. The National Road Fund's mandate is to manage and administer the Road Fund.

Competition within the road transport sector exists in some countries between foreign entities and local entities. However, there are certain restrictions on market access in some segments. For instance, in Zimbabwe, there are restrictions on the entry of new firms – whether local or international – in passenger transportation, freight transportation, rental of commercial vehicles with operator, and maintenance and support services for road transport services. On the other hand, the United Republic of Tanzania does not restrict new entries in these subsectors. Furthermore, some countries require that foreign firms establish themselves as subsidiaries only, while in others they can also establish as branches or representative offices. Table 15 summarizes some of the key regulations referred to above.

Table 15. Regulation in road transport

Country	Maximum equity	Licences	No. of regulators	Foreign entrants	Legal forms	Cross-border supply
Angola	100%(100%)	yes	1	allowed	all forms	no restrictions
Botswana	100%(100%)	yes	1	allowed	all forms	no restrictions
Dem. Rep. of the Congo						
Lesotho	100%(100%)	yes	1	allowed in some sub-sectors	no information	no restrictions
Madagascar						
Malawi	no information	yes	1	allowed	no information	no restrictions
Mauritius	no information	no information	no information	no information	no information	no information
Mozambique						
Namibia	no information	yes	1	no information	no information	no information
South Africa	no information	yes	2	allowed in some sub-sectors	all forms	allowed
Swaziland	100%(100%)	yes	1	allowed	no information	allowed
Tanzania, Utd. Rep. of	100%(no information)	yes	1	allowed	all forms	restricted
Zambia	100%(100%)	yes	1	allowed	no information	allowed
Zimbabwe	100%(49%)	yes	1	restricted	subsidiary/joint ventures	restricted

Source: UNCTAD questionnaires.

In SADC, only Lesotho and South Africa made GATS commitments in the road services sector. The two countries made commitments on passenger, freight and the maintenance and repair of road transport equipment. They provide for limitations to market access and national treatment in respect to the presence of natural persons through horizontal limitations. They provide for limited access for skilled personnel and the provision of training for local personnel.

3.5.3 Rail transport

Rail transport services cover passenger and freight transport, maintenance and repair of rail transport equipment, and supporting services for rail transport services.

The SADC railway industry comprises 13 operating railways, all of which are State-owned. Of these, 10 form the Interconnected Regional Rail Network (IRRN), with a total of nearly 33,600 route-kilometres of standard gauge (1.067 metre) track. Of the 10, South Africa's Spoornet accounts for 61.8 per cent of the network. The other IRRN railways are (a) National Railways of Zimbabwe; (b) two railways of Mozambique's CFM; (c) the United Republic of Tanzania–Zambia Railway (TAZARA), which is jointly owned by the two Governments; (d) Zambia Railways; (e) TransNamib Rail; (f) Botswana Railways; (g) Swaziland Railways; and (h) the Democratic Republic of the Congo's Sizarail. IRRN serves most of the principal ports of continental SADC, with the exception of the Mozambique port Nacala and Angolan ports.

The port of Dar es Salaam is served not only by the IRRN, but also by Tanzania Railway Corporation, which operates a 2,600-km network of metre-gauge track. The port of Nacala is served by a standard-gauge network of 1,640 route-kilometres, comprising Malawi railways and CFM (North). Angola has four railways, none of which are currently in operation for most of their respective lengths. One of these, the Benguela Railway connects to the port of Lobito, and, if in operation, would add more than 1,300 km to the IRRN, since it connects to the Sizarail system.

Chapter 7 of the SADC Protocol on Transport, Communications and Meteorology lays out a comprehensive framework for regional cooperation in rail transport. Its objective is to "facilitate the provision of seamless, efficient, predictable, cost-effective, safe and environmentally-friendly railway service which is responsive to market needs and provides access to major centres of population and economic activity". To this end, the provisions of chapter 7 include:

A harmonized regional railway policy which incorporates a phased and coordinated economic and institutional restructuring of railways;

- Monitoring the adequacy of rail infrastructure required to meet the region's developmental needs; and
- Cooperation on operational matters and the development and implementation of compatible technical standards in respect of infrastructure and operational equipment and human resource development.

SADC countries realize the importance of reform in this sector and there have so far been commendable efforts through SATCC, including the establishment of the Southern African Railway Association,[40] with the objective of increasing rail efficiency. Since most challenges faced by this subsector emanate from lack of investment and maintenance, current reform measures seek to attract private sector participation through, inter alia, concessioning of railways, encouragement of public–private partnerships (PPPs), and the general improvement of the regulatory environment.

Accordingly, a number of railway lines have been concessioned in SADC, including (a) the Bulawayo–Beitbridge line (Zimbabwe); (b) the Ressano Garcia line (Mozambique); (c) Malawi Railways, which became Central East African Railways; (d) Zambia Railways, now known as Railway Systems of Zambia; and (e) the Sena line in Mozambique. As such, several railway operations[41] are now outside direct government involvement requiring that regulatory regimes including safety oversight should be strengthened.

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[40] For more details see http://www.sararail.org/site/issues.html.

[41] The concessioning of railway operations covers both trains and tracks, but a country may decide to concession railway tracks without necessarily including trains.

Still, in most countries for which reports were available, the railway sector is dominated by State-owned enterprises, with regard to both passenger and freight services. Some countries do not see the need to open up the sector, while in some countries competition is difficult due to the small size of the market. This is because operating railway companies is very expensive and requires huge amounts of capital. The United Republic of Tanzania, for instance, tried to open up this sector but was not able to attract any investment. In those countries where only one company is allowed to operate, foreign firms are allowed to provide maintenance, repair and support services in the subsector. In these areas, there is competition between different operators. For instance, in Namibia, Transnamib Limited, a government parastatal, exclusively provides passenger and freight transportation as well as pushing and towing services, while both local and foreign entities can provide maintenance, repair and support services.

No SADC country made GATS commitments in the rail transport services sector.

3.5.4 Maritime transport

Maritime transport encompasses all forms of transport by sea, inter-modal links and inland ports, and still remains the main mode of international transport of goods.[42] Services consist of access to and use of port facilities, auxiliary services and ocean transport.

SADC has a system of 15 key ports which are classified as regional. Mauritius is served by Port Louis. Continental SADC is served by eight regional ports along the Indian Ocean coast, and six along the region’s Atlantic coast. The Indian Ocean ports include Dar es Salaam, the Mozambican ports of Nacala, Beira and Maputo, and the South African ports of Richards Bay, Durban, East London and Port Elizabeth. The Atlantic Ocean ports include Cape Town and Saldahna in South Africa, the Namibian port of Walvis Bay, and the Angolan ports of Luanda, Lobito and Namibe.

Landlocked SADC countries rely on their neighbours’ ports and other maritime services for the bulk of their exports and imports. Maritime transport is covered by chapter 8 of the SADC Protocol on Transport, Communications and Meteorology, and is seen as an area of strategic importance to regional economic growth. Cooperation in this area is aimed at, inter alia, developing and implementing harmonized international and regional transport policies in respect of the high seas and inland waterways. Significant progress seems to have been made so far. For instance, SATCC has been coordinating the development of facilities of 12 ports in SADC.[43] It has also engaged in upgrading and rehabilitating ports in Angola and Mozambique.

[42] See Hansohm et al, op. cit. 67.
[43] Ibid.

As far as inland waterways are concerned,[44] a model agreement is being developed. The SADC Maritime and Inland Waterways Transport Sub-Committee at its last meeting in November 2004 formed a task force of experts from its member States to develop, together with the secretariat, the model agreement. The model agreement is apparently inspired by bilateral agreements between some SADC countries on utilization of inland waterways and some developments in the international arena. For example:

- Malawi and the United Republic of Tanzania have a bilateral agreement covering the utilization of inland waterways, signed in 1995.
- In 2000, Malawi and Mozambique signed a bilateral "Lake Shipping and Port Services Agreement" covering shipping and port operations over the shared Lake Malawi/Niassa.
- In 2001 and 2002, the International Maritime Organization developed Safety Regulations for Inland Waterways Vessels and Non-Convention Size Craft, including Fishing Vessels Operating in Africa. Since the organization's regulations covered most of the same issues the SADC model would deal with, it was agreed that these regulations should be revised first before proceeding with a regional model.
- In 2002, the SADC ministers of transport directed that a trilateral agreement on Lake Malawi/Nyasa/Niassa should be developed. Cognizance was also taken of the existence of other lakes in the region where bilateral or multilateral agreements were necessary, notably Lake Kariba (Zimbabwe and Zambia) and Lake Tanganyika (Zambia, the United Republic of Tanzania, the Democratic Republic of the Congo and Burundi).
- In 2002, the responsible SADC subcommittee recommended the development of a model multilateral agreement for inland waterways which could be used as a basis for agreements on several waterways.
- In July 2004, eight SADC States – Angola, Botswana, Malawi, Mozambique, Namibia, the United Republic of Tanzania, Zambia and Zimbabwe – signed an agreement establishing the Zambezi Watercourse Commission in Kasane, Botswana. The commission establishes a permanent arrangement to ensure that the Zambezi basin's water resources are utilized in a sustainable manner for the socio-economic benefit of all the citizens living within the basin.

Ports in the SADC region are run by statutory bodies – usually one statutory body has been created to provide such services. In the countries analysed, ports are generally owned by the State, but foreign entities are allowed to provide services. Hence, they cannot own the harbour but can lease it from the Government to provide their services. Market access for foreign entities is also restricted in some countries. For instance, in Namibia, only two companies can provide port services. This has been the case since independence and the rationale behind this is that exclusive rights are necessary to attract strategic investment. Furthermore, foreign entities cannot provide certain services such as towing services. In the United Republic of

[44] See SADC I&S Directorate's 2006 Report to the Integrated Committee of Ministers.

Tanzania, however, supply of marine services is predominantly carried out by foreign operators. Only a small market share is serviced by local companies and access to all services – pilotage, towing, tug assistance, navigation-aid, bathing, waste disposal and anchorage – is mandatory. In other words, a firm which has been granted permission to operate at the port has to provide these services to all ships. The port of Dar es Salaam does not discriminate foreign carriers from domestic ones in their access to these mandatory services. It is the Government's deliberate policy to ensure competition in this sector.

No SADC country made GATS commitments in the maritime services sector.

Table 16. Transport services: WTO GATS commitments of the SADC countries

Country	Limitation on market access				Limitation on national treatment			
	Mode 1	Mode 2	Mode 3	Mode 4	Mode 1	Mode 2	Mode 3	Mode 4
Angola	***	***	***	***	***	***	***	***
Botswana	***	***	***	***	***	***	***	***
Dem. Rep. of the Congo	***	***	***	***	***	***	***	***
Lesotho • Passenger transportation • Freight transportation • Maintenance and repair of road transport equipment	Unbound Unbound Unbound*	Unbound Unbound None	None None None	"Unbound" "Unbound" "Unbound"	Unbound Unbound Unbound*	Unbound Unbound None	None None None	"Unbound" "Unbound" "Unbound"
Madagascar	***	***	***	***	***	***	***	***
Malawi	***	***	***	***	***	***	***	***
Mauritius • Banking	***	***	***	***	***	***	***	***
Mozambique	***	***	***	***	***	***	***	***
Namibia	***	***	***	***	***	***	***	***
South Africa • Passenger transportation • Freight transportation • Maintenance and repair of road transport equipment	Unbound Unbound Unbound*	Unbound Unbound None	None None None	"Unbound" "Unbound" "Unbound"	Unbound Unbound Unbound*	Unbound Unbound None	None None None	"Unbound" "Unbound" "Unbound"
Swaziland	***	***	***	***	***	***	***	***
Tanzania, Utd. Rep. of	***	***	***	***	***	***	***	***
Zambia	***	***	***	***	***	***	***	***
Zimbabwe	***	***	***	***	***	***	***	***

Source: WTO.

Explanatory notes: Restrictions=bound with restrictions; Unbound=MFN not applicable, "Unbound"=unbound except as indicated in the Horizontal section; Unbound*= Unbound due to lack of technical feasibility; ***= No commitments; None= no limitations. Where the subsector is mentioned, it means the country made commitments in that subsector only. For instance, in the financial services table, banking is mentioned for Angola because it made commitments in this area. Where no subsector is specifically mentioned, as for South Africa in the Construction table above, it means that the commitments made in all the subsectors within the construction sector are the same. Hence, South Africa made no limitations for Mode 2 in the construction sector as a whole from CPC 512-517.

3.5.5 Remarks

From the foregoing, it is evident that, at least on paper, substantial progress towards integrating regional transport markets is being made, particularly in the road and maritime subsectors. However, some of the practices within the transportation industry are contrary to the provisions and objectives of the SADC Protocol on Transport, Communications and Meteorology.

The road transport sector is relatively liberal in all the SADC countries. However, different regulatory policies in the road services sector complicate the flow of intraregional traffic. These include trade facilitation issues such as administrative documentation requirements at borders, customs inspections, security checks, transit and other charges, and immigration controls, which differ from country to country. For example, a trucker driving from South Africa to Malawi may have to pass through Zimbabwe and Mozambique, going through six different checkpoints at the three international border points, each requiring a different permit to pass and long delays. Time spent at border checkpoints may exceed travel time.

The liberalization of the road transport sector under the SADC Protocol on Transport, Communications and Meteorology is mostly guided by the SADC RISDP which contains a target of 2008 for SADC to have liberalized regional transport markets as well as harmonized transport rules, standards and policies. This will be achieved by liberalization of market access in respect of carriage of international road freight, introduction of international regulatory mechanisms, and regional harmonization of road traffic legislation. In road and rail transportation, foreign firms – especially those which do not have a presence within a particular country – are restricted from providing passenger services and freight services in those countries. This is clearly an impediment to the liberalization process within the sector. In light of the importance of the road transport sector, especially when looking at its impact on Mode 4 trade in services (i.e. if Mode 4 trade in services is going to occur significantly, modes of transportation also have to be effective), liberalization ought to take place.

With regard to air transportation, the protocol aims to reduce market restrictions by among other things liberalizing the air transport market using the Yamoussoukro Decision as the guiding principle. However, it is clear that some Governments are not yet ready to open up their domestic markets for international airlines to provide domestic scheduled air transport services. Government usually protects the national flag carrier, especially where it has vested interests (mostly political, as for instance having a national flag carrier is a source of national pride) and where parastatals are a source of revenue for Government. South African Airways' regional dominance, and the fact that it is State-owned, further complicates the liberalization impulse. Furthermore, foreign entities are only allowed entry in services incidental to the airline industry, such as catering. These anomalies need to be rectified by encouraging foreign entry. This strategy has worked in South Africa, where companies such as Comair – a British Airways subsidiary – have introduced no-frills flights which have benefited the customer.

However, this does not mean that the SADC Protocol on Transport, Communications and Meteorology is not being implemented successfully by SADC member countries. There has been progress in, for instance, the railway subsector, where countries such as South Africa and the United Republic of Tanzania have established independent regulators. In the maritime subsector, the development of waterways to reduce the negative impact of being landlocked is also being promoted. It is presumed that independent regulators, including competition commissions, are more likely to check anticompetitive acts than those which are not independent, and hence encourage more foreign participation.

3.5.6 Specific policy recommendations

These include:

- Simplify and where possible standardize documentation requirements, especially in the road transportation sector – addressing this would reduce cross-border delays and related opportunity costs, thereby significantly improving SADC's competitiveness.
- In road and rail transportation, consider liberalizing foreign ownership requirements, i.e. Mode 3, especially where these demonstrably discourage foreign investment. Also liberalize and/or lock in reforms in consumption abroad (Mode 2) concerning access for transport operators to regional markets. Both should be locked in via GATS liberalization.
- In air transport, consider unilaterally liberalizing access to domestic air transport sectors to introduce greater pricing competitiveness; this could be locked in via a regional agreement, since there is no GATS framework beyond ancillary services.
- Ensure the SADC Protocol on Transport, Communications, and Meteorology is properly implemented.

3.5.7 Private–public partnerships in transport infrastructure development

Resources for infrastructure financing remain a key challenge for sub-Saharan Africa in general and the SADC region in particular. Whilst infrastructure has been wholly funded by Governments through internal and external loans, there has been a paradigm shift with most infrastructure potentially being funded through PPP options. The role of SADC is to motivate the planning of regional transport projects, facilitate multinational consensus on projects and leverage funds for the packaging of projects to bankable state. Amongst the partnership supporting this process are the New Partnership for Africa's Development (NEPAD), the World Bank and the Development Bank of Southern Africa.

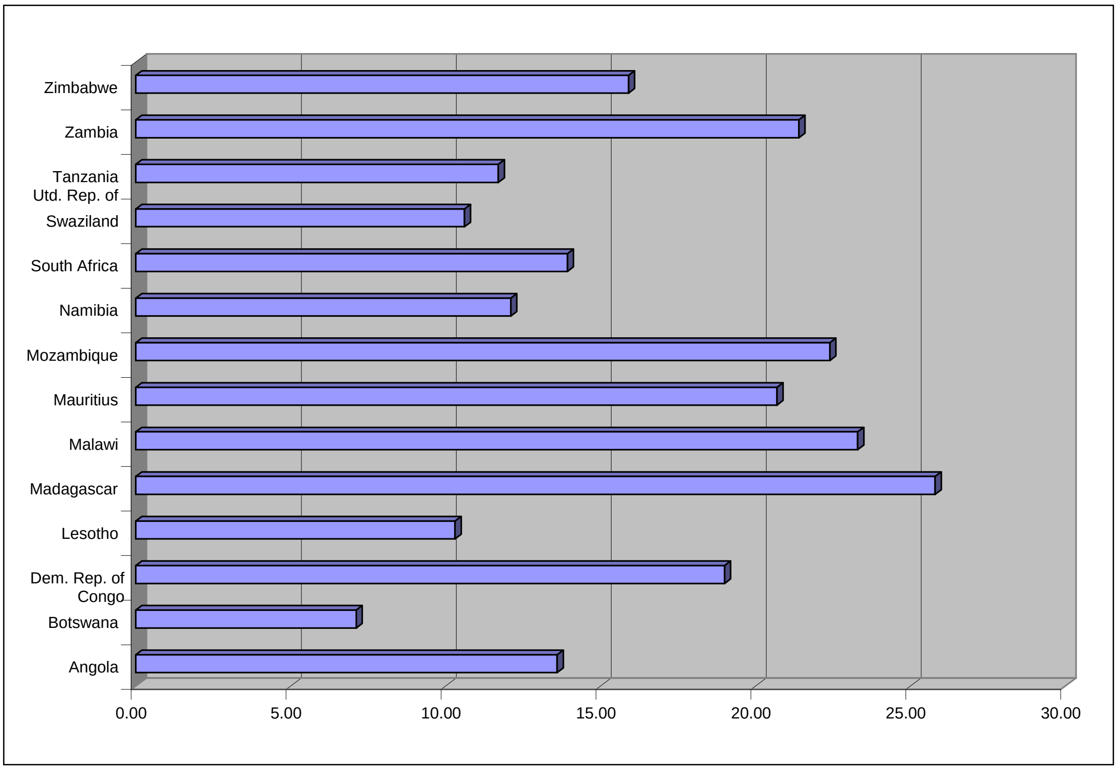
In order for PPP and private sector funding to be sustainable, there is need to put into place a deliberate "user pays principle" based on a total cost recovery framework for users of infrastructure. The toll roads in South Africa and Mozambique are examples.

3.6 Tourism sector

3.6.1 Economic issues

The sector is of strategic importance to almost all SADC countries considering its high contribution to GDP (see figure 7 below), trade, foreign currency receipts and employment. However, development in the tourism sector is constrained by lack of capacity and inefficiency in the supporting services sectors, such as telecommunications, finance and transport.

Figure 7. Contribution of tourism services to GDP (2006)



Source: SADC.
Note: Figures for Mozambique, Swaziland and Zambia are for 2005.

In the SADC region alone, demand for travel and tourism grew from $12.656 billion in 1990 to $28.939 billion in 2006, reflecting an average annual growth rate of 10 per cent. Furthermore, the region received 16.9 million arrivals in 2006, accounting for 1.98 per cent of the global market. Tourism contributed 3.4 per cent to the GDP of the region and was directly responsible for 1.75 million jobs in 2006.[45]

Table 17. Tourist arrivals to the SADC region

Country	2006 (1 000)
Angola	55
Botswana	1 160
Democratic Republic of the Congo	87
Lesotho	308
Madagascar	220
Malawi	257
Mauritius	1 072
Mozambique	88
Namibia	1 010
South Africa	8 100
Swaziland	460
Untied Republic of Tanzania	980
Zambia	918
Zimbabwe	1 880
Total	**16 920**

Source: SADC.

South Africa attracts the most tourists in the region. Annual tourist arrivals grew from 1 million in 1990 to approximately 8.1 million in 2006, with an anticipated 10 million arrivals by 2009. Zimbabwe is the second most attractive destination, followed by Mauritius, Botswana and Namibia.

Strong growth in the region can be attributed to (a) the growing numbers of tourists coming from Europe, the region's traditional primary tourism market; (b) continued improvements in air connectivity; (c) development of new and compelling tourism products; and (d) the generally competitive currency exchange rates in the region.

The build-up to the 2010 FIFA World Cup (to be hosted by South Africa) continues to positively fast-track tourism development generally in the region. There are concerns, however, about the growth of air capacity to and within the region, and the continued requirement for integrated marketing of the region and quality of service in the industry, with the concomitant impact this may have on access to tourists and repeat tourists in the future.

From the papers reviewed, it appears that the tourism sector in SADC has tremendous potential for growth and to become a key foreign exchange earner for many countries, but tourism activities are being held back by the lack of coordination and regulatory harmonization across the region, especially with respect to transport

[45] Mfune F (2008). Tourism Development in Southern Africa. *The Official SADC Trade, Industry and Investment Review* 2007/08, SADC.

and movement of persons. Many tourism opportunities cannot be realized without a reliable regional transport network. A coordinated plan under the services protocol to expand air travel to meet the needs of regional and foreign tourists will go a long way in assisting SADC to reach its tourism targets. Another area where SADC member States need to coordinate their efforts to enhance regional tourism is visa requirements.

SADC policy reforms in tourism

The region has established a SADC Tourism Sector Coordinating Unit to reform the tourism sector. In 1998, SADC countries signed a Protocol for the Development of Tourism, in force since 2002. The protocol aims to strengthen the competitiveness of the sector by, among other things, removing travel and visa restrictions, and harmonizing tourism legislation and immigration procedures, to facilitate the movement of both regional and international tourists in the SADC region, and strengthening institutional capacity.

Furthermore, SADC member States formed the Regional Tourism Organization of Southern Africa (RETOSA) in 2002. RETOSA covers 14 Southern African countries with diverse offerings such as wildlife adventures, coral coastlines, wine routes, mountain resorts and tropical beaches. The organization is seen as the marketing and promotional arm of the SADC tourism sector.

SADC ministers have committed themselves to work towards the establishment of a "UNIVISA"[46] for the region by 2010 – in time for the World Cup Soccer tournament, to be hosted by South Africa. This would enable visitors to the region to travel freely using a single visa (where this is required). SADC has already had experience in the free movement of persons through, for example, the establishment of the Great Limpopo Park, which spans Mozambique, South Africa and Zimbabwe. The Tourism Protocol also makes provision for the free movement of vehicles used by visitors around the region in terms of the relevant provisions of the SADC Protocol on Transport, Communications and Meteorology. It is not known if this has been implemented yet.

In June 2006, it was agreed that SADC member States should implement the relevant sections in the Protocols on Tourism Development and the Facilitation of Movement of Persons simultaneously, and that SADC member States should participate in the process all the way and not by way of having a few pioneer countries to begin the process. SADC countries are to grant visa exemptions to the key tourism source markets, as these are in any case already exempt from visas by most of the SADC member States, and grant visa exemptions to citizens of other

[46] Implementation of a UNIVISA and Visa Exemption System in SADC will require a general agreement being signed by SADC States on visa implementation procedures. The two main tenets of the visa system are that, first, SADC countries should by 2009 exempt requirements for visa for citizens of countries referred to as key tourism source markets and the citizens of countries of SADC. The second tenet would refer to citizens of all other countries which are not tourism source countries or SADC countries. In both cases, a visa exemption and a UNIVISA would permit the holder of the visa to enter a SADC country.

SADC member States as listed in the UNIVISA Workshop Report. Furthermore, working groups are to be constituted to develop and produce common rules and procedures that will guide issuance of visas, in particular in the areas of, inter alia, police cooperation, immigration, judicial cooperation, computerization and statistics.

2010 FIFA World Cup

At its meeting in Gaborone, the Integrated Committee of Ministers endorsed the strategy to use SADC's Transfrontier Conservation Areas (TFCAs) as the primary basis of the 2010 FIFA World Cup Tourism Strategy, and directed that ministers responsible for tourism convene a meeting of all member States to discuss their submissions and involvement, and present a programme to the Integrated Committee of Ministers. The SADC Council, in August 2006 noted the progress on development of the 2010 FIFA World Cup Strategy for all SADC member States and directed that the ministers responsible for sport and information come on board to finalize the process of participation.

The council further noted that, in line with its decision in Gaborone in February 2006, South Africa in August 2006 made a presentation on the TFCAs as anchor projects for the 2010 FIFA World Cup and how SADC countries could benefit from the event. In the spirit of promoting information sharing on the 2010 FIFA World Cup, South Africa will supply information on the FIFA World Cup requirements and guidelines for the information of SADC member States.

3.6.2 Regulatory issues

All the countries for which reports were available have legislation that regulates the tourism industry. The main objective of these pieces of legislation is to provide for licensing of different tourist service providers and to ensure quality within the sector. Some countries also aim at protecting the environment and certain national heritage sites.

Table 18. Regulations in tourism

Country	Maximum equity	Licences	No. of regulators	Foreign suppliers	Cross-border supply	Foreign tourist entry
Angola	100% (100%)	yes	1	not restricted	no information	allowed
Botswana	100% (100%)	yes	2	not restricted	no information	no information
Dem. Rep. of the Congo						
Lesotho	100% (100%)	yes but different fees	none	not restricted	no restrictions	allowed
Madagascar						
Malawi	no information	yes but different fees	1	not restricted	no restrictions	Restricted (visas etc)
Mauritius	100% (varies)	yes	1	restricted	no restrictions	Visas required for some
Mozambique	100% (100%)	yes but different fees	1	not restricted	no restrictions	Restricted (visas)
Namibia	100% (100%)	yes	1	no information	no information	restricted
South Africa	100% (100%)	yes	vary	restricted	restricted	Restricted (visas etc)
Swaziland	no information	no information	no information	no information	no information	no information
Tanzania, Utd. Rep. of	100% (varies)	yes but different fees	1	restricted in some	restricted	restricted
Zambia	100% (100%)	yes	5	allowed	allowed but restrictions exist	restricted for non-commonwealth countries
Zimbabwe	100%(70%)	yes	1	no information	no information	no information

Source: UNCTAD questionnaires.

There are different provisions which promote competition within the sector. Some countries openly allow competition, while others have enacted different regulations which stifle competition. For instance, Botswana's tourism policy paper of 1990 discourages any restrictions on the ownership, control and operation of tourism enterprises by nationality, as that is likely to have inhibiting effects on foreign investment in tourist facilities. However, it recognizes that participation of locals is important and, in order to achieve this balance, the Government encourages graduated ownership for trained and experienced local entrepreneurs in tourism.

Mauritius also has no restrictions on cross-border supply of tourist services, except for rules relating to immigration. It also has no restrictions on commercial presence except that licences have to be acquired in order to operate. Different licence conditions apply between local and foreign firms. For instance, 5 million rupees is required from foreign firms to establish tour operator services. The percentage of equity which a foreign firm can hold also varies according to the subsector. For instance, foreign participation in diving centres is limited to 30 per cent, while car rental services are limited to Mauritian nationals only.

South Africa has adopted a tourism BEE charter and score card which applies to all organs of State and public entities (for example, in guiding their procurement of tourism services in favour of BEE firms), organized labour and communities involved with or interested in the tourism sector. It also applies to private firms.

The competition commission has played a significant role in promoting the tourism industry in South Africa. For instance, it has fined some airlines for anticompetitive practices such as price fixing.

In Zimbabwe, the main regulations in the sector pertain to investing and operating in the tourism sector. Any foreign investment in the sector has to be approved and licensed by the Zimbabwe Investment Authority. Projects are approved on the basis of their viability and bankability. The general shareholding structures in terms of foreign ownership are that, for the provision of service, only the structure is 70 per cent foreign and 30 per cent domestic. Where there is huge infrastructural development, foreign ownership can be up to 100 per cent.

In Zambia, there is no restriction on the purchase of cross-border tourism services. However, restrictions exist in the cross-border supply of tourism services by foreigners, as only one Safari Hunting Operator is allowed in any one Game Management Area Hunting block for a period of 5 years–10 years, as Safari Hunting is done on a concession basis. The licence is granted through a tender process by the Zambia National Tender Board and the Zambia Wildlife Authority. A foreign investor has to have a minimum of $500,000. The reason for this is because the Government wants to safeguard the interests of national operators as there are very few local operators in this sector. It is also believed that the market can sustain a limited number of operators, especially hunting due to ecological sustainability and environmental requirements. However, there are no restrictions in the cross-border supply of Computer Reservation System and Global Distribution System services by foreign providers.

One aspect which has apparently affected the tourism industry across the region is tourism leakage, i.e. foreign exchange generated by trade in tourism services being siphoned out of the country because the services are provided by non-citizens or international entities, including airlines and hotels, which remit their profits outside the country where the service is offered.[47] In Zambia, this problem has reportedly been magnified by liberalization of the foreign exchange regime which has made it easy for investors to externalize or not bring the valuable foreign exchange into the country. Some countries have already started to implement measures to curtail this problem. For instance, in the United Republic of Tanzania, the Government imposes preferences to locals in tourist activities relating to operators, travel agents, guides, car hire, mountain climbing and hunting safaris.

South Africa is relatively immune from this because it has a local industry that has skills and the relevant capacity to compete on an international scale. This means that the sector industry is characterized by strong local ownership and a loyal domestic market which at times even makes it hard for international entities to penetrate the sector. Companies such as Protea have managed to capture a huge part

[47] Presumably offsetting this dynamic is employment of locals in the hotels and other services rendered; in addition, some expenditure by tourists must surely take place in the destination country.

of the market. Therefore, it can be concluded that the development of local skills and capacity within the region will go a long way to stem tourism leakage.

3.6.3 GATS commitments

All SADC countries covered in this report made GATS commitments in this sector except Madagascar and Mozambique. In terms of coverage, SADC countries have made more GATS commitments in the tourism sector than in any other services sector. For example, Mauritius, Malawi and Zambia have made specific commitments in all subsectors. Mauritius made commitments in other tourism services such as tourist transport operation (car rental), yacht chartering and cruising services, and tourist duty-free shops. Namibia has not kept the movement of qualified persons unbound and is the only SADC country that does not maintain any limitations on foreign suppliers of tourism services. These commitments may be motivated by a desire to attract both demand and foreign investment. They also point to the limited utility of a regional liberalization agenda.[48]

Table 19. Tourism services: WTO GATS commitments of the SADC countries

Country	Limitation on market access				Limitation on national treatment			
	Mode 1	Mode 2	Mode 3	Mode 4	Mode 1	Mode 2	Mode 3	Mode 4
Angola	None	None	None	"Unbound"	None	None	None	"Unbound"
Botswana • Hotels and Restaurants	None	Restricted	Restricted	Unbound	None	Unbound	Restricted	Unbound
Dem. Rep. of the Congo	None	None	None	Unbound	None	None	None	Unbound
Lesotho • Hotels and Restaurants • Travel Agencies and Tour Operators • Tourist Guide Services	Unbound Unbound Unbound*	None Unbound None	"Unbound" Unbound None	Unbound Unbound Unbound	Unbound Unbound Unbound*	None Unbound Unbound	Unbound Unbound Unbound	Unbound Unbound" Unbound
Madagascar	***	***	***	***	***	***	***	***
Malawi	None	None	None	Unbound	None	None	None	Unbound
Mauritius • Hotels and Restaurants • Travel Agencies • Tour Operators • Tourist Guide Services • Tourist Transport Operations (car rental) Yacht Chartering and Cruising Services • Tourist Duty Free Shop	Restricted Restricted Restricted Restricted Restricted Restricted	None None None None None None	Restricted Restricted Restricted Restricted Restricted Restricted	Unbound Unbound Unbound Unbound Unbound Unbound	Restricted None Restricted Restricted Restricted Restricted	None None None None None None	Restricted None Restricted Restricted Restricted Restricted	Unbound Unbound Unbound Unbound" Unbound Unbound"
Mozambique	***	***	***	***	***	***	***	

[48] Although cognizance should be taken of the fact that the regional agenda is far broader than just liberalization. It includes the development of the sector as a whole. The objectives of the Tourism Protocol for example are to ensure equitable, balanced and complementary development of the tourism industry in the region; to optimize resource usage through joint development of infrastructure; involve small and micro-enterprises, local communities and women and youth; and to facilitate intra-regional travel through easing of visa-restrictions.

Country	Limitation on market access				Limitation on national treatment			
	Mode 1	Mode 2	Mode 3	Mode 4	Mode 1	Mode 2	Mode 3	Mode 4
Namibia • Hotels and Restaurants • Travel Agencies and Tour Operators	None None	None None	None None	None None	None None	None None	None None	None None
South Africa • Hotels and Restaurants • Travel Agencies and Tour Operators • Tourist Guide Services	Unbound None	None None	None None	Unbound Unbound	None None	None None	None None	Unbound Unbound
Swaziland	Unbound	None	None	Unbound	None	None	None	None
Tanzania, Utd. Rep. of	None	None	Restricted	None	None	None	None	Unbound
Zambia	None	None	None	"Unbound"	None	None	Unbound	Unbound
Zimbabwe • Hotels and Restaurants • Travel Agencies and Tour Operators • Tourist Guide Services	None *** None	None *** None	None *** Restricted	Unbound *** Unbound	None *** None	None *** None	None *** Restricted	Unbound *** Unbound

Source: WTO.
Explanatory notes: Restrictions=bound with restrictions; Unbound=MFN not applicable, "Unbound"=unbound except as indicated in the Horizontal section; Unbound*= Unbound due to lack of technical feasibility; ***= No commitments; None= no limitations. Where the subsector is mentioned, it means the country made commitments in that subsector only. For instance, in the financial services table, banking is mentioned for Angola because it made commitments in this area. Where no subsector is specifically mentioned, as for South Africa in the Construction table above, it means that the commitments made in all the subsectors within the construction sector are the same. Hence, South Africa made no limitations for Mode 2 in the construction sector as a whole from CPC 512-517.

3.6.4 Remarks

Perhaps owing to wider awareness of its importance and a strong desire to attract more FDI, the tourism sector in the region has generally been more open than other services sectors. SADC should maximize its international competitiveness as a tourist destination by abolishing remaining restrictions that relate mainly to immigration policies and visa issues. Specific attention must be given to promoting the intra-SADC movement of visitors. The current proposals to create a universal visa system to help facilitate intraregional travel through the easing or removal of travel and visa restrictions, as well as the harmonization of immigration procedures and movement of international tourists in the region to increase the market share and revenue of the region in world tourism, should be implemented soon.

In order for the tourism sector in the SADC region to thrive, there is a need to ensure that the regulatory framework is harmonized within the whole region. The industry is, in most countries, regulated by different sets of legislation and regulators. For instance, the tourism industry in Namibia is regulated by the Environmental Management Act, Parks and Wildlife Management Act, Pollution Control and Waste Management Act, Bio-safety Act and the Access to Biological Resources and Associated Traditional Knowledge Act. All these acts aim to protect the environment from different threats. However, it would be more efficient if they were all consolidated into one act, or at least if investors could access a one-stop environmental approval facility. It is therefore important that these regulations are reviewed in order to make them more effective and to reduce the red tape that can affect provision of services.

Furthermore, some requirements for licences discriminate between local and foreign operators. This applies, for instance, to the fees paid to acquire a licence as well as to the different subsectors in which foreign providers can operate. In the United Republic of Tanzania, for instance, non-citizens cannot operate as tour guides unless they have 10 years experience and have been granted permission. These restrictions may affect the quality of the services provided and limit investment within the sector, although it is likely they were established to promote domestic participation in the industry.

More exceptions should be incorporated in legislation which restricts service providers in subsectors within the tourism sector. This will ensure market access in that, by increasing the number of exceptions, the number of providers that are restricted will be less, since some will be exempted from the application of the restrictions. For instance, if a law states that only nationals can operate in the supply of car rental services, exceptions stating that foreign operators will be allowed if, say, they bring in new technology within the sector or make investments whose value is above a specified figure would encourage market access. Furthermore, if preferences are to be granted to locals, they should be granted to achieve a legitimate objective, for instance, to develop local skills to reduce tourism leakage. Alternative solutions can also be adopted, such as allowing foreigner entities to enter on condition that they train locals in all aspects of the business. Hence, it would be important to ensure that, before adopting any preferences, they have a high probability of success. This would entail regularly evaluating the impacts of the preferences to determine whether they are fulfilling their intended purpose.

3.6.5 Specific policy recommendations

These include:

- Fast-track regional harmonization of Mode 4 commitments, including establishment of the proposed UNIVISA system;
- Promote regional harmonization of environmental regulations governing investment in tourism facilities; and
- Explore the use of exceptions to local preference policies, where such exceptions clearly encourage sustainable foreign investment, technology transfer and other societal benefits.

4 Towards services liberalization in SADC

Making sustainable and effective liberalization of SADC countries' services sectors will rest upon creating a supportive domestic policy and regulatory environment. Fair trade will not be achieved in imperfect markets, where information is not equally available to all, and dominant players impose their own terms of doing business, whereas the rest have few tools to address anti-competitive practices. Among all these concerns, asymmetries in the level of development and the weak position of the SADC countries in global services trade are the most serious problems to be addressed.

In this light, a few trenchant themes emerge from our review above. Firstly, *interconnections* within the producer services analysed (energy, communications, finance and transport), and between transport and tourism, are strong. For example, more competition in air transport would promote tourism flows, thus increasing demand for visas and stimulating improvements in telecommunications, energy supply and demand for tourism-related construction. More competition in road transport would stimulate improvements in border procedures, and vice versa, whilst the concomitant need to increase regulatory coordination between countries this gives rise to would stimulate adoption of better telecommunications linkages and ICT systems. And so on.

Secondly, *South Africa* is uniquely placed to competitively export producer and construction services to its neighbours. This has enabled building of competitive services sectors and spreading of best practices and entrepreneurship in the region. This may generate some concerns of South African dominance of national economies, although supply of such services does promote economic development and diversification, via their linkage effects, into other economic activities. South African investment into SADC economies in these sectors is already significant, and further liberalization within SADC is likely to continue this dominance.[49] The SADC Protocol will provide a framework not only for liberalization, but also for cooperation to build supply capacity competitively and develop infrastructure. In this context, South Africa's competitiveness will allow it to contribute positively to this process. This is not a situation unique to the SADC region. Similar situations, where one or a few countries have a dominant position, exist in other regional groupings and bilateral agreements. Moreover, as will be discussed further, unilateral and/or multilateral liberalization approaches will not necessarily nor automatically lead to investment diversification.

[49] This sense of South African dominance may explain why some member States are interested in negotiating services liberalization with the European Commission under the rubric of EPAs. There is a feeling in the region that providing greater competition to South African operators may lead to cheaper and better quality services. For more information on this issue, see; Draper P and Khumalo N (2005). Friend or foe? South Africa and sub-Saharan Africa in the Global Trading System In Peter Draper (ed.). *Reconfiguring the Compass: South Africa's Africa Trade Diplomacy*. Johannesburg, SAIIA.

However, *unilateral liberalization* has already occurred across the region, partly voluntarily and in part through external influence from donors, most notably the International Monetary Fund and the World Bank. Countries have undertaken unilateral liberalization in different sectors. For instance, Namibia undertook unilateral liberalization of its construction industry. Botswana and Zambia abolished all exchange control. One sector in which most countries undertook unilateral liberalization is telecommunications. This was before the SADC telecommunications strategy was adopted. Botswana, Mauritius, Namibia, South Africa, Swaziland, the United Republic of Tanzania, Zambia, and Zimbabwe all have privatized State-owned telecommunication companies or are in the process of privatizing these entities. Unilateral liberalization has also occurred in the transportation sector, where some countries such as Zambia have separated the regulation of road transportation sector from central Government.

Some of this liberalization has occurred without making any commitments under *GATS*. From one angle, this could mean that SADC countries which have liberalized unilaterally have lost some bargaining chips in the multilateral negotiations as they cannot make "new" concessions in these areas as they are already open. On the other hand, they could, in theory, use this to ask for concessions, especially as taking scheduled commitments in WTO provides trading partners with more legal certainty.

Thirdly, in some cases, domestic regulatory environments are relatively open, yet *foreign investment* has not flowed in. The dilemma remains that, owing principally to the small size of these and neighbouring markets, liberalization may still not attract FDI, although in time it may encourage nascent domestic producers to enter the market. So South African companies may continue to be the main companies supplying regional markets, possibly until a unified market is developed in the region.

Fourthly, the *cross-cutting* importance of Mode 4 regulatory issues, the broader trade facilitation agenda, Mode 3 issues pertaining particularly to ownership forms and thresholds for foreign companies, and competition policy to regulate small domestic markets are apparent. These concerns highlight the central role of *regulators* of producer services and of *competition policy* frameworks in national and possibly regional markets. These are unfortunately beyond the scope of this paper, but one can conclude that an appropriate balance has to be reached between sufficient liberalization to attract foreign investors versus retaining sufficient space to regulate the sector concerned and involve domestic operators.

Fifthly, *national prerogatives* are retained in the areas of procurement, local preference and movement of people. Given the pervasive weaknesses in capacity to supply producer services in most markets studied, it is not clear that such prerogatives are optimal. Furthermore, countries which have made GATS commitments in some sectors need to ensure that they adhere to the national treatment principle as well as article VI of GATS, which stipulates that all regulations should be applied fairly, reasonably and objectively.[50] If member States feel strongly about retaining policy space in this area at the multilateral level, then liberalization at the regional level may be the best option in the immediate term (with the added benefits that harmonization and national treatment could bring), and this could provide a useful stepping stone to subsequent liberalization, once the SADC countries are ready to liberalize further at the multilateral level.

In this respect, *construction* is subject to complicated and varying procurement systems and regulations across the SADC countries analysed. Even though a regional agreement could play an important role for smaller projects, larger projects should be liberalized at the multilateral level. If they have reserved some policy space in this sector, they could apply this different approach to liberalization. Furthermore, preferential *procurement* systems could be opened up to regional competition, or at least regional norms and standards could be developed.

That suggests the importance of a horizontal agenda at the regional level across the sectors, encompassing *Mode 4 liberalization* and regulatory harmonization to facilitate trade in the services analysed. Concerning Mode 4 liberalization, it is necessary because a regional shortage of human skills can hamper efforts to develop the targeted core infrastructure services sectors. Furthermore, there is a strong case for such liberalization to extend to the multilateral level, since the SADC region may not have all the skills needed to boost the key services sectors mentioned above.[51] Support for the natural tendency to export to countries in the same region may be provided, for instance, by establishing common curricula among the members of the regional grouping, which would greatly facilitate the mutual recognition of diplomas and other professional qualifications, and easing the requirements for obtaining the necessary permits and authorizations for foreign firms to conduct various aspects of their operations in the host country.

In light of these observations, SADC members need to determine a common position as to the sectors in which access to foreign services providers could have the greatest positive impact on their respective economies and development goals. The first priority should be to strengthen and harmonize the regulatory structures governing a *priority list of services slated for liberalization*, at the subsectoral level. This should be accompanied by an explicit *standstill clause* preventing introduction of new restrictions. This should be applied only after the regulatory frameworks have been strengthened. Access to the regional market and the existence of a regional or subregional institutional structure can provide the framework within which investment could be attracted. Export capacities can be enhanced by preferential access to neighbouring developing countries, and that access can in turn be enhanced by cultural and linguistic factors.

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[50] Of particular concern is the difference in fees payable to acquire licences. For instance, Mauritius charges foreigners a higher fee for a tourist licence, even though it has made commitments in the tourism industry.

[51] See Khumalo N (2007). Trade in services: from controlling to managing the movement of persons in SADC. Trade Policy Report 16, SAIIA, Johannesburg.

In most SADC countries, the first problem to be addressed in drawing up services strategies is to correct regulatory and fiscal disincentives that penalize the export of services in relation to goods. As services have traditionally not been viewed as an export sector, *mechanisms used to promote exports of goods are not available to service producers*. Ensuring the positive impact of liberalization requires that commitments be devised in clear recognition of the specificities of the national services sectors concerned and the relationships between sectors. The expected benefits of trade liberalization in the services sectors may be frustrated by the inadequacy of domestic policies and by the lack of a well-articulated domestic regulatory framework. An appropriate legal framework is required to prevent abuses in deregulated markets and protect domestic consumers, while ensuring transfer of technology and the development of domestic competitive supply capacities.

In our view, and from a theoretical, economic perspective, several among the services priority sectors in SADC economies studied are most suited to liberalization in the GATS. Telecommunications, transportation, financial and energy-related services, in particular, require large amounts of *capital* to operate and *economies of scale* to produce. Therefore, the optimum level of liberalization for such sectors would be the largest market possible. Liberalization restricted to the SADC level would limit the ability of a country to draw upon the most efficient suppliers and thus maintain higher-cost services. Having said that, liberalization at the South–South regional level can play an important role, as countries may be more willing to take binding commitments among a smaller group of like-minded countries than under GATS. Moreover, it is generally easier to develop a common set of criteria for the recognition of qualifications and regulatory harmonization at the regional level. This is particularly important for services such as construction, which are subject to strict regulation and national standards, and for which regional liberalization can therefore be considered the first best option. Finally, in sectors such as tourism, most countries have already liberalized extensively, so the question is no longer that of determining the optimal level of liberalization. Rather, benefits may come from other harmonization and cooperative mechanism related to deeper integration. Regional commitments can then serve as the basis for binding commitments at the intra-regional or GATS level at a later stage.

Nonetheless, it is important to note that SADC countries (like most developing countries) have been slow in incorporating services into regional and subregional integration agreements. In fact, the GATS commitments were the first exchange of obligations among the SADC countries in such schemes.

The liberalization of trade in services – notably commercial presence – can make a major contribution to the achievement of developmental and social goals. However, certain prerequisites must usually be met for liberalization to have a positive impact. For example, liberalization of the financial services sector should be preceded by the implementation of sound prudential legislation.

Notwithstanding the fact that the draft Protocol on Trade in Services is yet to be adopted, signed, ratified and implemented, SADC countries have already undertaken integration efforts that have a positive effect in facilitating both trade in services and goods across the region. Various protocols and memoranda of understanding that contain provisions that foster both the liberalization of services sectors and the harmonization of regulatory regimes have been concluded and are at various stages of implementation. Generally, regional cooperation has focused on developing the sectors concerned, by pooling resources and developing important regional services infrastructure, and strengthening the institutional framework, with actual trade liberalization being incidental to this process and not its goal. However, in some cases, both development cooperation and trade in services have been achieved.

Further, broader liberalization of trade in services in the sectors analysed above must be complemented by freer temporary movement of natural persons/service providers. *The free movement of people within SADC must be enhanced.* Accordingly, member States should ratify the recently signed Protocol on the Facilitation of the Movement of Persons to increase business mobility, create greater trade opportunities and achieve economic growth.

Offering legitimate regional travellers visa-free entry should not be unnecessarily delayed if the region is to optimally benefit from the tourism boon expected from the 2010 FIFA World Cup. Emphasis should also be placed on liberalization of temporary or circulatory movement of skilled professionals. Such measures should be attempted at the level of training as well. As the Protocol on Health provides, SADC countries can introduce regional exchange and internship programmes, especially in the health profession. There is need for these countries to think regionally so that professionals can move freely across the region for the benefit of all countries. Efforts to confine highly skilled people are doomed to fail, since they are often welcome even to stay permanently in many developed countries.

Moreover, one of the key interventions being addressed in the Education Implementation Plan is the development of a *SADC qualifications framework that is aimed at promoting comparability of qualifications of the educational systems of all SADC member States.* This is important for both facilitating mobility of students and academic staff, especially to the higher institutions of learning and subsequently for enhancing labour mobility, and clearly relates to the Protocol on Facilitation of Movement of Persons.

While some progress has been made, particularly in regulatory harmonization, in many cases cooperation has not yet resulted in actual trade liberalization of services at a regional level. A number of challenges remain, in particular, the slow ratification and implementation of protocols.

Indeed, the cooperation, harmonization and trade development initiatives must be enhanced by a stronger system of monitoring and enforcement of the legal instruments. The current framework is undermined by lack of a robust mechanism to ensure that all countries at least undertake to implement a minimum of agreed legal instruments. This problem manifests itself in two ways. Firstly, while the current system where legal instruments bind only those countries which accede to them may have been designed to afford maximum flexibility for member States to proceed at a pace they were comfortable with, it leads to a very slow integration process, and those members that wish to move forward are often held back by others that do not, due to insufficient ratifications. This is because some member States have committed to legal instruments.

Secondly, for most of those instruments that have been ratified by the majority of member States and are in force, the means to ensure their actual implementation are very weak. Being "indicative in nature", even the RISDP seems to address this problem.

Further, in order to manage all the work that is ongoing and pending, to increase the implementation rate of protocols as well as to move towards adoption of the annex on trade in services and negotiations, *staffing in the SADC secretariat and different entities will have to be improved.* The need for the SADC secretariat's role and capacity to monitor and evaluate the implementation of protocols and other legal instruments to be strengthened cannot be overemphasized. As Isaksen and Tjonnelan[52] argue, though this issue was stressed in the restructuring documents, it received only limited attention in the actual institutional restructuring. The challenge posed by having insufficient human resources or technical capacity has to be urgently dealt with if adequate progress is to be made.[53]

In addition, provisions that have a bearing on liberalization of trade in services are scattered over a plethora of protocols and other legal instruments, to the extent that – though some progress has been achieved – it is difficult to get a comprehensive picture of what is going on. There are also overlaps from one instrument to another, which further complicate the situation. There is clearly a need for a consolidation process whereby all services trade liberalizing provisions are located within a single instrument, which in this case should be the Protocol on Trade in Services. The level of liberalization or openness of each economy that has been reached under the protocols – unilaterally, and under GATS – would then be reflected in that country's schedule of commitments.

To prevent some of the protocol implementation difficulties, SADC member States should adopt a *clear common agenda on implementation of the Protocol on Trade in Services.* Such an agenda should ensure that all member States automatically become part of the liberalization process, even though the speed of implementation may differ. In addition, there should be an effective sanction system in place to encourage all member States to take their obligations seriously.

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[52] Isaksen J and Tjonnelan EN (2001). Assessing the restructuring of SADC – positions, policies and progress. A report commissioned by the Norwegian Agency for Development Cooperation. December.

[53] This problem has been identified by almost all the SADC secretariat members interviewed by the author.

Indeed, apart from critical domestic needs, the pressures brought about by the multilateral services liberalization agenda, as well as the EPA negotiations with the EU, militate against procrastination.

In terms of approaches to trade negotiations, intra-SADC services liberalization should ideally run ahead of or in parallel with liberalization with the EU, building on the basis of unilateral reforms already conducted or in the pipeline. From a negotiating and regional integration perspective, there is clearly a need for the regional agenda to get up to speed to keep up with the EPA negotiations, and should ideally provide for more liberalization at a faster pace than the one regional countries will offer to the EC, with a view to multilateralizing key commitments in the GATS negotiations. This is critical because otherwise the regional agenda runs the risk of being overtaken by events and becoming irrelevant. Timely intraregional services liberalization would enable these countries to have coordinated positions vis-à-vis third parties, and gain clout at the multilateral level.

However, the EPA process seems poised to trailblaze the SADC agenda. Therefore, it may be prudent for SADC countries to simply take on board what has been offered to the EC under EPAs and then use those commitments as a benchmark for making deeper commitments to one another. Member States should also ensure that whatever they offer to the EC is automatically offered to other SADC States if deeper integration is to be promoted.

The EPA negotiations should focus on the producer services, plus construction and tourism, already slated for liberalization in SADC. Under the Interim Economic Partnership Agreements services provisions, SADC EPA Group countries are expected to put in place plans to liberalize one sector by the end of 2008. These plans could include a phased-in approach. By the end of 2010, the participating countries will be expected to have in place a programme aimed at achieving liberalization in “substantially all” services sectors in line with GATS.

As such, SADC countries should consider engaging in a fully-fledged liberalization process covering as many sectors as possible not just the six sectors mentioned above. Depending on the actions of SADC States, the EPAs could either be a catalyst for deeper liberalization in the region or a serious distraction and threat to the regional processes. At this stage, it is difficult to tell what the eventual impact of the EPAs would be in light of the fact that the SADC EPA group members have not decided yet which sectors they wish to negotiate with the EU.

Suggestions regarding expansion to other services sectors

The opening up of the health and education sectors might be more significant in the regional framework. SADC is characterized by poor quality and unavailability of education and health services. Yet these services not only have export potential, but also can expand the regional human resource base and reduce poverty. The importance of these services in the social development of the regional economy can be measured against the United Nations Development Programme’s indicators for social development (e.g. adult illiteracy rates, number of people without access to health services, etc.). These may point to the extent that the domestic health and education sectors are able/not able to provide their services adequately and the need for reform.

Furthermore, in most SADC countries, Governments are spending a significant share of total government expenditures on health and education. In some countries (Botswana, South Africa, Swaziland and the United Republic of Tanzania) education makes up over 20 per cent of total government expenditure, whereas expenditure on health care averages about 7.8 per cent of total government expenditure in the region.[54] These are the sectors that Government may want to consider opening up to foreign investors as part of services liberalization in order to reduce the financial burden of the Government. Of course, the process has to be followed by proper regulatory instruments to ensure that people are not disadvantaged through higher prices, thereby limiting access to health and education.

Even though it may be easier to reach agreements on standards regarding educational and health services at the regional level, the reality of the region is that the majority of the countries are net importers of advanced educational and health services. Limiting the provision of services to the region will deprive consumers of advanced methods of teaching and health care. A careful mix between GATS and regional preferences would be beneficial to consumers.

Database development

Any analyses aimed at informing policymakers must rely on robust and precise data in order to be effective. This is not yet the case for the data on services sectors in SADC. SADC needs a monitoring process that ensures the connection between the sources/repositories of information and supports an ongoing stable, reliable and predictable information exchange. Performance monitoring is still very limited and, as yet, there is no fully operational services sector monitoring system in place.

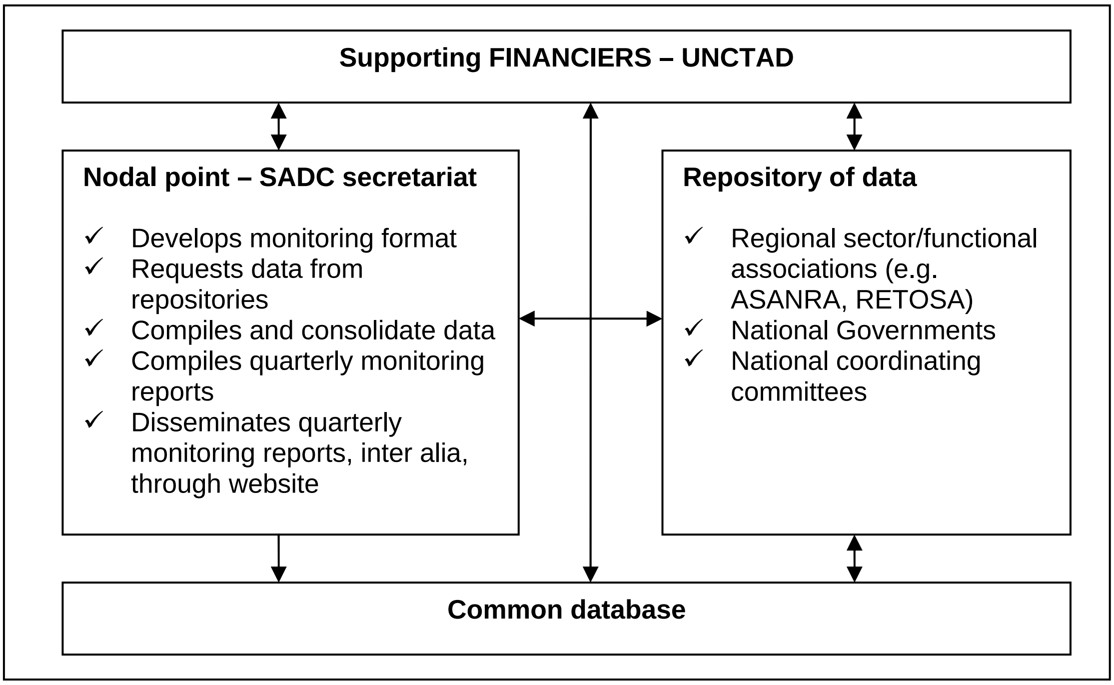
Past studies are useful, but the information is outdated and has limitations. Ideally, there is a need for regular data updates and trend analysis that interprets information gathered. There are various repositories of very useful and relevant information (e.g. SADC secretariat and regional research institutions). What is lacking is a nodal point where a model database accommodating cross-SADC and cross-services sectors data can be housed. Such data should be current and therefore be updated on a quarterly basis. Ownership of the database should vest with all participating repositories of source information and be widely disseminated through vehicles such as a "monitoring database" website. The regular updating of the data will facilitate ongoing enrichment of the database and validation of the information contained therein.

[54] Countries' Central Statistics Offices.

Participation of existing repositories of information such as the SADC and regional associations will not present an add-on but would fold into their already existing functional profile. The assignment of a nodal point to consolidate and package the data comparatively will add value to the harmonization, implementation, operations and monitoring undertaken by each of the participating repositories. The value of the coordinated approach lies in the ability to draw on the collective strengths of the various Governments and regional associations. The nodal point will, on behalf of the stakeholder platform, have to identify its information needs and develop the appropriate electronic submission forms to elicit the required information from role players. In particular, the challenge will be to know what information to request and how the request will be couched to facilitate prioritization of investment and funding.

It is recommended that consideration be given to developing a model database to assist with services sectors' performance monitoring. As such, the database needs to be multi-purpose and responsive to planning needs of national Governments and international financiers. Figure 8 below illustrates the relative role of repositories, the nodal point and supporting financiers to the development of a model database.

Figure 8. Database development



Impact of overlapping membership

The SADC countries are members of different regional organizations, such as COMESA, SADC and SACU. This creates a complex problem of navigation between the different constellations of member countries' regulations. Furthermore, the investment barrier created by a non-existent regional agreement on trade regulations or their harmonization acts as a disincentive to foreign investors to invest in the region. This is because the possibility to service the whole SADC region is constrained by trade barriers between countries within SADC

The mix of membership of countries in the region to the three regional organizations is a barrier to an effective reduction of barriers to FDI in SADC. Investors look at the size of both the domestic and export markets when making an investment decision. Overlapping membership further complicates the harmonization of services trade-enhancing regulations in the region.

There are immense benefits to the unification of existing regional bodies or of finding ways to end the multiple memberships of countries in regional bodies. This would facilitate process of creating a conducive investment environment within a regional common market.

Technical support

Technical support can be split into the following categories:

Public sector support – Emphasis should be on technical support for both regulatory design and ongoing regulation capacity. Ideally, this could be coordinated with efforts by other donors (Governments and international institutions). It is apparent that in many service sectors the benefits depend on effective regulation so this would realize benefits. Capacity-building is also required to facilitate the establishment or strengthening of implementation affiliated bodies, which include regulatory associations, and operator associations. These bodies are an integral part of the implementation structures of the SADC Programme of Action in Infrastructure Development. Such institutions implement projects on behalf of SADC within an agreed framework and require sector-specific expertise for the purpose.

Private sector support – Translating export opportunities into actual exports requires not only the removal of trade barriers but also building the supply capacity of firms to take advantage and assisting them in overcoming the fixed costs of engaging in exports (establishing linkages, promoting products and meeting product requirements).

Annex I
Summary of sectoral recommendations

Construction

- Adopt unilateral liberalization measures for Mode 1 supply of technology-based services, notably design, on an MFN basis;
- Establish mutual recognition agreements to encourage portability of skills within the region;
- Promote Mode 4 liberalization on an MFN basis in order to attract skills from outside the region;
- Consider loosening procurement policies in order to encourage greater participation by regional firms; and
- Bind commitments in these areas in WTO.
- Energy-related services:
- Define and categorize energy services to be subject to liberalization and support a multilateral process on this issue at WTO;
- Speed-up restructuring of State-owned electricity companies with a view to introducing greater competition, on an MFN basis concerning Mode 3 in particular, into national and regional markets;
- Investigate where restrictions in cross-border trade in energy, and related energy services, may pertain and remove them where universal service obligations will not be compromised, particularly those pertaining to pricing;
- Increase oversight and powers of regulatory agencies, specifically in respect of State-owned company pricing policies concerning purchase of electricity from IPPs; and
- Formulate and implement projects on new and renewable sources of energy.

Finance

- Bind unilateral reforms, where politically feasible, in WTO;
- Consider extending commitments to insurance in those countries where no commitments have been made; and
- Member States should first revert to the SSBS structure and, once this has been done, they can try to work out how to achieve Basel Compliance.

Communications

- Promote interconnection across borders and within national jurisdictions through appropriate regulatory harmonization;
- Promote consequent competition through establishing robust competition frameworks with regional jurisdiction where feasible, to ensure appropriate pricing;
- Limit the monopoly perquisites of national fixed-line companies through greater deregulation, taking care to ensure universal access goals are not compromised;
- Revisit MFN ownership restrictions, especially in fixed-line communications and postal services, with a view to encouraging greater foreign ownership, to promote productivity improvements; and
- Initiate discussions on provision of audiovisual services, especially radio and television transmission, in order to probe flexibilities in this subsector.

Transport

- Simplify and where possible standardize documentation requirements, especially in the road transportation sector;
- In road and rail transportation, consider liberalizing foreign ownership requirements, i.e. Mode 3 – especially where these demonstrably discourage foreign investment – and also liberalize and/or lock in reforms in consumption abroad (Mode 2) concerning access for transport operators to regional markets. Both should be locked in via GATS liberalization;
- In air transport, consider unilaterally liberalizing access to domestic air transport sectors in order to introduce greater pricing competitiveness; this could be locked in via a regional agreement since there is no GATS framework beyond ancillary services; and
- Ensure the SADC Protocol on Transport, Communications, and Meteorology is properly implemented.

Tourism

- Fast-track regional harmonization of Mode 4 commitments, including establishment of the proposed UNIVISA system;
- Promote regional harmonization of environmental regulations governing investment in tourism facilities; and
- Explore the use of exceptions to local preference policies, where such exceptions clearly encourage sustainable foreign investment, technology transfer and other societal benefits.

Annex II

A Focus on South African Development Community (SADC) Least Developed Countries (LDCs)

I. Introduction

This annex focuses on the particular situation of the eight SADC LDCs, namely Angola, the Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mozambique, the United Republic of Tanzania and Zambia, and consists of a review of the national assessment studies undertaken in the context of the project to support SADC regional integration and the multilateral trading system, co-funded by the European Commission (EC) and UNCTAD.[55] This review helps identify some general findings that are common to the LDCs of the region and highlights the particular opportunities and challenges facing LDCs. LDCs may require specific attention in the regional integration process given the particular economic, political, social and historical situations that they face. Features such as landlockedness, small population and market size, and experience with civil war are constraints that the SADC LDCs are facing that should be factored into an analysis of trade services at the regional level and in developing a coherent approach for the SADC region in interregional and multilateral trade negotiations.

The services economy and trade in services are becoming more important for the growth and development prospects of developing countries and particularly LDCs, including in attaining the Millennium Development Goals. Services are essential inputs to various economic activities; they directly contribute to infrastructure building, greater productivity and the increased competitiveness of an economy. They also have an important social dimension through the provision of essential services and universal access. The services economy is still at an early stage in most LDCs, while some developing countries are already successful in exporting services such as tourism, transport, construction, audiovisual, computer and information services, and business and professional services, particularly through mode 1 (cross-border supply of services) and mode 4 (temporary movement of natural persons).[56] The potential of services trade is, however, yet to be realized by Africa and by LDCs. LDCs as a group continue to be marginalized from international flows of services, with their share in world service exports being about 0.8 per cent.

Regional services trade offers a supportive environment for national firms by accelerating learning curves, building supply capacities and enhancing international competitiveness. Regional services trade also plays a catalytic role in generating employment and furthering the development of growing regional services industries and firms. By allowing for economies of scale in the production of services, regional trade agreements may support the development of regional infrastructure in key sectors such as transportation, communications and energy.[57]

[55] These findings were not fully integrated in the regional assessment study as the studies were not all available at the time of its drafting.
[56] UNCTAD (2007). Trade in services and development implications. TD/B/COM.1/85. Geneva.
[57] Ibid.

II. General findings

- In line with data for other LDC countries, the SADC LDCs reviewed showed contributions of services to gross domestic product (GDP) and contributions of services exports to overall exports that were lower than the average for other countries;
- The nature of services as input into other services and other economic sectors is particularly crucial in LDCs where these countries' participation in international trade remains very low and where the domestic economy still needs to be diversified and strengthened;
- The domestic supply in many of the services sectors reviewed is insufficient to meet current needs with the country's required levels of quality and reliability;
- Several countries have developed an informal market for services and a large portion of certain services sectors are composed of informal economy suppliers. For government services sector reforms to be a success, operators need to be integrated into the formal economy;
- Major challenges for the development of LDCs' services economies include: (a) insufficient investment; (b) inefficiencies in suppliers' performance in certain sectors; and (c) a lack of qualified technical personnel;
- The investment costs, modernization or rehabilitation costs in certain services sectors that are increasingly technology-intensive (e.g. communication and transport) remain a challenge for many LDCs;
- Meeting the standards of international markets remains a challenge for LDCs service suppliers in many sectors where consumers have come to expect a certain level of quality and efficiency (e.g. tourism);
- The involvement of private and public actors varies across sectors (e.g. the private sector dominates sectors such as construction and tourism while public entities remain prevalent in sectors such as energy and communication) and government policies need to reflect this;
- In certain sectors, such as transport, the integration of LDCs into certain regional groupings (which lead to the development of transport corridors) or their strategic location (e.g. coastal countries servicing landlocked neighbours) may provide them with development opportunities that they would not otherwise have had;
- LDCs can benefit from regional cooperation in certain service sectors where connections with neighbouring countries can contribute to economies of scale as well as increased confidence and security of power supply and exchange (e.g. the power/energy sector in the SADC region);

- Tourism and tourism-related activities are strong contributors to the SADC LDC economies due to their impact on local and regional development, the building of infrastructure, accessibility and means of transportation, attracting investment, technology transfer and the establishment of new micro, small and medium-sized enterprises in the tourism sector and many other related sectors;
- Universal service and access are far from being achieved in certain sectors (e.g. access to electricity). For certain network services (e.g. telecommunications and banking services) the quality of and access to services still vary greatly within the country. Ensuring minimal provision of services throughout the country remains a challenge;
- The national assessment studies have highlighted the many policy objectives related to the services sector that governments pursue that go beyond trade issues (including environmental, socio-cultural, universal services objectives). The challenge for LDCs is to strengthen domestic supply capacity while reconciling trade, development, social and equity considerations;
- Statistical data collection and processing is still very poor and reliable data are largely unavailable.

III. Case studies

III.1. Angola

In an effort to promote economic diversification, employment and broad-based economic growth, the Government of Angola has recently introduced trade and investment reforms to stimulate economic activity outside of the oil sector. Reforms therefore aim to stimulate growth not only in the industrial and agricultural sectors, but also in key services sectors. Angola's services sectors remain underdeveloped and taken together, services account for only 26 per cent of GDP (2006). In relation to total exports, Angola's services exports make up less than 2 per cent of total combined exports of merchandise and services, a level much lower than the developing country average of about 15 per cent. On the other hand, Angola's imports of services outstripped exports by a factor of 34 to 1 in 2006, largely as a result of escalated government spending on construction, transport, professional and technical services, much of which has been focused on increasing capacity in the oil sector. Two key features are specific to Angola and will impact on the development of its services economy: heavy dependence on the oil sector (although the government is taking measures to diversify the economy) and its recent history of civil war, which has destroyed large parts of the economy, including the services sector.

III.1.1. In Angola the state is responsible for ensuring the existence, availability and quality of communication services and particularly the telecommunications network for public use known as the basic network, capable of meeting the communication needs of citizens, supporting economic and social activities throughout the country and securing international connections according to the demands of a harmonious and balanced economic and social development. The expansion and modernization of the basic network infrastructure took into account the fact that Angola is a country with a huge potential for development with important natural resources, and that following the war, it currently faces a strong demand for services supported by telecommunications and information technology infrastructure. The intense consumption of telecommunications services makes it among the most important sectors of the Angolan economy. The quality of services, prices and expansion throughout the country have not, however, met expectations so far.

III.1.2. The construction and public works sector is one of the most important for the economic recovery and growth of Angola. Investments in the construction sector are mostly public although there are a significant number of private initiatives. Investment in the sector accounted for $311.2 million in 2006, with the private sector contributing $238.6 million. Private sector performance in the area of construction is attested by the number of companies licensed in 2006, totalling 752. Recent growth in the construction sector enabled the creation of 30,521 jobs, and a total of 206,521 workers were employed in construction in 2006. Taking into account its dynamic growth, the area of civil construction and public works is one of the most likely sectors to create jobs in the near future, despite the seasonal nature of employment. The Ministry of Public Works is responsible for monitoring the activities of economic agents in civil construction and public works. It currently governs the activities of five joint companies, 20 public sector companies, 20 foreign private companies and 1,600 national private companies.

III.1.3. In the energy sector a new legal and institutional framework was implemented. A major focus of government policies in this sector is universal access (e.g. to electricity). The local authorities are responsible for ensuring the power supply to areas under their jurisdiction. Under the terms of the relevant legislation, this service may be commissioned to other entities. The government is also responsible for approving complementary regulations necessary to achieve public service objectives. Today the sector remains unable to meet current needs with the required levels of quality and reliability in many regions of the country. Due to the limited capacity of companies in the sector to make investments to expand the distribution network, which fails to meet market demands, the development of a significant informal market for power distribution has emerged involving "distributors" who, by circumventing the legislation in force, use power facilities licensed for industrial or agricultural activities for distribution purposes.

III.1.4. As the economy has grown significantly since 2000, so has the financial services sector and particularly the use of banking operations and services. The sector is open to the participation of non-resident entities, as provided under the legislation in force, and there are a number of foreign banks operating in Angola. The sector continues to face many challenges including the low level of banking capability of the national population; the absence of regulation for the Law on Financial Institutions; the lack of a hub for credit risk information for micro credit companies, financial lending companies and financial leasing companies; and the reduced number of workers specialized in banking. Recent achievements are the opening of a development bank, the improved functioning of investment banks and reinforced prudential regulation. As the central bank and reserve bank, the Angolan National Bank has the responsibility of defining and managing monetary and exchange policy as well as managing and monitoring the national financial system.

III.1.5. Tourism and tourism-related activities are a strong contributor to the Angolan economy. The private sector dominates the tourism sector (including tourist transportation, accommodation, meals and tourist attractions). Although many businesses are under the government's oversight, they are privately run. The tourism sector has been privileged in terms of investment, especially private investment, due to the great interest that has arisen particularly as a result of the considerable lack of hotel infrastructure. The main strategy is to develop tourism as a tool for national unity, within a perspective of responsible tourism, by encouraging the sector's planning to ensure environmental and socio-cultural sustainability and enable the integration of the national sector into the world tourism market. Angola has been known as an international landmark in terms of archaeological heritage; the biggest question remaining today is to determine what heritage has survived the recent decades' civil war.

III.1.6. The role of transport services in national reconstruction efforts is considered fundamental, not only in terms of services to be rendered to other productive sectors, but also as an engine for expanding development and economic activities across the country on the basis of comparative advantages of each subnational region. The national road network was gravely affected by years of civil war that deteriorated it almost completely and rendered it nearly impassable. Nonetheless, Angola is anticipating playing an increasingly crucial role in the geographic transit space of Southern Africa by using its railways, roads, ports and airport services to facilitate the imports and exports of countries in this vast landlocked subregion of the African continent and to integrate into other regional corridors.

Angola faces the particular situation of an LDC that has to develop its services sector from a very low level, commensurate to its LDC status, and also affected by its recent history of civil war. Economic reforms are relatively recent and the challenges faced by Angola are those of many other LDCs, namely: (a) the lack of access to key financial, human, and technological resources; (b) the recent and sometimes still pending separation of the productive, regulatory and legislative functions of the government in certain sectors and the need to further strengthen institutional and regulatory capacities; and (c) the simultaneous objectives of improving access to quality services at affordable prices and developing domestic supply capacity (and the sometimes conflicting policies used to pursue these objectives).

III.2. Democratic Republic of the Congo

The economy of the Democratic Republic of the Congo benefits from several of the country's assets: its large territory (the third largest in Africa) and numerous mining, energy, agricultural and forestry resources. However, it faces several challenges, including having experienced many years of war since its independence. These wars have destroyed almost all the infrastructure and productive activities in the country and have led to economic hardship. The GDP of the Democratic Republic of the Congo was estimated at $9.09 billion in 2007 with a GDP per capita of $141. Services account for 32.5 per cent of GDP and the sector recorded a real growth rate of around 7 per cent over the past three years, mainly due to the good performance of transport, telecommunications and financial services. It is also noteworthy that the informal sector represents more than 80 per cent of the economy. The economic situation remains fragile, due inter alia to the high concentration of exports on a limited number of products in the primary sector. The private sector is underdeveloped and dominated by a limited number of companies. Faced with a difficult situation but in the process of stabilization, the government has undertaken a reform plan (the Economic Programme of the Government) that focuses on macroeconomic stabilization and renewed growth.

III.2.1.The communication sector has undergone a major legislative and regulatory reform. It was formally opened to competition in 2002, parallel to the creation of a regulatory authority, the Regulatory Authority for Post and Telecommunications, which is institutionally separate from the ministry. After 2002, the state monopoly was confined to basic services, fixed telephony, telex and telegraph, while the other services were subject to competition. For the postal sector, the new law was intended to provide the population with the right to a universal postal service, while in parallel limiting the monopoly on the provision of universal service. The telecommunications infrastructure across the country is in poor condition, obsolete and poorly maintained. The level of service represents only half that of comparable African countries. The telecommunications network in the Democratic Republic of the Congo is the least developed of the region and lacks reliability. It was estimated in 2006 that there were 60,000 fixed lines in the country (equivalent to 0.001 per cent of the population). As a result, mobile phones are used very widely, with three companies dominating the market. Investors in the mobile telephony are attracted by both the high population of the Democratic Republic of the Congo and the near absence of competition from fixed telephony.

III.2.2. In construction services, engineering-related services (general construction work for civil engineering) have been fully liberalized since 1994, but entry into the market for construction services is regulated. Only fifty local operators and twenty foreign operators are allowed. The current policy on construction is defined by the law on public procurement and public works. If they intend to operate in the Democratic Republic of the Congo, foreign companies are required to form partnerships or joint ventures with local businesses. There is a small construction industry involving both local and foreign companies, receiving huge funds from reconstruction projects financed internationally. The share of construction and public works in the GDP grew by 4.2 per cent in 2000 to 7.1 per cent in 2006. The construction sector remains a low margin, highly regulated and high risk sector. Some small businesses and the informal sector occupy an important place. Public procurement plays a particularly important role in this area in terms of employment.

III.2.3. Energy-related services have a crucial role in the development of the Congolese economy, both as an essential service but also as inputs for the industry. The framework law in this area is the Legislative Ordinance of 1970 on the establishment and status of a public company called the Société Nationale d'Electricité. This Ordinance Law and Law No. 074/012 of 14 July 1974 gave the monopoly of the generation, transmission and distribution of electricity to the Société Nationale d'Electricité. The state is committed to ensuring the direct control of production, transportation and distribution of electric energy as a strategic resource for economic development and social development. A Master Plan for 2015 summarizes the government's objectives for the sector: (a) reducing the energetic imbalance between the provinces; (b) promoting rural electrification; (c) increasing national electrification; and (d) promoting exports. One related objective is to increase electrification from 121 centres to 775 centres (urban and rural). Energy-related services represent a strong potential and could become a major source of employment and income. The share of capital invested by foreign companies is lower than 10 per cent at present.

III.2.4. Financial services are undergoing a major reform after having almost disappeared from the landscape of the Congolese economy due, among other reasons, to cycles of high inflation, the depreciation of the local currency and the general degradation of the economy due to war. Banking intermediation in commercial transactions fell to 3 per cent and it is estimated that 70 per cent of currency circulating in the Democratic Republic of the Congo are United States dollars, almost all of which remain outside the banking system. It is also estimated that 75 per cent of loans and 87 per cent of deposits are in dollars. Payment systems other than cash are virtually nonexistent. The recovery of the sector has begun with a process of internal reform, which is too slow however, according to the assessments of international institutions. There are currently eleven commercial banks in the country. These banks are small and their assets represented only 10 per cent of GDP in 2006. With one branch per 1 million inhabitants, the country has one of the lowest penetration rates in the banking world. Moreover, most of these branches are located in Kinshasa and focus primarily on international clients, the public sector and some wealthy nationals. It is only recently that some players have begun to show interest for retail or for the financing of entrepreneurial activities. Financial intermediation has also improved thanks to the increasing share taken by microfinance institutions. The Banque Centrale du Congo is responsible for regulating banking and insurance services and its oversight has improved since 2002, but is still far from ideal. However, several significant steps forward in the sector should be noted including tax collection and budget preparation and execution.

III.2.5. There is virtually no tourist industry in the Democratic Republic of the Congo. The contribution of tourism to GDP, employment and export earnings is low. With regard to domestic tourism, expatriates and wealthy Congolese tend to take their holidays abroad because of the lack of local tourism infrastructure. International tourism is influenced by factors that play against the Democratic Republic of the Congo, and it is unrealistic to expect the sector to develop without ensuring political stability, reducing uncertainty and improving financial services, telecommunications and health standards. Tourism receipts were estimated at $10–$15 million for 2004, an insignificant figure compared with the $1.8 billion from mineral exports. There were 36,200 tourists in 2004 (excluding arrivals from Brazzaville): 26 per cent of tourists from Europe against 58 per cent from other African countries. No increase in the number of tourists has been noted since then. The number of rooms available on Congolese territory is estimated at 5,829. In the medium term, opportunities in the sector are still based on tourism for business purposes but its development requires a significant upgrading and rehabilitation of the hotel infrastructure. The sector has not undergone significant regulatory reform in recent years. The National Tourism Office, a public body responsible for promoting tourism in the Democratic Republic of the Congo, was created in 1986. There is no independent regulatory agency in the field of tourism. The sector itself can be described as open, since no particular limitation seems to be imposed in this area.

III.2.6. For a country as large as the Democratic Republic of the Congo, transport services and infrastructure play a major role. The transportation network in the Democratic Republic of the Congo mainly consists of 16,238 km of waterways, 5,033 km of track (most of which dates back to the colonial era), 145,000 km of national roads, five international airports (in Kinshasa, Lubumbashi, Kisangani, Goma and Gbadolite) and three international seaports. Unfortunately, their use is hampered by the obsolescence of the infrastructure and the lack of capital. The situation is one of undersupply of transport services, compounded by poor infrastructure and a chronic failure to meet demand. Given the inability of the state to take sole charge of the huge infrastructure needs, the development potential of the sector may be based on liberalization, including at the regional level and through the development of public-private partnerships. The transport sector has no independent regulatory agency. Since 2004 there have been plans to establish a regulatory agency for transportation in the Democratic Republic of the Congo, but the draft bill has not yet been brought before Parliament..

The study on the Democratic Republic of the Congo has highlighted that: (a) infrastructure (e.g. in the areas of energy, telecommunications and transport) is often in poor condition or missing; (b) the supply of services is insufficient to meet domestic demand (e.g. in the construction industry, energy and financial services); and (c) locally produced services struggle to meet international standards (e.g. the tourism sector). Although an effort has been made to improve the legal framework for the services sector, almost all of the texts governing trade in services are outdated and should be reviewed and updated to give the country an efficient regulatory framework. The legal framework should be stable, transparent and consider the requirements of changing national and international trade conditions. The strengthening of human and institutional capacities for the establishment of a coherent services strategy that takes into account trade, development and social considerations should be one of the main objectives of the Congolese Government.

III.3. Lesotho

The backbone of Lesotho's economy remains the mining and textiles industries. The GDP real growth rate in 2006 was 1.2 per cent and rose to 3 per cent in 2007. In 2008 it increased to 4.8 per cent, a significant improvement. The domestic revenue inflow is increasing, mainly due to revenue derived from the mining industry. The country is landlocked and completely surrounded by South Africa. It relies on Southern African Customs Union (SACU) customs duties for a large part of government revenue. The industrial sector is still the biggest employer at 45 per cent, followed by services at 39.7 per cent and agriculture at 15.2 per cent.

III.3.1. Among communication services, postal services related to letters are generally under the administration of the Lesotho Postal Services. Courier services, parcels and other goods are provided by privately owned courier companies, which are often preferred as they are more efficient. It is important to note that the foreign postal courier service cannot be a sole proprietor, as this is only possible for Lesotho nationals. The telecommunications service consists mainly of subsectors: fixed lines (which also provide internet access services) and mobile (which is rapidly expanding). There are currently two mobile network providers in Lesotho: Vodacom and Econet International. There is only one fixed line operator, which continues to enjoy monopoly status even though its monopoly has officially expired. The industry is competitive despite the fact that there are only three networks in the country. The market can be considered saturated taking into account the population of Lesotho and the unemployment rate of 45 per cent.

III.3.2. One of the important factors impacting the construction industry in Lesotho in recent years has been the prioritization and increased spending on the construction and maintenance of roads and industrial infrastructure by the Ministry of Finance and Development Planning. There are currently no restrictions placed on foreign-owned firms that want to engage in construction work in Lesotho. There is competitive tendering for all projects and whilst there is no policy regulating this industry, Basotho-owned companies are given preference for work that is below one million Maloti (approximately $130,000).

III.3.3. The energy sector is highly regulated, even though the law does not provide for the monopoly of transmission, distribution and supply. The electricity industry is dominated by two state-owned entities, namely the Lesotho Electricity Company, which is the monopoly transmitter, distributor and supplier of electricity, and the Lesotho Highlands Development Authority, which is the main generator of electricity through its Muela hydropower station. The generating station is part of the Lesotho Highlands Water Project. The Government of Lesotho recognizes that all sectors depend on energy and lack thereof impacts directly on the economy and foreign investment. The government's commitment to proper regulation of electricity is evidenced by the establishment of the Lesotho Electricity Authority in 2004. A National Rural Electrification Fund to fund rural electrification projects has led an increase of electrification from 8 per cent in 2005 to 11 per cent in 2007.

III.3.4. Lesotho's financial sector has been growing steadily and regulatory frameworks were put in place to ensure the smooth operation of the sector. The Credit Act is being drafted to enable easier access to credit and control of credit to entities. Lesotho, together with other SADC states, has embraced the ambitious task of modernizing its payment and settlement systems with the hope that by 2015 the whole of the SADC will have payment system linkages. The financial sector is regulated by the Financial Institutions Act, which provides for the authorization, supervision and regulation of financial institutions, agents of financial institutions and ancillary financial service providers and for related matters. The requirements for registration and operation as a financial institution are the same for local and foreign entities, except that the minimum local assets for a foreign-owned bank is 10 million Maloti (approximately $1.3 million). A foreign financial institution and a branch must inter alia ensure that the home country and host country supervisory authorities are enabled to adhere to the core principles for effective banking supervision, minimum standards that relate to the supervision of cross-border banking groups and their cross-border establishments, and guidelines and pronouncements issued by the Basel Committee on Banking Supervision. The insurance sector is governed by the Insurance Act, which may not be fully adequate as it does not provide for pension fund administration and annuity guidelines. There is need for further economic and regulatory reform in this sector.

III.3.5. Statistics from 2008 indicate that the tourism industry contributes 6.9 per cent to GDP and this figure is expected to increase to 7 per cent by 2018, which represents very limited growth (0.1 per cent in 10 years). This clearly indicates stagnation of this industry and the need for a robust and proactive approach. The contribution to employment is also expected to increase by 0.1 per cent over that period. The current employment statistic of 21,000 jobs in tourism is expected to increase by only 3,000 jobs by 2018. Export earnings from international visitors and tourism goods are predicted to generate 6.1 per cent of total exports in 2008, growing to 6.9 per cent in

2018. Lesotho is not experiencing a boom in the tourism sector despite the efforts of the Ministry of Tourism to actively promote the industry. There are no policy restrictions relating to operating travel and hospitality businesses. Although the Lesotho Tourism Development Corporation was established in 2002 to promote and develop tourism and related matters, market performance is nonetheless stagnant and needs to be reinvigorated.

III.3.6. In the area of transport, the long-term national objective is to develop a transport sector that is capable of supporting national economic activities and to improve access to isolated areas. Road transport is regulated by Road Transport Act No. 6 of 1981, which regulates the provision of and access to transport. Airport services are provided by the South African Air links owned by South African Airways. The Lesotho Defence Force also provides helicopter rentals for access to different areas in Lesotho, especially the remote highlands. The railway line runs from South Africa and ends at the Maseru Industrial Area. It is used for the import and export of goods.

The above findings point to the fact that the efficiency, viability and sustainability of the services sectors in Lesotho could be improved by the enactment of laws and other regulatory frameworks that are economy-friendly and that adopt a more flexible approach involving all stakeholders in the specific sectors. A constant and short-term review of laws and regulations should seek to ensure a regulatory framework that is supportive of Lesotho's adaptation to changing economic conditions and favours economic growth with a particular emphasis on small and medium-sized enterprises.

III.4. Madagascar

Madagascar embarked on privatization and liberalization reforms in the mid 1990s. While providing 80 per cent of jobs, the agricultural sector (coffee, vanilla, sugar cane, etc.) only contributes approximately 25 per cent of GDP, with services far ahead at 58 per cent of GDP (2008 estimate). GDP growth has been affected in recent months by various political crises.

III.4.1. The location of Madagascar, its insularity and vast size that makes it the fourth largest island in the world all contribute to making the development of its communication sector a necessity. The government's objectives for the communication sector in the period 2007–2012 include: (a) covering all areas with a reliable communications system and expanding access to affordable information and communication technology (ICT) services; (b) improving information to the regions by radio and television; (c) enabling economic operators to communicate across the country; and (d) promoting new infrastructure, both nationally and internationally, through public-private partnerships. The main government actions envisaged include developing the telecommunications infrastructure and the national backbone in particular, setting universal access goals for ICT services, upgrading postal services and improving the regulatory framework to allow for the liberalization of the sector. Related efforts will involve the establishment of a favorable investment climate. The Autorité de régulation des technologies de communication will take over regulatory duties from the Office malgache des études et de régulation des télécommunications and will regulate ICTs as a whole. The telecommunications sector is fast changing with the arrival of ADSL, WiMAX and soon a fibre optic network. This is certainly the sector experiencing the most rapid development with huge investments for each operator. The entry of new players in the market has benefitted consumers. However, a law for consumer protection is needed as the law does not currently punish operators for the abuse of dominant position or dumping prices. Madagascar remains behind in terms of connectivity. There exists a great digital divide between countries in the Indian Ocean and Madagascar in terms of the choice of connections, technology and price. The early establishment of a national backbone network is the top priority for Madagascar to address this digital divide.

III.4.2. To improve the quality of life for its people and to address poverty, Madagascar must focus on the construction sector and more particularly the construction of roads and structures and buildings of multiple uses (industrial, commercial, residential housing, schools, sanitary, etc.). In this context, the national construction policy aims to achieve various objectives such as rehabilitating thousands of kilometres of roads, maintaining all roads, consolidating cities and urban infrastructure development, promoting the smooth operation of these facilities by private companies in order to achieve a maximum rate of economic growth and investment, and boosting the private sector and opening the Malagasy economy through increased competition. The achievement of these objectives will benefit from the support of international financial institutions and many countries through bilateral and multilateral cooperation. Madagascar has opted for privatization and liberalization in all sectors including the construction sector. The current policy allows any company to settle and participate in construction activities on the territory of Madagascar and to provide construction services. The development of the construction sector will require appropriate funding, the contribution of local and foreign companies to the development process, the promotion of public-private partnerships, the strengthening of suppliers' capacities and the revision of the sector's legislative and institutional frameworks.

III.4.3. Overall energy consumption in Madagascar remains very low and is dominated by wood and its derivatives. Moreover, the country imports oil products and the rate of electricity coverage in late 2005 was only about 25 per cent, of which less than 5 per cent in rural areas. Electricity accounts for only 3 per cent of the net supply of energy at the national level, despite an abundance of hydropower. Solar and wind energy remain essentially untapped due to a lack of means to build infrastructure. In addition, the relatively high price of electricity (from the connection to the indoor facilities and consumption) is a handicap to the population's access to energy. For example, the cost of connection is around 100,000 Ariary (approximately $50), or about 1.5 times minimum wage. The objective of the electricity sector is to increase people's access to electricity through a policy focused on the participation of beneficiary communities and the private sector (public-private partnerships) and the development of renewable energy sources including solar, wind and hydropower to reduce dependence on petroleum products. The activities of the electricity sector were liberalized by law in January 1999. The provisions of this act were based on the following principles: (a) the structure of the electricity sector seeks the introduction of competition in the medium and long term by the vertical disintegration of activities (production, transmission and distribution); (b) public service activities are subject to supervision by the Office of Electricity Regulator independently, but the under supervision of the Ministry of Electricity; (c) electricity prices based on producer prices are determined by a competitive process and for transmission and distribution prices are regulated with a ceiling price; and (d) the Agence de développement de l'électrification rurale is working on rural electrification.

III.4.4. As in most low income countries, the financial system in Madagascar is relatively superficial. Institutions to mobilize financial savings are insufficient to properly channel credit. Madagascar's economy is characterized by an influx of small and medium-sized enterprises (SMEs), the majority of which are considered informal. In addition, 80 per cent of the Malagasy population lives in rural areas. For these reasons, it has been virtually cut off from the financial system. However, since 2004, the financial sector is providing more and more room for economic growth through the proliferation of microfinance outreach, with activities to fund the needs of farmers during lean periods, finance equipment and input of farmers (fertilizers, labour, seeds, etc.), and support investments by small and medium rural enterprises. It should be noted both that private banks in Madagascar are all majority foreign capital. Foreign participation in domestic investment is not subject to a restriction on the volume or the percentage of foreign capital in banks. Currently in Madagascar there is no state bank. Foreign participation in banks in Madagascar is mainly French and Mauritian, although Chinese banks are listed as being in the country. The Commission de contrôle des banques et établissements financiers established in 1988 became the Commission de supervision bancaire et financière in 1996. The regulator is institutionally independent, but works with the staff and budget of the Central Bank of Madagascar. The main problems of the financial sector in Madagascar revolve around the lack of local agencies in rural areas, the lack of market information in the financial sector, the lack of enthusiasm by locals to contract non-mandatory insurance, and a low interest rate incentive compared to neighbouring markets.

III.4.5. Madagascar is a country rich in flora and fauna, most of which are indigenous. Being an island, it also has a large coastline and a climate conducive to tourism development. Given the lack of infrastructure and the isolation of a number of tourism-oriented regions, Madagascar has so far recorded a limited number of tourists, about 300,000 per year. The main obstacle is the lack of facilities, which hinders the expansion of other services in the area. The tourism policy aims to support industry growth, while controlling the consequences and developments in the short, medium and long terms. However, generating revenue in foreign currency in the order of 500 million SDRs (Special Drawing Rights), the sector is already one of the main providers of foreign exchange for the Malagasy economy. Currently, the sector can be summarized in eight points, namely: (a) inadequate infrastructure, particularly high-end accommodation; (b) inadequate promotion efforts, including for regional tourism; (c) lack of information and media support for tourism promotion; (d) non-compliance of most state hotels with standards; (e) lack of professionalism; (f) the threat of proliferation of tourist-related scourges such as sex tourism, prostitution and paedophilia; (g) lack of e-tourism operators; and (h) insufficient use of ICTs. Tourism has an important role to play in the fight against poverty, as it creates wealth, including the establishment of facilities and jobs, and contributes to the tax revenue of the state.

III.4.6. Infrastructure and transportation are mentioned in the commitment 2 of the Madagascar Action Plan. The overall objective of the government in this sector is to improve the productivity and efficiency of the transport system while respecting the environment. Trade has grown at the national, regional and communal levels in response to the rehabilitation of buildings and roads. At the regional level, trade-related regulations are designed by the state. The types of investment are generally joint ventures (with foreign companies) with a rate of 50 per cent foreign capital.

Infrastructure no longer responds to the needs of the population and the economy. The hardware is old and polluting. Roads are in poor condition and inadequate, especially in town areas. Parking areas are in very poor condition or virtually non-existent. Drivers lack the required skills and competences. The objectives of the economic reform include reforming the regulatory framework, restructuring and reforming the sector's policy, protecting the environment and improving the economic infrastructure. Regulatory reform has revolved around the implementation of the road authority, the Agence de transport terrestre and the Conseil national des transports terrestres. The Agence de transport is the delegated authority responsible for regulating the subsector of road transport, railways and the introduction of state policy regarding administration and operation of the subsector, while the Conseil national des transports terrestres is the framework for dialogue and consultation between the public and private sectors for the management of the sector.

Certain sectors of Madagascar's services economy offer important opportunities (e.g. the tourism sector has a strong potential for growth). However, much remains to be done in terms of political stability, infrastructure development and regulatory and institution building for the services sectors to contribute to improved quality of life for the population and to poverty eradication.

III.5. Malawi

The growing global market and the attendant technological innovations offer opportunities for Malawi to expand its services and trade in services. In Malawi, services contribute just under 50 per cent of GDP. Growth has been relatively high in construction (5.9 per cent), tourism (5 per cent), financial services (4.7 per cent) and transport (3.4 per cent). The Malawi Development and Growth Strategy has also recognized the importance of services to the contribution of national growth and development and has put services as a priority sector for development.

III.5.1. Communication services, and particularly postal services, are critical to Malawi as a developing country. The sole public postal service provider Malawi Post Corporation provides universal service for the general public interest to which customers are entitled access without discrimination in terms of price, quality and geographical coverage countrywide. Malawi started the liberalization process of the sector in 1998, culminating in the creation of an independent regulator and the separation of the post office from the telecommunications operator. Malawi has about 32 telecommunications services providers of which 29 are internet services providers. There are also two mobile telephone providers, Telekom Networks Malawi (2 per cent foreign ownership) and Celtel (100 per cent foreign ownership), and one fixed line operator. The telecommunications sector contributes about 2.4 per cent to GDP and about 4 per cent of the total large-scale enterprises' income in terms of employment. The sector is liberalized and open to foreign participation. Once allocated, a license can only be sold or disposed of with the consent of the Malawi Communications Regulatory Authority. A separate license must be sought for any new service that was not provided for in an existing license. However, the current regulation is inadequate in terms of providing for the licensing of other services hitherto omitted, such as allowing for the convergence of telecommunications service provision, so that different services can be provided by one operator, facilitating effective migration from digital to analog systems and ensuring general conformity with technological changes.

III.5.2 The construction and related engineering services industry consists of over 960 registered construction firms, all of which are privately owned. Since 1996, the sector is regulated by the National Construction Industry Council, which was established to take over the regulatory functions previously carried out by the Ministry of Works. The council is an independent regulator responsible for the licensing of companies in the industry, among other things. There are no policy restrictions on the entry of new construction firms for either domestic and foreign firms, but foreign construction companies are required to establish locally if they plan to bid for government-funded projects. Foreign construction companies are not required to form joint ventures with domestic companies in order to provide services on the domestic market but are encouraged to subcontract smaller works to local companies.

III.5.3. The energy sector is vital for Malawi's economic growth. Presently only about 7.5 per cent of the population has access to electricity and thus the issue of universal access is an important one. The main instrument for achieving this is the Rural Electrification Programme, which provides 100 per cent capitalization funded by the government and through contributions from the development partners. The electricity sector regulator is the National Electricity Council established in 1998. It is independent from the sector ministry, and relies exclusively on licensing and other fees for financing. Foreign and domestic firms are subject to the same licensing requirements, and licenses grant exclusive periods of 20–50 years from the day of issue (i.e. generation 50 years, transmission 30 years, distribution 20 years). A new energy regulator to be called the Malawi Energy Regulatory Authority is being introduced and will regulate electricity, petroleum, coal and other energy subsectors. Currently there is only one operator in the electricity subsector, the Electricity Supply Commission of Malawi. There are no entry restrictions on any firm, foreign or domestic, in generation and retailing but there are restrictions on transmission. Entry restrictions on transmission exist because there is a natural monopoly and to give time for the incumbent to prepare for competition.

III.5.4 The financial services sector has undergone massive liberalization since the reforms that started in the late 1980s and attracted a lot of foreign participation. Similar developments have been recorded in the insurance subsector. The banking subsector alone employs more that 2,500 people, while between 50 and 100 people are in stockbroking and related businesses. New products such as credit cards, ATM (automatic teller machine) networks and debit cards have been introduced. The Reserve Bank of Malawi is the regulator of the sector and directly regulates banks, insurance companies and the stock exchange. The Reserve Bank is state owned and is financed by the state budget. The major specific regulatory instruments for the sector are the Reserve Bank Act (1965, amended in 1989); the Banking Act (1989) that provides for the regulation and supervision of banks in Malawi by the Reserve Bank of Malawi; the Capital Market Development Act (1991) under which the Malawi Stock Exchange, discount houses and other securities traders and dealers currently operate; the Exchange Control Act (1984) under which exchange control regulations are made; and the Insurance Act (1957, amended in 1998) under which insurance businesses are registered and regulated. Significant progress has been made towards liberalizing the financial sector in Malawi since the early 1990s. In terms of the ownership structure of the 10 commercial banks, one is wholly locally (government) owned (Malawi Savings Bank), two are wholly foreign owned (NedBank and

Indebank), and the rest are partially foreign owned. A significant level of foreign ownership is noticeable in the insurance subsector.

III.5.5. Malawi's transport system is of critical importance to the functioning of Malawi's economic activities as a landlocked country. The transport sector contributes 5 per cent to GDP. Air Malawi, a state-owned company, operates domestic and international air services. About five operators offer non-scheduled and charter domestic and international services. Other airlines providing service to Malawi are South African Airways, Air Zimbabwe, Zambian Airways, Ethiopian Airways and Kenya Airways. The air transport regulator is the Department of Civil Aviation of the Ministry of Transport. The allocation of licenses for commercially established operators providing air transport services is not limited by policy, but the main consideration is that the new entrants pay a license fee that depends on the type of aircraft. There are no policy restrictions to new entry by any firm with foreign participation in international air transport. In domestic air transport, only Malawian registered carriers are allowed. Rail transport has been operated by the government since colonial times. It was concessioned to a private operator (the Central East Africa Railway) in 1999 for 20 years. The operator is the sole provider of rail services and is responsible for the operations and maintenance of the track, with the government being responsible for capital investment. The railway services are regulated by the Ministry of Transport and Public Works. Being a landlocked country, road transport is the most dominant mode of transport due to its intensive coverage countrywide. Currently road infrastructure handles more than 70 per cent of internal freight traffic and 99 per cent of passenger traffic. Additionally, road transport handles more than 90 per cent of international freight and passenger traffic. The sector contributes about 1.4 per cent of the transport sector's 5 per cent contribution to GDP. It employs over 35,000 people. The subsector is regulated by the government's Road Traffic Department. Road transport services are heavily liberalized in Malawi with very limited government controls or interference. There are no policy restrictions to entry for any operator, whether domestic or foreign, in road transport. However cabotage services are restricted and there are restrictions on joint ventures, which require 51 per cent domestic ownership.

III.5.6. The tourism sector has been identified by the government as having the potential to assist in the economic and social development of the country, particularly by creating employment and generating much needed foreign exchange. The sector contributes about 5 per cent to GDP. Being highly labour intensive, it is a major source of employment generation, particularly in remote and rural areas. Currently it employs over 15,000 people of which about 5,000 are in the informal sector. Women account for about 30 per cent of employment in this sector. The sector is dominated by hotels, restaurant services (including catering), travel agencies and tour operator services. The main hotels and resorts are owned by Sunbird Tourism Hotels and Resorts (about 25 per cent of the market share), a government-owned company. Foreign-owned hotels are prevalent. Malawi is a member of the Regional Tourism Organization of Southern Africa, which is seeking among other things to facilitate easy movement of tourists within the region by developing a UNIVISA. The tourism sector is regulated by the Tourism and Hotels Board established in 2004 and the Malawi Gaming Board. Foreign and domestic firms are subject to the same licensing requirements. There are no policy restrictions to new entry by any firm with foreign participation. There are also no policy restrictions on the purchase of cross-border tourism products and on the expenditure and import of currency. However, there are restrictions on the export of currency (Exchange Control Act).

Certain specific features of Malawi (e.g. it is among the world's most densely populated countries, and the country relies on economic assistance from international organizations and individual donor nations) may pose particular difficulties for the country's development. The economy is still dominated by the agricultural sector, which accounts for 38 per cent of GDP, 90 per cent of the labour force, and 90 per cent of export revenues. The development of the services sector would contribute to improving the economy and should remain a priority of the Development and Growth Strategy in the years to come.

III.6. Mozambique[58]

Mozambique's development has been hindered amongst other things by a prolonged civil war that went on until the early 1990s. The country has since focused on post-conflict reconstruction and this has already positively impacted the country (as evidenced by dramatic improvements in the country's GDP growth rate, which reached 7.5 per cent in 2007). Mozambique, however, still remains dependent upon foreign assistance for much of its annual budget. The government continues to play an important role in the services sector with its activities representing up to half of the output in certain subsectors (e.g. electricity and telecommunications). The market structure of most services sectors is to date still monopolistic or oligopolistic.

III.6.1. Communication services are among the key services in Mozambique. However, tele-density remains very low at less than one fixed line per 100 persons, and the subsector is marked by insufficient competition and high operating costs and charges. The fixed line network is mainly stagnant while the mobile/cellular network is growing rapidly. Mobile/cellular coverage now includes all the main cities and key roads.

III.6.2. The construction services industry continues to grow in Mozambique, including due to the rehabilitation and expansion of the road and rail network. This is done with significant donor funding from the World Bank and other organizations. The importance of interlinkages between sectors (e.g. transport and construction) appears clearly as the other transport subsectors figure prominently on government and donor agendas (i.e. rehabilitation of port and airport facilities). Domestic firms provide construction services in general in partnership with South African, Portuguese or Italian companies.[59]

III.6.3. The country is endowed with resources that represent a large potential energy production (i.e. water resources that would allow for hydroelectric power production and natural gas that is exported to South Africa). The energy sector has been identified as a priority sector for investments in the national strategy for poverty alleviation. The electricity market was liberalized in 1997 but Mozambique still lags behind the rest of the region in terms of energy consumption. Less than 3 per cent of

[58] The section is largely based on the following publication: Teodoro Bila, A *et al.* (2007). *Opportunities and Risks of Liberalising Trade in Services in Mozambique.* Geneva, International Centre for Trade and Sustainable Development.
[59] http://maputo.usembassy.gov/marketing_us_products_and_services.html.

the population enjoys access to electricity. An energy fund was established to support energy projects in rural areas.

III.6.4. In the last decade, financial services have been contracting in Mozambique. The banking sector is highly concentrated and comprised of eight commercial banks, all of which are majority foreign owned by Portugal and South Africa. Banks are usually located in the cities and are mainly involved in traditional banking activities. The microfinance industry, which extends lending services to rural areas, has started to grow. The insurance and pension sectors remain small.

III.6.5. Mozambique is endowed with natural resources including beaches, exceptional fauna, flora and wildlife and a climate that provide it with enormous potential for tourism. The sector has attracted major investment and already constitutes one of the country's main exports. The government embarked on a revision of the legal framework (standards, licensing requirements and inspection procedures) in 2000. The Strategic Plan for the Development of Tourism in Mozambique sets priorities (including for investment) and defines products and markets for the period 2004–2013. Institutional development for the sector includes a tourism fund to promote tourism and finance activities and a Tourism Facilitation Commission, an inter-ministerial body that regulates the sector and coordinates the development of tourism with other related sectors (e.g. transport, telecommunications, energy, environment and culture).

III.6.6. Due to its location bordering the Mozambique Channel, the country is a natural transport hub for several of its neighbours (e.g. Malawi, Swaziland, Zambia and Zimbabwe). Mozambique has already acquired some experience in providing transport and logistics services to the region through its rail, roads and ports. A national carrier provides air services and international links are also offered by South Africa Airways and Air Portugal.

Further work is needed on the assessment of the services sector of Mozambique. The information gathered through assessment studies is an important tool for countries to determine if and to what extent reforms and liberalization of services have delivered the promised benefits, in both quantitative and qualitative terms, and to gain a sound understanding of the effects and implications of further reforms and liberalization measures, including in the context of the upcoming SADC negotiations for intraregional services liberalization.

III.7. The United Republic of Tanzania

Like other LDCs in the region, the economy of the United Republic of Tanzania relies heavily on agriculture, which contributes more than 40 per cent of GDP, 85 per cent of exports and employs 80 per cent of the workforce. While the country is relying on increased industrial production and increased output of minerals to develop the economy, the services sector is also undergoing a number of reforms (e.g. reform of the banking subsector) that should contribute to the development of the private sector, increased investment and overall growth.

III.7.1. Within the last 15 years, the United Republic of Tanzania has made remarkable progress in the field of ICT, contributing to service providers' efforts to address unmet demand and competition in newly liberalized markets. The communication sector grew by 6.2 per cent in 2004, compared to 5.0 per cent in 2003. The acceleration in the growth rate was due to an increase in investments in communication services, mainly by the private sector and particularly in mobile phones. The contribution of communications to the GDP remains limited and when combined with transport, the two subsectors accounted for only 5.4 per cent of GDP in 2004. At the national level, the communication subsector is under the purview of the Ministry of Infrastructure (formerly the Ministry of Communication and Transport), which is responsible for the overall policy guidance and strategic development of the sector. Liberalization of the subsector began in 1993 and the policy framework includes the National Telecommunication Policy (1997), which liberalized mobile and value added except for fixed line services until February 2005 (when both fixed and mobile telephone services were fully opened to market competition), and the National Postal Policy (2003), which encourages full commercialization of the public postal operator and the development of a competitive environment for postal and courier services. The policy acknowledges the role of the government in providing a universal postal service. The current ICT policy (2003) emphasizes the need for the development of telecommunication services in rural areas. The objective is to have each village provided with comprehensive telecommunication facilities including telephone, internet, audio-visual and postal services by the year 2020. A fund will be established to facilitate this. Operators would be allowed to bid for the universal access fund to provide such services. The Tanzania Communication Regulatory Authority was established in 2003 and is responsible for regulating the postal and telecommunication sector and for the regulation of audio and visual broadcasting services in the country. Competition arising from the introduction of new operators and service providers in telecommunications has led to the reduction of tariff and service charges. The United Republic of Tanzania's tele-density remains low, with the number of fixed and mobile cellular lines currently standing at 12 telephone lines per 1,000 people and the number of mobile phone subscribers at 81 per 10,000 inhabitants.

III.7.2. The construction industry in the United Republic of Tanzania is one of the key sectors of the economy. It accounts for more than 50 per cent of capital formation, 5 per cent of GDP and 9 per cent of employment. The informal construction sector has a crucial role to play, since it provides approximately 80 per cent of shelter to the rural population and around 50 per cent of the urban population. The majority of enterprises in the construction industry are small and only a few are categorized as medium sized. In the last decade reforms have focused on institutional set-up, financial management and resource availability, and management including the regulatory and legal framework in general. The industry continues to be constrained by numerous factors including, among others, low capacity and capability of local services suppliers, unfavourable terms for local suppliers to participate in various donor-funded projects and low technology together with low productivity and quality. The National Construction Council was established in 1981 to promote the development of the construction industry. Ten years later a Construction Industry Development Strategy was put in place to promote an efficient and effective construction industry. The government continues to support the strengthening of the associations allied to the construction industry. The state of the local construction industry has remained weak and the industry continues to exhibit features that include inadequate capacity, lack of working capital, low participation in work opportunities, dominance of foreign players and poor quality services and products. Though the foreign contractors are few in number, they are engaged mainly in large-scale contracts. It would therefore be important for local companies to consider working with big international construction firms to enable the infant local sector to acquire the knowledge and experience required in the international market.

III.7.3. Energy consumption in the United Republic of Tanzania is dominated by biomass-based fuels, i.e. charcoal and firewood resources. Commercial energy resources (petroleum and electricity) account for only 9.2 per cent of the energy consumption. Today, only about 11 per cent of the country's estimated population of 34 million have access to reliable electricity. Independent power producers have been allowed to enter the market with guaranteed access to the grid since 1999 under long-term contracts on wholesale prices (tariffs). The main operators in the market are: (a) the Tanzania Electric Supply Company Limited, (TANESCO): established in 1957 and 100 per cent owned by the government with 67 per cent of the market: about 70 per cent of the electricity it generates is from hydro sources while the rest is from Requests for Offers (RFO); (b) Songas, established in 2004 to generate electricity from natural gas, has 20/80 per cent domestic/foreign ownership and 22 per cent of the market share; and (c) Independent Power Tanzania Ltd established in 2002 to generate electricity from RFO, with 30/70 per cent local/foreign ownership and 11 per cent of the market. On the ground, there are two suppliers, IPTL and Songas, who generate power and supply to the national grid. Except for Songas, which transports gas from its source at Songo to Dar es Salaam, all power is immediately integrated into the TANESCO grid. Industrial users do not purchase power directly from the generators and/or retailers of their choice, nor are retail customers allowed to do so. The price of power is determined by costs and justified increases have to be approved by the regulator. There has been no entry restriction for foreign and local private firms in power generation and retailing since 1999. There is also no restriction on the method of entry – e.g. joint ventures and/or associations with local firms in the personnel structure. Private investment in the provision of services is not allowed for existing operators and new entrants for generation, transmission and retail, and companies are allowed to service only one segment. The Energy and Water Utilities Regulatory Authority is the regulator established in 2001 as an autonomous agency of the government. It is responsible for the technical and economic regulation of the energy and water sectors in the United Republic of Tanzania. It has been operating independently from the sector ministry since 2005. The regulator is funded from licensing and other fees. Foreign firms are not subject to different licensing requirements from domestic firms in the provision of generation, transmission and retailing of electricity services. Energy generation in the United Republic of Tanzania is not sufficient to meet domestic needs, so the country purchases power from Zambia (8 MW) and Uganda (5 MW). Private and foreign participation in the generation of electricity is being encouraged by the government to bridge the commercial supply gap and save the environment from firewood- and charcoal-induced destruction.

III.7.4. In the financial services sector, there have been no entry restrictions for any bank, domestic or foreign, since 1998. No restrictions are imposed on short-term or long-term capital inflows. However, capital outflows are restricted. Foreign banks can operate in the form of subsidiaries or representative offices, but branch operations are not allowed. According to the Banking and Financial Institutions Act (1991) and related regulations, private ownership for existing and new banks is allowed with a maximum private equity of 20 per cent. Domestic and foreign banks are allowed to hold up to 100 per cent equity in both financial and non-financial firms. The regulating authority is effectively the Bank of Tanzania (the Central Bank), which was established by an act of Parliament in 1966 as a semi-autonomous body under the Ministry of Finance. The regulator is financed by internally generated resources. The Banking and Financial Institutions Act does not subject foreign banks to licensing conditions/requirements different from those applying to domestic banks. However, restrictions have been imposed on the transfer/sale or deposition of licenses. There are 32 banks in the country. Both domestic and foreign companies are permitted to provide direct life insurance, direct non-life insurance, re-insurance and broking. The only binding provision is that participation is not uni-modal – by registering/incorporating the company in the United Republic of Tanzania as per the Companies Act 2002 – and neither subsidiary, branch nor representative office is allowed. Domestic residents have access to cross-border services from foreign insurance companies. The services are mainly life insurance, medical insurance, property insurance, re-insurance and broking. The insurance sector is regulated by the Insurance Supervisory Department of the Ministry of Finance. Established in 1997, the department is vested with semi-autonomous status as it is funded mainly from license fees (0.81 per cent), premium levy (89.99 per cent), fines and penalties (1.73 per cent), motor stickers (3.59 per cent) and other sources (2.25 per cent). There are restrictions: firms are not allowed to sell or dispose of licenses. However, management and/or shareholders can be changed. Foreign companies must be incorporated in the United Republic of Tanzania and local branches do not need separate licenses, although heads of branches so established must be qualified insurance professionals approved by the Commissioner of Insurance. There are five leading insurance companies in the country.

III.7.5. Between the 1960s and 1980s the United Republic of Tanzania's tourism sector was dominated by inefficient parastatals and the role of the private sector was quite minimal. The result was the under-utilization of the sector's potential and poor performance in terms of small contribution to GDP, employment opportunities and foreign exchange earnings. Reforms implemented since the mid 1980s have led to an increased role of the private sector. Tourism now is a fast-growing service sector whose contribution to the economy has been gaining significance in recent years. Tourism earnings are about 40 per cent of the country's total export earnings of goods and services, contributing about 16 per cent of the GDP. Measures to improve efficiency and competitiveness include providing incentives to both domestic and foreign investors, privatizing major hotels and drafting the new Tourism Act and related regulations. Some regulations in place provide for preferential treatment for local as opposed to foreign service suppliers. Tourism receipts increased from $259.44 million in 1995 to $746.02 million in 2004. Tourist arrivals increased from 295,312 in 1995 to 582,807 in 2004. With an average growth rate of 20 per cent, this figure is expected to reach the target of one million tourists by the year 2010. It is also projected to increase foreign exchange receipts to around $2.5 billion by 2010. The Tourism Confederation of Tanzania has been established as an umbrella body for private sector associations. It will constitute the focal point for dialogue between the government and the private sector. The tourism sector has also made commendable efforts in human resource development. The public-owned Vocational Education and Training Authority has been involved through its several centres in tourism training for entry-level employees. There are also a number of publicly funded training facilities in the United Republic of Tanzania that have a direct or indirect impact on the tourism sector. The introduction of quality assurance and control through facility grading and classification schemes has already started and will initially begin in number of hotels in the more promising regions. In spite of its natural tourist endowments, the United Republic of Tanzania continues to face the following challenges: (a) inadequate air access from the major source markets of America, Europe and Asia; (b) a lack of developed infrastructure to attract investment and operations in other parts of the country with tourism potential; (c) its beach potential has hardly been utilized due to a lack of quality facilities; and (d) quality assurance and control need to be introduced through facility grading and classification schemes. Perhaps more importantly for poverty reduction efforts, tourism has the potential to channel investment directly to the rural communities where poverty is concentrated. This can be done through community-based tourism, which consists of tourism activities carried out on community lands in partnership with local people. Locally controlled community-based tourism activities are essential to link macroeconomic growth and investment in the tourism industry with rural economic opportunities and microlevel diversification.

III.7.6. The Ministry of Infrastructure Development is responsible for the development of the transport sector. Its mission is to develop safe, reliable, effective and fully integrated infrastructure and operations. The objectives of the National Transport Policy of 2003 are the enhancement of institutional reforms that have been going on in all aspects of the transport sector. The subsector configurations of the transport sector pose significant challenges to policy formation, regulation and implementation as several government entities are involved, including, e.g. the Ministry of Infrastructure Development in road transport licensing, the Ministry of Finance for motor vehicle registration and road toll setting and collections, and the Vice President's office on issues of environment policy and regulation. In maritime transport services, the government continues to retain the role of ownership and development of the key strategic transport infrastructure. The government has decided to disengage from operational activities in favour of private sector participation and competition and to clearly separate, streamline and consolidate the policymaking process from those of regulators and operators. There are four major seaports in the United Republic of Tanzania. The supply of maritime services is predominantly carried out by foreign operators. A lot of business opportunities prevail in railway transport in terms of available capacity and its utilization. The Tanzanian railway network covers a total length of 3,676 km with 2,706 km being operated by the Tanzania Railways Corporation and 970 km by TAZARA inside the United Republic of Tanzania. Together the two networks serve 14 of the 21 regions in the mainland of the United Republic of Tanzania. Railway operations are under the ministry currently responsible for transport, the Ministry of Infrastructure Development. Arrangements to privatize the railway service are underway along with other reforms, but buyers of railway business have been difficult to come by. For the time being, the operations of the Tanzania Railways assets have been concessioned during 2007 and the process is still in progress for TAZARA. The road system in the United Republic of Tanzania covers about 85,000 km out of which only 5 per cent are paved. In support of the National Transport Policy, a transport sector development programme was elaborated, setting a target of a 12 per cent per annum sector growth rate of over the next 10 years, starting in 2006. The government has to redouble its efforts to attract greater involvement of all stakeholders in the transport sector. The United Republic of Tanzania is a transit route to many landlocked areas of central Africa. It is estimated that about 20 per cent of regional cross-border trade uses transit routes in the United Republic of Tanzania. Growth in the neighbouring landlocked countries will also raise demand for transit transport services. Private sector participation is required in the development of infrastructure facilities on a "build operate and transfer" (BOT) system and the provision of services by using already existing infrastructure. The aviation industry is regulated by the Tanzania Civil Aviation Authority. The government reaffirmed its commitment to withdraw from commercial operations to make room for increased private sector participation and competition in the provision of services in the aviation industry and to spend more of its resources on policymaking, strategic planning and regulating and controlling activities in the sector. A number of airport ground handling services are among those expressly available for private sector participation. There are no policy restrictions to new entry for commercially established operators for any firm with foreign participation. The dominant airlines in the domestic market are Air Tanzania Corporation since 1977 and Precision Air.

The present concern facing the United Republic of Tanzania is how best to promote and develop the services sector so as to meet local demand and the needs of the reviewed services, particularly in a context where the many key ingredients are still lacking or have to be sourced from abroad, including human skills, financial resources and information-intensive technology and equipments.

III.8. Zambia

Zambia was long dependent on copper production for employment, foreign exchange and revenue generation to boost other economic activities. For many decades, copper mining accounted for over 90 per cent of foreign exchange earnings and more than 10 per cent of total wage employment. The sector continues to account for the largest contribution to GDP. In the early 1980s, the Zambian Government created measures to diversify the economy by promoting other economic activities, including services. In Zambia, services make a large direct contribution to national income, thus the performance of this sector is vital for economic growth and poverty reduction. Currently, services account for nearly 64 per cent of Zambia's GDP. In addition to this, services make a powerful contribution through their impact on the performance of other sectors and the productive potential of Zambians.

III.8.1. In the area of communication services, postal services are still a preserve of the Zambia Postal Services. Courier services have seen some investment under franchise holdings like DHL and FedEx, with both private and public companies participating in the subsector. Universal access to postal services has been was taken by the incumbent. The policies surrounding telecommunications service have been conducive enough to enable participation by both foreign and domestic entrepreneurs. The mobile sector has performed very well and has facilitated the participation of small and medium entrepreneurs, thus creating employment. There has been an increase in the number of small businesses engaged not only in the provision of telephone and internet services but also in the actual sale of telephones. The incumbent is the sole provider of voice services in international circuits. This has made tariffs for international calls relatively high. The other challenge has been with regard to backbone infrastructure development. Universal access policies have been put in place by the regulator, funded from the operating fees paid by operators, although a full universal access policy has yet to be achieved. The major reforms for the sector took place in 1994: the public company was split into two autonomous entities, namely the Zambia Postal Services Corporation (an autonomous entity wholly owned by the government) and Zambia Telecommunications Company Limited (a limited liability company, with the government as sole shareholder). The Communications Authority of Zambia was established as the regulator for the sector, and the first internet services were introduced by Zamnet.[60] Other communication services in the sector are still regulated by government ministries. There is a need for the ministry to have and to strengthen the technical capacity to enforce regulations in the sector on the one hand and on the other hand to develop implementation strategies and monitoring and evaluation instruments to ensure the development of the sector. Monopoly profits originating in the international segment allow the incumbent operator to cross-subsidize local calls and fixed line subscriptions that are offered below cost. The cost of a residential connection and monthly residential tariff for a fixed telephone is among the lowest in SADC countries, indicating that full competition has not yet been achieved.

III.8.2. The construction industry is currently the biggest growth sector in the economy, with an average growth rate of 17.5 per cent per year for the last seven years.[61] The privatization of the former state/party-owned construction companies in the early 1990s has meant that no single construction company dominates the market. The Zambian construction industry is governed through a number of professional bodies and trade associations, including other statutory bodies. Several acts prescribe the minimum academic qualifications, practical experience and other prerequisites for anyone intending to practice or call themselves architect, surveyor or engineer. These instruments stipulate the various requirements that are necessary to operate any category or grade of contracting in Zambia. Zambia fully embraced economic liberalization in the early 1990s, leading to the collapse of local Zambian companies and concomitant massive job losses. This resulted in a policy rethink by the New Deal Government in 2001. The New Deal Government has slowed the liberalization process, and the Zambian Government has now committed itself to the Fifth National Development Plan (FNDP) and Vision 2030, in which it has planned to construct more socio-economic infrastructure.[62] Despite preference clauses in its construction bidding documents, local contractors are still far from taking control of the market from foreign construction firms as they face serious financial and operation problems, coupled with plant and machinery inadequacies as well as a lack of management and technical competencies. The Zambian contracting subsector has and continues to be dominated by foreign contractors mainly from South Africa and China.

III.8.3. As concerns the energy sector, except for petroleum, which is wholly imported, Zambia is endowed with many types of energy resources including wood fuel, hydropower, coal and renewable energy sources. Hydroelectric power is the second most important indigenous energy source after wood fuel. Hydropower potential is estimated at 6,000 MW while the installed capacity is 1,786 MW. In line

[60] The government has enacted the Competition and Fair Trading Act of 1994, which resulted in the establishment of the Zambia Competition Commission to ensure competition practices.
[61] This is mainly attributed to the 10-year Road Sector Investment Programme, an investment programme costing a total of $1.6 billion, i.e. $160 million in yearly expenditure on Zambia's road network.
[62] Under the Highly Indebted Poor Countries Initiative (HIPC) almost all of Zambia's foreign debt –amounting to about $7.3 billion – has been written off. The attainment of HIPC means that the government now has more resources at its disposal to carry out socio-economic activities in the local economy.

with Vision 2030, the government plans to increase access to electricity from 48 per cent to 90 per cent in urban areas and from 3.1 per cent to 60 per cent in rural areas. Zambia's energy sector has been liberalized and is regulated by an agency called the Energy Regulation Board, which regulates the provision of energy services to consumers. Zambia, through the Southern African Power Pool (SAPP) is interlinked with its neighbours such that it can export and import power in case of a crisis.[63] The availability and quality of electricity supply vary greatly between the urban and rural areas. Moreover, private investors do not have an interest in investing in distribution and supply because there are many technical and non-technical problems in generation and transmission. There have not been sufficient financial returns to attract private investors. One of the main obstacles has been the low tariffs charged on electricity. At the same time there have not been sufficient public sector resources to invest in electricity projects. In addition, the current tariffs in Zambia cannot support the existing and planned investments.

III.8.4. The financial services sector in Zambia has so far provided services mainly to a limited number of individuals in the economy. While the banking system has not yet succeeded in attracting most of the rural poor, it does however contribute to the channelling of funds to low-income groups though microfinance institutions. The contribution to the GDP by the banking subsector is 33 per cent in the last three years, whereas the non-bank component contributed about 8 per cent on average. The banking sector alone employs close to 5,000 individuals, whereas the non-banking component employs approximately 1,000 individuals. This is about 2.5 per cent of individuals in formal employment in Zambia. The insurance subsector, in terms of contribution to the GDP year on year, has averaged 1.5 per cent. The industry employs up to 2,000 employees, both local and foreign. The securities subsector is another conduit for amassing financing in the economy for the development of various sectors. As at the end of December 2005, there were 13 listed and 12 quoted companies on the Lusaka Stock Exchange. Market capitalization as a percentage of GDP stood at 28.65 per cent. This has been regarded as an area for the elite. The Government of Zambia established the Financial Sector Development Plan in June 2004 to harmonize the operations of the financial services sector by streamlining and rationalizing operations and laws that are common to the subsectors. Other reforms include the establishment of the Credit Reference Bureau as a credit rating agency whenever credit facilities have to be extended to individuals wanting to access credit in the sector. Reforms were driven inter alia by the need to encourage external and internal direct investment by introducing favourable incentives to both foreign and local investors and with the growth of the informal business sector, to expand the financial services sector to be able to respond to the predicted increase in the usage of the banking sector by business individuals. There are three independent regulators supervising the sector: the Bank of Zambia, the Securities and Exchange Commission and the Pensions and Insurance Authority. The main regulatory objectives for the sector in general include: (a) ensuring a level playing field for all players in the sector through laws that do not discriminate

[63] The pool was established on 8 December 1995 as an Inter-utility Memorandum of Understanding with the objective of providing reliable and economic electric supply to the customers of each of the SAPP members consistent with a reasonable utilization of natural resources and effect on the environment. Among the benefits that were expected were reductions in required generating capacity, reduction in fuel costs and improved use of hydroelectric energy. Zambia's exportation of power into SAPP depends on the available capacity during peak hours.

between players (i.e. whether foreign or local); (b) ensuring that only registered companies operate in the market; (c) encouraging increased direct investment; (d) encouraging the transfer of technology and innovations by allowing a limited number foreign professionals or skilled labour force to work in the country; (e) encouraging a free market; (f) protecting consumers; and (g) ensuring prudential conduct of business. The sector faces a number of challenges including high taxation and a lack of tax incentives to jump-start growth in the sector and to attract direct investment, both local and foreign. There have been nine bank failures in the last 10 years mainly due to entry by investors who took advantage of low minimum capital requirements at the time. The immediate impact of this was a loss of confidence in the banking system.

III.8.5. Zambia is a large country with a low population density, offering a unique potential for tourism, especially for those seeking wilderness experiences. However, the large size of the country creates challenges in providing infrastructure. The government's long-term vision for the tourism sector is "to ensure that Zambia becomes a major tourist destination of choice with unique features, which contributes to sustainable economic growth and poverty reduction". Investment in Zambia's tourism sector focuses on a few main subsectors and a few areas including accommodation and restaurants, safari hunting and casinos. Tourism ranks as the second economic sector in the priority rating of government sectors after agriculture. The exact contribution of the tourism sector to GDP is not known but is generally believed to be about 5 per cent of GDP. Currently the largest proportion of investment in the tourism sector is foreign (United Kingdom, United States, Europe and South Africa). The main economic reforms that are being implemented in the sector relate to general aspects of economic development and these include liberalization, privatization and initialization and the restructuring of the Ministry of Tourism, Environment and Natural Resources in 2003. New legislation aims among other things to streamline licensing procedures and reduce the cost of doing business in the tourism sector as a whole. The Tourism Policy of 1997 is also a major driver of the reform process, which saw the withdrawal of the state from actually doing business through parastatals. The main regulators for the sector are the Ministry of Tourism, Environment and Natural Resources through the Department of Tourism, the Zambia Wildlife Authority, the National Heritage Conservation Commission, the Environmental Council of Zambia and the Forestry Department (semi-autonomous agencies of the ministry). An average annual growth of 8.6 per cent in international tourist arrivals was recorded over the 1998–2002 period. The average number of visitors coming into the country annually was 454,345 in those five years, with business visitors accounting for about 45 per cent and those coming for holidays for 26.3 per cent of the total. The tourism sector has continued to face a number of challenges over the years, including that: (a) the tourism infrastructure in Zambia is largely underdeveloped, particularly roads, railways, airports and airstrips, telecommunications and accommodation facilities; (b) there is a limited product base (most tourism products continue to be wildlife-based); (c) there is inadequate marketing of Zambia as a tourist destination; and (d) there are inadequate resources for the industry's long-term development.

III.8.6. In Zambia the transport and communications sector has experienced steady growth over the past three years, registering 4.8 per cent in 2003, 6.4 per cent in 2004 and 8.5 per cent in 2005. In terms of contribution to GDP, the sector contributed 4.3 per cent in 2005 if communications are included and 2.7 per cent if the communications subsector is excluded. About 61.2 per cent of goods are transported by road followed by railways and air, which account for 27.6 per cent and 11.1 per cent of the country's bulk cargo respectively. Only 1 per cent of Zambia's cargo is carried by inland transport water. Following the liberalization of road transport services, the subsector is wholly run by the private sector and employs some 8,000 workers in mainly informal jobs. The air transport sector employs about 2,500 workers while the water sector about 200. The two rail systems Railway Systems of Zambia and TAZARA employ 1,950. SMEs play a very critical role in the transport sector, especially in the road and water transport sector where barriers to entry are low. The most obvious benefits of such liberalization for Zambia as a landlocked country would be the availability of affordable services within the country and the facilitation of other sectors like tourism and distribution mentioned above, but also the manufacturing and commercial sectors as a whole. Regional economic communities such as the Common Market for Eastern and Southern Africa (COMESA) are putting in place measures aimed at improving the movement of transit and cross-border traffic by facilitating the harmonization of legal, regulatory and administrative procedures so as to reduce delays and hence lower the costs of conducting trade. The Ministry of Communications and Transport is responsible for overall policy formulation and the monitoring of the transport sector. The overriding factor for the transport policy that was approved in 2002 by the Zambian Government was the determination of a level of sustainable investment and distribution of investment between competing transport modes by promoting fair pricing and the creation of infrastructure for the services offered, while developing appropriate infrastructure and regulation of the industry. The overall objective for reforms in the sector was to reduce the government's involvement in the running of business, and increase that of the private sector. Therefore, the Zambian Government is currently focusing on reviewing the various pieces of legislation relating to the transport sector in order to develop a supportive and investor-friendly regulatory framework. There are practically no barriers to entry in the sector but economies of scale in investment do play a critical role in the start-up costs for the various sectors. Investment in road and water transport is relatively low. One cannot say the same about air and rail transport where huge outlays of resources are required to build airports and railway lines, and purchase aircraft or rail locomotives and wagons. The road transport sector has completely been opened up to the point that it is threatened with saturation in urban areas. Rural areas are still underserved. The air transport sector has also registered considerable growth over past 10 years since the demise of Zambia Airways, which was the national airline. From a mere four airlines in 1994, there are now 14 airlines flying the Zambian skies on a scheduled basis and three on a non-scheduled basis. However, 90 per cent of these airlines are foreign airlines or foreign registered.

Liberalization of services in Zambia should be pursued selectively and cautiously in the sectors in areas where Zambia stands to benefit. The government needs to participate fully and actively in regional organizations such as COMESA and SADC using that as a basis for engaging with third parties, including at the multilateral level. Of the six sectors covered in this study, Zambia has made commitments under the General Agreement on Trade in Service (GATS) only in the construction and tourism sectors. The level of commitments in these sectors leaves very little room for further liberalization. The precise level and depth of the commitment would need to have a stakeholder buy-in, therefore thorough consultation and assessment will be necessary. Regulators' enforcement capacity and regulatory independence also needs to be improved. Regulators should have the power to issue and enforce regulations without requiring the approval of the line ministries and without the intervention of any of the operators. In addition, there is a need to strengthen the skill base in the regulatory agencies to allow adequate monitoring and enforcement of the sector regulations.

IV. Conclusions

While international trade theory literature often suggests that multilateral liberalization maximizes economic benefits, research has shown that regional cooperation among developing countries has the potential to support national development strategies. It is also important to take into account the positive political economy aspects of regionalism, which can include the provision of regional public goods, a reconfiguration of policy space, preferential rule-making and special financing facilities.[64]

Regional cooperation may however also be accompanied by political challenges (e.g. the unequal influence of members, and in particular the ability of stronger members to bypass collective agreements). Here too, the smaller and LDC countries in the SADC region would certainly benefit from the alliances that they can form among countries with similar interests and constraints within the SADC context, as opposed to negotiating bilaterally with the dominant countries of the region. Members can deal with this asymmetry between SADC member states through coordinated policies and common tools, such as structural funds aimed at reducing economic and social disparities.[65] The other countries of the region also stand to gain from the greater participation of the LDCs in regional trade as these countries contribute to the creation of economies of scale and they contribute in other ways than economically (e.g. contributing to socio-political and security goals).

When compared to other regions, Africa has a relatively small weight of intraregional trade (due mainly key impediments to trade such as poor infrastructure – both soft and physical – which increases transport costs substantially, in turn reducing the competitiveness of the traded goods). In the case of trade in services, specific infrastructure such as telecommunications, finance, logistics or professional services but also adequate investments policies and trade-supportive regulations are needed for the development of intraregional trade.[66] Trade agreements per se are not sufficient to promote increased trade among the parties. Many other factors related to the supply and demand structure of members' economies play a crucial role.[67] For the integration process to produce the desired results and to be viable, legitimacy and trust are crucial. Common regional policies and institutions may be needed to ensure that greater income divergence does not occur, thereby triggering some negative reactions on the part of disadvantaged members. Proactive regional economic policies should be developed to foster structural change and increase the

[64] UNCTAD (2007). Trade and Development Report 2007: Regional Cooperation for Development. United Nations publication. New York and Geneva.
[65] Ibid.
[66] UNCTAD (2009). Strengthening Regional Economic Integration for Africa's Development: Economic Development in Africa Report 2009. United Nations publication. New York and Geneva.
[67] UNCTAD (2007).

productive capacities of the less developed members.[68] It is, however, important for regional integration to proceed in a pragmatic and incremental fashion and where progress is beyond the regulatory and institutional capacities of the LDCs, two or more countries (among the more advanced in the region) should be allowed to move forward with whatever opportunities arise.

The assessment studies undertaken as part of the project of support to SADC regional integration was a first step in understanding the particular difficulties and constraints but also the unique opportunities for LDCs in the regional integration process relating to the services sector and trade in services. It would be important for more research to be undertaken on this issue, including on capacity-building needs in terms of services supply capacity, but also regulatory and institutional needs, so that specific policies and cooperative mechanisms (including in the upcoming negotiations to liberalization intraregional services trade) can be put in place that take into account SADC LDCs' local country contexts of economic and social development, and regulatory, institutional and human resource capacity.

[68] UNCTAD (2007).