TEXTBOOK ON

Trade Policy and Development

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Preface

1 Introduction to the Textbook on Trade Policy and Development

This textbook on trade policy and development covers a wide range of topics. It stretches from more generic aspects such as contemporary trade, trade theory, practices and challenges as well as links between trade, development and sustainability, to more specific topics such as trade facilitation, technical barriers to trade and intellectual property rights. It also covers a range of trade-related working methods and processes such as good regulatory practice and regulatory impact assessment as well as trade negotiations – just to name a few.

The book aims at giving a broad overview on a broad spectrum of trade policy topics, rather than giving an in depth knowledge on each specific one. It provides a solid foundation in the field, thus enabling universities to introduce students to trade policy and development and to provoke further learning in the field.

Compared to most academic books on international trade, this book distinguishes itself by including the perspective of practitioners, thereby complementing and enriching the traditional and more theoretical concepts covered in most academic course literature on international trade. It provides the reader with insights into aspects dealt with on a daily basis by politicians and trade professionals working with international trade and trade policy related issues at ministries, government agencies, chambers of commerce and international organisations around the world.

Prior to the launch of the textbook, a rigorous peer review process was applied to the texts, where both other authors but mainly trade policy experts at the National Board of Trade Sweden (the Board) have been involved in reviewing, providing feedback as well as checking quality and consistency of each chapter in the book.

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1.1 Background

The development of this book has its genesis in the collaboration between the National Board of Trade Sweden on the one hand, and Enhanced Integrated Framework, Ministry of Commerce, Trade and Industry (EIF/MCTI) on the other, supporting University of Zambia (UNZA) in introduction of the Trade Policy and Development Course in their curriculum in 2014. The collaboration was further extended to Mulungushi University (MU) and Copperbelt University (CBU) in 2017 when the two institutions introduced corresponding courses. The Board has supported the three universities in their effort of structuring and delivering trade policy and development courses. Over the period of several years, the Board has conducted guest and joint lectures at the three universities as well as trained the authors of this volume on various trade policy subjects and pedagogical approaches. Through this collaboration, the idea of developing teaching material for the trade policy and development courses at all three universities came up, which resulted in this extensive volume. One of the key motivations for this was the fact that there is no stand-alone textbook for Trade Policy and Development easily available to students in Zambia.

The primary objective with this volume is thus to provide Zambian public universities with material for teaching trade policy and development at undergraduate and graduate level. The book follows the profile of modern and broad trade policy courses and was written between 2018-2020.

While the book has a special focus on Zambia, the majority of its content can easily be applied to any other context and country since the majority of topics, aspects and challenges covered remain the same throughout the rest of the world.

1.2 Acknowledgements

A number of institutions and authors have contributed to developing this book. It has truly been a joint effort by all to complete this volume.

The main authors of the book are affiliated to the three public universities in Zambia (CBU, MU and UNZA) and the Ministry of Commerce Trade and Industry in Zambia. All institutions have contributed to the development of the book by assigning the authors to work on their respective chapters and by supporting their participation in key writing-workshops. Nonetheless, writing the book has to a very large degree been a commitment at an individual level by each author.

The National Board of Trade is the Swedish government agency for international trade, the EU internal market and trade policy. The Board has been the main facilitator of developing the book by organising a range of meetings and writing-workshops to work on the book together with the authors. The Board has also delivered overall guidance on the book, developed a detailed outline as well as

reviewed, edited and provided a lay out of the book. The Board's contributions to developing the book was mainly lead by Karolina Zurek and Julian Sievers. However, a large number of trade policy experts at the Board have been involved in reviewing, providing feedback as well as checking quality and consistency of each topic in the book.

The Enhanced Integrated Framework (EIF) at the Ministry of Commerce, Trade and Industry in Zambia has also been instrumental in facilitating the development of the book. It has contributed by organizing and facilitating a number of key writing-workshops and meetings together with the authors and the Board.

1.3 Disclaimer

The Board would like to note that the views expressed in this book are those of the authors and do not necessarily represent the views of the Board. The Board accepts no ownership of the material nor does it accept responsibility for any claims that may arise in connection to the material.

1.4 How to quote the textbook

If you wish to quote this textbook, please use: *Kabala, E., Kalenga, W. C. and Mulenga, J. et al (2020), Textbook on Trade Policy and Development. Copperbelt University, Mulungushi University and University of Zambia. Stockholm and Lusaka*. https://www.enhancedif.org/en/system/files/uploads/textbook-on-trade-policy-and-development-july2020-ver1.pdf

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3 Table of Abbreviations

7NDP	Seventh National Development Plan in Zambia
AAAA	Addis Ababa Action Agenda
ACP	African, Caribbean and Pacific Group of States
ACWL	Advisory Centre on WTO Law
ADA	WTO Anti-Dumping Agreement
ADBI	Asian Development Bank Institute
ADC	Anti-Dumping and Countervailing (Measures)
ADR	American Depository Receipt
AEO	Authorised Economic Operator
AFSEC	African Electro-technical Standardization Commission
AfCFTA	African Continental Free Trade Area
AGOA	African Growth and Opportunity Act
AMS	Aggregate Measurement of Support
AMU	Arab Maghreb Union
ANZCERTA	Australia-New Zealand Closer Economic Relations Trade Agreement
AoA	Agreement on Agriculture
ARSO	African Organization for Standardization
ASCM	WTO Agreement on Subsidies and Countervailing Measures
ASEAN	Association of Southeast Asian Nations
ASG	WTO Agreement on Safeguards
BATNA	Best Alternative to a Negotiated Agreement
BDC	Designated Beneficiary Country
BEC	Broad Economic Categories
BIT	Bilateral Investment Treaties
BoP	Balance of Payment
BOZ	Bank of Zambia
BRICS	Brazil, Russia, India, China and South Africa
BRRA	Business Regulatory Review Agency in Zambia
CAADP	Comprehensive Africa Agriculture Development Programme
CAF	COMESA Adjustment Facility
CAP	Quality Assessment Procedures
CARIFORUM	The Caribbean Forum
CBERA	Caribbean Basin Economic Recovery Act

CBTPA	Caribbean Trade Partnership Act
CBU	Copperbelt University
CCPC	Competition and Consumer Protection Commission
CCS	Carbon Capture and Storage
CD	Certificates of Deposits
CEDAW	UN Convention on the Elimination of All Forms of Discrimination Against Women
CEMAC	Economic and Monetary Community of Central Africa
CEN-SAD	Community of Sahel - Saharan States
CEPGL	Economic Community of the Great Lakes Countries
CET	Common External Tariff
CFA	Communauté Financière d'Afrique
CGIAR	Consultative Group for International Agricultural Research
CIF	Cost, insurance and freight
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CO	Certificate of Origin
COMESA	Common Market for Eastern and Southern Africa
CRBS	Community Resource Boards in Zambia
CSO	Central Statistical Office in Zambia
CSR	Corporate Social Responsibility
CTC	Change of Tariff Classification
CTPD	Center for Trade Policy and Development
CTS	Consolidated Tariff Schedule Data Base
CU	Customs Union
CUSFTA	Canada-United States Free Trade Agreement
DDA	Doha Development Agenda
DEC	Drug Enforcement Commission
DFQF	Duty-free and Quota-free
DNEIs	Diseases of National Economic Importance
DQMS	Domestic Quality Monitoring System
DRC	Democratic Republic of Congo
DSB	Dispute Settlement Body
DSM	Dispute Settlement Mechanism
EAC	East African Community
EAHC	East African High Commission
EBA	Everything But Arms

EBRD	European Bank for Reconstruction and Development
EBZ	Export Board of Zambia
ECA	Economic Commission for Africa
ECCAS	Economic Community of Central Africa States
ECI	Economic Complexity Index
ECOWAS	Economic Community of West African States
ECT	Electronic Communication Transactions
EDF	European Development Fund
EIF	Enhanced Integrated Framework
EPA	Economic Partnership Agreement
EPZ	Export processing zones
ESA	South-East Africa
ETLS	Economic Trade Liberalisation Scheme
EU	European Union
EVI	Economic Vulnerability Index
FAO	Food and Agriculture Organisation of the United Nations
FBZ	Finance Bank Zambia
FDI	Foreign Direct Investment
FISP	Farmer's Input Support Programme
FOB	Free On Board
FOCAC	Forum on China Africa Cooperation
FRA	Food Reserve Agency
FTA	Free Trade Agreements
G20	Group of Twenty
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCI	Global Competitive Index
GDP	Gross Domestic Product
GEF	Global Environment Facility
GMO	Genetically Modified Organisms
GMP	Good Manufacturing Practice
GNI	Gross National Income
GRP	Good Regulatory Practice
GRZ	Government of the Republic of Zambia
GSP	Generalized System of Preferences
GVC	Global Value Chains

HAI	Human Asset Index
HDI	Human Development Index
HIPC	Heavily indebted poor country
HIV/AIDS	Human immunodeficiency virus infection and acquired immune deficiency syndrome
H-O	Heckscher–Ohlin (theory)
HOPE	Haitian Opportunity through Partnership Encouragement
HS	Harmonised System
IAPRI	Indaba Agricultural Policy Research Institute
ICT	Information and Communication Technology
ICTSD	International Centre for Trade and Sustainable Development
ICSID	International Centre for Settlement of Investment Disputes
IDB	Integrated Data Base
IDLO	International Law Development Organisation
IEC	International Electro-technical Organization
IFC	International Finance Cooperation
IGAD	Intergovernmental Authority on Development
I-HDI	Inequality Adjusted HDI
IIA	International Investment Agreement
IISD	International Institute for Sustainable Development
ILO	International Labour Organisation
IMF	International Monetary Fund
IPA	Investment Promotion Agreement
IPBES	Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services
IPCC	Intergovernmental Panel on Climate Change
IPFSD	Investment Policy Framework for Sustainable Development
IPPA	Investment Promotion and Protection Agreements
IPPC	International Plant Protection Convention
IPRs	Intellectual Property Rights
IQMS	Import Quality Monitoring System
IRC	International regulatory cooperation
ISDS	Investor-State Dispute Settlement
ISO	International Standards Organization
IT	Information Technology
ITC	International Trade Centre
ITO	International Trade Organisation

JICA	Japanese International Cooperation Agency
JWPTE	Joint Working Party for Trade and Environment
KPIs	Key Performance Indicators
LDBDC	Least Developed Beneficiary Developing Countries
LDC	Least Developed Country
LDCT	Least developed Countries' Tariff Programme
LPG	Liquefied Petroleum Gas
LPI	Logistics Performance Index
M&A	Merger and Acquisitions
MBIE	Ministry of Business Innovation & Employment of New Zealand
MCTI	Ministry of Commerce Trade and Industry
MDGs	Millennium Development Goals
MEAs	Multilateral Environmental Agreements
MFEZ	Multi Facility Economic Zone
MFN	Most Favoured Nation
MNEs	Multinational Enterprises
MoU	Memorandum of Understanding
MRA	Mutual Recognition Agreements
MRU	Mano River Union
MS	Member States
MSD	Mine Safety Department in Zambia
MSMEs	Micro, Small & Medium Enterprises
MTS	Multilateral Trading System
MU	Mulungushi University
NAFTA	North American Free Trade Agreement
NAP	National Action Plan (for UN Guiding Principles)
NBT	National Board of Trade
NDP	National Development Plan in Zambia
NEST	National Exports Strategy
NPPO	National Plant Protection Organization
NRC	National Registration Card
NT	National Treatment
NTBs	Non-Tariff Barriers
NTEs	Non-Traditional Exports
NTFC	National Trade Facilitation Committee
NTM	Non-tariff measures

NTP	National Trade Policy of Zambia
NWGT	National Working Group on Trade in Zambia
OAU	Organisation of African Unity
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OIE	World Organisation for Animal Health
OSSIS	One-Stop Shop Integrated System
PACRA	Patents and Companies Registration Agency
PFI	Policy Framework for Investment
PI	Portfolio Investment
PII	Private investment in infrastructure
PIP	Plant Import Permits
PSDRP	Private Sector Development Reform Programme
PSE	Producer Support Estimate
PTAs	Preferential Trade Agreements
PQPS	Plant Quarantine and Phytosanitary Service
QSBOE	Quarterly Survey of Business Options and Expectations
RAI	Rural Access Index
RBC	Responsible Business Conduct
R&D	Research and Development
RECs	Regional Economic Communities
RIA	Regulatory Impact Assessment
RISDP	Regional Indicative Strategic Development Plan
RISM	Regional Integration Support Mechanism
RoO	Rules of Origin
RTA	Regional Trade Agreement
RTSA	Road Transport and Safety Agency
SA	South Africa
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCC	Southern African Development Coordinating Conference
SAIED	Strategic Action Initiative for Economic Development
SCCI	Seed Control and Certification Institute
SCM Agreement	Agreement on Subsidies and Countervailing Measures
SDGs	Sustainable Development Goals

SITC	Standard International Trade Classification
SME	Small and Medium-sized Enterprise
SPS	Sanitary and Phytosanitary Measures
SSG	Special safeguard
STC	Specific Trade Concern
TADs	Transboundary Animal Diseases
TBTs	Technical Barriers to Trade
TFI	Trade Facilitation Indicators
TFTA	Tripartite Free Trade Area
ToH	Triangle of Hope
TNC	Transnational Corporation
TRAINS	Trade Analysis Information System
TRIMS	Trade Related Investment Measures
TRIPS	Trade-related Aspects of Intellectual Property Rights
TRQs	Tariff-Rate Quotas
TII	Trade Intensity Index
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
UNEP	United Nations Environment Programme
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNHCR	United Nations High Commissioner for Refugees
UNIDO	United Nations Industrial Development Organization
UNZA	University of Zambia
USD	United States Dollar
UNSD	United Nations Statistical Division
VA	Ad valorem percentage criteria
VSC	Voucher Scratch Card
WAEMU	West African Economic and Monetary Union
WAIPA	World Association of Investment Promotion Agencies
WB	World Bank
WCO	World Customs Organization
WDI	World Development Indicators
WHO	World Health Organization
WIPO	World Intellectual Property Organisation
WITS	World Integrated Trade Solution

WTO	World Trade Organisation
WWF	World Wildlife Fund
ZABS	Zambia Bureau of Standards
ZAM	Zambia Association of Manufacturers
ZAMRA	Zambia Medicine Regulatory Authority
ZAMTEL	Zambia Telecommunications Company Limited
ZARI	Zambia Agriculture Research Institute
ZAWA	Zambia Wildlife Authority
ZCCI	Zambia Chamber of Commerce and Industry
ZCSA	Zambia Compulsory Standards Agency
ZCSMBA	Zambia Chamber of Small and Medium Business Associations
ZDA	Zambia Development Agency
ZDI	Zambia Department of Immigration
ZEPZA	Zambia Export Processing Zone Authority
ZEMA	Zambia Environmental Management Agency
ZESCO	Zambia Electricity Supply Corporation
ZIC	Zambia investment Centre
ZICTA	Zambia Information and Communication Technology Authority
ZILMIS	Zambia Integrated Land Management and Information System
ZNFA	Zambia National Famers' Union
ZNFU	Zambia National Farmers Union
ZPA	Zambia Privatization Agency
ZRA	Zambia Revenue Authority

Chapter 1: Contemporary Trade and Trade Theory

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1 Why Do We Trade?

International trade is fundamental for economic growth and improved welfare. Empirical research shows that no country has succeeded in achieving long-term economic growth without being open to trade. Trade liberalization is thus a key consideration for many countries and removes barriers to free trade. Countries reduce or eliminate barriers that give rise to costs for exports, as well as imports from other countries.

According to economic theory, trade leads to a more efficient utilisation of the existing resources. Instead of producing everything within a country, countries specialise in sectors in which they have a comparative advantage, for example abundant supplies of skilled or unskilled labour, capital, natural resources, and similar factors.[1] Trade in global value chains (GVCs) allows enterprises to specialise in the production stage for which their country has comparative advantages. This specialisation in production leads to a more efficient utilisation of resources, and in theory increased welfare (OECD, 2009).

Increased openness to trade usually leads to changes in a country's economy. This is referred to as the structural transformation period. This change in the structure of production impacts the labour market, resulting in changes to for example employment rate, income distribution and working conditions. Structural transformation can occur as a result of trade liberalisation and also as a result of technological development.

The potential gains from structural transformation depend on the speed and extent to which resources are redistributed to the economic sectors in which the country has a comparative advantage. Most researchers agree that there is generally a positive link between openness to trade on the one hand and increased productivity and economic growth on the other, but they also agree that this link is not automatic (Winters and Martuscelli, 2014). According to economic theory, there are many reasons that reducing trade barriers, at least for a certain time period, leads to static gains in the form of increased economic growth (Winters, 2007). Being integrated in global or regional markets also increases the opportunities for enterprises to expand their markets beyond the domestic market, which enables economies of scale.

In the next section, we discuss what determines the basis of trade using various thoughts of trade and economic theory.

[1] Stolper-Samuelson theorem

2 Trade Theory: Brief Introduction

International trade is essentially concerned with exports and imports of goods and services between countries. Exports play a role in financing imports by being a source of foreign exchange, so that the imports needed to produce quality products in a country are procured. Imports are very significant as they are not only useful in order to obtain inputs for production, but also contribute to the goods and services available for consumption in the domestic economy.

In this sense, exports provide the means and imports provide the aims in the context of trade. If we consider household economics, an individual's earned salary provides the means and capacity to purchase something, while the actual spending of the salary on what the individual desires translates into the aim of actually earning the salary at all. While this view is not controversial amongst economists, it is quite unusual to the general understanding of trade across many people. Usually, exports are perceived to be something positive. On the other hand, imports are regarded as a negative thing. This attitude results in an overly strong focus on the trade balance as seen in the theory of *Mercantilism* (Salvatore, 2013).

2.1 Mercantilist theory

Mercantilism referred to the economic system of the major trading nations during the 16th, 17th, and 18th century. In principle, mercantilism is based on the premise that the wealth and power of a nation were best served by increasing the accumulation of wealth by maximising exports, leading to a mass collection of precious metals in return. This economic philosophy superseded the medieval feudal organization in Western Europe, mostly in Holland, France, Sweden, Belgium, Portugal and Spain. The monarch took full control of everything. The primary policy that was advanced during this period was to rapidly increase exports in the countries that they controlled and not to import. The significance of exports at the expense of imports resulted in a positive balance of trade[2].

Mercantilist theory purported that at any point in time, the world only contained a fixed amount of wealth. Thus, in order for a country to increase its wealth, it had to take some wealth from another country. Mercantilists firmly believe that exports create wealth but imports squander it, and government policy should restrict imports.

Mercantilism received a lot of critique by the emerging middle class of merchants. A lot of money was associated with less products and inflation. Generally, the standard of living is deemed weaker in this case. Further, the mercantilist theory made trade to be considered as a zero sum game. However, international

[2] The balance of trade is the difference between the value of a country's imports and exports for a given time period (https://www.investopedia.com/terms/b/bot.asp).

trade is not a zero sum game and could lead to growth as well as mutual gains for participating nations. This stimulated the rise of other divergent theories in the face of the industrial revolution and laissez-faire marking the decline of mercantilist philosophies.

2.2 Absolute advantage theory

The shortcomings of mercantilism resulted in the emergence of free trade theories. Free trade theories, like most theoretical models of trade, refute the mercantilist idea that, when two countries trade, only one of them gains from it. They advance the view that international trade can be mutually beneficial to both countries party to the exchange. In fact, proponents of free trade question the objective of national governments to acquire wealth through restrictive trade policies. Furthermore, pioneers of free trade dispute the idea of measuring a nation's wealth through the store of gold accumulated in international trade.

The theory of absolute advantage is a famous free trade theory coined by Adam Smith in his book, the wealth of Nations (1776). Smith observed that the mercantilist policies were more favourable to producers and largely disadvantaged the interests of consumers. Adam Smith also reacted to the role of the government presented by the mercantilists. Adam Smith's theory began by drawing the idea that exports are profitable if imported goods could better satisfy the needs and desires of consumers as opposed to producing them in the internal market.

Adam Smith also shared the view that there are huge potential benefits that countries can realize from free trade if one country produces more of a product with the same amount of input than another country. Accordingly, *a country should produce only the goods that it can produce the most efficiently and import the goods that cannot be produced efficiently.*

Adam Smith believed that absolute advantage is the basis for trade between two countries. For instance, if Country A is more efficient than Country B in production of good X, Country A is said to have an absolute advantage over country B in production of good X. Equally, country B being less efficient than country A in production of good X is said to have an absolute disadvantage with respect to country B in good X. On the other hand, if country B is more efficient than country A in production of a second good, say good Y, then we say that country B has an absolute advantage in production of good Y. Likewise, country A has an absolute disadvantage in production of good Y. Smith recommended that in this scenario, both countries can engage in mutually beneficial trade. The countries can gain by each specialising in the production of the good where they have an absolute advantage and exchanging part of their output with the other country for the good of their absolute disadvantage. Through such a trading process, resources would be

efficiently utilised and there would be an increase in the output of both goods. This increase in the output of both commodities measures the gains from specialization in production available to be divided between the two nations through trade.

Adam Smith's theory rests on the claim that the rule that leads the exchanges from any market (internal or external) is to determine the value of goods by measuring the labour incorporated in them. In this case, the price of a commodity is expressed in terms of the labour the buyer must expend to purchase it. This thought is known as the *labour theory of value.*

2.2.1 Hypothetical example of absolute advantage

Let us consider a made up *numerical* example of absolute advantage that that will help build a foundation of a more challenging theory of comparative advantage in the next section of this chapter. Table 1.1 shows that one hour of labour time produces six tonnes of copper in Zambia but only one tone of copper in Sweden. However, one hour of labour time produces five Volvo cars in the Sweden but only four in Zambia.

Table 1.1: Absolute Advantage

	Zambia	Sweden
Copper (tonnes/hour)	6	1
Volvo cars (units/hour)	4	5

Thus, Zambia is more efficient in production of copper relative to Sweden. This means that Zambia has an absolute advantage over Sweden in copper production. On the other hand, Sweden is more efficient than Zambia in the production of Volvo cars. Sweden has an absolute advantage in the production of Volvo cars relative to Zambia. This forms a basis for trade between Zambia and Sweden. Given that the two countries trade, Zambia would specialise in the production of copper and exchange part of it for Swedish Volvo cars. Similarly, Sweden would specialise in production and export of Volvo cars and exchange part of the output for Zambian copper.

If Zambia exchanges six tonnes of Copper (6C) for six Volvo cars (6V), then Zambia will gain 2V and save 1/2 hour or 30 minutes of labour time. This is so because Zambia can only exchange 6C for 4Vin the local economy. In the same way, the 6C that Sweden receives from the Zambia is equivalent to or would require six hours of labour time to produce domestically. The six hours here can produce 30V in Sweden (6 hours times 5 units of Volvo cars per hour). Through trade 6V (that need just a little over one hour to produce in Sweden) for 6C with Zambia, Sweden gains 24V and saves nearly five labour hours.

However, it should be noted here that, the fact that Sweden gains much more than Zambia is not important at this time. The important principle is that ***both*** countries are better off specialization in production of the goods of their absolute advantage and subsequent trade.

However, absolute advantage can explain only parts of global trade today. Absolute advantage does not explain trade that occurs between developed and developing countries. Rather, trade between developed and developing countries is better explained by comparative advantage. Further, a large share of global trade, especially trade among developed countries cannot be explained using absolute advantage. Notwithstanding, there has not been much empirical work trying to test the relevance of absolute advantage in explaining trade theories. Most empirical research has focused on comparative advantage and later theories.

2.3 Comparative advantage theory

In 1817, David Ricardo published his *Principles of Political Economy and Taxation* where he presented the law of comparative advantage as an extension of the argument of free trade based on the absolute advantage. David Ricardo's argument was that absolute cost advantages are not a necessary condition for two countries to gain from trade with each other. Instead, trade will benefit two countries provided only that their relative costs, that is, the ratios of their real costs in terms of labour inputs, are different for two or more commodities. This notion of trade based on relative cost strengths is the law of comparative advantage. Countries can specialise in the production and export of goods that they are relatively competitive in and import goods that they cannot produce competitively.

The law of comparative advantage says that although one country is less efficient than another country (does not have an absolute advantage with respect to the other country) in the production of both goods, there is still a basis for countries to trade and benefit from trade.

The first country should specialise in the production and export of the good in which they lose the least in terms of absolute advantage. The good in which the country loses the least in terms of absolute advantage is the good that offers comparative advantage to that country. The country should then import the good from which it benefits the most in terms of absolute advantage since this is that good where it has comparative disadvantage.

In essence, Ricardo thought through the goods and services countries should produce. He suggested that countries should specialise production by allocating their scarce resources to produce goods and services for which they have a comparative cost advantage. In comparative advantage theory, two types of cost advantage are implied, namely, absolute and comparative.

Absolute advantage entails being more productive or cost-efficient than another country whereas comparative advantage refers to how productive or cost efficient one country is in relation to another.

It is often simpler to understand comparative advantage by looking at it as a case in which a nation produces a good or service for a lower opportunity cost than another nation. Opportunity cost measures trade-off and is regarded as the next best alternative forgone. A nation that has a comparative advantage in producing any good or service makes the trade-off worth it. The nation may not be the best at producing a particular good or service. However, the good or service has a low opportunity cost for other nations to import since it will also have a lower price.

Let us consider a numerical illustration of comparative advantage in table 1.2.

Table 1.2: Comparative Advantage

	Zambia	Sweden
Copper (tonnes/hour)	30	31
Volvo cars (units/hour)	6	48

Using all its resources, Zambia can produce 30 tonnes of copper or 6 units of Volvo cars in one hour, and Sweden can produce 31 tonnes of copper or 48 Volvo cars per hour.

As summarised in table 1.2, we see that Sweden has the absolute advantage in producing both copper and Volvo cars, but it has a comparative advantage in Volvo cars because it is better at producing them compared to Zambia. Sweden has a lower opportunity cost in production of Volvo cars relative to production of copper. In other words, Sweden gains more by producing Volvo cars than by producing copper, because it can trade the surplus Volvo cars for more copper than it would be able produce in one hour. Therefore, Sweden can trade off production of copper for Volvo cars where its comparative advantage lies. Similarly, Zambia has a lower opportunity cost in production of copper compared to the production of Volvo cars. Zambia can trade off production of Volvo cars for production of copper.

In summary, Zambia's absolute advantage is greater in copper, so its comparative advantage lies in copper production. On the other hand, Sweden's absolute advantage is greater in Volvo cars, implying its comparative advantage lies in production of Volvo cars. Based on the law of comparative advantage, both countries can gain if they produce the good they are best at producing per hour. Thus, Zambia should specialise in the production of copper and exports some of her copper in exchange for Volvo cars from Sweden. Equally, Sweden should specialise in the production and export of Volvo cars and import copper from Zambia. Resources can be saved by this kind of specialisation and by using the

resources in other fields of production, more can be produced with the same resources input. This could result in higher rates of growth.

2.3.1 The value of comparative advantage

The principle of comparative advantage offers a unifying principle for understanding economic decisions. Regardless of how inefficient a country might be in an absolute sense, it must have a comparative advantage in some activities. This explains why small nations globally can also trade with large nations. Comparative advantage works for nations, regions, states, cities, or individual firms as a basis for trade. In daily transactions, specialization between people can also be understood through comparative advantage. Teachers rarely write their own books, no matter how good they are at writing; medical practitioners do not produce their own medical tools and medicines regardless of how much knowledge of medicine they possess.

Comparative advantage has been the renowned way that many people have analysed international trade flows. It is useful in predicting trends trade patterns between countries.

However, as a classical theory, comparative advantage was still criticised for some shortcomings by trade scholars. Comparative advantage theory was largely driven by maximization of production and consumption yet it the theory does not offer explanations for the difference in labour productivity and comparative advantage between nations that essentially lead to maximisation of production and consumption. In addition, comparative advantage theory does not say much about the effect of international trade on the earnings of factors of production. Further, the analysis is limited to two goods and two countries yet trade largely occurs across more than two countries. Furthermore, the theory of comparative advantage does not account for transportation cost which is an inevitable factor in international trade. The comparative advantage theory also assumed that labour is non-transferable and exists as the only factor of production.

2.3.2 Further additions to classical theories

Adam Smith and David Ricardo presented the view that comparative advantage was based on the difference in the productivity of labour. This was with the conviction that labour was the only factor of production among trading countries. Yet, no explanation was provided from the theories for such differences that exist in productivity, except for possible differences in climate.

Therefore, this triggered the emergence of theories such as the Heckscher–Ohlin (H-O) theory. The H-O theory was basically an extension of the trade model of Adam Smith and David Ricardo. The H-O theory attempted to explain the basis for

comparative advantage as well as the effect that trade has on factor earnings in the two nations. The H-O model also attempted to explain the comparative advantage and trade while refuting the single input labour in the analysis.

The H-O theory acknowledged that different goods require different inputs in different proportions as production takes place. According to this model, for trade to be beneficial, countries should export goods that intensively use inputs, or factor endowments, which are locally abundant and import goods made from locally scarce factors. The implication of the H-O theory is that a country has a relatively abundant supply of labour should specialize in the production and export of that goods which are relatively labour intensive. Similarly, countries that have a relatively abundant supply of capital should specialise in the production and export of goods that are capital intensive (Salvatore, 2013). In view of the H-O theory, patterns of trade are determined by differences in factor endowments and not productivity. The H-O model largely focuses on relative advantage based on relative factor abundance.

Building on the H-O theory, other theories came up with the effort of trying to explain the relationship between trade and wages, for example in attempts to understand whether imports from countries with low wages countries would negatively affect labour from countries with high wages.

Wolfgang Stolper, a Harvard economist, felt that competition from labour-abundant countries might negatively affect workers in other countries. In 1941, Stolper worked with Paul Samuelson, his Harvard colleague, to validate his argument through what is now known as the Stolper-Samuelson theory. The Stopler Samuelson theory builds on the theoretical foundations of the H-O theory to predict the price of products, and explain the relationship between product prices and factor endowments. Some of the questions addressed by this theory are: how are gains from trade distributed across different factors of production despite relative abundance in different countries? What is the effect of changes in the price of goods, for example as a result of tariffs, and how does this affect the factor prices? The Stolper-Samuelson theory makes remarkably strong predictions:

> *A rise in the price of the good a country exports will lead to a real return to the relatively abundant factor, which is used intensively in producing the export good, to rise and the real return to the scarce factor to fall (Salvatore, 2013).*

Intuitively, the Stolper-Samuelson theory in its original setting can be explained using Neary (2006) as follows: Let's suppose that in country A, one sector produces goods for exports and the other produces goods which compete directly with imported goods. Furthermore, suppose that the import-competing sector is

relatively "labor-intensive", implying that it uses a higher ratio of labour to capital than the export sector.

Now we can ask what will be the effect of a tariff, or some other change which lowers the relative price of the import-competing sector's goods? The firms in the sector might raise the prices, which they can do as they are now being protected by the tariff and face less competition from abroad. This might also encourage that sector to expand and grow provided that the economy is at or close to full employment of both factors. The expansion can come at the expense of the export sector.

Theoretical work based on the Stolper Samuelson theory has demonstrated that essential features of the theorem hold much more generally. The Stolper Samuelson theory has been applied to a range of empirical issues, including the effects of increased globalisation on income distribution in developed countries, and the long run political allegiances of classes and interest groups.

2.4 Contemporary trade theory and patterns

Recent insights into patterns and drivers of trade indicate that trade today is driven by consumer's desire for variety and firms' ambition to utilise economies of scale in production. Global trade today has also been shaped by intra industry trade. Intra industry trade is essentially trade that is not based on comparative advantage or differences, leading to competition with similar products. Yet, intra-industry trade cannot be explained by Ricardo or H-O as these theories predict that trade will be entirely of the inter-industry type, i.e. countries will only export one type of product and import another. These drivers of trade which extend benefits to consumers in terms of lower prices and an increased choice of goods and services can be explained by the new trade theory from the 1980s.

The new trade theory was mainly advanced by Paul Krugman, an academic who was awarded a Nobel Prize (2008) in economics for his contributions in modelling ideas in international trade. In particular, he was recognized for his "*analysis of trade patterns and location of economic activity"*. The new trade theory purported by Krugman suggests substantial economies of scale and network effects that can occur in key industries are an important factor in determining international trade patterns. If economies of scale and network effects are so significant, they have the potential to outweigh the more traditional theory of comparative advantage. If we consider some industries in two countries, the industries may have no noticeable differences in opportunity cost at a particular point in time. Yet, it is possible that if

one country specialises in a particular industry then it may gain economies of scale[3] and other network benefits from this kind of specialisation.

Another key feature of the new trade theory is that some firms may gain the first mover or first entrant advantage and become dominant firms in the market. The rationale behind this is that the first firms gain substantial economies of scale. In this case, international trade may lead to an increase in firm-level scale of production, lowering industry average cost (Lapham, 2015). The implication of this is that new firms cannot effectively compete against the incumbent firms. In this case, in these global industries with very large economies of scale, there is likely to be limited competition. The market would then be dominated by early entrant firms, leading to a form of monopolistic competition.

Monopolistic competition is another key element of new trade theory. It explains why with international trade, consumers have access to differentiated varieties of goods. The implication behind this monopolistic element is that firms are often competing on branding and quality, not just price. It also provides a basis for firms possibly lowering of markups of price over marginal cost (Lapham, 2015). As a result, countries can both export and import goods that are similar but differentiated in terms of brand, quality, packaging, among other reasons.

A further implication of the new trade theory is that the most lucrative industries are often dominated by capital-intensive countries, that were the first to develop these industries. Therefore, being the first firm to reach industrial maturity gives a very strong competitive advantage.

The new trade theory can also be used to explain the growth of globalisation. While the world is becoming more connected even through international trade, poorer, developing economies may struggle to ever develop certain industries at the same pace as developed economies. A key reason for this is that poor economies would lag too far behind the economies of scale developed and enjoyed in developed countries. This cannot be due to basic comparative advantage, but the fact that more economies of scale have been developed by firms that already existed in the industry as first movers.

One can conclude that the new trade theory strengthened the policy case for international trade by highlighting new sources of gains. According to the new trade theory model, trade liberalisation raises aggregate welfare by promoting industry efficiency through economies of scale, offering increased variety of products to customers and lowering prices of goods, especially imports. It is important to note however that, the new trade theory assumes that consumers are

[3] Economies of scale refer to a case whereby as a firm increases in size, it becomes efficient. This leads to the lower long run average costs as the firm expands.

identical. As a result, this theory excludes changes in the trading environment from affecting the income distribution (Lapham, 2015).

Yet, the new trade theory fails to explain all trade patterns we observe today. Ciuriak et. al (2011) note that the new trade theory opened debate on strategic trade policy such as subsidies for national champions that might be able to exploit increasing returns to scale through export expansion. Those that were unsatisfied with the new trade theory emphasized the possibility of "lose-lose" outcomes. "Lose-lose" outcomes may be a possibility in the event that rival governments subsidized the same industry in order to gain global market share in supposedly strategic industries, for instance, the case of commercial aircraft.

Unfortunately, some features of trade data were still inconsistent with the predictions of new trade theory. Despite the implied theoretical cost advantage, exporting industries did not export to all countries. In addition, import-competing industries sometimes experienced productivity gains with trade liberalization even with a smaller scale of production.

Given the creation of large sets of firm specific data, it has become clear that firms' participation in global trade is very varied. Some firms participate in global trade to a much greater extent than others, while others do not participate at all. This is contrary to the predictions of the Ricardian and H-O Models. In such a comparative advantage driven framework, all firms within the sector that have comparative advantage would export.

It has become more apparent that there are systematic relationships between firms' participation in international trade and important characteristics such as size, productivity, and profit and technology adaption. It is based on this premise that the **new-new trade theory** has surfaced in the early 2000s. The new-new trade theory explains drivers of trade at the level of individual firm instead of a country or sector specific level. This is a new approach which makes it possible to explore links between trade and productivity as well as analyse the distributional effects of trade and trade liberalisation at a more disaggregated level.

The new-new trade theory drew its inspiration from dynamic industrial models of firm entry, innovation, growth, and death. This theory shifts the unit of trade analysis from the industry to the firm level and focuses on the trading behaviour of individual firms, making a tight link between trade and productivity. Particularly, the new-new trade model draws many of its features from the new trade theory of the 1980s. On the other hand, the new-new trade model incorporate differences in firms' characteristics both within and across industries with more emphasis to productivity.

The new-new trade theory identifies an important additional source of gains from international trade: Since different firms have different technologies, trade liberalization lowers industry average cost. Increased trade leads to the expansion of the most productive firms. This implies that the least efficient firms have less chance to survive and are forced out of the market. In this case, increased trade leads to the reallocation of resources, production and market shares to the most efficient firms leading to a rise in productivity. In turn, this implies that the average productivity level of the economy increases and international trade leads to growth. The new-new trade model is well suited to analyse the distributional effects of trade across firms within the same industry, as well as potential distributional impacts across consumers in their role as shareholders (Lapham, 2015; Ciuriak et al., 2011).

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Chapter 2: Contemporary Trade Practices and Challenges

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Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

Today, international trade is growing increasingly important as a field of study due to the rapid integration of international markets. Gradually more firms, consumers as well as governments have realised that their lives are not only affected by what transpires in their own towns, cities, states or countries but also by what is happening across the world. Consumers today are able to access and buy goods and services sourced from around the world right inside their local shops. Local firms must compete with these foreign products found alongside their own products in shops. Yet, many of these same firms equally have new opportunities to expand their markets by selling their products to a wide variety of consumers in other countries. In this chapter, we look at how trade is undertaken by considering the increasingly fragmented structure of international trade through global value chains (GVC); servicification of trade, digitalisation of trade; movement of people and flow facilitation amidst current global trends in international trade.

1 Global Value Chains

GVCs are one the most important features of international trade today. A GVC includes the full range of activities that firms undertake to bring a good or service from its conception to its end use by consumers. These activities include tasks such as design, production, marketing and support. Almost all products today require inputs of one item from one country or another for it to be fully produced. In fact, most goods are produced in several countries unlike the notion implied by classical views of production and trade. In the ordinary view of international trade, it is usually the exchange of final products between countries that is implied. For instance, if Kenya produces tea, then Zambia produces sugar, the countries would engage in trade with Zambia exporting sugar and importing Kenyan tea and Kenya importing Zambian sugar for its tea exports. However, the trade realities and patterns today indicate that a large share of world trade takes place within GVCs.

GVCs are not new in thematic areas of trade policy neither are they a new concept for trade development. On the other hand, they are simply the new reality of contemporary trade. However, GVCs have implications for the design of trade policy which needs to adapt to a changing business reality globally.

Trade patterns across the globe today have been characterised by more goods and services being traded internationally. Several factors account for this phenomenon. The advance of telecommunications, cheaper transportation, trade liberalisation, among others, have contributed to rapidly reducing the cost of providing goods and services internationally. The shift in China, the former Soviet bloc and in other parts of the developing world towards market economies have led to increased opportunities for firm specialisation which has fundamentally driven world trade in recent times. Fragmented production patterns have emerged, which have led to

increased trade in goods and services. Comparative advantages no longer lie in sectors but tasks that are traded across borders. To a large extent, goods and services are assembled in one country, e.g., China but increasingly made from different countries across the world.

1.1 How companies participate in global value chains

Generally, trade within GVCs is linked to multinational corporations. GVCs take many various forms as can be indicated in the table below:

Table 2.1: Examples of company participation in GVCs

Type of GVC	Description	Example
In-house chains	Trade between subsidiaries; product development, production, sales , and marketing within conglomerate	Medical companies (e.g., AstraZeneca), telecom companies (e.g., Huawei)
Supply networks	Comparative advantage in meeting customer demand and sourcing, such as fashion items or home-decorating items often sold under own brand name.	IKEA, South African supermarket chain Pick n Pay (with stores in Southern Africa and Australia)
Subcontractor	More or less tied to one or many clients, providing, such as car parts, garments, and call-centre services	Bijouterie or software producer in India, Swedish supplier of seat belt services
Producer of raw materials	Producing crops, timber, oil, or metals used to manufacture other goods	Canadian oil producer, Malay timber producer

Source: National Board of Trade

1.2 Are global value chains really global?

Here we look at what determines the geographical distribution of tasks within a production chain. It is important to note that it is not simply a matter of finding the cheapest alternative. The differences in wages might help in explaining why activities such as shrimp that is harvested in Norway is peeled in Morocco or Thailand and then transported back for sale within the European Union (EU) market. Similarly, wage differences may be useful in highlighting why booking a paratransit taxi in Stockholm involved a telephone operator in Moldova but trained in Swedish.

Yet, there can be numerous other factors that are behind the diversification of sourcing and production in delivery of goods and services. Parameters may contribute to decisions on investment and sourcing. These include: availability of certain credentials, such as the level of education and language skills, e.g. IT engineers in India; meeting the quality requirements of high- tech producers, such

as vehicle manufacturers; flexibility in adapting to customer demands and being able to deliver sufficient quantities, as is the case for garments in Bangladesh or computer hard drives in Thailand. The ability to move goods "continuously, safely and economically" is of greater importance to global chains of supply and production than labour costs are.

For some products and sectors, different tasks involved in production are truly spread across the world. However, in many cases, the chains are more regional than global. The more pronounced reality is that countries tend to trade more with their neighbours. For instance, the three most integrated regions are North America, Europe and East Asia. These regions are to some extent supported by regional trade agreements that have led to or followed from increased integration of production and the creation of international value chains- namely, the EU, North American Free Trade Agreement (NAFTA) and the Association of Southern Asian National (ASEAN), respectively.

Regional trade among developing countries is often encouraged as a means of economic development. Better market access regionally enables the creation of regional value chains through increased specialisation and economies of scale, enabling growth and increasing competitiveness. In this case, trade procedures are key and often constitute a barrier too costly to overcome. For instance, it is often less costly for countries in Africa to trade with EU member states than with neighbouring countries, owing to costly trade procedures, high tariffs and a lack of proper infrastructure. Regional integration through trade liberalisation can facilitate growth and promote the harmonisation of technical regulations and safety standards. Regional liberalisation is most likely preferable to no liberalisation.[4]

1.3 Participation of developing countries in global value chains

Over the past decades, many developing countries have increasingly participated in international trade. Emerging economies in Asia have become more important players both as exporters and importers. The differences between countries have increased rapidly.

Notwithstanding, the degree of integration varies between sectors and between countries. Many case studies give examples of sectors and companies in developing countries participating in GVCs, for example such as manufacturing, labelling, and packaging garments in Madagascar, manufacturing microchips in Costa Rica, and producing vehicle brakes in Samoa. However, on an aggregate level, it is rather a complex task to measure participation.

[4] For more information on regional trade agreements, consult Chapter 7 in this volume.

According to UNCTAD, most developing countries participate in GVCs, even the least developed ones with few exceptions. Although countries' participation might not be taken for granted, it is worth noting that even a country like North Korea (for example through the Kaesong Industrial Region) is part of international chains of production. Furthermore, even countries that mainly provide raw materials used in earlier segments of various production chains are affected by the demand for and further trade of products that use those materials.

It is more relevant to discuss the degree of participation in and benefits from GVC related trade as well as the constraints holding back trade. Some of the reasons behind low participation in value chains range from a geographical location being far from production networks, lack of infrastructure or appropriate labour skill, and a business environment that fails to attract investment, for instance, to insufficient natural resources. Further, being a landlocked country or lacking coastal location might also lower a nation's chances of attracting export- oriented investments. Many policy issues affect a country's ability to participate, among them, trade related barriers.

2 Corporate Social Responsibility (CSR)

When trade is globalised, the scope of what businesses can affect through their operations expands. In a world of GVCs and complex corporate structures, where multinational enterprises are gaining greater influence over trade, private stakeholders take part in creating the conditions that apply in global trade; for example through the creation of private standards and mechanisms for managing their business's impact on environmental and social conditions. This means that the modern trade reality is not just regulated by states and trade organisations such as the WTO, but also to a certain extent by private stakeholders.

By setting requirements for their suppliers and abiding by codes of conduct, businesses working actively with sustainability can also contribute to more environmentally and socially sustainable development.

Corporate Social Responsibility (CSR), or responsible business conduct (RBC), as it is also called, is a broad term describing how businesses integrates social and environmental considerations into their operations. What constitutes a CSR-related activity is constantly changing in response to new contexts and challenges, means of communication and the expectations of relevant stakeholders.

Working with CSR/RBC is often the rule rather than an exception among the bigger market players. The rationale for CSR activities has also started to transform from being a pure means of risk management, into seeing working with

sustainability as part of core business. Other motives include the desire of shareholders to be more actively socially responsible, building an attractive brand, and becoming a more attractive employer (Buchholz, Brown and Shabana, 2008).

Working actively with CSR strategies can be costly in the form of investment measures, communication efforts and the de-prioritisation of other investment alternatives. However, it can also result in financial gain through building a more attractive brand that customers are prepared to pay more for. The cost of capital can also be reduced if the financial sector perceives the business as exposing itself to fewer risks. By working actively to integrate sustainability into the innovation process and business model, new markets can be opened up that may constitute concrete business opportunities. Furthermore, investors and financiers have helped to encourage the CSR trend. Today, in some cases, the capacity to demonstrate preparedness and responsibility for negative impacts may be a necessary condition for investment, in particularly imposed by institutional investors.

2.1 From voluntary to regulatory?

Originally, CSR/RBC was seen as purely voluntary commitments on behalf of individual businesses that went above and beyond the legislated requirements on their operations, with the aim of mitigating potential negative environmental and social consequences of their activities. In light of the driving forces described above, cooperation between businesses was initiated. As a consequence of this, a number of voluntary international guidelines have emerged concerning how businesses can manage their social and environmental impacts.

Despite the voluntary nature of many guidelines, commitments are often made in cooperation with states, and the trend seems to be towards increased state involvement. Corporations' management of their social impact is being increasingly regulated through for example legally binding requirements for non-financial reporting. This combination of measures is sometimes described in the political context as a *smart mix* of voluntary and regulatory measures (Kara, 2018). It should be noted that the trend towards greater regulation in the area is being largely driven by private stakeholders through the development of guidelines and principles for CSR/RBC, which have gone on to form the basis of regulation at both national and international levels.

2.2 The role of the state

States can assist businesses in their sustainability efforts by providing them with information and assistance about how to analyse the impact of their operations on the entire supply chain. For example by developing and implementing national action plans, developing guidelines on how to work with CSR, and building a body of knowledge and raising awareness among businesses about these issues through

information initiatives. The state can even create financial incentives for sustainability efforts and investments in sustainability, such as by taking sustainability efforts into account in assessments of applications for export credit.

As owners, states can set a good example in the governance of state owned enterprises by actively pursuing sustainability in their business strategies. Also as purchasers, states can be pioneers in setting tougher requirements on sustainability from their suppliers in public procurement.

A further possibility for the state to encourage and promote CSR/RBC is to create legally binding regulations in areas that are currently within the realm of voluntary corporate initiatives. In this way, a clear framework can be created covering how the private sector should be analysing and managing the impact of their operations on environmental and social conditions. One area with existing regulation is sustainability reporting, which is described below.

The existing regulatory framework with guidelines and standards for sustainability reporting is comprehensive. The guidelines are based on principles that emphasise liability, transparency, ethical behaviour, and human rights and which create incentives to go beyond the legal requirements and meet international expectations (UNEP, 2011). The most important of these regulatory frameworks are described below.

2.2.1 UN Global Compact

In 2000, the UN initiative *Global Compact* was launched with the aim of making businesses aware of the ethical dimension of business practices and encouraging them to increase their social responsibility. *Global Compact* establishes 10 principles in the area that the UN has identified as related to corporate social responsibility. These principles are primarily about human rights, labour rights, anti-corruption and environmental responsibility. The initiative includes over 12,000 participants from 170 countries, which makes it the biggest voluntary sustainability initiative for businesses.

2.2.2 The UN's Guiding Principles for Businesses and Human Rights

Beyond its work with Global Compact, the UN works actively with human rights issues in trade and commerce. In June 2011, the United Nations Human Rights Council (UNHCR) adopted the *UN Guiding Principles on Business and Human Rights* (UNHCR, 2011). These principles form a global standard for promoting respect for human rights throughout business practices. National governments are encouraged to develop their own national action plans (NAPs) that put the UN's principles into practice at the national level.

2.2.3 The OECD's Guidelines for Multinational Enterprises

In 2000, the OECD's ministerial meeting adopted guidelines for multinational enterprises based on the OECD Declaration on International Investment and Multinational Enterprises from 1976. The OECD's guidelines state principles for best practice in order to ensure that multinational enterprises operate in compliance with laws, regulations and agreements in the countries in which they are active (OECD, 2000).

2.2.4 The ILO's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy

The ILO's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (the MNE Declaration) is considered the most comprehensive framework for businesses regarding labour rights and working conditions. This declaration is a voluntary instrument intended to promote good practice among businesses and to encourage them to contribute positively towards economic and social development. The Declaration addresses MNEs, governments, and employers' and workers' organisations and its principles cover areas such as employment, training, conditions of work and life, and industrial relations.

2.3 Corporate social responsibility in trade policy

The connection between responsible business conduct and trade-related measures has become stronger. CSR/RBC is highlighted as an important instrument in the implementation and financing of the SDGs and in global climate negotiations.

There is also a clear trend toward including references to international guidelines for CSR/RBC in FTAs. For example, the sustainability chapters now included in the EU's FTAs generally refer to international guidelines for CSR, and identify CSR activities as potential areas for cooperation (UNEP, 2011). The inclusion of CSR issues in FTAs could make it easier for trading partners to apply existing international principles and guidelines for responsible business conduct.

Notwithstanding the potential gains to be made in using responsible business conduct as an instrument for achieving political goals, it is important to also consider the limitations of such a strategy.

Unlike regulation and legislation, voluntary corporate initiatives are not always optimal for contributing to public welfare, since CSR decisions are affected by many factors that are not necessarily related to improving public welfare. Nor can states delegate their responsibility to protect for human rights, for example.

As previously stated, the effects of trade in a country depend on a range of national preconditions, such as a functioning legal system, good governance, and the country's institutional capacity. The possibilities for private businesses to influence these conditions is severely restricted and it is also debatable whether it is even appropriate for businesses to attempt to influence these factors.

A common way for businesses to attempt to manage risk in their supply chains within the framework of their CSR activities is to establish *codes of conduct* for all partners in their supply chain. Empirical studies indicate that, at the aggregated level, codes of conduct improve workers' rights, even if only marginally (Egels-Zandén and Lindholm, 2015). Furthermore, codes of conduct appear to only have an impact on a limited number of areas. For example, it has proven very difficult to handle discrimination problems and problems associated with asserting union rights through codes of conduct, but it has been possible to identify improvements in areas such as working hours, pay, and health and safety (Egels-Zandén and Lindholm, 2015). Just like the use of private standards, codes of conduct can constitute a potential trade barrier because it is problematic for subcontractors to comply with new rules.

3 The Servicification of Production and Trade

It has been argued for a long time now that we are entering a service society. At the same time, we consume more goods than ever before. Therefore, the service society does not necessarily imply that goods are becoming less important. Rather, the implication is that the production and consumption of goods and services are becoming increasingly integrated.

A lot of emphasis has been placed on the manufacturing industry being "servicified". This means that the industry:

1. Purchases and produces more services than previously, and
2. Increasingly sells and exports services, often as part of a package deal together with a product.

3.1 Increased service content in production, sales and trade

Manufacturing companies use an increasing number of services in their production. Research and development is required in order to develop productions and stay competitive. The management of a business requires legal, administration, financial, accounting and communication services. Sales require marketing, while logistics and transport services are needed in order to get goods to customers.

Firms can either produce the services themselves or purchase these services from external suppliers. The use of both these forms had increased.

Nowadays, customers often demand solutions where goods and services come together as a package. Services constitute up to 80 percent of the offer of a manufacturing company and it is becoming increasingly difficult to distinguish between goods and services. For instance, many customers buy their mobile phones at the same time as they subscribe to various services that a mobile phone service operator offers.

Taking the Swedish example, services currently account for more than half of the Swedish exports when a value added measure is used. On average, the service content of exports is 50 percent within the OECD. As a result of increased service content in trade, the need for personnel to move across borders has also grown. A package that offers both goods and services can, for example, mean that an employee is dispatched to the customer in order to install the product or train the buyer in how to use it. When offices, factories and sales are spread out over many countries, the need for coordination, logistics and transfer of knowledge also increases. This is something that requires increased cross-border mobility and drives up the service content in the trade of goods.

4 Digitalisation of Trade

Digital solutions are part of the lives we lead in today's online society. Digitalisation involves both the conversion of information into digital form and increased usage of computers and the internet. Traditionally, the prospects for trade are thought to decrease with geographical distance. Digitalisation significantly reduces geographical barriers to trade by making physical distance a non-issue.

The importance of free flow of digital data for international trade and for the proper functioning of internal markets is now more imperative in global trade as it has been in several decades. Companies need data to communicate to clients across the world for their products. Clients also need data to be able to purchase certain goods on the international market. The use of data and the internet has changed the nature of many products and services and has led to further market expansion beyond geographical scopes. E-commerce or trade in goods and services that is conducted via electronic means has also grown exponentially with digitalisation. Businesses can today connect with consumers in foreign markets in ways that were not previously possible. In particular, small businesses have gained from this, having, in the past, lacked the necessary resources in order to export to foreign markets.

Trade today also needs movement of people from different geographical locations. The need for product development and innovation has led to many international companies to move people from one location to another. For example, an IT manager can move from one country location to another branch located in another country in order to improve skills through training and exchange ideas across the company's employees. This movement of people is very important for meeting customer satisfaction and product development across the firms that participate in international trade.

The interaction between trade and foreign direct investment (FDI) is a major feature of our globalised world today (OECD, 1999). FDI generally refers to investment(s) made by an economic actor such as firm or individual in one nation into business interests located in another nation. Usually, FDI occurs when an investor establishes foreign business operations or acquires foreign business assets as well as establishing ownership or controlling interests in a foreign company. A notable primary effect of the current global economic environment is that firms are now more flexible in how they may produce and deliver goods and services to foreign destinations and enforce trade. Consequently, one of the most striking features of FDI is that it is propagated by firms referred to as multinational enterprises (MNEs). The MNEs play a major role of increasingly allocating more activities to foreign destinations. Most often, it is the MNEs set up in one particular nation that actually trades internationally or invests abroad in a sector of interest.

In summary, international trade is much broader and represents a range of economic transactions that may be related to any of the following:

- Cross-border sale of finished, intermediate and capital goods
- Services delivered through several different modes of supply
- The cross-border movement of persons essential for the production or sale of goods and services
- The sale of goods or services through local establishment in the form of foreign direct investment
- The movement of data required for cross-border transactions of goods and services
- The collection and spread of knowledge related to technology, process and production methods etc.

From the perspective of firms that trade internationally, all these flows are part of the process that we have commonly come to think of as international trade.

5 Trade Barriers

Trade barriers refer to government policies, which impose restrictions on international trade. Generally, trade barriers have the tendency to either make international trade more difficult and/or costly. In some cases, trade barriers can work to prevent trade completely. Trade related barriers are an important consideration because if not managed well, they may hinder some nation's participation in GVCs and international trade. Trade barriers constitute both tariff and non-tariff barriers. Table 2.2 identifies selected examples and descriptions of some typical trade barriers.

Table 2.2: Examples of Trade Barriers/ Trade Instruments

Type of trade barrier/instrument	Description	Effect
Tariff	Taxes imposed on certain goods	Makes trade expensive by raising the price of goods making imports less competitive
Quotas	A limit placed on number of imports	The limit may affect production chains if it restricts the imports of essential input quantities too much. However, certain items can enter a domestic market without attracting tariffs
Non-tariff barriers (NTBs)	Involve rules and regulations on tradable goods and services	They make trade more difficult. For example, if foreign firms have to adhere to complex manufacturing laws, it can be difficult to trade. Technical Barriers to Trade (TBTs), procurement restrictions like antidumping as well as restrictions towards services trade such as investment restrictions could also be considered here.
Voluntary export restrains	An importing country induces another nation to reduce its exports of a commodity "voluntarily," under the threat of higher all-around trade restrictions, when these exports threaten an entire domestic industry. Eventually, countries agree to limit number of imports	May restrict the capacity of countries to export more as imports are restricted. Similarly, essential imports that are required to produce exports may be restricted. Limits on the quantities of exports coming from a country can put upward pressure on prices of goods involved
Export subsidies[5]	Direct payments (or the granting of tax relief and subsidized loans) to the nation's exporters or potential exporters and/or low-interest loans to foreign buyers to stimulate the nation's exports	Gives beneficiary firms competitive advantage

[5] Even though export subsidies are do not directly constitute trade barriers, we include them here as potentially trade distorting instruments.

Type of trade barrier/instrument	Description	Effect
Embargo	Trade barrier usually effected for political reasons to completely ban on imports from a specific country	Possibility of completely stopping trade between two countries

5.1 Tariffs vs non- tariff- barriers

Tariffs are the most common instrument among the trade barriers used to limit imports. During the General Agreement on Tariffs and Trade (GATT) era (1947-1994), tariff negotiations were at the centre of each round of multilateral trade negotiation. As a result, tariffs for industrial goods were reduced from 20-30 percent after World War II to under 9 percent globally and below 4 percent among OECD countries by 2014. Despite the gradual reduction of tariffs on goods in most countries, tariffs still matter for mainly two reasons:

To begin with, tariffs on imports matter. Tariffs on imported goods used in production of exports increase the cost of production. This has the possibility of making exported goods more expensive and thus less competitive. Tariffs on intermediary goods become a tax on production. Some countries offer reimbursement for tariffs paid on goods that are used for exports, but the administration needed for documentation and auditing is often cumbersome and thus costly for companies.

Secondly, tariffs on exports also matter. Even low tariffs can have a very high impact on trade costs if the share of value added in the exporting country is low; sometimes, tariffs even prevent companies from entering into production chains. For example, a T-shirt made in Madagascar might be made from Indian cotton, while transports and sales are sourced from South Africa. If the T-shirt is exported at a price of US$3, but only US$1 of that value is added in Madagascar, a 2% tariff in the end market will cost the company in Madagascar 6 cents per T-Shirt – the equivalent of 6% of the value assed. A 5% tariff in the export market is equivalent to 15% of the value added.[6] Thus, even low tariffs in end markets can make it hard or even impossible to access a link in a fragmented production chain. ***The lower the national value added in the exported product, the greater the effect of a tariff in the importing country.***

It is worth noting that lowering tariffs in developed countries might lead to preference erosion for the benefits granted to developing countries through, for example, the EU Generalised Scheme of Preference (GSP) that we will discuss in the coming chapters.

[6] This may also be dependent on to what extent RoO take account of the value of services

Predictable, transparent tariff levels and simplified tariff structures, such as low number of tariff lines, are other tariff related factors that can lower barriers to trade and thus increase participation in GVCs and international trade. Small and medium sized firms benefit from tariff simplifications, such as a lower number of tariff lines.

As displayed in table 2.2, it is not only tariff barriers that affect trade but also non-tariff barriers. As the name indicates, non- tariff barriers are trade barriers other than tariffs, including quantitative restrictions, licensing requirements, trade defence measures, subsidies, domestic content requirements and discriminatory treatment in government procurement. Although we shall not discuss Non- tariff barriers in more detail here, it is important to note that they are relatively more important in the overall trade effectiveness of developed countries. This is the case for several large OECD economies, such as EU, the US, Japan, Australia and Mexico. Non-tariff barriers also appear to add considerably to the overall trade effectiveness of non-OECD countries, such as China, Brazil and Russia.

6 Trade Policy

Trade policy is a multidimensional concept. Different countries have different interpretations of what constitutes trade policy. Further, both development and implementation of trade policy varies between countries.

In general terms, an established understating is that trade policy defines standards, goals, rules and regulations that relate to trade relations between countries. The policies imbedded in a country's trade policy framework are specific to each country and formulated by its public officials. The main aim of trade policy to facilitate participation in international trade in order to benefit from it as much as possible. A country's trade policy constitutes, for example, taxes imposed on imports and exports, inspection regulations as well as tariffs and quotas and other non- tariff measures.

Trade policy has important implications for nations and firms that engage in international trade. A firm whose business model is based on cross-border production networks depends on the ability to predict the cost of moving goods, services, people and capital across borders. A transparent and predictable policy environment thus becomes very important from the view of both GVCs and international trade.

6.1 Trade policy and development

The relation between international trade and development is complex. Yet, the importance of this interaction has rarely ceased to attract the attention of economic analysists, theorists of world economy as well as designers of the international economic system. Therefore, it has been inevitable for the link between trade policy and development to be drawn into its fold. Many controversies about the link between trade policy and development emerged founded on thoughts of some of the best minds of each generation of economists. These great minds provided the grounds for discussing the link between trade policy and development based on the link between trade and economic growth. These economists date back from Adam Smith (1776), David Ricardo (1817), and Jacob Viner (1927), among others.

Trade Policy and development interactions raise many issues. However, some of the focus areas of theoretical, empirical and policy discussions are linked to the following areas:

i. The degree and structure of protection adopted and practiced by countries;

ii. The analytical rationale for relating the degree and structure of protectionism adopted by countries to the pattern of industrialization and export performance

iii. Relative incentives for import substitution and export promotion and statistical evidence for the argument that such incentives affect the pattern of industrialisation and export performance in the developing countries; and

iv. Questions relating to whether or not better export performance is related to better economic performance and why.

In contemporary thought, the relation between trade and development is not only discussed in terms of economic development but more broadly in the context of trade's contribution to sustainable development, in line with the 2030 Agenda. The relationship between trade and sustainable development is discussed in the next chapter.

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Chapter 3: Trade in Zambia

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Zambia, Africa's second-largest copper producer, achieved middle-income country status in 2011 during a decade (2004-2014) of impressive economic growth, averaging 7.4% per year. However, growth only benefitted a small segment of the urban population and had limited impact on poverty (World Bank, 2019). The Zambian economy grew by 3.7% in 2018 compared to 3.5% in 2017. The slight increase in growth reflects strong performance of services (in particular wholesale and retail, pensions as well as information and communication). However faster recovery was undermined by lower crop harvest and weak fiscal performance that led to an accumulation of new public expenditure arrears and government domestic borrowing at high yields and impacted private sector activity (World Bank, 2019).

The country is still facing the same basic problems it has faced over the years - the dominance of copper exports and the overwhelming difficulties in exploiting trade opportunities and diversifying the economy into new high-value industries. After the 1970s economic crisis, the country adopted economic liberalization and structural adjustment programs in 1991. Since then, the country has attached great importance to trade, intensifying efforts to expand it (trade) at the regional and multilateral levels through international treaties and regional trade agreements, with the latest negotiations being the African Continental Free Trade Agreement (AfCFTA).

The domestic production structures in mining, agriculture and manufacturing largely determine Zambia's magnitude and pattern of trade in merchandise. Overall, trade in goods, mostly mineral-based, dominates the economy's trade profile.

This chapter analyses trade in Zambia using different approaches. Mention must be made here that there are various aspects to analysing trade. However, basic trends are used to understand the importance, pattern and flow of Zambia's trade. Further, Trade Intensity Index and Trade Potential are also used to understand Zambia's export markets and their relative roles in Zambia's overall trade. Trade values are expressed in million US Dollars, unless otherwise stated.

2 Trade Policy and Legal Framework

A dynamic and responsive trade policy is important in driving growth and boosting employment, incomes and exports. Zambia has a small, resource-based internal market, widespread poverty and is landlocked with long distances to major ports. Trade policy in Zambia must take the country's specific difficulties and special circumstances into account in its design and implementation. The Ministry of Commerce, Trade and Industry is the government institution mandated to formulate trade policies and regulations in collaboration with a number of agencies falling

under it and other line ministries whose mandates relate to trade. Zambia's trade policy and legal framework are defined in various national documents that aim at promoting a prosperous and diversified economy by 2030. These documents include: Vision 2030 (GRZ, 2006), the National Trade Policy (NTP) (MCTI, 2018a), National Industrial Policy (MCTI, 2018b), National Exports Strategy (NEST) (MCTI, 2018c) and the National Local Content Strategy (2018–2022) (MCTI, 2018d). In essence, these documents strive to make Zambia a structurally transformed, diversified, industrialized and a net exporter of value-added goods and services, as they set out a framework under which trade is conducted in Zambia. However, implementation of trade policy remains problematic and inconsistent, resulting in loss of potential revenue for both traders and the government.

Zambia has been a member of the WTO since 1 January 1995 (WTO, 2020a). The multilateral trading system presents Zambia with a significant market for trade expansion and a means for the promotion of economic growth. However, Zambia's capacity to take advantage of its participation in the system has been limited due to implementation problems as well as by virtue of its level of development coupled with trading practices by developed countries. Zambia also participates in regional, bilateral and unilateral arrangements. For example, Zambia is a member of SADC and COMESA and almost concluding consultations regarding the ratification of the Tripartite Free Trade Area and the AfCFTA. Zambia is a beneficiary of unilateral preferential trade arrangements (PTAs) and schemes, for example, 14 Generalized System of Preferences (GSP) (Including the Everything But Arms of the European Union (EU) GSP), 10 Least Developed Countries (LDC)-specific schemes and other PTAs such as the USA's African Growth Opportunity Act (AGOA) (WTO, 2020b).

3 Zambia's Global Trade

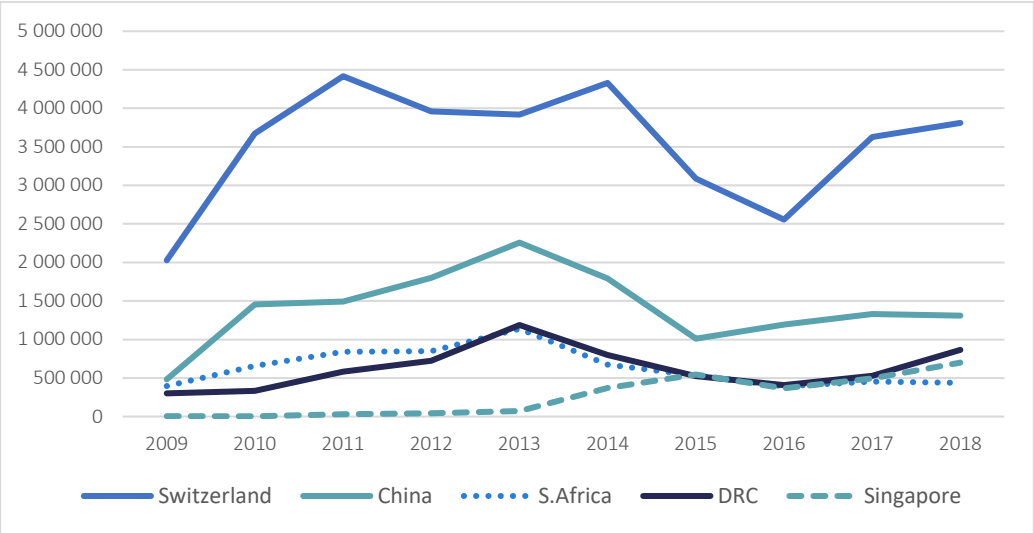
Zambia is the 83rd largest export economy in the world and the 78th most complex economy according to the Economic Complexity Index (ECI). In 2017, Zambia exported $9.7 billion and imported $8.5 billion, resulting in a positive trade balance of $1.21 billion. In 2017 the GDP of Zambia was $25.9 billion and its GDP per capita was $4.02 thousand. Between 2012 and 2017, Zambia's exports decreased at an annualized rate of -5%, from $12.6 billion to $9.7 billion while its imports decreased at an annualized rate of -0.4%, from $8.68 billion to $8.5 billion, respectively (OEC, 2020). Zambia's export portfolio is dominated by minerals, especially copper and its associated articles. Non-traditional exports (NTEs) are however growing, albeit at a slower rate than would be desirable.

Zambia's merchandise trade as a percentage of GDP averaged 65.6 percent between 2007 and 2015. The trade balance on merchandise increased from a narrow surplus during the financial crisis of 2008 and recorded a substantial surplus up to the close of 2012. However, the recent fall in commodity prices on the global market as well as other internal and external factors did not spare the Zambian economy (MCTI, 2018a). NTEs earnings are dominated by engineering and foundry products (23%), followed by primary agriculture products (18%), processed and refined foods (14%), industrial mineral related products (14%) as well as chemicals and pharmaceuticals (10%). These products collectively account for 80% of total NTEs. Despite the importance of these products in NTEs, they constitute a small share of the manufacturing industry in Zambia that is dominated by food and beverages. The services sector plays a key role in promoting sustainable growth and development in Zambia. Services are either traded as an important source of domestic and foreign exchange earnings or used as an enabler or input in the production of goods. These services include passenger and freight transport, education, health, financial, communication, tourism and hospitality. Poor access to such critical services translates into competitive disadvantage in any sector, be it services, manufacturing or agriculture (MCTI, 2018a).

4 Zambia's Major Trading Partners

The nature of Zambia's major export product (s) determines the pattern and direction of exports. Looking at the ITC (2019) data, we can observe that most of Zambia's merchandize exports (between the period 2009 and 2018), when measured in value terms go to Switzerland, followed by China.

Figure 3.1: Zambia's exports



Source: Author's, based on ITC (2019) data.

Data from the World Bank's World Integrated Trade Solution (WITS) (World Bank, 2019b) indicate that Switzerland accounts for 44.54% of Zambia's total exports, China 16.30%, Congo DR 6.67%, Singapore 6.07% and South Africa 5.56%. These five countries account for 79.14% of Zambia's total export portfolio with Switzerland and China alone taking up more than half of the total export share (60.8%). This is illustrated in figure 3:1.

Similarly, most of the above countries are also a major source for Zambian imports with an addition of the United Arab Emirates (UAE) and Kuwait. South Africa and the Congo DR account for close to half of Zambia's total imports (28% and 20.57%, respectively). China accounts for 12.77%, UAE 5.33% and Kuwait 5.32%, with the rest shared by other countries. These five countries take up 71.99% of Zambia's total imports.

5 Zambia's Key Export and Import Products

5.1 Key export products

For 2015, 2016, and 2017, all top five export products by value were minerals and their associated products but one, maize, excluding seed for sowing in 2016. However, the most important measure is to isolate individual markets and assess the products demanded there than aggregating them. This measure helps us understand the dynamics and range of products an exporter country is competitive in and how strategically new markets can be developed for the untapped potential. Overall, Zambia has a competitive advantage in a number of agricultural and their associated products including maize, cotton, tobacco, sugar cane, wood, soya beans, inter alia. This is so despite the country's continued reliance on mineral-based products that often define the country's overall export portfolio and are a source of its volatility.

For Zambia to substantially gain from trade, especially now in the light of the AfCFTA, the National Trade Policy, National Industrial Policy, National Exports Strategy and the National Local Content Strategy and other subsidiary strategies must effectively be implemented. The bottom line is that there must be a drastic approach to product development and value addition if the country is to effectively participate in regional and global value chains that have a potential to create employment and stimulate growth. Manufacturing must be given utmost priority if Zambia's export product mix is to be diversified.

As shown in table 3.2 below, the dominance of minerals in the three-year period mirrors the country's historic dependence on copper-based economic activity, which has played an important role in the country's development process.

The continued dominance of minerals in the country's export portfolio threatens the attainment of Vision 2030 – a diverse, resilient and prosperous middle-income country by 2030 (GRZ, 2006).

Table 3.2: Zambia´s main export products (2015–2017)

Code	Product label	Exported value in 2017	Code	Product label	Exported value in 2016	Code	Product label	Exported value in 2015
'TOTAL	All products	8125838	**'TOTAL**	All products	6425588	**'TOTAL**	All products	6979472
'740200	Copper, unrefined; copper anodes for electrolytic refining	3618105	**'740311**	Copper, refined, in the form of cathodes and sections of cathodes	2080573	**'740200**	Copper, unrefined; copper anodes for electrolytic refining	642329
'740311	Copper, refined, in the form of cathodes and sections of cathodes	1896305	**'740200**	Copper, unrefined; copper anodes for electrolytic refining	1790235	**'740311**	Copper, refined, in the form of cathodes and sections of cathodes	3035688
'740319	Copper, refined, unwrought (excluding copper in the form of billets, wire-bars, cathodes and ...	398211	**'740319**	Copper, refined, unwrought (excluding copper in the form of billets, wire-bars, cathodes and ...	492952	**'740319**	Copper, refined, unwrought (excluding copper in the form of billets, wire-bars, cathodes and ...	1230698
'282200	Cobalt oxides and hydroxides; commercial cobalt oxides	150289	**'851712**	Telephones for cellular networks "mobile telephones" or for other wireless networks	244767	**'282200**	Cobalt oxides and hydroxides; commercial cobalt oxides	3611
'740329	Copper alloys unwrought (excluding copper-zinc base alloys "brass", copper-zinc base alloys ...	149096	**'100590**	Maize (excluding seed for sowing)	156787	**'740329**	Copper alloys unwrought (excluding copper-zinc base alloys "brass", copper-zinc base alloys ...	176350

Source: ITC (2019) data.

5.2 Key import products

The top five import products are selected at 2-digit level. The same principle of disaggregating individual countries to fully understand the dynamics and range of products imported by Zambia, applies. On aggregate level, according to the data from the ITC (2019) and shown in table 3.3 below, Zambia mainly imports mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral; machinery, mechanical appliances, nuclear reactors, boilers; parts thereof; ores, slag and ash; inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals and electrical machinery as well as vehicles.

Table 3.3: Zambia´s main import products (2015–2017)

Code	Product label	Imported value in 2017	Code	Product label	Imported value in 2016	Code	Product label	Imported value in 2015
'TOTAL	All products	8710117	**'TOTAL**	All products	7338600	**'TOTAL**	All products	8416494
'27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral ...	1289240	**'27**	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral ...	1544150	**'27**	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral ...	1576868
'84	Machinery, mechanical appliances, nuclear reactors, boilers; parts thereof	1128908	**'84**	Machinery, mechanical appliances, nuclear reactors, boilers; parts thereof	985157	**'84**	Machinery, mechanical appliances, nuclear reactors, boilers; parts thereof	1224806
'26	Ores, slag and ash	1024786	**'26**	Ores, slag and ash	691654	**'26**	Ores, slag and ash	612652
'28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, ...	850435	**'85**	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television ...	678124	**'87**	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof	551982
'31	Fertilisers	540700	**'87**	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof	435080	**'85**	Electrical machinery and equip-ment and parts thereof; sound recorders and reproducers, television ...	537868
'87	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof	479656	**'28**	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, ...	325329	**'28**	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, ...	391077

Source: ITC (2019) data.

6 How Intense is Zambia's Trade and is there Potential for Expansion?

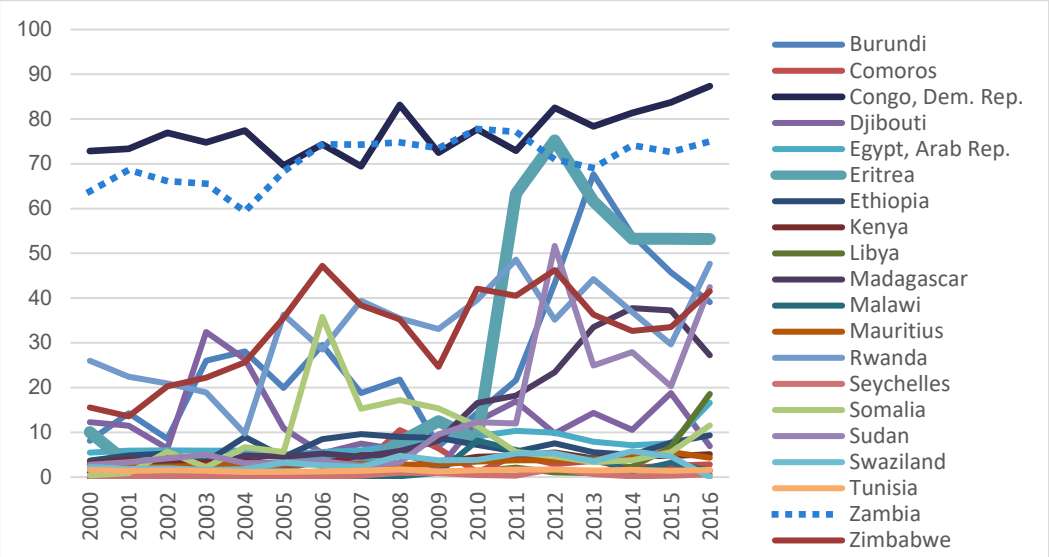
To determine how intense Zambia trades with its key partner countries, we used the Trade Intensity Index as defined by the World Bank's WITS. The Trade Intensity Index (TII) is a measure used to determine whether the value of trade between two

countries is greater or smaller than would be expected on the basis of their importance in world trade. It is defined as the share of one country's exports going to a partner divided by the share of world exports going to the partner. It is calculated as: Tij = (xij/Xit)/(xwj/Xwt)

Where xij and xwj are the values of country i's exports and of world exports to country j and where Xit and Xwt are country i's total exports and total world exports respectively. An index of more (less) than one indicates a bilateral trade flow that is larger (smaller) than expected given the partner country's importance in world trade (World Bank, 2019c).

Generally and statistically, Zambia's trade is volatile and highly dependent on its partners. This follows the high degree of dependence on minerals and related articles for exports, whose stability is equally volatile on the international commodity market. This dependence has limited trade infrastructure and the production pattern to suit the commodity pattern exported. In our understanding, this largely explains why the country has failed to structurally diversify away from mining dependence despite over-emphasized policy direction towards that course. The country's persistent dependence on the extraction of minerals for export earnings and fiscal revenue threatens its resilience and growth. This dependence is illustrated in figure 3.4 below.

Figure 3.4: Mineral contribution to trade for COMESA member countries



Source: Author's based on the ICMM (2020) for COMESA member countries.[7]

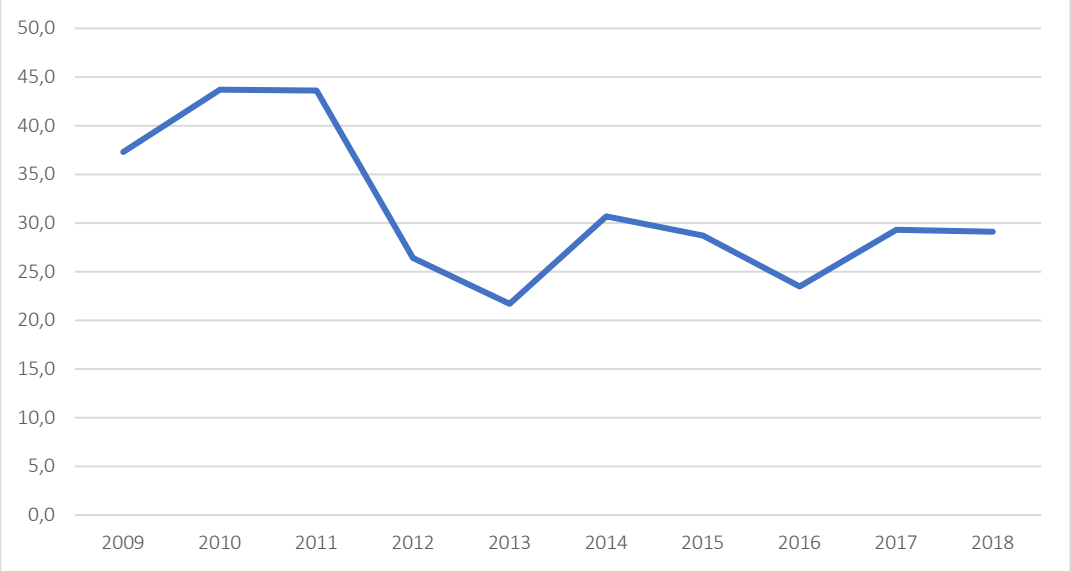
[7] The ICMM Data Tool does not have regionally organized data, COMESA member countries were manually selected to extract data on mineral contribution as a proxy for mineral dependence captured as a share to a country´s total export portfolio.

The figure shows Zambia's relative dependence on mineral products for trade and consequential export earnings during 2000-2016. During the period under consideration, Zambia ranked highly (value of 75) among its peers and for instance second only to the Democratic Republic of the Congo (DRC) (value of 87.34) in 2016.

The data above explains Zambia's relatively high trade intensity index for most of its trade partners. Intuitively, we understand that sharing a border has some effect on the level of intensity due to a mix of products exported to neighbouring countries in addition to the value of exported products (Coughlin and Novy, 2016). For example, during the period under investigation, countries such as China, had a high value of exports. In 2013 and 2017, China had trade intensity indices of 2.1 and 1.6, respectively, which, when compared to Zambia´s neighbours Zimbabwe, Malawi and Tanzania in the same two years (2013 and 2017), a contrasting performance is observed. Zimbabwe, Malawi and Tanzania had indices of 64, 140 and 11 in 2013 and 57, 85 and 25 in 2017, respectively. Their relative shares in Zambia's total merchandize trade are significantly smaller when compared to China, for example.

6.1 Switzerland

Figure 3.5: Zambia's TII with Switzerland



Source: Author's, based on ITC (2019) data.

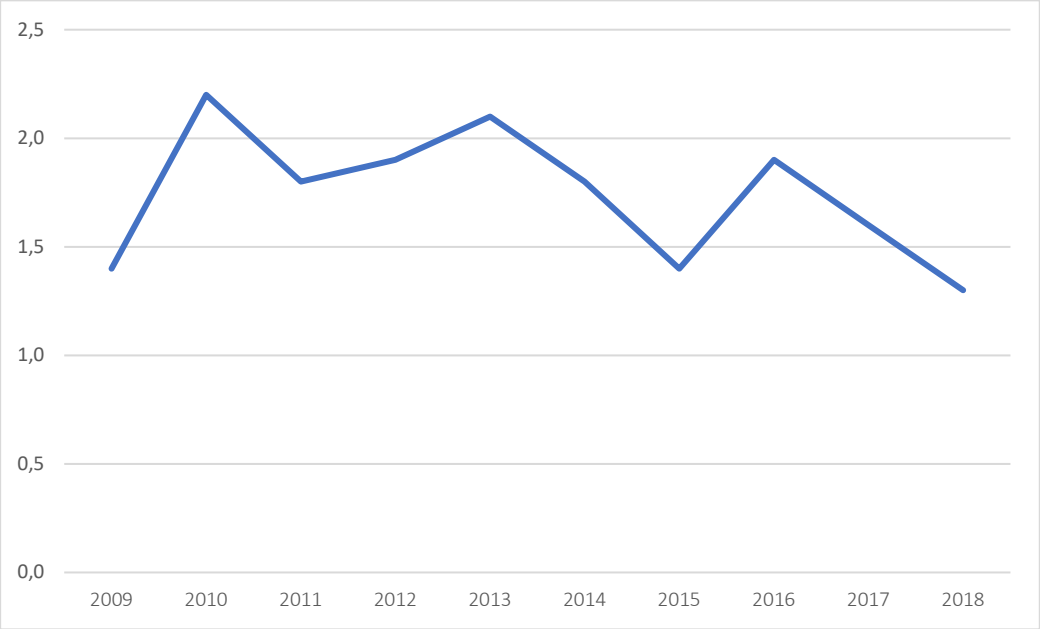
The illustration above shows a fluctuating but relatively high index. Mostly, the intensity is driven by copper exports to Switzerland. Zambia's exports to Switzerland and how it becomes the top most destination has been questioned before. The Zambia Institute for Policy Analysis, for example explains discrepancy

in trade records between Zambia and Switzerland and wondered whether Zambia's exports to this country disappear in thin air.

The products with the greatest export potential from Zambia to Switzerland are rubies, sapphires & emeralds, worked, copper cathodes, and unrefined copper. Copper cathodes shows the largest absolute difference between potential and actual exports in value terms, leaving room to realize additional exports worth $255.4 thousand (ITC, 2020a). Additionally, there still exists, literally, untapped export potential in agricultural products. When assessed as single commodities, for example, leather products - $64.1 thousand, oilcake of soya-bean oil - $46.8 thousand and honey - $19.1 thousand, inter alia, the potential appears small. When aggregated, however, the unrealized gains are substantial, especially for countries such as Zambia that are fiscally constrained.

6.2 China

Figure 3.6: Zambia's TII with China



Source: Author's, based on ITC (2019) data.

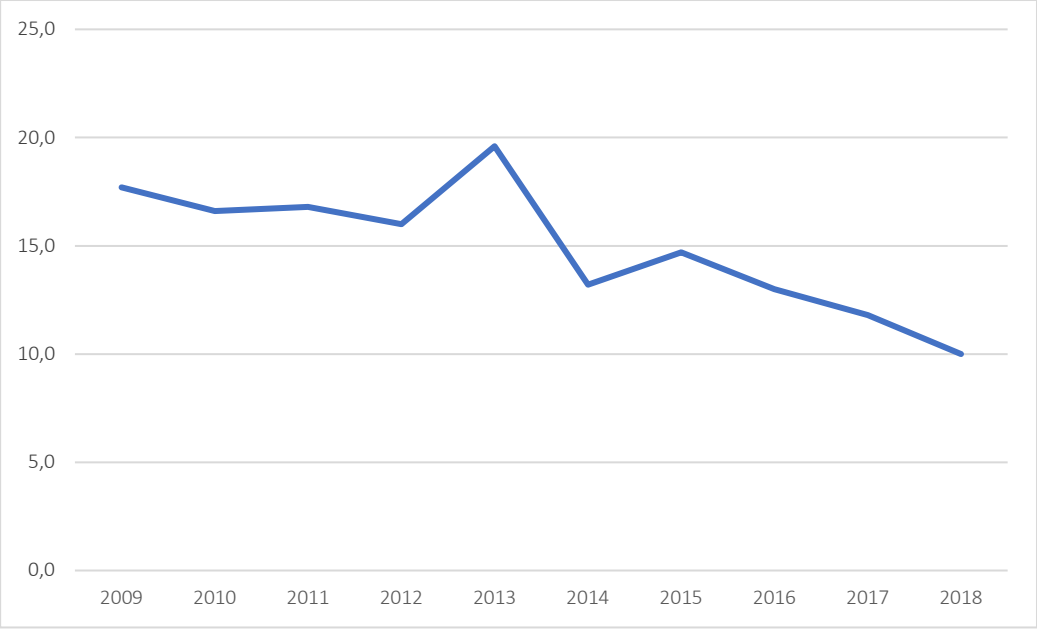
The above graph illustrates that Zambia's dependence on China for trade has been declining since 2016. This follows declining demand for commodities as the Chinese economy continues undergoing structural adjustment into the "New Normal". This however, contrasts growing Chinese debts in Zambia. The Centre for Trade Policy and Development (CTPD, 2019) estimates Chinese debt in Zambia's total debt at 30%, and this has raised lots of controversies surrounding China's covert intentions in engaging with the African continent and Zambia in particular.

The products with greatest export potential from Zambia to China are unrefined copper, copper cathodes, and cobalt mattes & intermediate products; cobalt, powder, unwrought. Copper cathodes shows the largest absolute difference between potential and actual exports in value terms, leaving room to realize additional exports worth $1.0 billion (ITC, 2020b). Additionally, Zambia has potential also in NTEs such as soya beans - $10 million, cotton - $1.9 million, maize - $2.1 million, and raw cane sugar - $2.6 million, among others.

Strikingly, China holds the largest export potential for Zambia, accounting for about 58.2% of Zambia's total untapped export potential of about $4.0 billion (ITC, 2020c) as of December 2019. While the intensity is declining, the potential untapped trade is growing. This may mean a number of things. First, it could be a result of the declining demand for Zambian products, thereby widening the difference between what 'should have been' exported and what is 'actually being' exported. This thinking is supported by export statistics to China that have not recovered the $2.3 billion record high in 2013 (ITC, 2019). Since then, a declining fluctuating trend is observed. Second, there are new opportunities being created that Zambia is either aware of, but doing nothing to exploit them, or, that the country is not aware of and potentially missing out. This could be a result of the fact that the country does not have sufficient capacity to exploit these trade opportunities or does have the capacity, but the market is very restrictive.

6.3 South Africa

Figure 3.7: Zambia's TII with South Africa



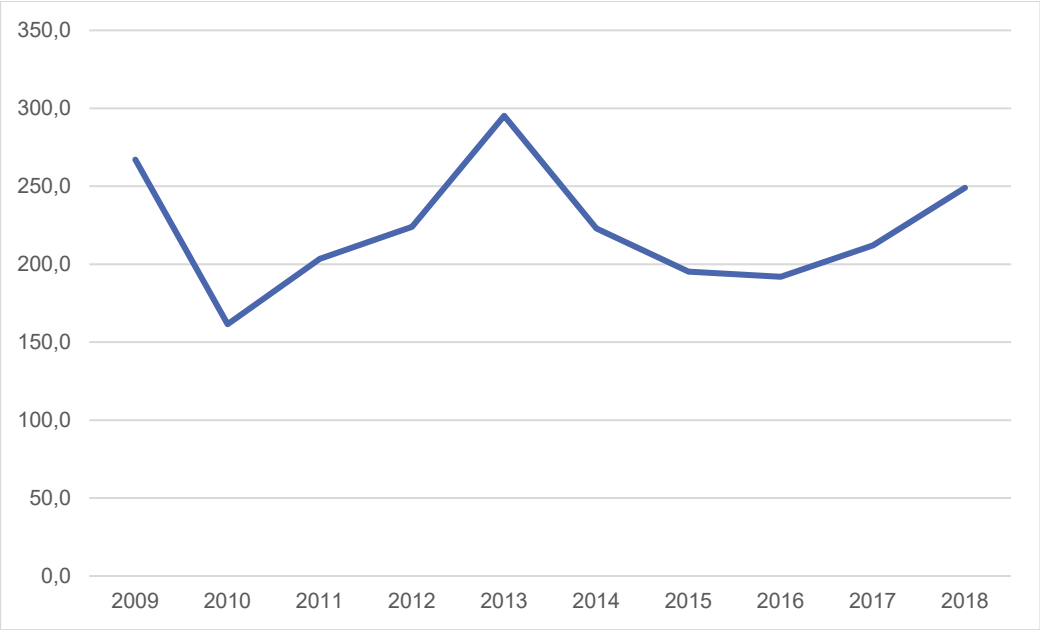
Source: Author's, based on ITC (2019) data.

Zambia's TII with South Africa is declining though still high.

The products with greatest export potential from Zambia to South Africa are copper cathodes, unused postage stamps; stamp-impressed paper; banknotes; cheques; stock, and wire of refined copper. Copper cathodes shows the largest absolute difference between potential and actual exports in value terms, leaving room to realize additional exports worth $25.2 million (ITC, 2020d). Additionally, Zambia has potential to expand its NTEs to South Africa as there still exists untapped export potential for a varied number of agricultural and other products such as oil cases of soya-bean oil, cane molasses from, raw sugar, wood, maize seed, bran-sharps and other residues of maize and electrical energy, inter alia. Most of these are demanded by the growing livestock sector in South Africa.

6.4 Congo DR

Figure 3.8: Zambia's TII with the Congo DR



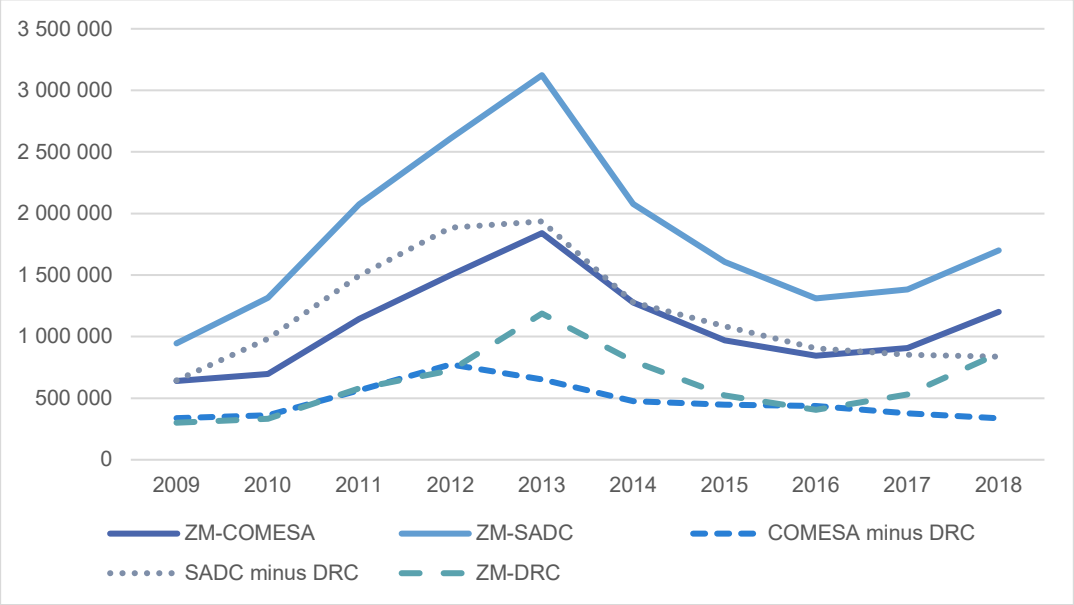
Source: Author's, based on ITC data (ITC, 2019)

Zambia's TII with Congo DR is extremely high, the highest among all key partners. In 2018, the index was 249.1. During the 2009-2018 period, the average index was 222.3. Our understanding is that the extremeness is as a result of the number of products exported to that country. The government of Zambia also seems to appreciate this fact as it sees the DRC as an important market for Zambian products and services. It is a huge market, which is relatively accessible, making it a priority destination for Zambian exports. With an estimated population of 68 million people, it provides the largest consumer market for Zambian goods owing to its proximity, which reduces transportation costs (ZDA, 2015). According to a

Tralac (2018) analysis, the DRC accounts for 35% of Zambia's total intra-African exports, taking up the largest share, only followed by South Africa with 30%.

Looking at the characteristics of the Zambian traders and the structure of the Zambian economy, we assume that Zambia's trade with the Congo DR is very important. It has high welfare effects on society because of its growth, employment and wealth distribution effects given that there are many local traders involved in cross-border trade with DRC, whose livelihoods and those of their households entirely depend on trade. Zambia should come up with a strategy to specially exploit this market further. The DRC is a beacon as far as Zambia's trade with COMESA and SADC is concerned.

Figure 3.9: Zambia's comparative trade with SADC, COMESA and the Congo DR



Source: Author's, based on ITC (2019) data.

Zambia's merchandize exports to both SADC and COMESA drop when Congo DR is removed, with the situation being even more negative for COMESA. In some years, for example, from 2012 to 2015 and after 2017, Zambia's exports to Congo DR surpassed those of all the other COMESA member countries. This illustrates how important this market is for Zambia's trade even though it is conducted without any preferential arrangement. Additionally, there is a lot of informal trade between the two countries, meaning, some trade is not even recorded due to porous border and other border management challenges.

7 Conclusion

Trade plays an important role in Zambia and is widely understood to be one of the key mechanisms the government can use to promote growth on the one hand, and reduce poverty on the other. Through this realization, there have been renewed efforts to promote trade through the formulation of different policies and strategies aimed at diversifying the export portfolio and promoting industrialization. However, the country is still very dependent on mineral-based products for export earnings and this poses structural risks to the economy. The country must embark on drastic product development through the promotion of the manufacturing sector and participation in regional and global value chains. Moreover, efforts should be focused on reducing supply side constraints that affect export diversification, such as access to finance, poor standards e.g. poor packaging, relatively high cost of doing business and infrastructural challenges as well as through a general growth of NTEs in Zambia. Beyond supply side constraints, there are also growing NTBs by trading partners that are frustrating the diversification process and growth of NTEs, which will have to be addressed. Finally, the country must continue implementing trade facilitation reforms, especially those that make it easier for small-scale cross-border traders to export their products as this has the highest effect on poverty reduction.

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Chapter 4: Links between Trade, Development and Sustainability

Auhors: Karolina Zurek, Isabel Roberth, Claudia Mvula-Pollen

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

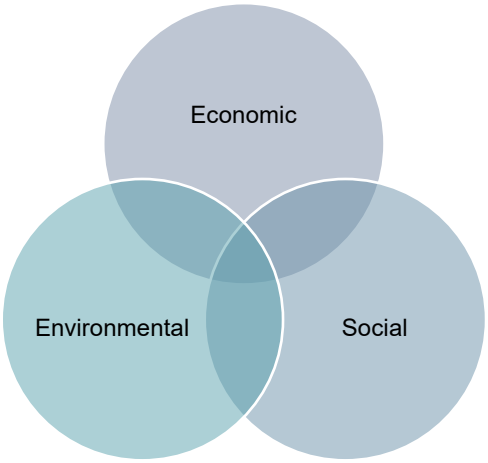
1 Introduction

International trade is fundamental for economic growth and improved welfare. Empirical research shows that no country has succeeded in achieving long-term economic growth without being open to trade (WB and WTO, 2015). However, trade in itself is not sufficient to achieve economic, environmentally and socially sustainable development. Opportunities to share and benefit optimally from the positive effects of trade largely depend on a broad range of, often national, factors. At the same time, sustainable development is a specified goal of contemporary trade policy at the global as well as on regional and national levels. However, the link between trade and sustainability does not lie at the political level alone. Many existing trade-related instruments include ways of promoting sustainability. For example, all of the EU's free trade agreements contain specific chapters on sustainability, and at the EU level, public procurement is used to an increasing extent as an instrument of control whereby sustainability considerations are being given increased significance.

2 Defining Sustainable Development

The term *sustainability* came into use in the 1970s and at the time mainly focused on the relationship between the economy and the environment. In the 1980s, the term *sustainable development* was introduced and became universally recognised in 1987 through the UN-initiated report entitled "Our Common Future", generally referred to as the Brundtland report (UN, 1987). The report defines sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." This is one of the most widely adopted and recognised definitions of sustainability to this day.

Sustainability includes all efforts towards balanced global development, and is based on three pillars, or dimensions – the economic, environmental and social dimension.



3 Sustainable Development Goals and the 2030 Agenda

The UNs 2030 Agenda and the global sustainable development goals, adopted in September 2015, is the international guiding framework for all policy areas and measures that are linked, in one way or another, to sustainability issues until 2030. The Agenda's 17 sustainable development goals and 169 targets include all three dimensions of sustainability and deal with issues such as ending poverty, gender equality between men and women, and climate action. All of the UN's activities should strive to achieve the sustainable development goals, which have replaced the Millennium Development Goals from 2000. Unlike the Millennium Development Goals, which focused primarily on reducing poverty in developing countries, the sustainable development goals are global and universal. This means that they apply to all of the UN's member states.

With the 2030 Agenda and the new sustainable development goals, the emphasis has shifted from being primarily about meeting the needs of developing countries and identifying the measures needed to achieve global poverty reduction, to the idea that we need to create a sustainable world. The 2030 Agenda is thus not only about managing the social and environmental effects of economic growth but puts sustainability front and centre as a basis for all policy, including trade policy.

3.1 The role of trade in the 2030 Agenda: goal and instrument

International trade has a central role in the 2030 Agenda: as a means of helping to generate the resources required to implement and fulfil goals; and also as an independent goal in itself for a sustainable world. Under sustainable development goal number 17 on implementation and partnership, there are three specific trade-related targets: to promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization (WTO); to significantly increase the exports of developing countries, including doubling the least developed countries' (LDCs) share of global exports by 2020; and to realize timely implementation of duty-free and quota-free market access for goods from LDCs.[8]

Links to trade are also found in a number of the other targets, for instance targets related to eliminating export subsidies for agricultural products, banning certain forms of fishery subsidies, increasing *Aid for Trade*, including SMEs in value chains, and promoting sustainable consumption and production through sustainable public procurement.[9] The principle of special and differential treatment of developing countries is confirmed, while the importance of creating strong

[8] Sustainable Development Goal (SDG) 17.10 – 17.12
[9] See SDG 2.b; 14.6; 8.a; 9.3; 12, and 12.7, respectively.

institutional foundations for sustainable trade through working with *good governance* and anticorruption, for example, are emphasised. Many of these trade-related targets are not new but in fact confirm how the WTO and the UN have viewed the role of trade in contributing to development and previous commitments in the area within the framework of the WTO (Hoekman, 2014).

In 2015, the Addis Ababa Action Agenda (AAAA) was adopted during the UN's Third International Conference on Financing for Development. The AAAA specifies a number of actions for financing the sustainable development goals in the 2030 Agenda, while also confirming the role of trade as an engine for inclusive economic growth, its contribution to poverty reduction, and its significance in promoting sustainable development.

4 The Three Dimensions of Sustainability

The economic, social and environmental dimensions of sustainability are of equal value and importance. However, they should not be seen as watertight compartments that are separate from each other. On the contrary - they overlap on many levels, and changes in one dimension will frequently have consequences for the other two dimensions.

The point of departure internationally has long been that all dimensions of sustainable development are mutually supportive, that is, an action that promotes one dimension automatically also promotes the other two. However, experience has shown that this is not always the case. Conflicts between the goals of the different dimensions can arise, and consequently there is also a need to balance different interests against each other (Lydgate, 2012). The potential negative effects must be evaluated on an individual, case-by-case basis, along with whether or not these can be compensated or neutralised in some way. Balancing different interests, and determining which interest carries the most weight in each particular case, is ultimately a matter of policy.

4.1 Economic sustainability

The link between trade and the economic dimension of sustainability can be defined as the economic effects of trade and trade liberalization in a country, its effect on economic growth, and how this in turn affects the country's development. Most researchers agree that there is generally a positive link between openness to trade on the one hand and increased productivity and economic growth on the other, but they also agree that this link is not automatic (Winters and Matuscelli, 2014).

Historically speaking, even if countries that have been open to trade have grown faster than those that have not, the effects of trade liberalisation measures differ from country to country. Among developing countries, trade reforms that have led to a more open economy and a wider market have been one of the most important factors for growth (WB/WTO, 2015). However, in less developed countries an increase in market entries and trade liberalisation measures have not always resulted in increased growth (Winters and Martuscelli, 2014).

Some key issues related to the economic dimension of sustainability are structural transformation as a result of trade, poverty reduction, income distribution, and state revenue.

4.1.1 Structural transformation

Increased openness to trade usually leads to changes in a country's economy. This is called a structural transformation period. Changes in the structure of production impacts the labour market, resulting in changes to for example the employment rate, income distribution, and working conditions, which also has social effects. Structural transformations can occur as a result of trade liberalisation and also as a result of technological development.

The potential gains from the structural transformation depend on the speed and extent to which resources are redistributed to the economic sectors in which the country has a comparative advantage. There is a risk that structural transformation as a result of trade liberalisation occurs so rapidly that a country does not have sufficient time to adjust, and the result is instead a high level of unemployment that the country has to try to manage. Studies indicate that adjustment costs at the national level are generally lower than the gains that result from trade liberalisation (Bachetta and Jansen, 2003). However, even if a country as a whole gains from trade liberalisation measures, there will be groups that may lose out, at least in the short term, as a result of trade liberalisation during this adjustment period. This, in turn, can affect both the social and environmental dimensions of sustainability, for instance through increased pressure on the national social security system, which takes away resources from environmental reforms. Moreover, the economic changes that result form the structural transformation can also lead to either increased or decreased pressure on the environment, for example in the form of decreased demand for natural resources or increased carbon emissions.

There are different ways of managing the potential negative social or environmental effects of trade liberalisation. For example, trade reforms can be introduced gradually so that a country has time to adjust itself to the new trade reality. There may even be a need to combine trade liberalisation measures with

development aid initiatives or complementary policies that improve the individual country's chances of benefiting from trade's potential.

4.1.2 Poverty reduction

Trade is one of several important factors for achieving increased productivity and economic growth, which is a decisive factor in reducing poverty in the long term. When the Copenhagen Consensus Centre brought together 82 leading economists to debate how the sustainable development goals in the 2030 Agenda could best be achieved, they concluded that increased free trade could lead to over 160 million people being lifted out of poverty.

However, the link between trade and poverty is more complex than the link between trade and growth. Trade can have direct effects on poverty through changed prices, the demand for labour, wage and salary levels, and state revenues (Winters et al., 2004). On the other hand, in order to identify the indirect effects, it is essential to look at other mechanisms affecting those living in poverty. These factors include the sectors in which households living in poverty are employed, and how their production and consumption are impacted by direct changes in prices, employment and markets.

Another important factor that determines how trade liberalisation affects groups living in poverty is where and in what sectors growth occurs as a result of the structural changes that are a consequence of trade. Depending on which sectors and geographical areas are affected, trade liberalisation can both generate and eliminate opportunities for employment for low-income earners. Growth does not automatically contribute to a reduction in poverty unless job opportunities arise for the poor. Thus, economic growth can contribute to reducing poverty if it occurs in sectors and geographical areas where those living in poverty work or reside (Winters et al., 2004). For example, poor farmers will be benefited if trade liberalisation leads to new markets for their products, and can result in them being able to sell their products for a higher price (WB and WTO, 2015). Many of the positive effects and the potential for poverty reduction as a result of openness to trade depend on complementary policies, support measures and institutions, which are described further in this chapter.

4.1.3 Income distribution

Another increasingly discussed effect of trade and trade liberalization is income distribution. Incomes are affected through increases in exports and imports. Depending on the economic structure of the country in question, increased economic growth can lead to the economy as a whole achieving higher revenues, but can also lead to losses for certain groups, while others benefit. This, in turn, can lead to increased income disparity.

Trade liberalisation measures increase the number of productive businesses in the market, which demand more skilled labour with higher wages and salaries. Some research indicates that in a closed economy that opens itself to trade, income inequality increases by 10 %. Increased income inequality contributes to increased income disparity. However, the empirical evidence appears to indicate that increased income disparity does not lead to increased poverty. Rather, low-skilled labour has also benefited from trade liberalisation measures, but proportionally less than skilled labour.

4.1.4 Impact on state revenue sources

The effect of trade liberalization measures on state revenue partly depends on whether customs duties are entirely eliminated or just reduced. When trade liberalisation measures include the removal of quantitative import restrictions and replacement with customs duties, generally new revenue streams arise for the state (WB and WTO, 2015). On the other hand, since trade liberalisation reduces or eliminates customs duties, direct revenues to the state from cross-border trade may be reduced. Customs revenues can constitute a large proportion of the state's resources, in particular in developing countries. Reduced customs receipts can impact the state's capacity to finance social reforms. In theory, it should be possible to compensate for this through increased economic growth as a result of trade, but for this to occur, the state must have sufficient capacity to manage the collection of revenue in the form of income taxes rather than through customs duties. If increased international trade results in more jobs and higher income levels, an opportunity opens for the state to redistribute resources through income tax, which can compensate the state for these lost customs receipts. However, this requires well-functioning taxation and income redistribution systems (WB and WTO, 2015).

4.2 Social sustainability

Broadly speaking, social sustainability includes the protection and promotion of a wide spectrum of legitimate interests such as human rights, working conditions, gender equality, and health and safety issues. It is difficult to fully separate social sustainability issues from economic issues, since they are often intertwined with one another. Examples include labour market issues, poverty eradication, and anticorruption measures.

Social sustainability issues are difficult to regulate on a global scale. Due to political, historical, economic, and cultural differences, social issues are managed in many and varied ways in different countries. This difficulty is augmented by how dependent social sustainability issues are on national institutions and the capacities of individual countries to regulate, implement, and act on social rights. Despite this, social

sustainability issues such as human rights are often of global interest. This requires trade-offs between global ambitions and legitimate national interests.

A further complicating aspect is that there is no given hierarchy in international law between international agreements. This means, for example, that an obligation under one international agreement concerning trade rules does not weigh more heavily than a commitment under a different international agreement whose purpose is to promote social sustainability (conventions on human rights, for example). This can lead to problems if there are two conflicting obligations under different international agreements. The point of departure in international law therefore is that obligations under international agreements are to be construed in such a way that they are consistent with each other.

When social sustainability issues are regulated at the international level, their implementation is often weaker than when economic issues such as trade policy are regulated at the international level. In particular, there are seldom sufficiently strong mechanisms to enforce social rights. One reason for this is that social sustainability issues are often closely linked to national sovereignty, power, and political systems, in addition to national economic resources.

Furthermore, to a greater extent than for other sustainability issues, social sustainability regulation is a mix of public sector rules and private voluntary initiatives from the business community, termed *corporate social responsibility* (CSR) or sustainable enterprise. When it comes to labour market issues in particular, many countries also apply tripartite models that involve a strong union presence.

All three main aspects of social sustainability, which are discussed and addressed in the context of their relation to trade and trade liberalisation, namely human rights, labour and gender equality, are subject to international regulation. The table below describes the core regulatory structure for each of the three aspects.

Table 4.1: Key aspects of social sustainability

	Key regulatory measures
Human Rights	The most fundamental, internationally recognised human rights are recorded in the Charter of the United Nations and the UN Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the eight most central International Labour Organisation (ILO) conventions. There are also regional agreements promoting and governing human rights, such as for example the African Charter on Human and Peoples' Rights, the European Convention on Human Rights or the Association of Southeast Asian Nations (ASEAN) Human Rights Declaration.
Labour rights and working conditions	The ILO is the international body with a responsibility to develop, uphold and promote international labour standards. These standards exist as both legally binding conventions that member states ratify at the national level as well as non-binding recommendations that provide guidance. The ILOs Declaration on Fundamental Principles and Rights at Work from 1998 declares four principles as fundamental right: • Freedom of association and the effective recognition of the right to collective bargaining, • The elimination of forced and compulsory labour, • The abolition of child labour, • The elimination of discrimination in respect of employment and occupation. These four fundamental principles are developed in eight legally binding ILO conventions. Much of the ILO's work today is done under the umbrella of the Decent Work Agenda. This includes the 2008 Declaration on Social Justice and Fair Globalisation.
Gender equality	Gender equality is a human right and it aims to ensure that all people, irrespective of sex, should have the same rights, obligations and opportunities. The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979 is the most important source of international regulation in this respect, but antidiscrimination provisions can be found in virtually all UN conventions on human rights as well as in regional human rights sources.

Source: Authors compilation

4.2.1 Trade and human rights

When it comes to human rights, there is a clear link between the economic and social dimensions of sustainability. The economic effects of increased trade and trade liberalisation measures can impact countries' capacities to protect human rights both positively and negatively. For example, the contribution of trade to increased growth and reduced poverty can be a step towards increased resources available to promote human rights. Many economists claim that the long-term effects of trade improve people's welfare primarily through increased economic resources and income levels, thus improving the quality of life of both men and women. Studies also indicate that it is more likely that richer countries spend proportionally more resources on the protection of human rights because their basic

needs are already met, and as a result more resources can be devoted to promoting human rights (Sykes, 2003).

However, there is also a risk that trade liberalisation measures will limit the ability of individual countries to take action to protect human rights. If trade liberalisation measures lead to lower state revenues and the state lacks the capacity to collect taxes in another way, tariff cuts could make it more difficult for states to provide basic services to their citizens or to finance social reforms aimed at fulfilling their human rights obligations. Trade rules can also limit a state's scope for trade-related actions in relation to another country as a consequence of that country's behaviour when it comes to human rights.

Furthermore, there is also a potential link between human rights and the exchange of ideas, values and information which often occurs as a result of trade. For example, human rights violations are more likely to occur in countries that isolate themselves. Countries that open themselves to the rest of the world and participate in international trade tend to generate a broader exchange of ideas and information about the human rights situation in other countries. Therefore, there is a possibility that a higher degree of openness to trade can be linked to improvements for some human rights, although further empirical evidence is needed to firmly establish a causal relationship (Sykes, 2003).

4.2.2 Trade and labour

To be able to identify what effect trade has on labour rights and working conditions, the most apparent point of departure is the effect of trade on the labour market and employment in general.

A country's production structure changes when it opens the door to trade. Factors of production shift from activities that are not competitive to activities that remain competitive or become more efficient. Labour is one such factor of production. This means that trade liberalisation also impacts the job market. Some jobs disappear while others are created (WTO and ILO, 2007). The employment rate, wage levels, and other working conditions are affected, which in turn can impact social sustainability (ILO, 2011). Furthermore, men and women in the labour market are affected differently, which is discussed in more detail in the next section. The number of jobs linked to international trade today is greater now than it has ever been before. This can to a large extent be attributed to the fact that today a large share of trade occurs in Global Value Chains (GVCs), and the possibility to distribute production processes throughout the world.

In terms of trade's influence on labour conditions, even if the general conclusion is that, in the long term, trade leads to improvements at the aggregated level, the effect is not clear-cut. Naturally, employment in the sectors subject to competition

is affected to a greater extent. The jobs that are created as a result of openness to international trade tend to require more skills and knowledge than those that disappear. In addition, this impacts women and men to differing extents, due in part to segregated labour markets and differences in opportunities for acquiring these skills and knowledge. Ultimately, the effects of trade on working conditions also depend on the specific circumstances in each individual country, complementary policies and the labour regulations in place.

4.2.3 Trade and gender

The connection between trade and gender equality is complex, and to a large extent dependent on national context in each and every country. The relationship between trade and gender equality goes both ways. On the one hand, trade and trade liberalisation measures can affect gender equality. On the other hand, the gender equality situation in a country can influence its opportunities to trade.

Trade and trade liberalisation measures can impact gender equality domestically through changes in factors such as women's and men's employment, economic empowerment, and access to resources as well as consumption patterns. Despite the fact that trade rules are formulated in a gender neutral way, men and women are often impacted in different ways by international trade and trade liberalisation measures. This difference in the effects on men and women is due to differences in economic and social roles; differences in access to and control over resources; and other social, cultural, political, and economic factors. For example, more men tend to be employed in trading sectors, while women are overrepresented in public administration as well as education- and health care sectors, which do not equally benefit from trade liberalisations.

In the other direction, the gender equality situation in a country affects its opportunities to benefit from international trade. Studies show that, for countries that are integrated in international trade, gender inequality leads to a loss of economic revenue (WB, 2012). In an economically integrated world, even the slightest improvements in efficiency in its use of resources can give a country with a higher level of gender equality a competitive advantage (WB, 2012).

Furthermore, a high level of global consensus about the importance of women's economic social and political power can lead to gender-based discrimination damaging a country's international image. In other words, it can be positive for a country that wants to become more involved in international trade to work actively to improve gender equality. The complex relationship between trade and gender equality, with indirect effects in both directions, means that trade and trade liberalisation measures can lead to increased gender equality, but not without

complementary reforms. These reforms may be needed at the national and regional as well as international levels (WB, 2012).

4.3 Environmental sustainability

The discussion about how trade affects the environment has gained increased attention as the world has become more globalized and as environmental problems, both globally and nationally, have increased. Some of the most prominent questions are for example: Does increased trade contribute to increased emissions, and over-exploitation of natural resources? Or, does it allow a more efficient use of the world's resources and contribute to sustainable development by creating incentives for new innovations and the diffusion of new green technologies? This section will provide a brief overview of the most important issues of the trade and environment area and aim to shed some light on these questions.

4.3.1 Connections between the economy and the environment

The environment, in economic terms often called natural capital, is fundamental for all economic activity and thus also for human welfare. It contributes to the economy and human welfare by providing ecosystem services[10] such as provisioning of crops, timber, clean water, carbon sequestration and decomposition of waste, as well as non-renewable resources such as minerals and metals. Well-functioning ecosystems are thus vital for both businesses and for people in all countries in the world.

At the same time, almost all economic activity directly or indirectly affects the environment, and as economic activity increases, so does often the pressure on the environment. These activities can either affect the environment in a way that is within the carrying capacity of the ecosystems, i.e. does not deteriorate the ecosystems, and can thus be defined as sustainable, or affect the ecosystems beyond the ecosystems' carrying capacity, and thus be unsustainable in the long run. Even though some ecosystem services to a certain extent can be replaced by man-made capital,[11] the economic system needs to be adjusted to the carrying capacity of the environment in the long run to allow continued economic growth and increased welfare. If not, the natural capital will depreciate and thus the pre-conditions for economic activity and human well-being will deteriorate over time, and within a certain time frame, the ecosystems cannot provide the services that the global population demands, regardless if it is the provision of water, food or a stable climate.

[10] Ecosystem services are defined as "ecological functions or processes that directly or indirectly contribute to human well-being". Most of these services are provided for free by the environment.
[11] For instance Carbon Capture and Storage (CCS) techniques, water treatment plants, artificial fertilizers, etc.

4.3.2 State and trends

For a long time, the environment was seen and treated as an abundant resource. However, during the past decades, as the world's population has grown dramatically and as our economic activity has increased even more, the pressure on the environment has increased. This has led to a large degradation of the world's ecosystems, both as a consequence of increased resource outtake but also from increased pollution and waste generation. As a consequence, several severe environmental problems have emerged.

One of the most threatening is of course climate change. The Intergovernmental Panel on Climate Change (IPCC) concludes that, even if the world can limit global warming to 2 degrees temperature rise compared to preindustrial levels, and thus achieve the goals in the Paris agreement, the preconditions for life on earth will be altered. In a two degrees warmer world, more than 99 % of the world's coral reefs will disappear, the global fish catch could decrease by up to three million tonnes annually, and 37 % of the global population would be exposed to severe heat at least one time in five years (IPCC, 2018). However, the emission reduction pledges (nationally determined contributions within the Paris Agreement) from the world's countries as of today (2019) is far from enough, and are estimated to result in a global warming of between 3.1 and 3.5 degrees Celsius.

In addition to climate change, many other environmental problems have emerged as a result of human economic activity. Even if it is hard to fully predict the consequences, one of the most severe problems is loss of biodiversity. Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) shows that 25 % of the animal and plant species in the world are threatened, suggesting that around one million species face extinction within decades unless adequate action is taken. Furthermore, overfishing and plastic pollution have decreased fish stocks and harmed life in water, and projections estimate that the seas will contain more plastics than fish by 2050 (WEF, 2016). Moreover, projections made by the OECD show that 40% of the world's population will live in areas with high water stress due to unsustainable use of ecosystems and climate change in 2050 if adequate policies are not introduced (OECD, 2012). Finally, the pressures on the ecosystems will likely increase even further in the future as the world economy continues to grow, and OECD estimates that global material use will more than double until 2060, even if structural changes in the economy and technological change is taken into account (OECD, 2019).

4.3.3 The effect of trade on the environment

One of the most frequently asked questions about trade and environment is how an increase in international trade affects the environment. According to economic theory, if all markets were perfect, an increase in international trade would never be

negative for welfare, in spite of increased pressure on the environment. In other words, the prices of goods and services would reflect all the costs involved in producing them, including environmental costs. This would allow using the environment in a way that maximizes welfare now and in the future, which of course implies that the environment is used sustainably.

However, in reality, no country in the world has managed to create perfect markets for public goods such as natural capital, or managed to incorporate all social and environmental costs associated with economic activity into the price of goods and services. The lack of knowledge about how the natural capital will react to different types of use, and how the supply and demand for ecosystem services will look in the future makes creating optimal environmental regulations a very difficult task. In addition, many of the environmental problems resulting from economic activity create international environmental problems, and cannot be solved by nations unilaterally, but rather demand regional or multilateral solutions.

Therefore, the effects of increased economic growth, for example as a result from liberalised international trade, often create changes in the environment that could affect people's welfare in a negative way. Nevertheless, the interconnections between increased international trade and the subsequent effects on the environment are not straightforward, making them very complex to analyse. However, one way to analyse liberalised trade's effect on the environment is to divide the effects in directs effects and indirect effect.

4.3.4 Effects of liberalised trade on the environment

Direct effects

The direct effects of increased international trade are environmental problems occurring directly as a consequence of increased trade. This includes environmental effects from increased trade related international freight such as air emissions, underwater noise and risks of oil spills, but also the introduction of invasive alien species that accompany ballast water or specific shipments of goods. For example, emissions from trade-related international freight is often in the centre of the environment and trade debate. However, emissions from trade-related international freight only accounted for approximately 7 % of the world's greenhouse gas emissions in 2010 (OECD and ITF, 2016). Even though emissions from energy production and industry accounts for a much larger share, people who worry about emissions from freight have some grounds for their concern as projections estimate that emissions from trade related international freight will increase by a factor of 4 until 2050, which could undermine climate goals and create large costs for the world (OECD and ITF, 2016).

Indirect effects

However, the indirect effects on the environment, which concerns the structure of a country's, or the entire world's economy, are presumably much larger in scope. As an economy opens up for international trade, it will face increased pressure from international competition, which in turn demands increased productivity and adjustments to remain competitive. One way of theoretically analysing the effect from these changes was proposed by Grossman and Kreuger (1991). They presented a framework where the indirect environmental effects of liberalized trade on a nation's economy are analysed through three separate mechanisms: *the scale effect, the composition effect* and *the technique effect*.

The *scale effect* refers to when liberalised trade increases the economic activity and thus contributes to economic growth. All else equal, this leads to more emissions and resource use, which in turn increases the pressure on the environment. If there are non-corrected market failures, this will also lead to negative effects on peoples' welfare.

The composition effect refers to when liberalised trade creates a pressure on the nation's economy to specialize in areas where they enjoy a comparative advantage, which subsequently results in changes in the composition between different economic sectors. Depending on whether the industries that gain from the trade liberalisation are more or less pollution/resource intensive, the composition effect could either lead to an increase or decrease in the pressure on the environment.

Finally, according to *the technique effect* liberalised trade affects the production methods used in the economy, and thus the pollution or resource use. The technique effect can work through two channels. On the one hand, liberalised trade enables the diffusion of new technologies and thus more environmentally friendly techniques become available to producers. However, depending on economic incentives and environmental regulations, the technique effect can also be negative for the environment as technologies that contribute to environmental degradation can also become more widespread.

On the other hand, as liberalised trade generally increases income levels in a country, and environmental quality is considered a normal good,[12] the demand for higher environmental quality by citizens will increase as a result of liberalised trade. According to economic theory, this will in turn create a public demand for environmentally friendly goods and environmental policies such as taxes and regulations, which further could reduce the pollution intensity per unit of output and thus the total pressure in the environment.

[12] A normal good is any good for which the demand increases when incomes increases.

The total effect of liberalized trade on the environment depends on the combined result of direct effects and the three indirect effects. Since the direct effects and the scale effect increase the pressure on the environment, while the composition and technique effect can either increase or decrease the pressure on the environment, the overall effect cannot be predicted by theory. Consequently, empirical studies are needed to be able to determine the overall effect on the environment in a country from liberalised trade. The evidence from such empirical studies is mixed.

4.3.5 Environmental Kuznets curve

In the early 1990s, economic research showed a hypothesized relationship between trade-led economic growth and environmental performance, suggesting that economic growth would lead to increased environmental degradation during early stages of economic development, but as the economy grows, a turning point could be reached and the pressure on the environment decreased even with continued growth. This relationship between growth and the state of the environment is called the environmental Kuznets curve and can be explained by the three indirect effects mentioned above. In the countries where this relationship has been observed, the increased pressure on the environment caused by the scale effect has been offset by the composition and technique effects.

It is worth mentioning that the Kuznet relationship between economic growth and the environment has only been observed in a limited number of countries and for specific local or regional pollutants, and should not be used as an argument for nations to adopt policies that creates economic growth without taking the environment into account. Especially as the main driver explaining the relationship comes from new green innovations and a higher demand for environmental quality which rarely happens without environmental information and regulation (Gallagher, 2008).

4.3.6 The role of trade policy

As mentioned earlier in this section, international trade can be an engine for the transition to a resource efficient and carbon neutral world if sufficient environmental policies are in place. However, the design of trade policy is also vital for this transition. The role of trade policy in facilitating a green economy has gained increased attention lately, both among nations but also in multilateral organisations such as the OECD, WTO and UN. Some of the most significant areas where trade policy has been identified to play a key role is in facilitating diffusion of environmental goods and services and to enable a transition to a circular economy by enabling waste and used materials for recycling to reach countries that have the best prerequisites to manage and create value of the materials. Furthermore, in the absence of efficient environmental regulations, trade policy

could also be used to restrict trade in goods that negatively affect the environment, or to regulate the use of environmentally harmful subsidies, for instance subsidies to fossil fuels, fisheries and use of natural resources.

As discussed earlier, most environmental problems today are regulated on a national level. For local environmental problems, national regulations are often effective. However, for transboundary or global environmental problems the picture is a bit more complex. National environmental legislation can reduce environmentally damaging activities, but such policies can also be problematic, both from an environmental perspective and from a trade perspective.

To avoid these problems, the optimal way to deal with transboundary or global environmental problems is to find regional or global solutions. As an answer to this, the nations in the world have agreed on more than 250 multilateral environmental agreements (MEAs) ranging from dealing with chemicals and climate to waste and biodiversity. MEAs can handle environmental problems while at the same time minimizing potential negative effects on competitiveness and trade. As of today, at least 20 MEAs include provisions that have directly or indirectly affect trade, where some of the most prominent are the Paris Agreement, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Basel Convention and the Montreal protocol.

Even though MEAs have the same legal status as trade agreements, a difference between them is that many of the MEAs lack sharp enforcement mechanisms. As a consequence, the effectiveness of MEAs varies, and compliance depends on the good will of the parties rather than on the risk of sanctions. Therefore, there have been proposals to handle some environmental issues that are related to trade and competitiveness within trade agreements rather than MEAs, thereby allowing for the use the sanction mechanisms within the trade agreements.

5 The Role of National Policies and National Preconditions for Promoting Sustainable Development through Trade

5.1 Types of national preconditions

As this chapter shows, a number of factors other than trade policy and trade rules impact the effect of trade on sustainable development. Trade liberalisation measures generate different effects in different countries depending on the country's capacity to derive benefit from the opportunities presented by open markets. Optimum utilisation of trade liberalisation measures requires a certain domestic production capacity in the form of, for example, capital, natural

resources, networks and infrastructure as well as functioning institutions. Furthermore, a stable economic system is fundamental for economic growth and consequently for sustainable development.

A country's capacity to benefit from trade liberalization is often referred to as its absorption capacity, which consists of its infrastructure, legal system, governance and administration, investment climate and human capital, among other things (Porto and Hoekman, 2010). For example, countries with weak education systems, high inflation, weak telecommunications, weak governments and low flexibility in labour markets tend to not benefit from trade liberalisation to the same extent as countries that do not have these challenges. The quality of a country's institutions, the quality of its inputs, the proportion of its people who are educated and the rates of higher education also affects the connection between trade liberalisation measures and growth. Furthermore, supplementary reforms and stable national institutions are crucial if businesses' participation in GVC is to contribute to sustainable development.

National preconditions such as the strength of institutions, corruption and governance also affect the ability of countries to implement and enforce supplementary policies. However, it is important to bear in mind that current research cannot entirely establish causal connections between these factors. It is unclear exactly which measures contribute to improvements in what and how, which conditions are the most important, and in what order reforms ought to be implemented.

Table 4.2: Summarising key national preconditions

Key national preconditions	
Infrastructure	Transport infrastructure, Information and Communication Technology (ICT), and infrastructure services such as water, energy, transport and logistics
Trade facilitation	Efficiency of local trade formalities, e.g. customs procedures, border controls, and transaction costs associated with these procedures
Institutional infrastructure	Stability, transparency and efficiency of institutions
Quality infrastructure	Systems and structures that provide the basis for product safety and product quality, e.g. legal framework and regulations for products, standards, standardization bodies, accreditation bodies and market inspection authorities
Good governance and the rule of law	The traditions and institutions through which power in a country is exercised. This includes political stability, procedures for elections, control by government, the government's capacity to effectively formulate and apply policies, respect for public institutions, the rule of law, transparency, and the capacity to combat corruption.

Key national preconditions	
Corruption	Can be defined as the abuse of entrusted power for private gain, and is an obstacle to democracy and a strong state governed by the rule of law. Can lead to increased transaction costs, lack of transparency and uncertainty for companies, consumers and institutions.
Health	Research indicates that investments in health care make a significantly positive contribution to economic growth and development. Investments in health protection result in a stronger workforce (human capital), and thus contribute to a country's ability to share in the benefits of trade liberalization.
Education	The increasingly rapid rate of technological development and restructuring that result from trade liberalizations requires a flexible labour force and the ability to adapt to change. Increased education contributes to huamn capital, and allows people to gain the skills they need. It is also a key factor in supporting other social objectives such as gender equality.
Gender equality	Gender equality means that women and men have the same rights, responsibilities and opportunities in all areas of life. In the context of international trade, gender equality can be seen as a matter of efficient use of resources. The extent to which both men and women are integrated into formal employment, have access to finance, or the means to start a business, can determine the extent to which a country's population can benefit from trade.

Source: Authors compilation.

5.2 The importance of complementary measures

As evidenced in this chapter, the effects of trade depend on national preconditions, and consequently complementary measures may be required if trade and trade liberalisation measures are to contribute to social sustainability. The literature indicates that if trade liberalisation measures are implemented in an unstable macroeconomic framework, without active preparations aimed at strengthening national trade-related institutions or other supplementary measures, the positive impact of trade on growth can be reduced or even become negative. The WTO and World Bank identify strengthening the finance sector, state control, private ownership rights and education as particularly important investments in order for trade liberalisation measures to reduce poverty (WB and WTO, 2015). A sound financial sector is identified as an important factor for overcoming the limitations of access to loans, helping businesses grow and making it easier for households to manage risks and upturns and downturns in the economy. An analysis of 30 African countries between 1981 and 2010 found that open trade tended to reduce poverty in countries that had a well-developed financial sector and high level of education, among other things (WB and WTO, 2015). These factors are important for a ensuring a country's capacity to convert and redistribute resources from less productive sectors to sectors that are more productive. Complementing trade

reforms with measures that increase the resources and skills of poorer groups in society can thus strengthen the positive effects of trade liberalization on social sustainability, such as poverty reduction.

However, it is important to bear in mind that research does not show unequivocal causal connections between these factors. An analysis of each individual case is required in order to identify which measures are the most important in each situation, as well as the order in which they should be implemented. One example of an important trade-related instrument aiming to assist developing countries with conducting this analysis and improving their conditions for socially and environmentally sustainable trade is Aid for Trade.[13]

5.2.1 National sustainability policies and trade: regulatory competition

As many countries want to increase their environmental and social ambitions, there is naturally also an ongoing discussion about unilateral measures that could be used to protect workers and the environment. For example, many countries are currently increasing the level of technical regulations related to the environment. Some of these focus on environmentally harmful contents in goods, such as regulating maximum chemical residue levels, or levels of maximum energy consumption for products that use, generate, transfer or measure energy. This could include consumer goods such as boilers, cars, computers, televisions, and industrial products like transformers.

Such regulations can affect trade and competitiveness. These trade effects may result both from different levels of regulation as well as different types of regulation. Even though two countries strive for similar levels of protection (regulatory objective), the specific regulatory technique chosen (e.g. a reference to a specific standard, a mandatory requirement on certification or testing) can affect trade if an actor needs to ensure compliance with each regulation separately. One way to avoid this is to agree on e.g. mutual recognition agreements on conformity assessment. Such agreements could facilitate market access by eliminating duplicative testing and certification or inspection given that there exist a level of trust for conformity assessment infrastructure between the two markets. Such agreements could potentially lower costs of trade in goods and thus facilitate diffusion of more sustainability friendly products.

On the other hand, higher levels of social and environmental protection typically increase production costs, and thus affect competitiveness of market actors. Meanwhile, trade in global value chains enables a global structure of production which allows companies to localise their production in the countries with the lowest production costs. This can in turn lead to a risk of a so-called ‘race to the

[13] For more information on Aid for Trade, consult Chapter 6 in this volume.

bottom', in which countries seek competitive advantages through implementing lower protection levels and more permissive regulation, and consequently abstain from improving, or even reduce, the regulations that protect social and environmental development. Comprehensive social and environmental regulation can be seen as factors that increase production costs for enterprises, and can therefore be perceived as a disadvantage for countries competing for foreign investment capital.

The majority of empirical evidence in this field, pertaining to working conditions and environmental regulations, show very little evidence to back up the race to the bottom hypothesis (Drezner, 2006). Individual examples can be found of businesses that have chosen to move their production due to cheaper labour, but differences in protection levels and national regulations governing working conditions appear to only have a marginal impact on trade and investment flows. However, some studies indicate that even if countries are not competing with each other to any great extent by means of lower protection levels for working conditions per se, competition does occur in how well that regulation is implemented (Davies and Vadlamannati, 2013).

Moreover, within the services sector, strong national regulation can be a prerequisite for being able to export services such as professional services, financial services, environmental services and communications services. Without regulation in the area, the market lacks sufficient competitiveness. Depending on the level of awareness as well as existence of necessary preconditions for developing trade in services (such as education level), such regulation can prevent a race to the bottom, and could even lead to a 'race to the top'.

6 Sustainable Development in Zambia

Zambia has played a sustained role in promoting peace in the region and has made an important contribution to global and regional policy and processes, including through its lead role as the current chair of the Landlocked Developing Countries Group, and as co-chair for the Southern African Development Community (SADC) region in the Open Working Group of governments negotiating the Sustainable Development Goals (SDGs). Zambia's Vision 2030 articulates its aspiration. Zambia has made notable progress towards the implementation of sustainable development. Some of the achievements include: the establishment of the institutional frameworks to facilitate sustainable development; integration of some aspects of sustainable development into national poverty strategic plans; diversification of the economy away from copper and the promotion of sustainable land management.

As a way of institutionalizing the 2030 Agenda into the national development plans, Zambia launched the 7th National Development Plan (2017-2021) (hereinafter NDP), whose theme is "accelerating development efforts towards the vision 2030 without leaving anyone behind" (MNDP, 2017). This plan mainstreams the SDG indicators into the national performance framework. This integrated approach recognises the multi-faceted and interlinked nature of sustainable development, which calls for interventions to be tackled simultaneously through a coordinated approach to implementing development programmes. The key outcomes include economic diversification and job creation; poverty and vulnerability reduction; reduced developmental inequalities; enhanced human development; and an enhanced governance environment for a diversified and inclusive economy. Several line supporting committees contribute towards implementing the multi-sectoral strategies and setting in motion a series of mutually supporting activities in different sectors with the general objective of delivering the national agenda, including the National Development Coordinating Committee, Cluster Advisory Groups, Provincial Development Coordinating Committees and District Development Coordinating Committees. The SDGs can be achieved only if the fundamental guiding principle of "not leaving any one behind" is adhered to and translated into action at global, regional and national levels.

6.1 The economic dimension of sustainability in Zambia

Zambia is a typical example of a LDC with a large dependence on export revenue from a single mineral - copper, whose trade value has fallen substantially. Despite many reforms to Zambia's National Development Plan, Zambia's economic growth still remains heavily dependent on the mining sector with a heavy dependency on the production of a single commodity, copper. In 2002, copper accounted for nearly 68 % of total exports, contributed about 8 % to GDP and represented an important source of government revenues. This lack of economic diversification and dependency on copper is a key challenge for Zambia, as it makes the country vulnerable to fluctuations in the world commodities market. Zambia is also rich in agricultural resources, but much of that potential remains underutilized.

Zambia's land locked status and sharing common border with eight countries in Southern and Eastern Africa gives it both disadvantages and advantages for regional and international trade. However prevailing development bottlenecks, under-developed manufacturing and agricultural sector, ineffective business practices and low levels of economic management skills have hindered Zambia from benefiting from its geographical advantage. Despite the fact that Zambia had one of the world's fastest growing economies for the ten years up to 2014, with real GDP growth averaging roughly 6.7 % per annum, growth slowed during the period 2015 to 2017, due to falling copper prices, changing rainfall patterns, reduced power generation, and depreciation of the kwacha.

6.1.1 Trade liberalisation and its economic effects in Zambia

Since the introduction of liberalization and structural reform measures in 1991, there have been some improvement in macroeconomic performance. Growth in GDP has averaged 2.0 % per annum while inflation has fallen from the triple digit levels of the early 1990s to below 30 %. Since the late 1990s, inflation has been an average of 27 % on a year-to-year basis. The fiscal deficit has also been brought down during the same period. However, pressure continues to mount on the expenditure side and the domestic debt, arising from short-term (treasury bills and government bonds) financing from open market operations.

Zambia is a heavily indebted poor country (HIPC) and a beneficiary of HIPC initiatives of debt cancellation and special external assistance. The debt service burden exceeds a quarter of annual foreign exchange receipts. This is a major drain on scarce foreign exchange resources that the country needs to finance imports and development activities. Zambia is highly dependent on imports, particularly on imports of petroleum products, transport and communication equipment, electronic, fertilisers and pesticides, raw materials for manufacturing, food products, etc. Zambia is prone to balance of payments difficulties due to imbalances in trade with its partners. To manage the economy, Zambia today depends on large external grants. Most of these grants are in form of budget and balance of payments support and food aid.

As a WTO member, for Zambia the multilateral trading system is a means of expanding to new markets for national products as the promotion of trade with various countries. However, Zambia's capacity to participate in the system has been limited due to implementation problems, development level as well as by unfair trading practices by the developed countries, e.g. through high tariffs and trade distorting subsidies. Participation in alliances such as the Africa Group, ACP/EU and the Least Developed Countries have offered a platform for the country to participate at the multilateral level. Zambia is also signed to COMESA and SADC treaty but still remains disadvantaged due to underperforming manufacturing sector.

There have been some negative effects of the liberal trade policy including the cheaper imports compared to locally produced goods and services leading to closure of many companies in the manufacturing sector. The loss of jobs has also been worrisome. High unemployment among youth in both rural and urban settings is one of the major challenges facing Government, which also affects the social dimension of sustainability in Zambia. All these problems have led to pressure on Government to change policy and membership of the regional trading body, particularly COMESA with regards to labour and goods exchange.

6.1.2 Complementary policies

Given the limitation to enhance Zambia's economic growth and respond to some of the trade related challenges that have prevented Zambia from fully benefiting from the trade agreements that it is party to, there have been recent strides to change this development narrative through efforts aimed at enhancing economic diversification by implementation of farmer input delivery and distribution systems through the electronic voucher or E-voucher system (an efficient method of delivery of the Farmer Input Support Programme (FISP) that allows farmers to choose from a variety of agriculture inputs that best suits their needs). Other interventions include productivity-enhancing and technology development, farm block development; irrigation development; enhanced crop research and development promotion; as well as improving the early warning systems. Creation of target specific funds (citizens' empowerment fund, youth empowerment fund, land development fund) is another strategy aimed at creating capital capacity for development in various enterprises, which could result in reduced poverty and increased employment opportunities.

Other efforts to enhance the country's capacity to achieve sustainable development include the implementation of Decentralization Policy (towards empowering the people and consequently contributing to the human resource development that could have an effect of Zambia's trade opportunities) which will result in direct funding to districts and sub-district structures, and which is intended to foster development in the rural areas. The launch of the Rural Finance Programme, which is private sector driven greatly affected rural development considering that while urban poverty decreased from 53 % to 34 % between 2004 and 2006, rural poverty actually increased from 78 % to 80 % during the same period.

6.2 The social dimension of sustainable development in Zambia

Zambia's economic challenges are directly linked to the social dimension of sustainability, since they affect employment rates, poverty outcomes and labour issues. Hence, although issues of labour, employment and poverty have a strong economic component, they are discussed in this section to demonstrate the link between economic dynamics and the potential social effects obtained that have an impact on sustainability.

6.2.1 Labour issues

The link between trade policy and labour can be highlighted by acknowledging that Zambia's participation in services negotiations like other developing countries has been limited due to lack of both human (that are fully conversant with the process) and financial resources.

In terms of human capital, resources from employment relations in Zambia are profoundly influenced by successive economic and political developments in the country.

Concerning labour implications for sustainable development, Zambia has ratified the core ILO Labour Conventions, the decent work agenda is pronounced in the work policies of most Zambian firms although not fully implemented particularly that the rights to association are frustrated by procedural constraints that prevent workers from holding legal strikes. The ratification can be reflected in the emergence of many more and often competing unions seeking registration and recognition.

For the workers, the multiplication of unions has meant fragmentation and weakened their ability to articulate and champion the workers' cause effectively. For the employers, the multiplication of trade unions has made collective bargaining cumbersome as the employer has to deal with a number of unions. The implication for ratification of the ILO conventions specifically the decent work agenda for firms connected into global value chains is that it creates a level playing field for the international standards and serves as prerequisite for access to certain markets. This and many other compounding underemployment and unemployment factors have major implications for sustainable outcomes for daily survival and human resource utilization for trade.

Creation of well-planned small towns with deliberate industrial development from direct foreign investment in form of goods and services from regional integration Zambia is party to such as COMESA and SADC may be the best option to achieve balanced national development given the vast land resources and a small population.

6.2.2 Poverty

Zambia did not plan for any meaningful social safety nets when the country introduced fast track economic liberalisation and privatisation during the 1990s. Adherence to international commitments on development matters such as UN MDGs and functioning of an enabling global trading environment would result in stable market access for poor countries' exports. Open trade policy does not always bring in benefit for all the tradable sectors, as there will be winners and losers. It can also make the domestic economy prone to global fluctuations. However, in the long run the stabilisation of prices in tune with world market prices would be considered as beneficial to the national economy as well as to the consumers.

To ensure that interventions aimed at diversification and sustainability of the economy are underway, human and financial resources must be used in a way that ensures continuous and lasting improvements in standards of living and these have to be enshrined within the different trade opportunities that Zambia is party to.

Inappropriate consumption and production patterns, and waste of human, natural and financial resources compromise the quality of the natural environment and the possibility of attaining the 2030 Agenda. It can be concluded that all the efforts of macroeconomic management, economic stabilization, market liberalization and public sector enterprise privatisation have had limited success in significantly reducing the incidence of poverty.

Eradicating poverty requires infrastructure development and sustainable industrialisation. The unemployed persons in rural areas migrate to cities and towns in search of employment, leading to poor living conditions in urban centres as most migrants find themselves in slums. The challenge of the Government is to meet the needs of the people in rural areas to curb rural-urban migration, while developing the capacity for sustainable urbanization as a long-term measure. The government of Zambia considers industrialisation and infrastructure development as fundamental pre-requisites to development, yet Zambia's manufacturing and general exports are underdeveloped to maximise trade benefits arising from trade agreements that Zambia is a party to.

6.2.3 Health and education

In Zambia, two other main challenges that exist under the social pillar are improving access to education and child malnutrition as well as reducing infant mortality. Investment in health and education therefore is key in ensuring social sustainability. These challenges have an effect on the human resource capability and can profoundly affect Zambia's opportunities to take advantage of trade opportunities arising from human capital.

Education is seen as a major factor in fighting poverty and hunger and ultimately the human resource capital that is likely to affect a country's ability to take advantage of trade opportunities. Poverty cuts across all sectors, including education, manifests itself in a number of ways including the following: low enrolments; low progression; high drop-outs; poor performance and poor attendance because children are busy engaging themselves in income-generating activities for survival. The implication of these factors in the education sector in Zambia is the inability to grow a more skilled labour force capable of taking advantage of the trade opportunities that Zambia has signed to with the region.

Consequently, Zambia has a limited pool of skilled people and large unskilled and semi-skilled workforce who look for temporary business opportunities in other countries, as medical professionals, consultants, accountancy service providers, etc. Although the specific strategies below do not directly link to trade, the eventual challenges caused by human capital deficits in the form of poor education, health and lack of economic incentives not only affect brain drain but also limit the

potential to effectively take advantage of trade related labour opportunities and production arising from trade. This in turn profoundly affects the country's potential to produce skilled labour that can take advantage of trade related opportunities arising from ratifications of trade agreements such as COMESA and SADC. Furthermore, despite progress made in reducing maternal and child mortality rates, Zambia remains a country with a high disease burden, and is under significant pressure to improve the health status of the people. Zambia is currently implementing the Zambia National Health Strategic Plan 2017 – 2021 whose objective is to improve the health status of people in Zambia in order to contribute to increased productivity and socio-economic development', this strategic plan was developed in line with the National Transformative Agenda, which recognizes the importance of the health sector in improving national productivity.

Hence, in tackling some of the human capital challenges that may potentially affect Zambia's trade opportunities, the Ministry of Community Development, Mother and Child Health is responsible for Primary Health Care and Social Protection. It is a key provider and facilitator of social protection to the less privileged and vulnerable groups in society. There are five main key social support schemes in Zambia, these include: Social Cash Transfer Scheme provides cash to vulnerable families to enable them meet their basic needs. Public welfare assistance scheme targets mainly the incapacitated, terminally ill and other vulnerable individuals and families. The social protection fund is a newly introduced scheme that seeks to help the vulnerable but viable individuals and families with some form of empowerment to engage in income generating activities. The Women Empowerment Fund scheme encourages women to form clubs and cooperatives through which support is provided to enable them engage in viable activities and the Food Security Pack scheme targets vulnerable but viable individuals and families that seek to engage in agricultural activities by giving them support in form of inputs in order to improve household and national food security.

6.3 The environmental dimension of sustainable development in Zambia

In Zambia, international trade and economic development have been strongly linked to natural resource use. However, natural resource use in the country has tended to occur in the absence of a well thought through sustainability strategy. There has been an absence of sound legal framework for community control, ownership and active involvement in natural resource management, for instance, with respect to Joint Forest Management, and the limited decentralization and empowerment of communities to manage and benefit from local resources. NGOs have largely been excluded in resource management such as the Community Resource Boards (CRBS) under the Zambia Wildlife Authority (ZAWA). The Zambia Environmental Management Agency (ZEMA) though a critical and

important institution with respect to the promotion of sustainable development, is merely at a tactical level, it fails to engage at a strategic level. ZEMA also fails to engage at the lower level, including community, where implementation issues are prominent. In most instances, trade policy and environmental considerations tied to climate change commitments tend to be implemented in parallel forms such that protection of the environment rarely takes precedence when economic gains outweigh the cost of utilising the natural resource. Hence, although strategies adopted by line ministries embrace the requirement of sustainable use of resources prescribed in international environmental treaties Zambia is party to, their implementation often implies that economic benefits outweigh environmental costs.

In Zambia, the two ministries that are responsible for environmental management are the Ministry of Lands and Natural Resources and the Ministry of Water Development, Sanitation and Environmental Protection.

The Ministry of Lands and Natural Resources is responsible for the administration and management of land and natural resources in a transparent and sustainable manner. The Ministry of Water Development, Sanitation and Environmental Protection is responsible for the development and management of water resources, provision of water supply and sanitation as well as environmental management. The mandate of the Ministry is to provide policy guidance in the water and environmental sectors. Zambia is making strides to achieving environmental sustainability. In May 2019 for example, the Zambian government and the World Wild Fund for Nature Zambia (WWF) signed a memorandum of understanding MoU aimed at building resource utilisation and environmental conservation in Zambia, yet again, this may not reflect the trade opportunities that Zambia considers beneficial for economic growth and poverty reduction.

6.3.1 Combating deforestation

Combating deforestation has been a major challenge for the environmental management institutions due to the energy crisis the country continues to face in which the majority of the population (70%) depend on firewood for most of their daily livelihood survival. Electricity generation unfortunately has not been expanded sustainably to counter some of the energy challenges due to the lack of availability of alternative technologies that are sustainable development worthy outside of hydro generation and efficient use of coal. This has been exacerbated by other destruction of forests such as timber for immediate economic gains. One example of such inefficient use of natural resources is in the timber sector with estimates stating a potential annual contribution of 11 billion USD to the country's GDP, however, one of the biggest impediments to the growth of the timber sector has been the inconsistency in policy. According to various stakeholders in the sector as well as institutions such as the United Nations Conference on Trade and

Development (UNCTAD), the trade bans that the Government puts in place are sometimes erratic, introducing a high level of inconsistency in the implementation of trade policy. The effect of export bans in the timber sector (that were put in place to curb illegal trade and smuggling) has been negative on licenced traders. However, the illegal harvesting and smuggling went on because there were not proper and adequate measures established to curb these depravities.

Addressing deforestation requires an integrated approach to address the energy alternatives to fuel wood and promoting intensification of agriculture for improved productivity to reduce clearing of forests for farming activities. Policies and legislation that promote community participation in forest and natural resources management must be put in place and implemented with a decentralised system of management that creates incentives and provides adequate capacities for community involvement. Zambia must reduce the deforestation rate to ensure a green economy and sustainable development. Yet again, the case of the Timber export ban previously discussed is an indication that if economic benefits outweigh environmental concerns, the later activities take precedence. There is inadequacy of indicators to measure various sustainable development/green economy issues. Most indicators tend to be generic in nature, lacking specificity with regards to issues of Sustainable Development later alone their trade connection. Hence, climate compatible indicators must be tailored to match broader trade strategies and agreements that Zambia is signed to.

Finally, with regard to the means of implementation of the 2030 Agenda, the national development plan's strong alignment to the SDGs is a strong demonstration of Zambia’s commitment to work with global partners in addressing the country's pertinent development challenges. This will be supported by enhanced frameworks for statistical, monitoring and evaluation capacities coupled with coordinated and diversified resource mobilization and partnerships aligned to various trade instruments and treaties Zambia prescribes to.

6.3.2 Financing for a green economy

Strengthening the development of a green economy is another area where there are both challenges and opportunities for Zambia. A green economy integrates all the major economic and social players whether they be private sector, civil society or government in production processes that benefit society while at the same time minimizing environmental degradation. However, to date, a framework to facilitate such an integration does not exist in Zambia. This could be of great importance in the future, considering that the poverty situation in the country’s rural areas is worse, posing a great danger to sustainable development given that the livelihoods of many rural poor people is intricately linked with exploiting fragile environments and ecosystems.

Zambia should enhance its preparedness to access and mobilise climate financing from domestic and international sources including the Green Climate Fund. There is urgent need for Zambia to establish a Climate Financing Framework for improved mobilization, sequencing, combining and pooling of finances for investments in adaptation and mitigation towards a green economy to meet the social, economic and environmental management objectives of the country. Domestic and international financing should be used to catalyse and leverage private sector investment in addressing climate change. Zambia has a wide range of renewable energy sources (solar, hydro power, biomass, wind, geothermal and energy crops) with great potential. Zambia needs to invest in the large-scale development and promotion of these technologies and improve access to clean and affordable energy to the urban poor and rural areas. This should go hand in hand with the promotion of energy-efficient technologies in production and consumption systems. Aid for trade combined with environmental strategies outlined in the NDP can used to effectively implement activities that may have a potential to contribute to climate compatible development in the long run.

6.4 Ways forward – strengthening sustainable development in Zambia

6.4.1 Establishment of an appropriate sustainable development institutional framework and coordination

Despite the many commitments and efforts made by the Zambian government, one of the major challenges for promoting sustainable development is the absence of specific institutions mandated at promoting sustainable development at sectoral and national level, as well as lack of localised indicators for monitoring progress towards sustainable development.

Though the country has a number of strategic institutions to facilitate implementation of sustainable development, these are poorly funded, resulting in minimal impact on the ground. Furthermore, there was inadequate domestication of the Agenda 21[14] in the country, particularly at sub-national level. There is a gap regarding specific institutional arrangements mandated to promote and champion the sustainable development agenda in the country, and these gaps still are still inherent in the country's efforts to meet the 2030 Agenda.

[14] The Government of Zambia is also a signatory to a number of international conventions and protocols on the protection of the environment and biodiversity conservation. These include Agenda 21 from the UN Conference on Environment and Development, a program for national conservation strategy, which should feed into national environmental action plans, other treaties Zambia is signed to include, United Nations Convention to Combat Desertification, Forest Principles, the Convention on Climate Change and the Convention on International Trade in Endangered species of Flora and Fauna (CITES).

There is need to have a mechanism to integrate sustainable development issues in social, economic and environment pillars within broader trade policy issues to ensure that the different dynamics arising from these three pillars are also adjusted for trade opportunities. This will promote cost-efficiency and effectiveness through the improvement, to the best extent possible, of such systems and monitoring and evaluation, procurement and financial management. It will also provide a platform for sharing best practices related to sustainable development. This strengthening should include institutions that have been specifically established to promote sustainable development and green economy issues such as ZEMA and Mine Safety Department (MSD), which must also be fully integrated to the macro economic strategies aimed at diversification of the economy with sustainability as the key driving force underlying the design and implementation of key environmental, social and economic strategies. Therefore, this strengthening should be holistic in nature, including adequate funding as well as development of professional and technical staff. The sectoral policies, policy frameworks and other legal and statutory instruments designed to promote sustainable development and green economy should be fully implemented taking into account the trade policy agreements Zambia is signed to maximise trade opportunities arising from such agreements. Where these frameworks and institutions need strengthening, appropriate actions should be taken accordingly.

6.4.2 Need for investments and engagement of the private sector

In order to achieve sustainable development, resources have to be invested in an efficient manner – improved policies and effective governance alone that is not backed up by increased investment will not be enough to achieve sustainable development in Zambia, Additionally, there has been inadequate investment to significantly reduce the high poverty levels, particularly the kind of investment that creates enough jobs and wealth. This has slowed down progress towards the SDGs, which is exacerbated by the close link between poverty and the exploitation of the environment for livelihoods. The availability of adequate quality data at the desired frequency and timeliness has been a serious challenge. This has made it difficult to know the current status of various natural resources in terms of exploitation/use, pausing a further challenge to resource planning. The private sector is key in investment for sustainable development – private investment delivered the right way can: create jobs, build skills, spur innovation, provide essential infrastructure and services, boost economies and strengthen standards in public and corporate governance. Government must enhance the partnerships between public and the private sector to increase the possibilities and opportunities for private investments in green initiatives. This will stimulate job creation and increase employment opportunities especially for the youth.

6.4.3 Public awareness

On order for the country to achieve the SDGs, it is important to build public awareness and engage all stakeholders in the 2030 Agenda. This entails reaching out to all levels and sectors with information that is tailored to their specific functions, roles, and responsibilities. Once stakeholders have a clear understanding of the benefits of aligning development plans, policy making processes with Agenda 2030 and building ownership among citizens, it provides a foundation for the lasting delivery of the SDG. Once awareness is raised, government can also be held accountable in terms of progress made towards sustainable development.

Public awareness must be complemented with an effective reporting system based on appropriately formulated Key Performance Indicators (KPIs), which should be developed and implemented. While there has been remarkable improvement in the formulation of M&E frameworks for tracking the performance of the recent NDPs need to integrate appropriate sustainable development KPIs as well as to invest more resources in the operationalization of these frameworks. All the major surveys undertaken by the Central Statistical Office in Zambia (CSO) (including LCMS, Post-Harvest Survey, Zambia Demographic Health Survey) should be given special attention to ensure timely data collection, analysis, reporting and dissemination of results and following-up of the findings. Government should prioritise resource allocation to these surveys given their importance in facilitating evidence-based policy formulation and programming as well as reporting.

There is need for coordinated and consistent sustainable development public awareness campaigns in the country. The awareness campaigns that have taken place so far have lacked consistency, have tended to be fragmented and confined to a few selected sub-sectors and sectors. This has perpetuated low levels of environmental management and Sustainable Development Literacy Beyond awareness, it is imperative to realise a homogenous level of understanding between government and nongovernmental stakeholders. Many countries such as Kenya, Honduras, Bangladesh and numerous others have formulated detailed campaign strategies tailor made to their country's advocacy needs. These strategies have carefully considered who to reach, why they are important to communicate with, and various means to do it. As such, they have been particularly effective in raising awareness in communities and informing them about the Goals. More importantly, these awareness campaigns must be tied to various trade policy instruments by sector in order to ensure that Zambia takes advantage of trade agreements that it is signing to.

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Chapter 5: Trade Policy Architecture – Multilateral Trading System

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Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

This Chapter describes how trade is regulated at the global level. The chapter focuses on the multilateral trade architecture, with a particular focus on the World Trade Organization (WTO). Therefore, it discusses the WTO's past, present and emerging implications on international trade and development processes of countries such as Zambia.

1 Background – from GATT to WTO

The beginning of the multilateral trade system can be traced back to the 1940s. In the aftermath of the Great Depression and WWII, several international cooperation efforts were undertaken in an effort to stabilize the global economy. One key event was the Bretton Woods conference, held in 1944. It was a conference convening representatives of 44 nations seeking to re-think and re-plan a new financial and trade system which was resilient enough to help avoid an international economic chaos such as the one experienced in the 1920s and 1930s (Cypher and Dietz, 2009). The conference led to the creation of the International Monetary Fund (IMF) and the World Bank (WB).

Another proposal that was developed during this time was creation an International Trade Organization (ITO), with a mandate to establish rules governing international trade and to promote the reduction of tariffs. In 1948, the Havana Conference led to the adoption of the ITO Charter, a set of common rules to govern international trade. One of the components of the charter was the General Agreement on Tariffs and Trade (GATT).

Despite these attempts, the ITO never became a reality due to lack of political support in the United States. However, the GATT remained, and entered into force in 1948 with 23 Contracting Parties. It has to be noted that GATT was never an organization but a provisional international agreement with a temporary Secretariat headed by an Executive Secretary. However, over time, GATT became a forum for multilateral trade negotiations, also known as trade rounds. A trade round is a period through which a number of contracting parties negotiate a range of trade related issues. The Uruguay Round, which took place from 1986 to 1994, led to creation of the WTO.

At a ministerial meeting in Marrakesh, Morocco, the results of the Uruguay Round were approved, and in 1995 the WTO was officially established through the Marrakesh Agreement.

Today, the WTO has 164 members, which in total account for around 98% of world trade. In addition, about 24 countries have queued up negotiating to become members. The process through which countries negotiate to become members of the WTO (or any other multilateral and/or regional body e.g. the AfCFTA) is called "accession". The countries preparing/negotiating to join the WTO are called "observer countries/governments". Therefore, the WTO is composed of the Member States (MS) and the observer governments.

2 Purpose and Functions of the WTO

The Preamble to the Marrakesh Agreement Establishing the WTO sets out the broad purpose the organization, and reads as follows:

> [The Parties to the WTO Agreement] *Recognizing* that their relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development (WTO, 2002).

In other words, the purpose and goal of the WTO is to improve the welfare of the peoples of the member countries through facilitating trade. The preamble to the agreement establishing the WTO specifies that one of the purposes of trade rules is to improve global living standards, promote sustainable development, and preserve the environment.

The WTO can be seen as a legal framework for global trade architecture. In other words, the agreements agreed upon within the WTO are essentially legal ground-rules for the conduct, practices and policies for international trade which apply to all member states. The WTO provides a forum or platform for trade policy negotiations, where member states can convene and discuss trade policy issues, and agree upon rules and agreements that apply to all member states. The WTO is also a means of enforcing the agreed-upon trade rules.

The main function of the WTO is to ensure that trade flows as smoothly, predictably and freely as possible to the benefit of member states. To achieve this, the WTO exercise a number of crucial functions:

1. **Negotiation:** it is obvious that the WTO is a forum through which MS converge to negotiate on different trade issues. By providing a platform for trade negotiations, the WTO makes it possible for MS to jointly reach consensus. Such consensus would otherwise be complex to attain if they negotiated with one after another.

2. **Capacity building:** the WTO provides technical support and builds capacity for MS, particularly developing economies, which constitute over three-quarters of the WTO membership. To this end, the WTO agreements contains special provisions for developing countries, such as the SDT principle.[15] This may entail longer time frames for implementation of commitments as well as support to the developing economies in building the necessary infrastructure to be able to effectively participate in global trade, which is provided through e.g. the Aid for Trade initiative launched in 2005.

3. **Enforcement:** the WTO enforces trade agreements through the following ways:

    - **Trade Policy Review Mechanism:** Member states periodically undergo constructive scrutiny and review of their policies. Through this mechanism, the WTO conducts regular monitoring of the global trade measures the member states have adopted and applied. The mechanism is designed to serve three main purposes:

        i. to improve transparency among MS in their conduct and practice of trade;

        ii. to create greater understanding of trade policies the MS adopt;

        iii. to assess the impact of the trade policies the MS adopt.

This mechanism is provided for in Annex 3 of the WTO.

- **Dispute settlement system:** The WTO agreement establishes a Dispute Settlement Body (DSB) dedicated to handling disputes between the MS. It must be noted that even if it is companies in respective countries who trade and are likely to suffer loss and/or discrimination, only WTO Members can bring a trade dispute to the DSB of the WTO.

This mechanism is provided for in Annex 2 of the WTO.

[15] For more information on the SDT principle and its application, consult Chapter 6 in this volume.

3 The Structure of the WTO Legal System

The legal system of the WTO includes a large number of different trade agreements. The system is based on the concept of single undertaking which means that almost all agreements are binding upon all members as one single body of law. With the exception of a very limited number of plurilateral agreements, the Uruguay Round legal texts must be accepted by WTO Members as a whole, (no opting-out, or choosing which agreements to be bound by). This is achieved by annexing all agreements to one single agreement, namely the WTO Agreement.

The WTO agreement is therefore an umbrella agreement containing the other agreements in 4 annexes.

3.1 Multilateral trading rules

These rules are first and foremost concerned with how governments regulate trade between each other. They are only concerned with other issues such as food safety, protection of the environment, intellectual property rights, investment, etc. to the extent that these issues affect trade between WTO Members.

Annex 1 contains the substantive trade rules, the mandatory multilateral agreements. It is divided into three parts; trade in goods, trade in services and trade-related aspects of Intellectual Property Rights.

These three parts are also called the three pillars of the WTO and are the core of the substantive multilateral trade rules. The GATT pillar (Annex 1A) covers the agreements covering trade in goods, the GATS pillar (Annex 1B) the agreements covering trade in services and the TRIPS pillar (Annex 1C) contain the rules on intellectual property rights.

GATT and GATS are also complemented with commitments made by each WTO member. The specific commitments are listed in documents called “schedules of concessions”, which reflect specific tariff concessions and other commitments given by the members. For trade in goods in general, these usually consist of maximum tariff levels which are often referred to as “bound tariffs” or “bindings”. For services the schedules consist of commitments of market access or limitation of market access.¨

Annex 2 of the WTO agreement contains the dispute settlement rules and **Annex 3** establishes the Trade Policy Review Mechanism. These three annexes are binding upon all members.

3.2 Plurilateral trade agreements

Annex 4 contains the agreements that are optional, and therefore only binding on those members who have chosen to be covered by the agreements. These agreements are called plurilateral, and not multilateral, since they only involve some members

Plurilateral solutions may be a possibility when there is not enough support among the WTO members to engage multilaterally, for example, when only a limited group of members have an interest of liberalizing trade in a certain sector.

Plurilateral solutions within the WTO framework may take different forms, but must all relate to the basic principle of most-favoured nation, the foundation of the multilateral trading system.

One option is to include the agreements in annex 4 of the WTO agreement. In order to do so, consensus among the WTO members is needed. However, these agreements do not create any rights and obligations for the WTO members who have not signed the agreements. In other words, the agreements of annex 4 of the WTO agreement are not applied on a most-favoured nation basis. This means that only the WTO members who have signed the agreements are obliged to liberalize markets covered by the agreements, and, consequently, only those members benefit from the liberalizations.

Members can also choose to negotiate plurilaterally, outside the WTO, and then include the commitments made in their schedules of concessions. In this way, also WTO members who have not signed the agreements still enjoy the benefits of the agreements. This means that these kind of agreements are applied on a most-favoured nation basis.

4 Core Principles of the WTO

A number of fundamental principles run throughout all of the WTO agreements, and are the foundation of the multilateral trading system.

4.1 Non-discrimination in trade

The principle of non-discrimination aims at securing equal treatment of products, services and nationals. This key principle prohibits the MS from discriminating against other MS. The non-discrimination principle has two components: the Most Favoured Nation (MFN) principle and National Treatment (NT).

4.1.1 Most Favoured Nation (MFN) principle

MFN is the most fundamental principle of the multilateral trading system. Although it applies to intellectual property, goods and services alike, this chapter uses the example of GATT. According to GATT Article I, if a country favours goods originating in or destined for a specific country (by according them special favour such as lower tariffs or customs duties), the same favour has to be extended to all ”like” goods originating from or destined for all other WTO members. Therefore, MFN is also referred to as “favour one, favour all” principle (WTO, 2002, 2008). MFN is also called “at the border” principle, as it applies to like goods as they cross the border. Once a good passes the border, “behind the border” measures or the principle of national treatment are applied.

In the context of the MFN principle, it is important to understand the concept of “likeness” or “like good” as it is used in many WTO Articles which pertain to non-discrimination. Likeness is determined by considering similarity of characteristics of the product, the end use of the products, and how they are treated in the tariff schedules in the MS where they are exported. Consumers’ tastes also account for determining the likeness of the products. This means that products that are not “like” may be treated differently by the MS. It is also important to note that there are circumstances in which a country can make exceptions from the MFN principle, for example in order to enter into regional trade agreements, or in order to preserve animal or plant life and health. Some of these exceptions are further discussed in section 5 below.

4.1.2 National Treatment (NT)

This obligation, established in Article III GATT, requires member states not to discriminate against imported products. It therefore prohibits member states from treating imported products less favourably than domestic products once the foreign goods have entered the local market. As noted earlier, this is the “behind the border” principle. That is, once the imported goods have been cleared at the border, MS have to avoid protectionism in their application of internal tax and regulatory measures so that the imported “like” products can enjoy the same treatment as the domestic like goods. In other words, the national treatment principle prohibits a WTO member from treating domestic products more favourably than foreign products.

4.2 Transparency and predictability

It is important for WTO members and for traders to know the global trade rules and to be confident that there will be no sudden changes of trade policy. The principles of transparency and predictability are therefore key in the multilateral trading system. WTO members are required to make available to the public all information on trade policies, fees and required paperwork. Also trading partners should be

informed of and allowed to provide comments on proposals for new legislation that could affect trade. This information is provided in so called notifications.

The transparency principle, thus, obliges MS to publish any laws, regulations and/or measures that affect or have the potential to affect trade, before they enter into force. Transparency is achieved through the following ways:

1. **Publication requirement:** Member states are required to promptly publish new laws and regulations related to trade, in a manner that enables governments and traders alike to become acquainted with them before they take effect, or allow such stakeholders to submit their possible concerns.
2. **Administration of trade regimes in a fair manner:** GATT Art. X which is entitled "Publication and Administration of Trade Regimes" requires MS to administer any laws, regulations, decisions and rulings which could affect trade in a uniform, impartial and reasonable manner.
3. **Notification requirements:** in nearly all WTO agreements, there is a requirement for MS to notify the WTO of measures or actions the MS intends to undertake. For SPS in Zambia, as an example, the notification authority is the Director of Foreign Trade Department at the Ministry of Commerce, Trade and Industry (MCTI).
4. **Enquiry points:** some WTO agreements (e.g. SPS and TBT) additionally require establishment of the enquiry points. MS are thus required to establish and operationalize enquiry points to ensure traders and other interested parties can easily obtain the necessary information. For example, Article 10.1 of the TBT Agreement requires each Member to "ensure that an enquiry point exists which is able to answer all reasonable enquiries from other Members and interested parties …" This emphasizes that it is not only the matter of existence/establishment of an enquiry point, but also its operationalisation and functionality.

Annexed to this Chapter, you will find an exercise illustrating access to relevant information under the transparency principle, through the WTO ePing website.

4.3 Progressive liberalisation through successive rounds of negotiations

This principle relates to the overall aim of the WTO of ensuring the attainment of free trade (towards elimination or lowering of tariffs and non-tariff barriers) among its MS. It provides for the gradual reduction and removal of barriers to trade, of both tariff and non-tariff nature. Progressive liberalisation is to be achieved through the following means:

1. Tariff bindings: every country seeking to join the WTO prepares a "schedule of tariff bindings" during the accession process. The schedule of tariff bindings, which enters into force, once a country becomes a member of the WTO outlines the maximum tariffs beyond which other MS' goods cannot be taxed ("bound tariffs"). Through negotiations, the tariff bindings which are the MFN rates can subsequently be reduced tending towards zero. For example, if Zambia's MFN rate for peanut butter at the time of joining the WTO in 1995 was 20%, over the years, the rate would have declined and never expected to go above the 20% ceiling. Put differently, if Zambia "binds" (in its Schedule of Tariff Concessions) the customs duty on peanut butter at 20%, it can never apply a duty higher than that ceiling on "like" goods from MS.
2. Improving market access for services: for trade in services, the progressive liberalisation principle ensures that foreign services and service suppliers thereof are progressively granted better market access.
3. Gradual reduction of trade-distorting forms of domestic support: for trade in agriculture, MS are encouraged to gradually reduce domestic support that has a tendency to distort trade. This could include the removal of subsidies to farmers and the elimination of export subsidies.
4. Observance and policing of non-tariff measures: there are several non-tariff measures/barriers (NTMs/NTBs) e.g. TBTs, SPS, pre-shipment inspections etc., which can impede free trade. Every MS is therefore expected to continuously observe and take appropriate action on the NTMs that are effectively or potentially affecting trade.
5. Prohibition of using quantitative restrictions (quotas): It has to be noted that it is only a "quota" and not a "tariff" which is a "quantitative" measure. Under the prohibition on use of quantitative restrictions, MS are prohibited from limiting the quantity of products authorized for import. For example, despite the abundance of tomatoes in Zambia, the country cannot limit the quantity of tomatoes being imported unless the restriction is justified under one of the various WTO provisions granting exemptions.[16] The WTO rules do not necessarily require unlimited market access, they just forbid quantitative restrictions. This principle is not applicable in the context of the GATS and the TRIPS.

[16] See section 5 below.

5 Exceptions to the Core Principles

The WTO governance system provides a balancing act between the members' "obligations", and "rights". On the one hand, WTO members are obliged to adhere to the core principles, as outlined above. On the other hand, however, the WTO agreements grant the MS the right to derogate or waive them in certain circumstances and under certain conditions. The following waivers or exceptions to the basic principles apply under the WTO system:

- **Safeguard measures** give MS the right to impose tariffs over and above the bound tariff (or to impose a quota) in emergency situations when the volume of import drastically increases, in order to prevent "serious injury" to a domestic economic sector.
- **General exceptions** give MS the right to impose tariffs over and above the bound tariff (or to impose a quota), where such measures are necessary to protect or relate to a list of specific policy objectives such as health or the environment. Such measures cannot constitute a disguised restriction on international trade or a means of arbitrary or unjustifiable discrimination.
- **"Security" exception** provides MS with the right to take measures to protect essential national security interests (defined by the member taking the measures). As an example, in Zambia in early 2019, the government barred a professor from East Africa from entering the country where he was scheduled to deliver a "controversial" lecture at a private/faith-based university. Consequently, the possible export of education services by an East African national (service supplier under mode 4 of supply) was restricted on the perception that the lecture would incite public violence thereby endangering national security.
- **Regional integration (preferential access):** gives MS the right to grant preferential treatment to products (or service suppliers) from some countries, without extending those preferences to other WTO Members. This right is granted in the case of free trade agreements or customs unions and in the case of economic integration agreements liberalizing trade.[17]
- **Waivers:** permit derogations from certain WTO conditions for a certain period of time, granted with the authorization of the other members, in exceptional circumstances. In order for the MS to waive the obligations and exercise their "rights", they must take into account the following three (3) aspects:

[17] For more information on regional/bilateral trade agreements, consult Chapter 7 in this volume.

a. Assess and motivate whether they are in a situation that justifies the waiver;

b. Apply the waiver in a way that shows abiding by the requisite procedures;

c. In certain cases, ensure they notify the measure taken in exercise of those rights.

6 The Core Decision-Making Bodies

The WTO is a member-driven organization, meaning that the organization belongs to its members. The organization has a secretariat, led by the Director-General, but it has more of a supportive and administrative function. All major decisions are made by the membership as a whole, either by ministers or by their ambassadors or delegates. Decisions are normally taken by consensus, and all member countries have one vote each. Consensus is considered to be reached as long as no member country blocks the matter concerned.

The core decision-making organs are:

- **Ministerial Conference:** this is the **highest level of authority/decision-making organ** of the WTO. The Conference brings together all member states, represented by their Ministers of Trade, and meets at least every two years in order to make major decisions on all matters under any of the agreements of the WTO. Where or when necessary, the MS' Ambassadors/Delegates based in Geneva make decisions on behalf of their Ministers and Governments (WTO, 2019).
- **The General Council:** it is **the second level of authority** in the WTO that handles the day-to-day work in between the Ministerial Conferences. The Council operates in three different configurations:
    i. **The General Council**: delegates meet in this capacity to act on behalf of the Ministerial Conference;
    ii. **The Dispute Settlement Body**: the General Council meets as DSB to oversee dispute settlement procedures;
    iii. **The Trade Policy Review Body**: the General Council is responsible for analysing, examining and evaluating MS' trade policies when it meets as the TPRB. Significant developments that may have an impact on the global trading system are also monitored. For each

review, two documents are prepared for submission to and discussion by the WTO's full membership in the TPRB:

a. a policy statement by the government

b. a detailed report written independently by the WTO Secretariat.

The third level of WTO governance consists of councils for each broad area of trade: Goods Council, Services Council and TRIPS Council. There are also committees on different levels of the organization, dealing with specific issues.

7 Dispute Settlement in the WTO

Dispute settlement is one of the key functions of the WTO, which is activated in case of occurrence of a dispute between the WTO members. A dispute arises when one WTO Member adopts a trade policy measure that one or more other Members consider to be inconsistent with the obligations set out in the WTO Agreement. In such a case, any Member that feels aggrieved is entitled to invoke the procedures and provisions of the dispute settlement system in order to challenge that measure (WTO, 2004).

The Dispute Settlement system is often referred to as one of WTO's prime achievements. As of December 2019, the WTO had received 593 disputes brought to the DSB making the WTO one of the most active international dispute settlement mechanisms in the world. Since the founding of the organization in 1995 over 350 rulings have been issued and around 63% of the WTO membership had used the system. The aim of the system is to find a solution mutually acceptable for both parties of a dispute. The compliance rate with the dispute settlement rulings is therefore very high, around 90 %.

> The Dispute Settlement Mechanism (DSM) is particularly important for the developing countries because in a rules-based system it is not the country with the most economic clout that imposes its will on the others, but the country with the soundest legal arguments that will eventually prevail. Consequently, the Dispute Settlement Mechanism contributes to levelling the playing field, particularly for the economically and politically weakest countries. This means that the small countries can confront the big countries on an equal footing, as in the cases involving Ecuador and the European Union, or Antigua and Barbuda against the United States, or Costa Rica against the United States or even between developed countries, as in the case of New Zealand against Australia (Torres, 2012).

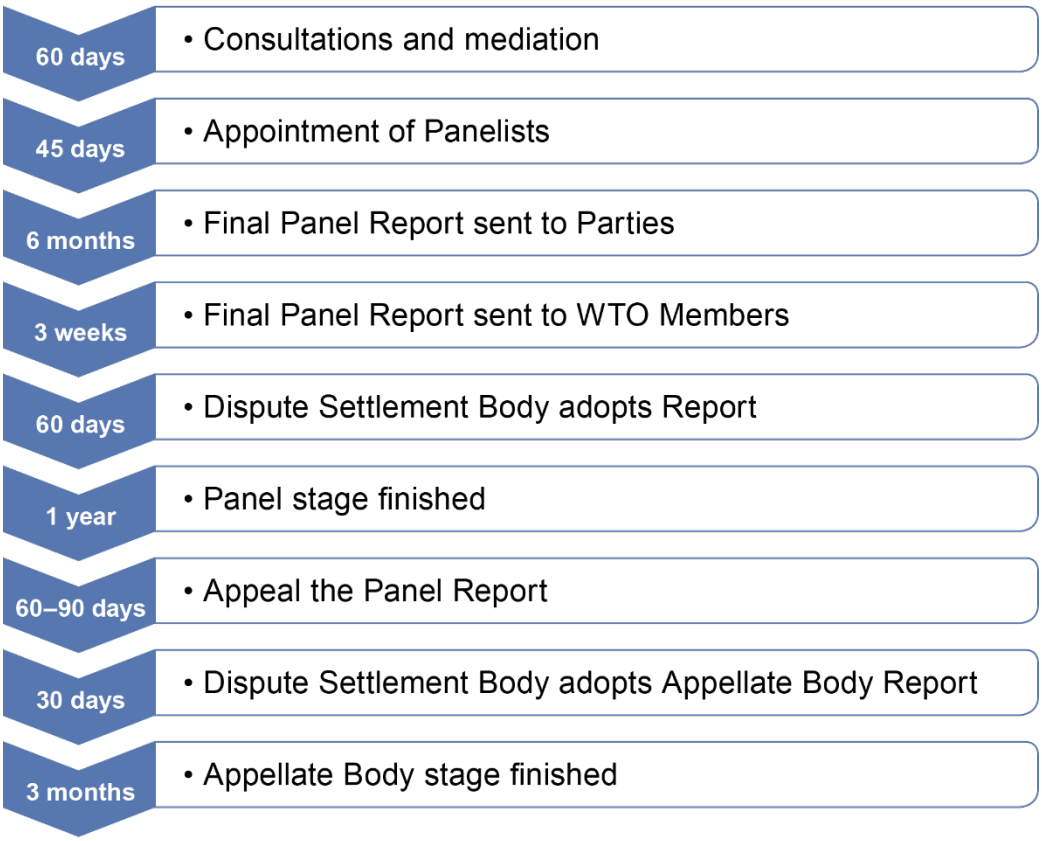
As can be seen from the quote above, the Dispute Settlement Mechanism is a viable avenue for developing countries/LDCs to seek remedies for their grievances on one hand. Viewed from a different perspective, it also presents an enormous challenge for the participation of developing countries/LDCs.

7.1 Dispute settlement procedures

Dispute settlement procedures can run from 3 weeks to 30 days, 60 days or 1 year, or even significantly longer.

The first stage of the DSM process is the consultation and mediation stage. It is the request for consultations by one or more MS that formally initiates a dispute in the WTO. Consultations give the parties an opportunity to discuss the matter and to find a satisfactory solution without proceeding further with litigation. After 60 days, if consultations have failed to resolve the dispute, the complainant may request adjudication by a panel thereby possibly igniting the subsequent stages. The figure 5.1 below illustrates stages of the dispute settlement process and indicates their duration.

Figure 5.1: DSM procedures and duration per procedure



Source: NBT (2018)

7.2 Constraints to developing countries' participation in the dispute settlement mechanism

Even if the DSM has potential benefits for developing and least developed countries, such countries have not been able to maximize them. There are several constraining factors to their active participation in and derivation of benefits from the DSM. Torres (2012) extensively discusses such factors with reference to Latin America. The main such factors can be summarized as follows:

1. Long duration of a dispute: as can be seen above, the proceedings tend to take long time, making developing countries hesitant to embark on efforts to resolve a trade dispute in the DSM. This is aggravated by the perspective of estimated costs of being engaged in a lengthy dispute.

2. Litigation capacity constraints: to pursue justice in the WTO, a MS must have the necessary expertise or capability for litigation. Owing to the complex procedures and multiplicity of stages a case can undergo, initiating a dispute in the WTO is a costly exercise both in terms of time and money and may require hiring or supporting legal teams. Unlike the developed countries, very few developing countries would regard the development of domestic legal expertise to engage in WTO litigation as a sufficiently worthwhile investment. Therefore, developing and less-developed countries tend to suffer from a chronic deficiency of WTO litigation capacity both in terms of expertise as well as financial resources.[18]

3. Trade barriers identification and communication mismatch: although it is the private sector that engages in trade and makes use of the WTO rules, it is the governments as the WTO members who are empowered to activate the DSM when necessary. The key challenge is, thus, that the trade policy measure which the private sector may identify as trade barrier may not be equally assessed by government. Moreover, it may be difficult for the private sector to clearly communicate their priorities. In this respect developed countries may find it easier to thrive in the DSM because of the existence of functional formal mechanisms that empower exporters to make their national authorities aware of the existence of another country's measure(s) impeding trade. Through such mechanisms, government authorities initiate and coordinate investigations on the existence of a violation worth pursuing in the DSM.

[18] The Advisory Centre on WTO Law (ACWL) in Geneva provides free legal advice and training on WTO law to the currently 36 developing country member states and the presently 44 LDCs that are WTO members or in the accession process. The ACWL also provides legal support at a discount to such member states in WTO dispute settlement proceedings. See: https://www.acwl.ch/.

4. Fear of political and/or economic alienation: most developing countries are constantly and perpetually depending on donor support for their national budgets, and technical support towards different projects. This makes it difficult for the developing countries to have the clout to be a respondent in a dispute and, in particular, declare a dispute against an industrialized country which is a "life line for their bread and butter". This could entail the possibility of the developing or less-developed country being isolated politically and/or economically by the economically stronger country. This also applies among developing countries themselves. For example, given South Africa's economic position on the continent, it is difficult for Zambia to pursue litigation if a violation of the non-discrimination principle occurs to the detriment of Zambia's trade position.
5. Inapplicability of the DSM to trade relations based on RTAs: given the fact that the majority of trade between developed and developing countries is governed by RTAs which are preferential rules outside the WTO, the DSM has no mandate to litigate in cases of disputes arising out of these trade relations.

8 WTO Impact on Development

Since 1995, when the Marrakesh Agreement establishing the WTO entered into force, the development of MS has been affected by it in both positive and negative ways.

8.1 Positive WTO impact on development

1. Lower tariffs: because of the evolution of the GATT and now the WTO, tariffs overall have constantly declined tending towards zero across WTO member states. This has undoubtedly improved consumer welfare particularly in developing countries where the importation of various goods has impacted both quality and price (WTO, 2011, 2019).
2. MFN-treatment allows smaller countries to "free ride" on negotiations: it is established that the global south lacks capacity to effectively and gainfully negotiate in the MTS. The WTO therefore becomes a platform where such countries could free-ride on the efforts of the big industrialized countries when a key trade issue is negotiated.
3. Increased predictability: the MTS is premised on rules found in the many agreements that form it. These rules guarantee stability and thereby predictability of the system making it easier for traders regardless of their

location to have constant and verifiable information about different markets of interest.

4. Technical assistance (Aid for Trade): through the EIF championing the Aid for Trade agenda of the WTO, a number of countries in the global south have received the necessary support to develop capacity in different trade issues such as TBT and SPS. It is through this provision that countries such as Sweden have supported countries such as Liberia in their WTO accession process. The Commonwealth Secretariat also has actively supported a number of countries such as Belize and Fiji to develop their capability for productive engagement in the WTO.

8.2 Negative WTO impact on development

Notwithstanding the benefits derived from the MTS, criticism could arise from the following:

1. Mismatch between the WTO focus areas for reduction of trade barriers, and developing countries' interests: interests of the developed countries, who have the capacity to negotiate in the MTS, often differ from those of developing countries, who tend to free-ride. This means that the sectors of interest for developing countries, where barriers reduction would be beneficial, often remain unaddressed. Developing countries are frequently frustrated at the level of protection developed countries apply to their agricultural, textile and clothing sectors, where they could otherwise thrive and further the development process.

2. Cost of implementation of the agreements: implementation of WTO agreements requires capacity. It is known that developing countries are capacity-strapped in a way that poses challenges to prioritizing the requisites for WTO agreement implementation. As an example, for Zambia to effectively implement the TBT agreement, key investments have to be made in e.g. testing laboratories. Currently ZABS has mainly one major laboratory in Lusaka and a smaller one in the Eastern province whereas another green field investment is earmarked in Copperbelt province. Despite these investments, the rest of the vast country remains un-serviced by a laboratory within close proximity.

3. Supply side constraints: to gainfully trade, a country's industrial, manufacturing as well as services sector has to be versatile and up to date with 21st century trade morphology and emerging trajectories. Zambia, as an example, has remained stuck in the terms of trade which is associated with cheap primary goods exports versus the importation of expensive value-added goods. Furthermore, the country's high value-adding

manufacturing sector has been in a state of prolonged fragmentation since the 1990s sweeping economic reforms. Indeed, as argued by Joseph Stiglitz, globalization has produced discontentment for Zambia's industrial sector making it hard for the country to be able to take advantage of trading opportunities. The country seems to now prioritize trade policy more than actualizing the industrial policy which should be the engine if meaningful benefits from international trade and the MTS are to accrue to the nation.

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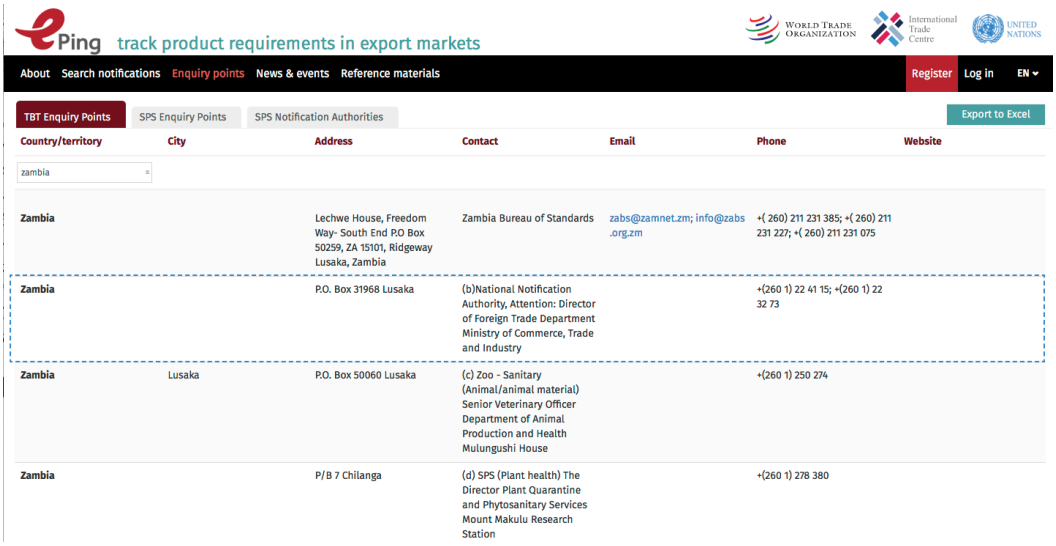
WTO (2019). Unless otherwise stated in the text, refers to the WTO website and its different pages accessed during the writing process.

Exercise: Using the ePing Database

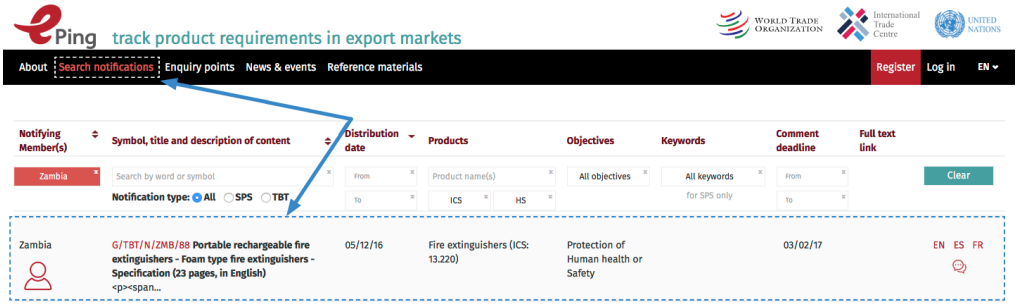
How does one access the "published", "notified" and "enquiry point" information is a key question for most businesses. For SPS and TBTs, anyone can sign up on the WTO's eping website to receive notifications alerts. Below is an example of access to information under the transparency principle:

In Zambia, the Enquiry Point on TBT matters is the Zambia Bureau of Standards (ZABS). Relevant information can be accessed through the https://www.epingalert.org/en website. This website is the result of three international organizations, the United Nations Department for Economic and Social Affairs (UNDESA), the WTO and the International Trade Centre (ITC), whose combined expertise and experience facilitate easy access to pertinent trade information on product requirements in WTO MS markets.

On the screenshot below, the National Notification Authority and Enquiry Points are specified and their contact details also indicated.



You could also click on the "search notifications" and select the country of interest e.g. Zambia and the following information will be seen:



Here you will see that among the last notifications from Zambia, made on 5th December 2016, was on G/TBT/N/ZMB/88 Portable rechargeable fire extinguishers – Foam type fire extinguishers – Specification (23 pages, in English); and comments were welcome until 3rd February 2017.

Chapter 6: Special and Differential Treatment and Aid for Trade

Authors: Josephat Nchungo; Caesar Cheelo; Edna Kabala

Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

As the world economy has expanded over the decades so has global trade. In 1980, the world's Gross Domestic Product (GDP) was valued at US$11.2 trillion according to the World Bank's World Development Indicators (WDI) (World Bank, 2020). By 2017, this had grown to US$80.6 trillion, representing a more than six-fold increase between 1980 and 2017. Over the same 37-year period, (combined) exports and imports of goods and services rose from US$4.8 trillion (1980) to US$45.1 trillion (2017), increasing by more than eight times the original trade. Moreover, the share of global trade in global GDP increased from 43% in 1980 to 56% in 2017. Clearly, international trade is big and growing on the world stage. The international community therefore agrees that trade is critical for development.

However, as global trade and GDP fortunes expanded, some regions, particularly Sub-Saharan Africa, lagged behind. The region's exports and imports in 2016 were only US$720billion or 1.8% of total world exports and imports. Sub-Saharan Africa's lagging trade performance has been well-recognized for quite some time (Yeats et al, 1996).

This chapter describes the special consideration given to developing countries within the World Trade Organization (WTO), with a particular focus on Special and Differential Treatment (SDT), and technical and financial assistance, Aid for Trade. SDT is a principle according to which developing countries are given special rights when it comes to the implementation of WTO agreements. It is a special consideration accorded to developing countries in general and more particularly Least Developed Countries (LDCs) in order to help them to adjust and adapt to the changes enshrined in the WTO-agreements and mitigate any unforeseeable negative effects that may result from the implementation of the agreements (WTO, 2020a).

2 Developing Countries vs. LDCs in the WTO

Although the terms 'developing countries' and 'LDCs' are often used interchangeably, the two terms have different meanings. The term developing country is usually used in a broad sense and generally includes countries with low, lower middle and higher-middle income countries. Meanwhile, the term LDC applies to a smaller group of developing countries that face particular challenges. Different organizations use different methods to classify developing countries and the term is often linked to a specific definition or criteria.

This is the case with countries classified as LDCs. The LDC classification is determined by the United Nations (UN), and is based on three parameters: poverty, human resources and vulnerability (UN, 2020). The threshold for each parameter is summarised in table 6.1 below. The UN reviews the status of LDCs every three years, hence, the status is not permanent (UN, 2018a).

In the WTO, on the other hand, there is no specific definition for developing countries. Instead, the status of developing country is self-determined by each country. Therefore, a country that is categorised as a developing country in the WTO might not be considered a developing country according to other organizations, and vice-versa.

In the WTO, LDCs enjoy general privileges of the 'developing countries' status, and are also given more specific flexible treatment (which any other developing countries may not receive). Examples may include specific technical support or expertise to adjust to the WTO agreements.

Table 6.1: LDC inclusion and graduation thresholds

	Inclusion	Graduation
Per capita GNI*[19]	$ 1025 or below[20]	$ 1, 230 or above
Human Asset Index (HAI)**	60 or below	66 or above
Economic Vulnerability Index (EVI)***	36 or above	36 or below

Source: United Nations (2020a).

3 Rationale – why SDT?

The rationale behind SDT is to accord developing countries flexible conditions to fulfil multilateral trade agreements. Rajamani (2006) notes that the adoption of SDT was based on the notion that equal treatment would secure equality only among identical parties, thus, it was only unequal treatment (SDT in this case) that would correct inequalities between different parties. SDT can be considered an expression of the long-standing struggle for a more equitable world economic order. It encompasses the entire range of regulations whose integration into the international trade regime has been advocated by southern governments (Fritz, 2005).

[19] *GNI, a measure of a country's income; **HAI, a composite index of education & health; *** EVI, a composite index of population size, merchandise export concentration, homelessness due to natural disasters, remoteness, share of agriculture to GDP, instability of agriculture production, instability of exports of goods & services.
[20] Note that, the inclusion level may be more or less than $1025 because it is revised from time to time.

SDT was introduced primarily with the view to give developing countries more time to adjust, greater flexibility, longer time periods to implement agreements and commitments, measures to increase their trading opportunities, support them in building their trade capacity, to handle disputes and to implement technical standards. To this effect, many WTO agreements give developing countries transition periods to adjust to WTO provisions and, in the case of the Trade Facilitation Agreement, provide for practical support for implementation of the agreement (WTO, 2016).

To put this into perspective, trade between Sweden, the United States, Germany, Japan, United Kingdom, France and several other developed countries is largely intra-industry, meaning it is driven by economies of scale and economic size. Trade between Nigeria, Tanzania, Zambia, Djibouti, Angola, Zimbabwe and other developing countries, on the other hand, is largely driven by comparative advantage and is usually inter-industry in nature (Krugman, 1999). Consequently, subjecting these countries to the same multilateral trading rules under the WTO may result in larger economies trading more among themselves (intra-industry trade) than with developing countries and developing countries trading more with developed countries (inter-industry trade) than among themselves and this may increase global inequality between rich and poor countries.

Another amplifying illustration is that, Trade-Related Aspects of Intellectual Property Rights (TRIPS) mandates developed countries to “lock” their technologies that come along with their traded goods. Yet, most developing countries still rely on this technology to spread out to them through the ‘spill-over effect’ so that they will also be able to produce similar products and compete. As such, SDT comes in handy to give certain exemptions to developing countries especially in areas where they have comparative advantage as a way of giving them competitive advantage to be able to trade globally. In view of the above reasons, developing countries are thus expected to make use of this special treatment to help them advance and become more competitive in world trade.

4 History of SDT in the WTO

The concept of special treatment for developing countries has a long history in the General Agreements for Tariffs and Trade (GATT) and now in the WTO, and over time has undergone various reforms and adjustments (ICTSD and IISD, 2003).

4.1 The Tokyo Round and Enabling Clause

The GATT in its original version of October 1947 did not include specific provisions for developing countries. Rights and obligations were the same for all contracting parties. Thus, the Tokyo Round with the so-called Enabling Clause was the first step towards officially introducing SDT for developing countries in 1979 (Fritz, 2005). The provisions of the Tokyo Round and the Enabling Clause allows derogations to the most-favoured nation (non-discrimination) treatment in favour of developing countries. This for instance includes preferential tariff treatment by developed countries to developing countries and a more favourable treatment in terms of non-tariff measures for developing countries, among others.[21] [22]

As developing countries progress to achieve a higher income status and become more developed, they are also expected to participate in and comply with their obligations within the WTO to a greater extent. However, despite SDT being put into effect by the Enabling Clause, figures suggest that some low-income developing countries (i.e. LDCs) are still nowhere near high-income developing countries, and worse still compared to developed economies in terms of key economic indicators. For instance, in 2014, the LDCs averaged only USD 952 in GDP per capita. That is less than 9% of the world average, while their economies grew at a rate of 5.6% in 2014, up from 5.26% in 2013. Furthermore, by 2017, only five LDCs[23] recorded growth of 7% or higher (UN, 2018b). Poverty levels are still high with over 51% people living below world average income (UN, 2016).

4.2 The Uruguay Round and SDT

The history of SDT for developing countries can be divided into two phases: the time before and after the GATT Uruguay Round, which began in 1986 (Fritz, 2005). During the Uruguay Round, the concept of SDT changed from one of providing a range of flexibilities and additional policy spaces based on economic criteria, to one essentially consisting of time-limited derogations (exemptions) from the rules with more favourable treatment regarding tariff and subsidy reduction commitments, thresholds in the application of countervailing measures and limited policy flexibility for specific obligations (ICTSD and IISD 2003).

[21] Adapted from WTO (1979)
[22] For more information on the most-favoured nation (non-discrimination) treatment in the WTO, consult Chapter 5 in this volume.
[23] Ethiopia, 8.5%; Nepal, 7.5%; Myanmar, 7.2%; Bangladesh, 7.1% and Djibouti, 7%

5 Special Treatment of LDCs in WTO agreements

Particular attention is given to LDCs in WTO agreements given the volatility of their economies. Special provisions are continuously being considered to assist them in their development efforts. Most recently, the WTO Ministerial Conferences held in Bali in 2013 and in Nairobi in 2015 adopted several decisions in favour of LDCs to aid their successful integration into the Multilateral Trading System (MTS). Decisions on duty-free and quota-free market access, preferential rules of origin and the LDC services waiver, among others, constituted important steps forward in further improving preferential market access for goods and services originating from LDCs (WTO, n.d.). All of these special treatments are outlined below.

1. **Preferential rules of origin:** rules of origin is the process through which the country in which a product was made is identified (for more information on rules of origin, consult Chapter 10 in this volume). This is a cardinal process because it forms the basis for which traded goods can be deemed eligible or ineligible to enjoy specific preferential treatments that encompass zero or reduced tariffs, quotas and other related trade barriers. This process is quite complex, especially when the product in question is made from materials that were initially imported from other parts of the world into the country that made the product for the export market. To this effect, LDCs were given a multilaterally agreed set of guidelines to help their exports penetrate developed countries markets, which is called Preferential Market Access.

2. **Services waiver:** Due to the increasing prominence of global trade in services, and the possibility of job creation in developing countries (UNCTAD, 2018), ministers at the Nairobi Ministerial Conference in 2015 extended the lifespan of a 2011 decision initially adopted at the WTO's Eighth Ministerial Conference. The decision enables WTO members to grant services and services providers' from LDCs preferential access to their markets for 15 years. This is expected to boost services trade between LDCs and other WTO member countries. However, this special treatment package (though still optional, not all developed countries use the waiver) is not in itself enough to ensure that LDCs successfully integrate into the global services market. For example, in the past decade, the share of LDCs in world exports of commercial services has doubled, but from only 0.4% in 2005 to 0.8% in 2015 against a rise in the share of their imports from 1% to 1.6% in the same period (UNCTAD, 2017).

3. **Cotton negotiations:** most agrarian economies with a reasonable share of cotton production base such as Burkina Faso, Benin, Chad and Mali were at the helm of the cotton initiative bargain as far back as 2003. During the Ministerial Conference in Hong Kong in 2005, Trade Ministers committed to addressing cotton trade issues 'ambitiously, expeditiously and specifically' within the agriculture negotiations, including the commitment to make large reductions in subsidies that were distorting trade and improve market access for cotton-exporting LDCs (WTO, 2015a).
4. **Duty-free and quota-free (DFQF) market access:** One of the key objectives of engaging developing countries in the WTO is to liberalise their economies and integrate them into the global economic system. This, in turn, is expected to yield positive economic effects through job creation, poverty reduction, consumer welfare among others, as the case has been for the Asian Tigers (Hong Kong, Taiwan, Singapore and South Korea). To that effect, some LDCs are given DFQF market access from other WTO members (both developed economies and high-income developing countries like China), particularly in sectors in which LDCs have a large comparative advantage, mainly primary commodity exports. For instance, in 2015, the combined exports of all 48 LDCs made up 0.937% of worldwide exports. Although a small percentage, it is nearly double the figure in 2001, and primary commodities made up 77% of total LDC exports in 2013 – an upward rise from 69% in 2001.
5. **Modulation of commitments:** LDCs are given a large degree of flexibility to the commitments enshrined in the WTO agreements. This includes exemptions from penalties for failure to meet agreed targets (e.g. tariff reduction targets), longer adjustment periods, reduced levels of commitments and the opportunity to choose commitments (Yanai, 2013). This flexibility is not granted to other WTO member countries including high-income developing countries.

6 Impact of SDT

The impact of SDT on developing countries can be explained through two mechanisms: intended (or manifest) and latent impacts.[24] The former is the intended and expected impact, usually a positive one. While the latter is the unintended and unexpected impacts.

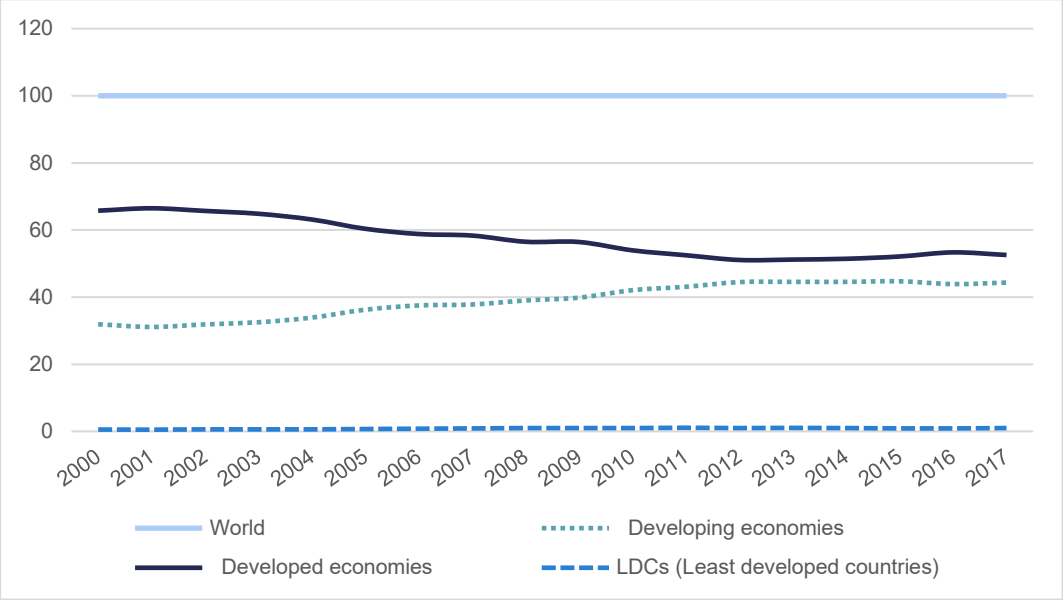
[24] Implied concept from Robert Merton's Latent and Manifest Functions in Sociology.

6.1 Manifest impact

The following are the manifest impacts of SDT on developing countries:

A number of developing countries have been able to catch up with developed countries in trade, (OECD, ILO, World Bank and WTO, 2010). The share of trade from developing countries in the world trade has improved in the recent decades mainly due to their integration, duty-free and tax exceptions in developed countries. For instance, the share of duty free imports from LDCs to developed countries increased from 70% in 2000 to 84% in 2014. More so, UNCTAD (2015) shows that, the share of world merchandise exports of developed countries declined from 65% in 1948 to 51% in 2014. While that of developing economies rose from 30% in 1948 to 45% in 2014 nearing that of developed countries.

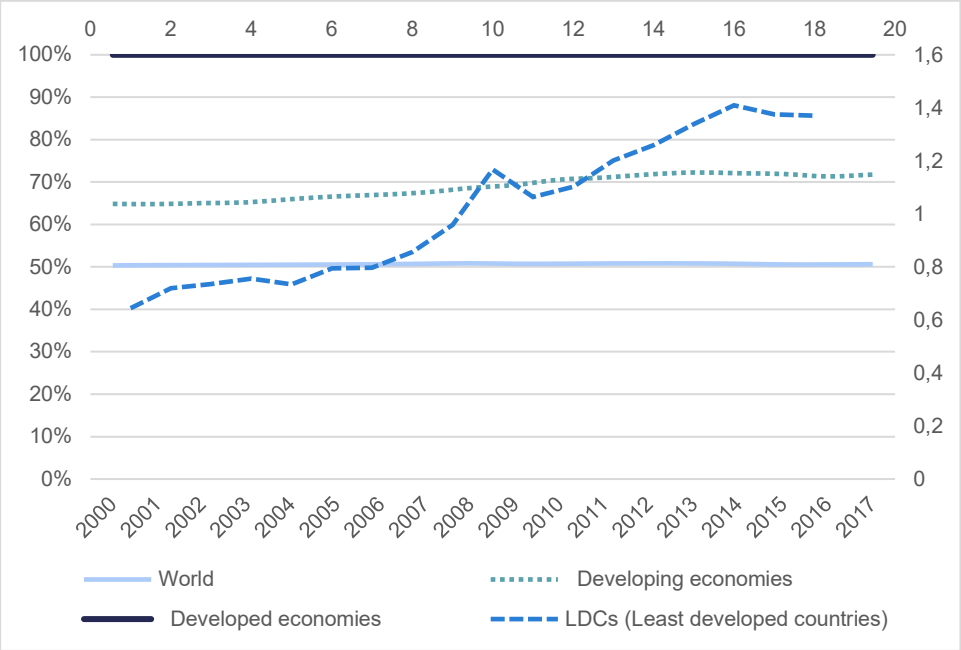
Figure 6.2: Share of world merchandise exports (%)



Source: Author's based on UNCTAD (2020).

As we can see from figure 6.2 above, there has historically been a gap between developed and developing countries when it comes to their respective shares of world merchandise exports. However, in the past years the gap has narrowed considerably. However, it can be noted that LDCs still lag behind in some areas, as can also be seen in the figure 6.3 below. Figure 6.2 and 6.3 show that LDC-economies are less export-oriented and more import-oriented. Proponents of Import-Substitution Industrialization argue that, excessive imports are healthy for a developing economy if they are more on intermediate goods (e.g. goods that are used to expand domestic production) than consumer goods (goods imported to be consumed) that compete with local infant industries, thus, entangling their growth.

Figure 6.3: Merchandise trade and imports (%)



Source: Author's based on UNCTAD (2020)

It can be noted from figure 6.3 above that, as a result of preferential treatments, LDCs' imports have risen steadily from 2000 to 2017. Equally, developing countries' imports are also above world average and this may suggest their integration into the global economy.

Additionally, Yanai (2013) notes that SDT has played a pivotal role in promoting the integration of developing countries into the multi-lateral trading system. Integration of developing countries into the global economy may also suggest an active role in Global Value Chains (GVCs) through forward[25] and backward[26] participation, (WTO, 2015a). As a consequence of participating in GVCs, most developing countries have been able to embark on an industrialization trajectory, with the East African Community (EAC) notably Rwanda, Kenya and Ethiopia as particular examples in Africa in the process of industrialization through reverse engineering (WTO, 2013).[27]

[25] Forward participation refers to domestic inputs used in third country exports
[26] Backward participation refers to foreign inputs contained in exports
[27] Reverse engineering refers to the process of imitating the technology that comes with the imported products and reproducing them.

6.2 Latent impact

Firstly, there are costs associated with adjusting to the MTS, (Kleen and Page, 2005). SDT is given to a category of countries in the WTO that constitute the majority. Thus, for every country to adjust to the 'standard' trading system, costs are huge and will require further assistance and support.

Secondly, the possibility of national and regional policies conflicting with some SDT requirements and conditions. There can be unforeseeable conflicts in the implementation of some SDT measures starting from the bigger system (WTO), to the regional blocs (Southern African Community - SADC), Common Market for Eastern and Southern Africa - COMESA) and the now to be ratified Africa Continental Free Trade Agreement (AfCFTA) to which most LDCs including Zambia are/shall be common players.

Thirdly, the possibility of steering up 'trade wars' due to increased trade. Examples may include those arising from increased intra-industry trade from a developing country (China) to a Developed Country (United States). This means that, by virtue of its 'developing country' status, the former may enjoy some SDT causing it to become more competitive in some industries than the latter, thus causing one part to think they are losing out when in fact consumers are benefiting from it. The foregoing may also lead to increased cases of Anti-Dumping and Countervailing (ADC) Measures. Due to some SDT that may make some developing countries more competitive in some industries than developed countries, there can be increased ADC measures even where they are not appropriate.

Last but not the least is legal disputes. In the case of China and the United States, there are many legal disputes between these countries and most of these emanate from increased trade between the two countries, who enjoy different treatments under WTO. The larger the volume of trade between two countries, the higher the likelihood of a dispute (Kuenzel, 2017).

7 Critique of SDT

SDT has received mixed reactions, especially from developed countries. A number of issues have been cited in which SDT is seen to be a roadblock in achieving international development. Some of points raised are as follows:

- SDT is a result of political compromise, thus, both parties, Core Countries (preference-giving countries) and Peripheral Countries (preference-receiving countries) tend to implement it arbitrarily (Yanai, 2013). Consequently, this has great potential for distorting the manifest functions of SDT, hence, desired results may not easily be obtained and/or take longer to yield.

- SDT discriminates against developed countries in trade.
- SDT has the potential to distort trade rather than promote it. The issue here is that, certain privileges that are enjoyed by developing countries in the name of SDT have a potential to distort prices of goods and services on the international market. This is more likely to occur if identical industries, not occur if between developed and developing countries.
- SDT undermines the productive capacity of developing countries by assuming that, without special treatment, they cannot compete and this has potential of discouraging them from undertaking necessary innovative reforms.
- Developing countries are too heterogeneous to be treated in the same manner. After all, there is no solid definition of a developing country. For instance, some organizations such as World Bank and International Monetary Fund (IMF) use GDP per capita and GNI per capita which is more of an economic approach of classification while the United Nations Development Programme (UNDP) uses the Human Development Index (HDI) and the Inequality Adjusted HDI (I-HDI), which is essentially a Socio-economic (Humanistic) approach to classification. Thus, it becomes oblique to determine who and when a country should graduate from enjoying SDT given that the statistics upon which classification is established change from time to time.

Additionally, we also note the following:

- Although within the WTO, developing country status is a 'self-declared' status, various WTO agreements have established differentiated subcategories thereof (Paugam and Novel, 2005).
- Many see SDT provisions and the differentiation between developing and developed country members as one of the main reasons why WTO negotiations on further trade liberalization have largely stalled. Some developed country members argue that, it is futile to negotiate trade agreements when some of the top trading countries in the world (eg. China, India) self-declare as developing countries, making them exempt from the negotiated outcomes due to SDT.
- The institutional capacity of developing countries to adjust to SDT and to meet the timeframe is still weak.
- Reciprocity, which is one of the fundamentals in the WTO, does not apply to SDT thus rendering the whole process somewhat dichotomous (Yanai, 2013).

- Some scholars, notably Kwa (1998) have argued that, the agenda of the WTO, the implementation of its agreements and the much-praised dispute settlement system all serve to advance the interests of developed countries. This is seen as side-lining the interests of developing countries, thus questioning the practicality of SDT for LDCs when most of their produce fail to penetrate markets for developed countries in some industries such as textiles in which LDCs have some favourable comparative advantage.

7.1 The Role of Technical and Financial Assistance in Supporting Developing Countries: Aid for Trade

One means of further supporting developing countries and LDCs in increasing the benefits of WTO-membership is financial and technical assistance. Aid for Trade is a collective name for aid that is meant to improve the developing countries', in particular LDCs', capacity to participate in and benefit from international trade. According to Ndulo et al. (2010), a debate on Aid and Trade persisted for some time in the development literature, with some arguing that developing countries needed to accelerate their trade and GDP growth rates in order to achieve development. Others were saying that what these countries really needed was aid (development assistance) and not trade per se. Reportedly, around 2005, the debate culminated into a general consensus that developing countries needed Aid for Trade or the aid to support trade. The original purpose of Aid for Trade was to resolve the trade-related capacity constraints that hindered the participation of developing countries in world trade and thereby restricted their growth prospects (WTO, 2006).

The WTO in conjunction with the ministerial conference in Hong Kong initiated aid for Trade in 2005 (WTO, 2005). The WTO defines Aid for Trade broadly and includes all types of trade-related programs and projects, such as technical assistance in developing trade strategies, the building of physical infrastructure such as roads and the expansion of the telecommunications network, as well as support in adjusting to reduced customs receipts, etc. (WTO, 2020b). In other words, aid for trade can include measures intended to facilitate trade at the border, cross-border trade and national preconditions.

Since the initiative was launched in 2006, USD 246.5 billion have been invested in Aid for Trade. The majority, over 75 per cent, has gone to 4 specific sectors: transport, energy, agriculture, and banking and finance (WTO and OECD, 2015). The European Union (EU) is a major player in the Aid for Trade arena. In 2012, the EU was responsible for around 32 % of all Aid for Trade (EU Commission, 2016). Along with the OECD, the WTO has established a framework for monitoring Aid for Trade, and every other year a Global Review of the progress of Aid for Trade is conducted and the results published in a joint report of the

situation – *"Aid for Trade at a Glance"*. The Global Review in 2015 focused on high trade costs. Trade costs are highest in low-income countries and lowest in high-income countries. In other words, developing countries bear a disproportionately high share of global trade costs (WTO and OECD, 2015). Since inefficient handling of goods at the border is one of the highest trade costs for developing countries, the facilitation and simplification of trade formalities is a priority area for Aid for Trade (Ibid).

7.2 History of Aid for Trade

A short historic perspective is instructive to understanding Aid for Trade. Thorough consideration of the issue of Aid for Trade started in the Uruguay Round – which spanned from 1986 to 1994 and embraced 123 countries as *contracting parties* – under trade-related technical assistance established and provided by various bilateral donors and multilateral institutions (Ndulo et al, 2010). However, during this round relatively little traction was gaining in defining or operationalizing the notion of Aid for Trade.

This transitioned into more focused Aid for Trade discussions during the 2001 Doha WTO Ministerial Conference when the Ministerial Declaration put the development concerns of developing countries and their integration into the MTS at the centre of the negotiations agenda (IMF and World Bank, 2006). In Doha, "It was argued that developing countries were not able to implement the Uruguay Round Agreements because of institutional and (productive) capacity constraints. The major challenge was, therefore, how to help developing countries overcome their trade-related institutional, human resource and supply-side capacity constraints. This was to enable them be an integral part of the WTO trade negotiations, thereby benefit from trade liberalisation and the WTO agreements" (Ndulo et al, 2010). The Doha pronouncements on Aid for Trade were not without implementation challenges (Fergusson, 2011).

Thus, the 2005 Hong Kong WTO Ministerial Declaration sought to go further that Doha. It did so by establishing a task force to provide specific recommendations on how to operationalise the concept of Aid for Trade and initiate discussions on appropriate mechanisms to ensure additional financial resources for Aid for Trade. This was to be done through, as much as possible, grants and concessional loans. The task force, in its 2006 report, recommended the framework for understanding issues of Aid for Trade (WTO, 2006; Ndulo et al, 2010). Many international observers agreed that the 2005 Hong Kong Declaration was when an earnest general consensus was truly reached establishing that developing countries needed Aid for Trade.

Subsequent WTO Rounds have since reemphasized and reinforced the notion of Aid for Trade, and established various Aid for Trade policy positions, programmes and projects. For example, more recently, the tenth WTO Ministerial Conference in Nairobi in 2015 agreed to the following text on Aid for Trade as part of the Ministerial Declaration: "We recognize the importance of the Aid for Trade initiative in supporting developing country Members to build supply-side capacity and trade-related infrastructure and we shall accord priority to the LDCs' needs. We take note of the outcomes of the WTO global reviews on Aid for Trade, in particular the Fifth Global Review, and recognize the continuing need for this initiative" (WTO, 2015b).

7.3 Current thinking about Aid for Trade

Ultimately, the Aid for Trade initiate lives on as one of many multilateral arrangements to support developing countries. It is understood as being about helping the developing world, in particular the LDCs, "to build the trade capacity and infrastructure they need to benefit from opening up to trade. It is part of overall Official Development Assistance (ODA) – grants and concessional loans – targeted at trade-related programmes and projects" (WTO, 2020b) (see also box 6.4 below). The current global Aid for Trade programme is for 2018-2019.[28] From the point of view of the WTO (2018), the Aid for Trade Work Programme for 2018-2019 is meant to further develop the themes that emerged during the Aid for Trade Global Review 2017. This further development will focus on supporting economic diversification and empowerment for inclusive, sustainable development through Aid for Trade. The WTO Aid for Trade Work Programme for 2018-2019 seeks to achieve the following:

To further develop analysis of how Aid for Trade can contribute to economic diversification and empowerment, with a focus on eliminating extreme poverty, particularly through the effective participation of women and young people.

To ensure that Aid for Trade contributes to the above objective by addressing supply-side capacity and trade-related infrastructure constraints, including for micro, small and medium-sized enterprises (MSMEs), particularly those in rural areas.

To cover issues such as industrialization and structural transformation, digital connectivity and skills, as well as sustainable development and access to energy.

[28] A new Aid for Trade work programme is currently being discussed at the WTO.

Box 6.4: Aid for Trade objectives formally states

The objective of the Aid-for-Trade Initiative, as stated in its mandate, is to help developing countries and in particular least developed countries, to build the supply-side capacity and trade-related infrastructure that they need to implement and benefit from WTO agreements and to expand their trade.

Source: WTO (2005)

Aspects to do with youths, women and the digital divide are given extra special consideration in the programme. For instance, the programme views the meeting of the demand for work and employment from new young job-seekers, particularly young women, expected to enter the labour force and employment market by 2030 as a crucial Aid for Trade milestone. Similarly, bridging the digital divide between men and women while at the same time, promoting greater overall connectivity and a great ability for all to engage in e-commerce is critical for lowering trade costs and therefore for the success of Aid for Trade. Generally, the WTO sees its role and the role of its programmes as being (WTO, 2020c):

- To encourage additional flows of Aid for Trade from bilateral, regional and multilateral donors to support requests for trade-related capacity building from beneficiary countries;
- To support improved ways of monitoring and evaluating the initiative; and
- To encourage mainstreaming of trade into national development strategies by partner countries.

The Enhanced Integrated Framework (EIF) is the main mechanism through which least-developed countries access WTO-specific Aid for Trade.

Interestingly, the WTO programme on Aid for Trade is not the only one out there. Other key players within the Aid for Trade global architecture include (Ibid):

- African Development Bank (AfDB);
- Asian Development Bank (ADB);
- European Bank for Reconstruction and Development (EBRD);
- International Monetary Fund (IMF);
- Inter-American Development Bank (IADB);
- Islamic Development Bank (IsDB);
- International Trade Centre (ITC);
- Organization for Economic Cooperation and Development (OECD);

- United Nations Conference on Trade and Development (UNCTAD);
- United Nations Development Programme (UNDP);
- United Nations Economic Commission for Africa (UNECA);
- United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP);
- United Nations Industrial Development Organization (UNIDO);
- World Bank;
- World Customs Organization (WCO);
- Enhanced Integrated Framework (EIF); and
- Standards and Trade Development Facility (STDF).

Some observers may view this list as being somewhat incomplete and contentious considering that it does not including any of the many Regional Economic Communities (RECs) around the world that participate in Aid for Trade initiatives. Nor does it include new or "non-traditional" trade and economic configurations like the BRICS (Brazil, Russia, India, China and South Africa), which provide massive amounts of different forms of development assistance, including support to the building of productive capacities through infrastructure development support. The contention becomes more apparent once we try to take stock of what the current situation of Aid for Trade is. According to OECD data, trade-related ODA commitments were around $25-35 billion a year in 2005, which was around 30% of total ODA (although the data are somewhat outdated, they are useful for drawing out an important point) (WTO, 2020b). These commitments covered four main Aid for Trade categories:

- *Trade policy and regulation:* this amounted to roughly US$0.9 billion in 2005 and was to help build local capacities to develop national trade policies, participate in trade negotiations and implement trade agreements.
- *Building productive capacity*: this amounted to roughly US$9.5 billion and included trade development spending of about US$2 billion a year. Generally, the component is targeted at helping enterprises to trade and at creating a favourable business environment.
- *Economic infrastructure spending*: this was US$12.1 billion in 2005, for assisting countries build the physical means — transport and storage, communications and energy — to produce and move goods and export them. Its value to a country's economy extends well beyond trade. According to the WTO, because there is no way of breaking out the amount

that is strictly "trade-related" (how much of a road is used for export trade as opposed to general domestic transport, for example), the total is treated as a proxy measure of Aid for Trade.

- *Trade-related structural adjustment*: this is another component of the broadest measure of Aid for Trade assistance, and it was about US$3-6 billion a year in 2015.

We summarize these commitments into Table 6.5, and in consonance with the descriptions of "trade-related ODA commitments" in the Aid for Trade categories above, we add a trade-related component of Chinese Development Assistance under the 2006 Forum on China Africa Cooperation (FOCAC) to the Total Aid for Trade commitment of 2005. The FOCAC commitment was in the form of concessional loans and trade credits as presented in Cheelo and Nakamba-Kabaso (2017). Added to the global Aid for Trade amount of US$28.5 billion would have raised the total to US$33.5 or 15% of the new total. China's development cooperation, though itself controversial for fostering what some have called *debt-trap cooperation*, was a substantial contribution in support of developing countries in Africa. Excluding it from the formal global Aid for Trade commitment within the OECD data framework raises an important question about whether all trade-related development cooperation efforts to help build productive capacity and economic infrastructure are equally treated as Aid for Trade or only those efforts from the *Western* development partners.

We must hasten to add that the omission of China and other seemingly important actors on the Aid for Trade landscape might have to do with a lack of data cooperation between the OECD and the other actors. Therefore, the issue of which sources of trade-related development assistance are eligible to be defined as Aid for Trade and actually show up in world Aid for Trade statistics, and which ones are not is an important emerging issue. It will require further research going forward. Further research would help to answer critical questions regarding who makes it on to the list as key stakeholders in the Aid for Trade global architecture and who does not. It would also possibly provide answering to questions about why some prominent players in mobilizing and delivering trade-related development cooperation are excluded.

Table 6.5: Aid for Trade components plus FOCAC, 2015

	US$ billion	(% TAfT)	(% TAfT with China)
Trade policy and regulation	0.9	3%	3%
Building productive capacity	9.5	33%	28%
Economic infrastructure	12.1	42%	36%
Trade-related structural adjustment	6.0	21%	18%
Total Aid for Trade (TAfT)	28.5	100%	85%
China's concessional loans and trade credit under FOCAC	5.0	n/a	15%
Total Aid for Trade, with China	33.5	n/a	100%

Source: Authors' construction

7.4 Regional Aid for Trade principles and practices

7.4.1 A generic overview of regional integration in Africa

Africa is host to a total of 13 RECs covering the 52 States of the continent. Africa's RECs are characterized by a considerably high degree of overlapping membership. The list below demonstrates this and shows that across the 13 RECs, the total memberships are 141 for the 52 countries. This implies that on average, each country belongs to about 3 RECs:

- AMU (Arab Maghreb Union), five members;
- CEMAC (Economic and Monetary Community of Central Africa), six members;
- CEN-SAD (Community of Sahel - Saharan States), 28 members;
- CEPGL (Economic Community of the Great Lakes Countries), 11 members;
- COMESA (Common Market for Eastern and Southern Africa); 19 members;
- EAC (East African Community), six members;
- ECCAS (Economic Community of Central Africa States), 11 members;
- ECOWAS (Economic Community of West African States); 15 members;
- IGAD (Intergovernmental Authority on Development), eight members;
- MRU (Mano River Union), four members;
- SACU (Southern African Customs Union), five members;
- SADC (Southern African Development Community), 15 members;

- WAEMU (West African Economic and Monetary Union), eight members.

The development cooperation objectives are vast and varied, but often revolve around trade, economic, social, geopolitical, and peace and security cooperation. Coordinating the mobilization of domestic and external resources for trade and development is therefore inherently a key strategic objective of most of Africa's RECs. However, they have quite diverse policies and practices in so far as Aid for Trade mobilization, management, allocation, utilization, and monitoring and evaluation are concerned.

A descriptive review of the economic, trade, social, demographic, environmental and other characteristics of all these RECs and how these characteristics influence Aid for Trade progress and performance within the communities, would be highly informative for the development literature, but also unwieldy to undertake. We therefore take a brief look at Aid for Trade in one REC, COMESA, and glean insights and lessons for Africa from that case study.

7.4.2 COMESA Aid for Trade: lessons for Africa and the world

COMESA makes an interesting case because it is one of the few RECs, if not the only one, to formally establish an Aid for Trade strategy. The Common Market developed its first regional Aid for Trade strategy, for the period 2009-2010 and followed this up with the COMESA Aid for Trade Strategy 2012-2015. The 2012-2015 strategy sought to build on the successes of its predecessor and to address the then outstanding challenges (Comesa, 2012). As stated in the strategy document, the COMESA Aid for Trade Strategy aimed to support and strengthen the implementation of regional integration policies and programmes in the following ways:

- "Enhancing coordination and effectiveness within and among regional and national institutions;
- Supporting efforts that identify and eliminate outstanding regional and national structural and capacity constraints that continually undermine the region's ability to gain from trade liberalization opportunities;
- Supporting the effective linking of regional policy decisions, regulations and programmes with national implementation modalities in the Member States, thus fostering enhanced domestication of the regional macro-economic and trade liberalization programmes of COMESA;
- Augmenting resource mobilisation, utilization and tracking mechanisms based on trade liberalization, trade facilitation and economic adjustment priorities of COMESA; and

- Supporting the strengthening of capacities to monitor and report on progress and to apply corrective measures during the implementation of COMESA programmes."

While the detail might differ widely, the principle of using aid to support the trade and trade-related developmental ambitions of developing countries, particularly the least developed countries in Africa is quite consistent with the WTO's Aid for Trade agenda, including the Work Programme for 2018-2019. In part, the COMESA Aid for Trade Strategy laid a firm foundation for COMESA to continue aligning its trade and economic development ambitions to the multilateral level. For instance, it is partly on account of this that in 2013, a number of COMESA Member States were among the WTO Members that concluded the negotiation of the WTO Trade Facilitation Agreement (TFA) at the WTO Bali Ministerial Conference. Alignment of the TFA and the COMESA Treaty was inherently feasible because a substantial portion the Treaty contained general and specific provisions for trade facilitation. Table 6.6 below offers a summary of all the key Treaty articles, by chapter, which makes provisions for trade facilitation. It reveals that 12 out of the 36 chapters of the Treaty (excluding Annex I of the Treaty) have articles with specific reference to trade facilitation. Likewise, 27 out of the 195 articles in the Treaty (excluding Annex I) provide for trade facilitation. Article 70 is specifically dedicated to Trade Facilitation and Annex I is a Protocol on Transit Trade and Transit Facilities.

Table 6.6: Summary of COMESA Treaty provisions on trade facilitation, by chapter and article(s)

CHAPTER	ARTICLE(S)
2 (Interpretation)	**2** (Interpretation)
3 (Aims and Objectives)	**3** (Aims and Objectives of the Common Market); **4** (Specific Undertakings)
4 (Organs of the Common Market):	**17** (the Secretariat and the Secretary General)
5 (The Court of Justice)	**26** (Reference by Legal and Natural Persons)
6 (Co-operation in Trade Liberalization and Development):	**45** (Scope of Co-operation in Trade Liberalization and Development); **51** (Dumping); **52** (Subsidies Granted by Member States); **58** (Customs Administration); **62** (Trade Promotion)
7 (Common Market Customs Co-operation):	**63** (Scope of Customs Co-operation); **64** (Common Market Tariff Treatment); **65** (Communication of Customs Information); **66** (Prevention, Investigation and Suppression of Customs Offences)
9 (Simplification and Harmonization of Trade Documents and Procedures):	**69** (Trade Documentation and Procedure); **70** (Trade Facilitation); **71** (Standardization of Trade Documents and Information).
10 (Monetary and Financial Co-operation):	**73** (Settlement of Payments)

CHAPTER	ARTICLE(S)
11 (Co-operation in the Development of Transport and Communications):	**87** (Air Transport); **91** (Multimodal Transport); **93** (Freight Forwarders, Customs Clearing Agents and Shipping Agents)
15 (Standardization and Quality Assurance):	**112** (Role of Standardization and Quality Assurance); **114** (Quality Assurance)
20 (Development of Comprehensive Information Systems):	**139** (Trade Information); **141** (Trade Information)
23 (Development of the Private Sector):	**151** (Creation of an Enabling Environment for the Private Sector); **152** (Strengthening the Private Sector)
Annex I (Protocol on Transit Trade and Transit Facilities):	**2** (General Provisions); **6** (Bonds and Sureties); **7** (Common market Transit Document); **8** (Exemption from Customs Examinations and Charges); **9** (Transit Procedures)

Source: COMESA (2017).

On this basis, seven out of the 19 Member States participated in the process of bringing the TFA into force at the multilateral level, by ratifying the *Protocol of Amendment* of the WTO Agreement, and notified the WTO of their acceptance of the TFA Protocol. The seven Member States are presented in Table 6.7 (column (b)).

Table 6.7: Notification and ratification of the TFA in COMESA, by Member State

	Ratification Date	**Notification**		
		Category A*	**Category B****	**Category C*****
(a)	*(b)*	*(c)*	*(d)*	*(e)*
Burundi		A		
Comoros				
DRC				
Djibouti		A		
Egypt		A		
Eritrea				
Ethiopia				
Kenya	10-Dec-15	A		
Libya				
Madagascar	20-Jun-16	A		
Malawi		A	B	C
Mauritius	5-Mar-15	A	B	C
Rwanda	22-Feb-17	A		
Seychelles	11-Jan-16	A		
Sudan				
Swaziland	21-Nov-16			

	Ratification Date	Notification		
		Category A*	**Category B****	**Category C*****
(a)	*(b)*	*(c)*	*(d)*	*(e)*
Uganda		A		
Zambia	16-Dec-15	A	B	C
Zimbabwe		A		

Notes:
* Category A: Provisions that the Member will implement by the time the Agreement enters into force (or in the case of a least-developed country Member within one year after entry into force)
** Category B: are provisions that the Member will implement after a (specified) transitional period following the entry into force of the Agreement.
*** Category C: are provisions that the Member will implement on a date after a transitional period following the entry into force of the Agreement and requiring the acquisition of assistance and support for capacity building.

Source: constructed from TFAF (2020).

By the time the TFA was entering into force in February 2017, 12 out of the 19 COMESA Member States (or 63%) had ratified it, agreeing to implement the TFA upon its entry into force. Out of the 12, three Member States – Malawi, Mauritius and Zambia – had additionally included Category B and Category C provisions in their notifications.

Despite the multilateral level progress with the TFA among COMESA countries, it is important to ensure the sustainability of the regional level of Aid for Trade provisions and mechanisms such as through the COMESA Fund Protocol. The Protocol established the COMESA Adjustment Facility (CAF) as a special facility for providing trade-related adjustment support to member States. The CAF became operational thought the Regional Integration Support Mechanism (RISM), a performance-based incentives mechanism that aims at bolstering regional integration (COMESA, 2016). The RISM programme was solely funded by the EU drawing on the 9th and 10th European Development Fund (EDF). The EDF arrangement came to an end in 2019, with very little possibility for further extension after 2-3 extensions in the past. Although the RISM Programme saw numerous successes, as documented in COMESA (2016), the COMESA Member States have perhaps been slow to establish alternative financing options to sustain the region's Aid for Trade flows and efforts. Regional Aid for Trade sustainability remains one of the most significant challenges for COMESA. Other regions looking to establish regional level Aid for Trade operational mechanisms should be encouraged to figure out their sustainability strategies *apriori*.

8 Conclusion and Policy Recommendations

To conclude, this chapter aimed to discuss the principle of SDT for developing countries within the WTO and Aid for Trade. It has distinguished developing countries from LDCs based on some key economic indicators such as GNI per capita, HAI and EVI. We have also noted that, LDCs are given more preferential treatment than other developing countries in general due to their fragile economic structures. The chapter has further identified some specific SDT to LDCs such as preferential rules of origin, services waiver and DFQF market access that widens the penetration power of LDCs to developed countries' markets.

It has been argued that the impacts of SDT on developing countries are two-fold, intended (manifest) and unintended (latent). Among the manifest impacts, developing countries have been able to catch-up with their developed counterparts in trade. We also appreciate their participation in the global production network that has seen a number of LDCs rise to the occasion of industrialization. Among the perceived latent impacts of SDT are that, the process can be costly as it tries to bring different countries with different needs, priorities and economic systems into a single one. Some policy commitments may also be conflicting between the larger economic system and the smaller ones leading to trade diversions, trade wars and legal disputes among other things.

Notwithstanding, SDT is a profound initiative meant to reduce inequality between developed and developing countries in trade and may boost economies of developing countries if well utilised. Therefore, developing countries especially LDCs need to take advantage of this initiate to industrialise their economies and be competitive.

To that effect, SDT may have flaws just like any other policy undertaking, thus, to mitigate the latent impacts and capitalise on the manifest ones, we recommend that periodical reviews of SDT implementation are conducted to act as an 'early warning mechanism' that will help developing countries identify their weaknesses and mitigate the negative impacts thereof. We further recommend that technical support to LDCs should be in line with their national policies and priorities to avoid a possible mismatch between the well-intended support and the receiver's national priorities. Last but not the least, an effective system of graduation should be put in place for higher-income developing countries to instil confidence in the system from both developing and developed countries.

This chapter has also looked at the historical and current thinking around Aid for Trade, particularly the championing role of the WTO is mobilizing and channelling trade-related resources to the least developed world. We also highlighted the regional progress of COMESA is fostering Aid for Trade and using regional

strategies and initiatives to pursue its regional integration agenda. Our views and ideas about the fate of Aid for Trade are that as global donor funding preferences change, African countries and RECs will have to establish robust sustainability strategies that have reliable financing options. This will be of particular importance in view of the fast-changing global aid and trade landscape. We further argue in favour of carefully coordinating donor-receipt efforts, building of like-mindedness and flexibility, and fostering regional corporation in order to ensure a more effective and responsive form of Aid for Trade.

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Chapter 7: Regional and Bilateral Trade Agreements

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 The Rise of Regional Trade Agreements

Over the past three decades, the global economy has witnessed an unprecedented phase of economic integration. This process was triggered by the adoption of open door policies by almost every major economy. Several countries sought ways of forging close relations with their immediate neighbours, while some particularly developed countries sought ways to accord differential and more favourable treatment to developing countries. This paved the way for the formalization of agreements aimed at increasing regional and bilateral trade.

The desire to integrate has been driven by many factors among them economic, political and security-related. For developing economies, the proliferation of trade agreements since the 1990s has stemmed from the desire to implement domestic trade reforms aimed at opening up their economies at a sustainable pace to competitive liberalization and facilitating the integration of their economies into the world trading system (Crawford and Fiorentino, 2005). For Zambia, the deep-rooted levels of poverty, low global share of trade, low pace of development in human capital and infrastructure among many other challenges, has prompted the country to participate in these regional and preferential agreements as a way to foster trade and development. The country has engaged in several regional and extra-regional trade agreements, and continues to negotiate in other preferential agreements.

2 Types of Regional Trade Agreements

In theory, models of economic integration agreements can range from Preferential Trade Agreements (PTAs) to Free Trade Agreements (FTAs), Customs Unions, Common Markets, and Economic Unions, depending on the degree of integration. The WTO uses the overall term Regional Trade Agreements (RTAs), even though they are not always geographically regional.

A PTA is the first step towards economic integration, where trading partners agree to reduce but not abolish tariffs entirely. They may however choose to eliminate a limited number of tariffs. Their aim is to improve market access possibilities for their commercial entities.

A Free Trade Agreement (FTA)[29] on the other hand, is a form of economic integration wherein all barriers are removed on "substantially all trade"[30] among members, but each nation retains its own barriers to trade with non-members.

[29] A formal definition of a FTA is provided in Article XXIV: 8(b) of the GATT 1994.
[30] In accordance with Article XXIV of the GATT 1994.

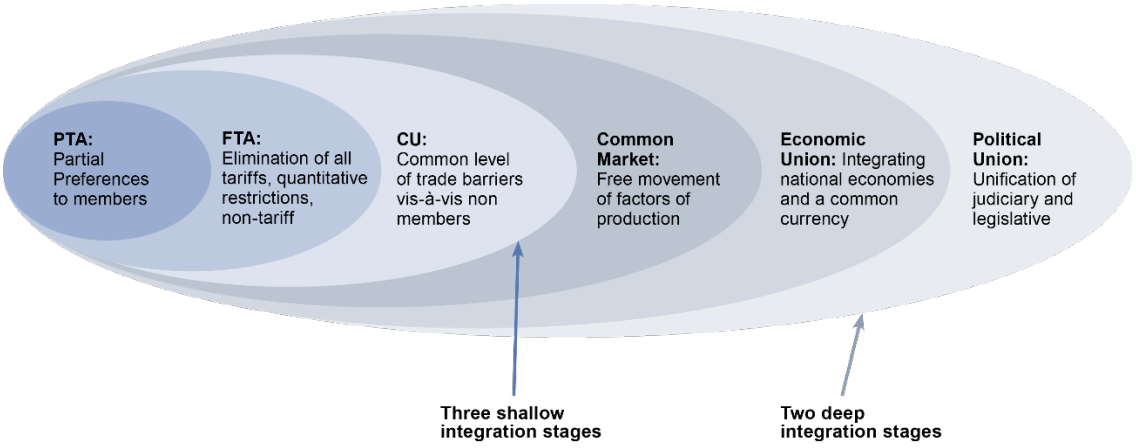
A Customs Union (CU)[31] includes all the features of an FTA, however, it goes beyond an FTA by setting a common external tariff towards third countries, i.e. non-members.

Common Markets attempts to harmonize some institutional arrangements as well as commercial and financial laws, and entail free movement of goods, services and factors of production (Das, 2004).

An Economic Union involves, besides opening up of trade in goods and services, the free movement of factors of production and harmonization of economic policies, including taxes and a common currency.

A political union on the other hand represents the ultimate stage of economic and political integration in which the legislative and judicial processes of member states are either unified or federated under consensually agreed arrangements. The first three forms of economic integration are known as "shallow integration" while the last three are referred to as "deep integration" (Lawrence, 1996).

Figure 7.1: Types of RTAs



Source: Das (2004).

[31] A formal definition of a CU is provided in Article XXIV: 8(a)(i)(ii) of the GATT 1994.

3 Regionalism vs Multilateralism – RTAs and the WTO

3.1 Are RTAs WTO-compatible?

At first glance RTAs might seem like a violation of the important Most Favoured Nation (MFN)[32] principle within the WTO. The MFN-principle implies that the preferences accorded to products originating from one member country should also be granted to products originating from all other member countries to avoid discrimination. However, there are exceptions to this that are granted within legal framework of the WTO.

These exceptions apply to the formation of a Customs Union or a Free Trade Area, or the adoption of an interim agreement necessary for the formation of a Customs Union or Free Trade Area covering trade in goods. This exception is allowed according to WTO rules, given that the agreement covers "substantially all trade" between the partner countries. In other words, as long as the purpose of the agreement is to generally liberalize trade, rather than to benefit a specific sector or good, it is allowed according to WTO regulation. In addition to this, there is the Enabling Clause, which allows for some types of preferential treatment aiming to strengthen less developed countries.[33]

Finally, Article V of the General Agreement on Trade in Services (GATS) provides for economic integration by allowing member states to enter into agreements to liberalize trade in services (Hartzenberg, 2011). In other words, the WTO allows members to adopt measures taken in the context of the pursuit of regional economic integration.

Over the past three decades, the global economy has witnessed a rapid increase in preferential agreements. For example, according to statistics obtained from the WTO website, prior to the creation of the WTO, GATT received 123

[32] According to Article I:1 of the GATT 1994, the MFN principle has been explained in the following statement "With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties."
[33] The Enabling Clause is further discussed in Chapter 6 in this volume.

notifications[34] of regional trade agreements (RTAs)[35]. The number of notifications have since increased considerably to 502. As of December 2019, of the active RTAs, 263 had been notified under GATT Art. XXIV, 160 under GATS Art V and 58 under the Enabling Clause (WTO, 2019a).

3.2 Do RTAs substitute or complement the multilateral trading system?

The WTO is of the view that regional trade arrangements help trade flow more freely among the countries in the group without barriers being raised on trade with the outside world, and thereby complement the multilateral trading system as opposed to depressing it. Some argue that the international trading system can be thought of as a pyramid, with multilateral regulations through the WTO at the top of the pyramid, regionalism/bilateralism in the middle, and the domestic trade and economic policies of WTO member states at the bottom of the pyramid (Leal-Arcas, 2011). In other words, a vertical structure where trade policy at regional and national levels complement and support the multilateral agenda.

However, although multilateralism is placed at the top of the pyramid and is expected to lead the economic integration agenda, many researchers believe that it has not lived up to this expectations. One reason for this is the slow pace and ineffectiveness in establishing a system of free trade among member countries at the multilateral level. The evidence is clearly seen by the failure to launch the millennium round of the WTO in 1999 and then the declining ambitions of the Doha Development Agenda (DDA) when the round was finally launched in 2001 (Woolcock et al., 2007). As an alternative, some economists believe that regional economic integration is a more effective means of achieving trade liberalization, as it often permits more rapid (even if partial) liberalization (Salvatore, 2013). The general belief is that regional economic integration would ensure greater access to markets, trade and investment opportunities which in turn would lead to increased growth among participating nations.

[34] Notifications are made for transparency reasons, in order to ensure that all WTO members are made aware of each other's laws and regulations concerning WTO issues. It is therefore mandatory for all WTO member countries to notify to the WTO secretariat any domestic policy changes they enforce that may affect global trade.

[35] RTAs in this context refer to agreements that involve exchange of preferences among two or more countries. The preferences may include; tariff reduction, reduction of quotas and other restrictions on trade. In the trade literature RTAs have been used synonymously with Free Trade Agreements (FTAs), Regional Integration Agreements (RIAs) Preferential Trade Agreements (PTAs), Economic Integration Agreements (EIAs), among others.

Many RTAs have incorporated obligations that go beyond existing multilateral commitments (that is, the so called WTO plus)[36] whereas other RTAs deal with areas not yet included in the WTO agenda (WTO extras) (Leal-Arcas, 2011). This means that contemporary RTAs are much broader in scope, as they not only liberalize trade in both goods and services, but also include areas such as intellectual property rights (IPRs), investments, government procurement and competition policy.

As a result, there are increasing differences between the WTO and RTA frameworks, which raises the question as to whether RTAs substitute or complement the multilateral trading system. This phenomenon is discussed in trade policy literature under the caption of "open regionalism," Open regionalism attempts to address the problem of compatibility between the proliferation of RTAs around the world and the multilateral trading system. The objective is to assure that regional agreements will in practice be building blocks for further global liberalization rather than stumbling blocks that deter such progress (Bergsten, 1997).

4 Effects of RTAs

Advocates of economic integration contend that RTAs present various opportunities for developing countries such as Zambia. They include enhanced market access, decreased costs for importing consumer-, intermediate- and capital goods, and enhanced inflows of foreign direct investment (FDI). They also argue that RTAs can lead to access to improved technologies, and that RTAs are a means of enabling participation in global/regional value chains. These opportunities can in turn foster higher economic growth, increased long-run employment growth, and ultimately lead to substantial reduction in poverty. Due to the opportunities that RTAs present, global trade and incomes have, in the last three decades, expanded at unprecedented rates. It, therefore, comes as no surprise why developing countries like Zambia have taken keen interest in them.

There are various theories that seek to explain the basis and gains resulting from RTAs. Among these theories are the traditional theories of trade which argue that RTAs enhance efficiency and the welfare of member countries *i.e.* as member countries eliminate trade barriers among themselves, they allow consumers and producers to purchase from the cheapest and most competitive source of supply (Jha, 2011).

[36] The term "WTO plus" is used especially for provisions in FTAs and other economic cooperation agreements that go beyond the WTO framework of rules.

The effects of RTAs can be divided into two categories: static and dynamic. The static effects refer to changes that may occur in the equilibrium market price and quantity as a result of the creation of the economic bloc (Yayo and Asefa, 2016). Dynamic effects on the other hand may be felt more gradually, but will be longer lasting and, in some cases will continue to generate annual benefits, even after the withdrawal of a country from the union, for example job creation or modernisation of production methods.

The creation of regional blocs or other forms of discriminatory trading arrangements can lead to an increase or decrease in efficiency depending on whether it is trade creating or trade diverting. Jacob Viner in 1950 came up with the concepts of trade creation and trade diversion in order to determine the welfare effects of RTAs. According to Viner, RTAs could be beneficial or harmful to the participating countries because the preferential nature of these trade deals can both generate trade and divert trade. *Trade Creation* is a situation where economic integration causes a shift in production from domestic producers who have higher costs to partner producers who have lower costs. *Trade Diversion* on the other hand is a situation where the formation of a customs union causes a shift in trade from a non-member country with low production costs to a member country with higher costs of production. This can lead to decreased welfare. Viner (1950) associated trade diversion with the negative consequence of RTAs for both members and non-members while trade creation on the other hand was associated with gains from free trade as a result of a trade agreement.

4.1 Practical effects of an RTA on the global welfare

The focus of this section is to explain the net effects of an RTA on firms, consumers and revenues within and outside the RTA. This section explains these effects using the analogy of three countries (A, B and C). Therefore, we will be looking at what happens when country A and country B enter into a trade agreement, given that country C (representing the rest of the world) is not party to the agreement. What will be the effect for market access be for firms in countries within the RTA compared to firms in country C? What will be the effect on consumers in countries that are party to the RTA be, and what will the effect on Government revenue be for the countries that are party to the RTA?

To appreciate the possible outcomes of an RTA on welfare, two fundamental assumptions will have to be made, firstly, that FDI in countries A and B is possible and that Rules of Origin (RoO) are used to give preference to products from within the FTA.[37]

[37] For more information on Rules of Origin, consult Chapter 10 in this volume.

4.1.1 Supply effects – effects on firms

For an RTA that has created trade, local firms in country A and B will increase their capacity and outside firms from country C can also take advantage of free trade within the RTA by providing FDI and establishing a single plant to serve all of the markets in the RTA. This can contribute to job creation in the countries that are party to the RTA. Outside firms from country C can also undertake FDI by establishing a plant in each country.

The RoO of the RTA specify a content requirement for granting tariff-free treatment within the RTA. The formation of an RTA may change the locations of outside firms, and this depends on the stringency of the RoO.

It is important to take note that flexible RoO may provide an incentive for parties to an RTA to start re-exporting (adding negligible value) from country C, which would be detrimental to the existing firms in either country A or B depending on the country that is re-exporting. Therefore, for an RTA to positively contribute to job creation, countries A and B must negotiate their RoO in such a manner that balance is attained by identifying areas where the rules may be flexible and where they have to be strict, based on the comparative advantages that A and B have.

4.1.2 Effects on consumers

Strict rules of origin are not favourable for consumers in countries A and B as they limit the ability of firms to incorporate inputs that are affordable if a product has to qualify for preferential trading and this creates trade diversion and does not facilitate global trade through Global Value Chains (GVCs).

The content requirements for RoO would have an effect similar to an increase in the internal tariff. This would therefore lead to higher external tariffs if they are endogenously determined which would adversely affect country C's ability to export cheaper and quality goods to consumers in countries A and B.

4.1.3 Effect on government revenue

In developing countries especially Least Developed Countries (LDCs), revenue from tariffs on imports contributes significantly to Government's total income. The creation of RTAs between country A and B entails Governments giving up some of their revenue and this has always been a contentious issue for many LDCs planning to form or join RTAs, as they are to some extent dependent on this revenue.

However, there is a school of thought that argues and demonstrates that the loss of revenue from import tariffs by country A and B may, in the long run, be compensated by the domestic taxes (WTO/WB, 2015). This is based on the assumption that the RTA will lead to increased economic activity, more FDI and

increased output from firms in countries A and B. This is also based on the assumption that the countries that are party to the RTA have well-functioning taxation systems and strong institutions.

4.1.4 Welfare gain or loss

As discussed above, the formation of RTAs affects firms' locations, job creation, consumer surplus and government revenue. The sources of welfare effects of FTA formation can be categorized into the following three effects:

- the direct effect of tariff elimination,
- the effect of the location changes of the outside firms, and
- the effect of changes in production costs because of the content requirements of the RoO.

The overall assessment of welfare gain or loss for a country participating in an FTA will depend on how these three variables are affected.

4.2 Effects of RTAs beyond the theory of trade creation and trade diversion

As illustrated above, RTA may be trade creating or trade diverting. If trade is only diverted and not created there is no gain for global trade, just a redistribution of economic activity from third countries who are more efficient to the RTA partners who are less efficient. If trade is both created and diverted then the net effect will determine whether it is good for the global economy or not.

If more trade is created than just diverted, it will increase global trade flows and can be assumed to be beneficial for the world economy. This is because RTA members would take advantage of zero tariffs to increase production capacity, given that they have the same technology (level of efficiency) as non-RTA members. As a result, they can produce and trade more because of zero tariffs which makes RTA members more competitive (NBT, 2018).

However, modern RTAs tend to be much deeper and more comprehensive, as they include, among other areas, services, procurement, intellectual property rights, regulatory cooperation, sustainable development, competition, trade facilitation and customs procedures. This, coupled with the advent of global value chains (GVC) implies that the effects of RTAs on third countries are potentially much more complex than the predictions made by the theory on trade creation and diversion, which primarily focuses on tariffs. As a result, one cannot easily conclude what the effects of an RTA on the global economy will be, or whether it is positive or negative.

As a practical example, one could consider a provision in an RTA on trade facilitation, which binds parties to the RTA to publish new laws as a means of increasing transparency.[38] This information would be available to all countries, not just the countries that are party to the agreement. Therefore, all countries could theoretically benefit from this provision. These types of effects are difficult to predict, and may not be captured if the analysis is limited to trade creation and trade diversion.

However, it is important to bear in mind that certain reforms which are not tariff-related may have exclusive benefits to parties or very little impact on third countries. For instance, using the same example of trade facilitation, if an Authorised Economic Operator (AEO) scheme is part of an RTA this means that based on mutual recognition of the other party's trusted trader scheme – firms from RTA partner countries can become certified and then avoid certain controls when their products enter in each other's territories. These benefits do not extend to firms from third countries. However, if goods from third countries transit through one of the RTA parties, as part of a value chain on their way to a final destination in another RTA country, it may benefit firms in third countries. (NBT, 2018).

5 Major RTAs within Africa

In Africa, many governments have signed RTAs as a rational response to the difficulties faced by a continent with many small national markets and landlockedness (Hartzenberg, 2011). Africa is home to some 30 RTAs and also the pioneer of RTAs following the establishment of the Southern African Customs Union (SACU) in 1910 which, however, was not one of the recognized building blocks of the African Economic Community because of the dominance of South Africa (SA) and its apartheid regime.

The proliferation of RTAs in Africa, however, began to be seen in the 1970's following the independence of most African states. This saw the formation of the Organization of African Unity (OAU) whose mandate was mainly to spearhead the broader aspiration of continental integration. OAU with the support of the United Nations through the United Nations Economic Commission for Africa (UNECA) proposed the division of Africa into three RTAs; the Economic Community of West African States (ECOWAS) for West Africa; the PTA covering East and Southern Africa, which was the precursor of the Common Market for Eastern and Southern Africa (COMESA); and the Economic Community of Central African States (ECCAS) for Central Africa (Hartzenberg, 2011). However, in order to complete continental coverage, a fourth regional economic arrangement called the

[38] For more information on Trade Facilitation, consult Chapter 16 in this volume.

Arab Maghreb Union (AMU) was established in 1989. Other efforts of integration in Africa include the formation of the Southern African Development Coordinating Conference (SADCC) in 1980, which later came to be called the Southern African Development Community (SADC) in 1992.

Like most RTAs the world over, RTAs in Africa often offer member countries duty-free and quota-free (DFQF) preferential access into the markets of other member countries. Moreover, even for goods that are not eligible for duty-free market access in these regional economic communities because they do not meet RoO requirements, members often enjoy low preferential rates (UNCTAD, 2016). In addition to market access, many RTAs have created an institutional framework that has enabled participants to deal with cross-border trading constraints that are of paramount importance, namely trade facilitation and regional infrastructure policies (Edwards and Lawrence, 2012).

5.1 Southern African Customs Union (SACU)

SACU was established as a Customs Union agreement between the union of SA and Britain, representing at that time the three British protectorates that would much later become the independent states of Botswana, Lesotho and Swaziland and later joined by Namibia in 1990 after its independence (Meyer et al., 2010). Despite being the oldest Customs Union in the world, it was only after the democratic transition in SA that renegotiations started, which led to a new agreement in 2002 and the eventual transformation of SACU into a regional integration organization with a secretariat based in Namibia in 2004 (Dinka and Kennes, 2007). SACU incorporates some aspects of deep integration as it has put in place mechanisms of pooling all tariff and excise revenue together and come up with a revenue sharing formula in a manner that provides compensation for the polarisation effects within SACU (Dinka and Kennes, 2007). In addition, countries are able to make decisions on customs matters jointly, which was previously a prerogative of South Africa as the biggest economy in the community.

5.2 Southern African Development Community (SADC)

SADC was formed in 1980 as the Southern African Development Coordination Conference (SADCC). It was formed by a loose alliance of nine majority-ruled states in southern Africa, namely: Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. The organizations initial objective was to coordinate development projects in order to lessen economic dependence on the then apartheid SA. However, as the mandate has evolved over the years, the organization now aims to achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa and support the socially disadvantaged through regional

integration. The transformation from a coordinating conference into an RTA with legal character began with the signing of the 1992 Declaration in Windhoek, Namibia where the name was changed to the Southern African Development Community (SADC). SADC was established under Article 2 of the SADC treaty by SADCC member state. The current membership of the organization is 16 countries, namely: Angola, Botswana, Comoros, Democratic Republic of Congo (DRC), Eswatini[39], Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, SA, Tanzania, Zambia and Zimbabwe (SADC, 2020).

In its current form, SADC is a Free Trade Area (FTA) for 13 out of the 16 member states with the exception of Angola, DRC and Seychelles which remain outside the FTA. The achievement of the FTA started with the implementation of the SADC Trade Protocol in 2000 which initiated a series of tariff phase down schedules that resulted in 85% of all trade within SADC being zero duty by 2012 (Ng'andu, 2008). However, the FTA was only fully attained in 2012 after the tariff phase down process for sensitive products was completed by all FTA members with the exceptions of: Mozambique whose process was only completed in 2015 in respect to imports from SA; Malawi, which has only liberalized 70% of its trade with SADC (Malawi trade portal); Zimbabwe which faced problems in implementing its tariff commitments on sensitive products and was allowed to suspend tariff phase downs until 2012 for completion in 2014; and Tanzania whose Government applied for derogation to levy a 25% import duty on sugar and paper products until 2015 in order for the industries to take measures to adjust.

It is believed that liberalising trade in the region will create a larger market thereby releasing the potential for trade, economic growth and employment creation. This can be achieved by fully implementing the FTA, focusing on trade facilitation, addressing non-tariff barriers, simplifying RoO, harmonizing regional standards and technical regulations, and implementing harmonized regional customs documentation and procedures which remain as the major bottleneck to comprehensive integration. The other priority is to consolidate the SADC FTA through facilitating the accession of the 3 member states that are not yet participating in it. SADC was scheduled to transform into a Customs Union by 2010 and eventually into a Common Market as outlined in SADC's Regional Indicative Strategic Development Plan (RISDP)[40] (Ng'andu, 2008), however to date this has not been accomplished.

[39] Formerly called Swaziland.
[40] The Regional Indicative Strategic Development Plan (RISDP) is a comprehensive development and implementation framework guiding the Regional Integration agenda of the Southern African Development Community (SADC) over a period of fifteen years (2005-2020).

5.3 Common Market for Eastern and Southern Africa (COMESA)

COMESA was formed in 1981 as the Preferential Trade Area for Eastern and Southern Africa (PTA). The PTA Treaty was formulated with an inherent process and timeframe for transforming the PTA into a Common Market (Cheelo et al., 2012). The organization came later to be called COMESA after undergoing transformation in 1994. COMESA's main focus is on the formation of a large economic and trading unit that is capable of overcoming some of the barriers that are faced by individual states. COMESA currently has 21 member states, namely: Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia and Zimbabwe. Mozambique, Lesotho, Tanzania and Namibia withdrew their respective membership between 1997 and 2004 (Ng'andu, 2008; COMESA, 2020).

In 2000, nine of the member States namely; Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe eliminated their tariffs on COMESA originating products, in accordance with the COMESA FTA treaty adopted in 1992. This followed a trade liberalization program that commenced in 1984 on reduction and eventual elimination of tariff and non-tariff barriers to intra-regional trade. Burundi and Rwanda joined the FTA in 2004, the Comoros and Libya in 2006, Seychelles in 2009, Uganda in 2014, DRC in 2016, and Tunisia and Somalia in 2018. The COMESA FTA has over the years addressed both quantitative and qualitative trade restrictions among the member states which resulted in the removal of import and export restrictions, obstacles and policies on commodities and transport among the sixteen member countries. Eritrea, Ethiopia and Swaziland still remain members of COMESA but are not part of the FTA. Currently COMESA is regarded as an FTA for the eighteen countries who have ratified the FTA treaty, a customs union for its members who are also members of the East African Community (EAC) and a PTA for the member countries who are not signatories to the FTA.

The current tariff structure of intra-COMESA trade is simple at 0%, 2%, 6% and 10% for capital goods, raw materials, intermediate goods and final goods, respectively (Ng'andu, 2008) while the Customs Union employs a Common External Tariff (CET) of 0%, 10% and 25% for raw materials, intermediate goods and final goods respectively. COMESA envisions to be a fully integrated, internationally competitive regional economic community with high standards of living for all its people by further urging the three members that have not yet joined the COMESA FTA. The organization also intends to transform into a Customs Union in the foreseeable future once it is able to overcome the implementation challenges such as revenue collection and the political nature of the decisions that need to be made to resolve the challenges.

5.4 East African Community (EAC)

The East African Community (EAC) is a regional intergovernmental organization of the Republic of Burundi, Republic of Kenya, Republic of Rwanda, Republic of South Sudan, the United Republic of Tanzania, and the Republic of Uganda (EAC, 2019a). It is, perhaps, one of the oldest regional trading bloc in Africa. Its roots can be traced to the 1900s. Kenya and Uganda established the initial customs union in 1917; Tanzania joined in 1922. The union was renamed to East African High Commission (EAHC) in 1948 and remained so till 1961. In 1961, the name of the Commission was changed to East African Common Services Organization and in 1967, the EAC was created. The Community only lasted till 1977. During its existence, it comprised of a common market, a common customs tariff and a range of public services with an objective to achieve balanced economic growth within the region. The ECA was re-established in 1999 after the signing of a Treaty by Kenya, Uganda, and Tanzania. The Republics of Rwanda and Burundi joined in 2007 whilst the Republic of Sudan in 2016 (EAC, 2019b).

In 2004, the member states of the EAC signed a treaty to establish a Customs Union, which came into effect in 2005. However, its full implementation only took place in 2010 (EAC, 2016). The Union eliminated tariffs for intraregional trade and introduced a common external tariff (CET)[41] for third party countries. However, despite the elimination of tariff for EAC members, other non-tariff barriers to intraregional trade still exist. According to UNCTAD (2018: xiii), "non-harmonized technical regulations, sanitary and phytosanitary requirements, customs procedures and documentation, rules of origin, and police road blocks are among the major trade barriers in the EAC." The member states have made frantic efforts in removing some of these through initiatives such as the establishment of the Single Customs Territory.

The Protocol on the Establishment of the East African Community Common Market was signed in November 2009 and came into effect in 2010. This was aimed at eliminating all barriers to the free movement of goods, persons, labour, services, and capital. Furthermore, the Market ensures that the rights to establishment and residence of people are respected within the bloc (EAC, 2019c).

In 2013, the member states signed the Protocol to establish the EAC Monetary Union that seeks to harmonize monetary and fiscal policies, systems and institutions. It is supposed to take effect in 2024. Furthermore, the ultimate goal of

[41] The EAC CET comprises: 0% on raw materials and capital goods; 10% on intermediate goods; 25% on finished goods; and rates above 25% on some items deemed sensitive. However, these are now under review and may change depending on the effects they have had on the revenue of member states (WTO, 2019b).

the bloc is to establish the EAC African Federation (UNCTAD, 2018). It will be the first in Africa!

5.5 Economic Community of West African States (ECOWAS)

The Economic Community of West African States (ECOWAS) is a trading bloc comprising of fifteen countries: Benin, Burkina Faso, Cape Verde, Cote d' Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal and Togo. The idea of forming a regional trading bloc started around 1945 through the establishment of the currency union of the francophone countries and the formation of the Communauté financière d'Afrique (CFA) franc. In 1964, creation of an economic union for West Africa was proposed, and it was created in 1965 by the four states of Cote d'Ivore, Guinea, Liberia and Sierra Leone. In 1975, a Treaty of Lagos to establish ECOWAS was signed. A revised form with an aim of accelerating economic integration in the region was signed in 1993 (ECOWAS, 2020).

The ECOWAS member states intended to establish a Free Trade Area (FTA), Customs Union, Common Market and Economic and Monetary Union. One tool the bloc used to promote trade liberalization—elimination of customs duties and other barriers to trade - among member states is the Economic Trade Liberalization Scheme (ETLS), which was actualized in 1979, and governs the region's FTA. At first, it only covered agricultural goods and artisan handcrafted products. However, in 1990 it was expanded to also include industrial goods (ECOWAS Commission, 2012). The ECOWAS member states have gone a step further in establishing the Customs Union with the adoption of the common external tariff in 2013 and its implementation in 2015. There are four tariff bands for ECOWAS' CET: 0% for basic social goods; 5% basic goods, raw goods and capital goods; 10% inputs and semi-finished goods; 20% for finished goods; and 35% for specific goods for economic development (ECOWAS Commission, 2016).

5.6 Tripartite Free Trade Area (TFTA)

The COMESA-EAC-SADC Tripartite Free Trade Area (TFTA) was launched in 2015 with a common goal of championing and expediting continental integration by beginning with an FTA and then transforming into a single Customs Union. The TFTA consolidates the regional economic communities of COMESA, SADC, and EAC (Cheelo et al., 2012). The COMESA-EAC-SADC TFTA envisions to cover the 26 countries of COMESA, EAC and SADC and its aim is to strengthen and deepen economic integration of the Southern and Eastern Africa region. This will be achieved through harmonization of policies and programs across the three Regional Economic Communities (RECs) in the areas of trade, customs, the joint implementation of interregional infrastructure programs as well as institutional

arrangements and the free movement of business persons (TradeMark Southern Africa, 2011). With the initial expectation that by 2012, all three FTAs would have eliminated all exemptions or sensitive lists internally, the TFTA has to date not entered into force. This could be attributed to the fact that all the agreements are at different stages of integration hence making it difficult to agree on many aspects, for instance, EAC is already a Customs Union with a common external tariff while COMESA and SADC are still Free Trade Areas. Moreover, for countries with dual membership such as Zambia the impacts are uncertain. The TFTA would erode Zambia's preference margins in SADC and COMESA and may also lead to the possibility of trade diversion (Edwards and Lawrence, 2012), and lead to potential increase in imports and reduction in tax revenue (Cheelo et al., 2012). Hence, there is a need to harmonize the policies of the three organizations to be in sync for the TFTA to be a success.

5.7 African Continental Free Trade Area (AfCFTA)

In 2012, during the 8th Ordinary Session of the Assembly of Heads of State and Government of the African Union, the proposal to develop a continental economic community was adopted. This was the birth of The African Continental Free Trade Area (AfCFTA) (Trade Law Centre, 2018). The Agreement to create the AfCFTA was signed in 2018 by all the 54[42] member countries of the African Union. It came into force in May 2019 after 24[43] countries ratified the Agreement.

According to the Trade Law Centre (2018), "The main objectives of the AfCFTA are to create a single continental market for goods and services, with free movement of business persons and investments, and thus pave the way for accelerating the establishment of a continental customs union. It will also expand intra-African trade through better harmonization and coordination of trade liberalization and facilitation instruments across the regional economic communities and across Africa in general. The AfCFTA is also expected to enhance competitiveness at the industry and enterprise level through exploitation of opportunities for scale production, continental market access and better allocation of resources."

The negotiations under the AfCFTA Agreement have been divided into Phases I and II. Phase I negotiations include three Protocols and their associated Annexes: Protocols on trade in goods, trade in services, and rules and procedures on the settlement of disputes. Negotiations on these Protocols are expected to be concluded in 2020. It is important to note that tremendous progress has been made in these negotiations. For example, on trade liberalization, countries have agreed to liberalize their tariffs over a period of 15 years. Phase II negotiations include

[42] Only Eritrea is remaining to sign the Agreement.
[43] 22 ratifications were required for the Agreement to come into force. Currently, 29 countries have ratified it.

Protocols on competition policy, intellectual property, and investment. Negotiations on these Protocols are expected to be concluded by June 2021 (African Union, 2019).

6 RTAs between Africa and Other Countries

Africa is also involved in preferential arrangements with developed countries under which developed countries grant preferential tariffs to imports from developing countries as well as other non-reciprocal preferential schemes. The granting of preferential access on imports originating from developing countries by developed countries is formalized through the enabling clause. It permits an exception from the MFN principle, at the same time according powers to developed countries to unilaterally define or alter the list of countries and products for preferential treatment in ways they wish so long as they give prior notification of the introduction, modification or withdrawal of the benefits.[44]

Developing countries have over the last forty years been enjoying unilateral trade preference schemes from the developed world in order to benefit more from the gains of international trade and ultimately attain economic growth and reduce poverty. Some of the RTAs which involve developing countries include the standard GSP scheme with developed countries, among them the EU, US, Canada and Japan; the Everything But Arms (EBA) initiative; the European Union-African Caribbean Pacific (EU-ACP) non-reciprocal PTA under the European Union's Cotonou Agreement; and the African Growth and Opportunity Act (AGOA).[45] The preferential schemes offered by developed countries vary in terms of country eligibility criteria, coverage, durations as well as lists of eligible products that qualify for preferential access.

6.1 Economic Partnership Agreement (EPA)

Failure to achieve the expected economic benefits as well as the incompatibility with the WTO rules, particularly Article XXIV, led to the signing of the Cotonou Agreement in 2000 between EU and ACP countries. The new agreements between EU and ACP countries have been called Economic Partnership Agreements (EPAs) which organize ACP countries for the purpose of separate negotiations into six clusters, namely: the Caribbean Forum (CARIFORUM), Central Africa (CEMAC), South-East Africa (ESA), West Africa (ECOWAS), Southern Africa (SADC), and the Pacific. The decision to negotiate EPAs stems from a need to bring EU's trading regime under Lome/Cotonou in conformity with the WTO principles of

[44] The Enabling Clause is further discussed in Chapter 6 in this volume.
[45] For more information on Unilateral Trade Arrangements, consult Chapter 8 in this volume.

non-discrimination and they are regarded as a new approach to promote trade and achieve the much desired development goals. The ultimate goal the EPAs envisages is DFQF market access on both sides and simplified rules of origin in the EU.

Zambia is a member of the Eastern and Southern Africa (ESA) configuration, which consists of eleven states, namely: Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Zambia and Zimbabwe. Under the agreement, the EU would liberalise its trade at 100% while participating countries would liberalise not less than 80% of their trade with the EU. While the Contonou Agreement stipulated that the EPA negotiations would start in 2002 and be completed by the end of 2007, as of 2019 Zambia had agreed to the bilateral interim EPA but not signed and ratified it. The country had submitted and initialled a goods market access offer in 2008 but had not signed it as the offer needed to be reviewed following nationwide consultation of stakeholders as well as converting the offer to HS2012 so as to reflect the realities on the ground as the offer was prepared on the basis of HS2007 (MCTI, 2015). Only four (4) out of eleven (11) member states indicated they had their offers ready and were willing to continue with negotiations. Failure to conclude the negotiations will result in the country not benefiting from free access to the European Union market under the EU-ACP scheme. However, this would not have dire consequences to the country as it has full market access in the EU under EBA on a non-reciprocal basis.

More recently, LDCs are also eligible for preferences offered by other developing countries. Following the Hong Kong WTO Ministerial Declaration in 2005, which called on developing countries to offer DFQF access to LDCs, emerging countries such as China, India, Thailand, Brazil, Chile and Turkey, among others, have joined the developed countries in granting trade preferences to LDCs. The coming on board of emerging economies in granting trade preferences gives a new direction to the concept of unilateral trade preferences. Zambia has also signed a number of preferential trade agreements with other developing countries. Table 7.2 below shows some preferential trade agreements that Zambia has signed with other developing countries and the dates of their entry into force.

Table 7.2: Zambia's bilateral trade agreements

Provider(S)	Agreement Description	Initial Entry Into Force
India	Duty Free tariff preference scheme for LDCs	13 August 2008
Morocco	Duty Free treatment for African LDCs	1 January 2001
Chile	Duty Free treatment for LDCs	28 February 2014
China	Duty Free treatment for LDCs	1 July 2010
Chinese Taipei	Duty Free treatment for LDCs	17 December 2003
Kyrgyz Republic	Duty Free treatment for LDCs	29 March 2006
Thailand	Duty Free treatment for LDCs	9 April 2015
Republic of Korea	Preferential tariff for LDCs	1 January 2000

Source: WTO Secretariat, WTO RTA and PTA databases, and information provided by the authorities.

While the RTAs that African countries are signatories to have made some remarkable progress towards economic integration, it is argued that they have not been entirely successful in attaining their set objectives. Many RTAs still remain unutilized as no trade volumes have been recorded since their entry into force, while for those being utilized, the trade flows remain insignificant. This is partly due to persistent conflict and instability in some of the member countries and the underdevelopment of cross-border infrastructural links (Dinka and Kennes, 2007). Other reasons are the significant membership overlap, coupled with over-ambitious targets and poor implementation (Hartzenberg, 2011). Zambia, like many other African countries is no exception. Despite the country being a signatory to various trade agreements, it remains one of the poorest countries in the world with unsustainable debt levels, low per-capita incomes, low savings and investment, and lack of supply side responses (Ndulo and Mudenda, 2006).

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Chapter 8: Unilateral Trade Instruments

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Table of Contents

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For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Unilateral trade preferences, also referred to as non-reciprocal trade preferences, are an important instrument in international trade, particularly for developing countries. A unilateral trade preference is a tariff concession usually granted by more developed countries to less developed countries, that does not require the recipient country to reciprocate (Klasen et al. 2016). Unilateral trade preferences provide an opportunity for developing countries to get duty-free and quota-free access to markets of preference granting countries for a range of goods and services.

The idea behind providing duty-free and quota-free access to developed country's markets is to enable developing countries free access to their markets and thereby improving their export capacity, which would in turn have an effect on diversification, competitiveness, employment and growth of the economies. The schemes are based on the concept of special and differential treatment which allows countries to derogate from the MFN clause with a view to addressing the imbalances for developing countries resulting from trading under the MFN principle (UNCTAD, 2017).[46]

The original text of the General Agreement on Tariffs and Trade (GATT) did not allow for preferences in favour of developing countries. The concept of trade preferences originated from the works of Raul Prebisch and Hans Singer in the 1960s. They argued that the Most-Favoured Nation (MFN) treatment did not provide equality among trade partners due to differences in economic structures and levels of development among countries (Laird, 2012). They contended that LDCs needed to be given preferences to help them overcome their disadvantages. Their ideas were adopted at the UNCTAD II conference and the objectives (Laird, 2012) were to:

- Increase the exports earnings of LDCs;
- Promote their industrialization; and
- To speed up their economic growth.

As a result of Prebisch and Singer's works, the Generalized System of Preference (GSP) was introduced in the 1970s. The GSPs were legalized through the in the Enabling Clause (officially known as Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries) (www.wto.org). The Enabling Clause allows developed countries to offer preferential treatment (removing tariffs and quotas) on imports originating from developing countries without abrogating article I (MFN) of the GATT and

[46] For more details on the MFN Clause and special and differential treatment, please consult chapter 5 and 6 respectively in this volume.

without expecting recipient countries to reciprocate. It further permits developed countries to unilaterally define or alter the list of countries and products eligible for the preferential treatment. However, the Enabling Clause requires WTO members to notify the introduction, modification or withdrawal of GSP benefits. The Enabling Clause was incorporated into the GATT 1994 upon the establishment of the WTO (Jones, et al. 2013).

The GSP is based on three basic principles which preference-giving countries are supposed to observe. The first is the principle of generality, which requires that a common scheme be applied by all preference-giving countries to all developing countries, the second principle, namely non-reciprocity, means that beneficiaries are not called upon to make corresponding concessions in exchange for being granted GSP beneficiary status. The third principle, non-discrimination, implies that all developing countries should be covered and treated equally under the schemes (UNCTAD, 2017). Notwithstanding the backdrop, the various schemes offered by preference granting countries have varying country eligibility criteria, coverage, durations as well as varying lists of eligible products.

2 Selected Unilateral Trade Preferences

Since the introduction of the GSP in the 1970's, more and more unilateral trade preferences have been introduced expanding upon the GSP. Under the EU, we have seen the introduction of the GSP-plus and the Everything but Arms (EBA) scheme. Similarly, the US has expanded its GSP, which was introduced in 1971, by introducing the Caribbean Basin Economic Recovery Act (CBERA); the Caribbean Trade Partnership Act (CBTPA); the African Growth and Opportunity Act (AGOA); and the Haitian Opportunity through Partnership Encouragement (HOPE) Act. We explain these preferences in turn. In recent years, trade preferences to LDCs given by emerging countries such as China, Chile, Brazil, India, Republic of Korea, Thailand and Turkey have also received more attention (Klasen et al. 2016). Table 8.1 summarises the major unilateral trade preferences offered to LDCs.

Table 8.1: Selected major unilateral trade preferences for LDCs

Granting Country	Recipients	Description (Key issues and duration)	Coverage (Country & product)
Canada	Developing countries and LDCs	• GSP scheme providing the General Preferential Tariff (GPT) to developing countries. • Also provides Least developed Countries' Tariff Programme (LDCT) to LDCs. • The GSP entered into force on 1 July 1974. It is been regularly (every 10 years) renewed and modified. Was extended to 2024.	• GSP – Least developed Countries' Tariff Programme (LDCT). • As of 2018 GTP covered 103 countries while LDCT covered 49 countries as for 2015. • GTP covers 5969 (or 82%) of total tariff lines while LDCT covered 7181 (or 98.6%) of the total tariff lines. Thus, products from LDCs enjoy more favourable treatment.
China	LDCs	• As of 1 July 2010 • Duty-free treatment for LDCs	• Duty-Free and Quota-Free to 80,477 tariff lines from 41 LDCs with diplomatic relations with China
EU	LDCs	• GSP – Everything But Arms (EBA) initiative • Entry into force: 5 March 2001	• Covers 49 LDCs. • Grants duty-Free and Quota-Free access for all products from all LDCs (except arms and ammunitions). • The EU introduced revised rules of origin for the GSP, as of 1 January 2011, simplifying rules specially for the LDCs.
Japan	LDCs	• GSP – Enhanced duty- and quota free market access. • Initiated in 1971. Renewed regularly, currently goes up to 2021.	• Offers duty-free access on 8,859 tariff lines (or 98 per cent at the tariff line level), covering over 99 per cent in terms of the import value from LDCs.
USA	LDCs	• The programme was authorized by the Trade Act of 1974 and implemented in 1976. It is renewed regularly. Currently renewed till 2020.	• Preferential duty-free treatment for 3,511 products from 128 designated beneficiary countries (BDCs) and territories, including 43 least developed beneficiary developing countries (LDBDCs); an additional 1,464 products are GSP eligible for LDBDCs

Granting Country	Recipients	Description (Key issues and duration)	Coverage (Country & product)
USA	39 designated Saharan African Countries (SSA)	• African Growth and Opportunity Act (AGOA). • Entry into force: 18 May 2000, Expires: 2025.	• Offered to 39 Sub-Saharan countries as at 2019. • By 2016, AGOA granted about 6421 tariff lines which includes 5,000 products covered by the US Generalized System of Preferences.

Constructed from Laird (2012), UNCTAD (2017), UNCTAD (2018), USITC (2020) and Tralac (2020).

3 Preference Schemes under the EU

The EU offers various unilateral trade preference schemes which are generally extensions of the GSP (EU Commission, 2020). The EU-GSP mainly focuses on achieving three objectives namely; poverty eradication by expanding exports from needy countries; promoting sustainable development and good governance; and safeguarding the financial and economic interests of the EU. The EU provides the following three schemes depending on the needs of the recipient country:

a. **Standard GSP:** The standard GSP offers reduced duties for 66% of all EU tariff lines to countries classified by the World Bank as low income or lower-middle income economies and which are not among the LDCs. Moreover, the country should not be a beneficiary of another EU preferential scheme offering same tariff preferences as the scheme. Graduation from the GSP is done sector-wise. It is withdrawn if a sector becomes competitive worldwide based on set core principles. The Standard GSP can also be withdrawn in exceptional circumstances, notably serious and systematic violation of fundamental human rights and labour rights conventions. The Standard GSP as established by the current Regulation (No 978/2012) valid until 2023 (EU Commission, 2020).

b. **Everything but Arms (EBA):** the EBA-scheme entered into force in 2001 and is in force for an unlimited period of time. It is an extension of the GSP and as the name suggests offers duty-free and quota-free market access for all products with the exception of arms. To become a beneficiary, a country should be listed as Least Developed Country by the United Nations Committee for Development Policy (EU Commission, 2020). EBA can be withdrawn in exceptional circumstances, when the recipient country violates fundamental human rights and labour rights conventions. However, the sectoral graduation mechanism does not apply for EBA recipients. EBA has no expiry date.

c. **GSP+ (Special incentive Agreement for Sustainable Development):** GSP+ offers special incentives such as duty-free access to EU for 66% of all the EU tariffs lines offered under standard GSP, upon fulfillment of a an established set of criteria (Klasen et al 2016). In order to qualify for the GSP+, countries have to demonstrate that their economies are poorly diversified, small, lower-income economies, land-locked states or small island nations, and therefore dependent and vulnerable, thus should meet the following two conditions in addition to the standard GSP conditions:

- Vulnerability criteria is defined by two criterions, namely the import share criterion and the diversification criterion. The import share criterion requires that the ratio of beneficiary country's three-year average share of GSP-covered imports to the GSP-covered imports of all GSP countries be lower than 6.5%. The diversification criterion which requires that over a period of three years seven largest sections of the GSP-covered imports represent 75% of total GSP imports by a beneficiary country.
- The sustainable development criterion requires that a beneficiary country ratifies 27 GSP+ principles on human- and labour rights, environmental protection and good governance.

The GSP+ as established by the current Regulation (No 978/2012) is valid until 2023.

EU-ACP: the African, Caribbean and Pacific (ACP) group of states was established in 1975 by the Georgetown Agreement. In the same year the European Union granted non-reciprocal trade preferences to 79 ACP countries under the Lomé Conventions. The Lomé Convention, set out the principles and objectives of the EU cooperation with ACP countries (UNCTAD, 2018). The goals of the EU-ACP partnership include but are not limited to achieving sustainable development, integrating member States to the world economy and strengthening cooperation among member States in trade, economics, politics and culture. In 2000, the Cotonou Agreement superseded the Lomé Conventions. The Cotonou Agreement covers a 20 year period until 2020, and calls for the negotiation of reciprocal, WTO-compatible economic partnership agreements (EPAs) to enter into effect no later than January 2008. The EPAs are meant to end the non-reciprocal trade preferences that ACP countries enjoy and aims at stimulating free trade and investment between ACP and EU – and ultimately contribute to sustainable development and poverty reduction (EU Commission, 2020).

4 Preference Schemes under the USA

In addition to the GSP, the US has four regional unilateral trade preference schemes which include the Caribbean Basin Economic Recovery Act (CBERA); the Caribbean Trade Partnership Act (CBTPA); the African Growth and Opportunity Act (AGOA); and the Haitian Opportunity through Partnership Encouragement (HOPE) Act (Jones et al. 2013).

a. **Caribbean Basin Economic Recovery Act (CBERA)**: CBERA is a unilateral trade preference scheme offered by the US government to the Caribbean Basin countries which was enacted in 1983 (USITC, 2015) and has no expiry date. Through this scheme, the US provides duty free treatment to eligible products of the Caribbean Basin countries. CBERA was aimed encouraging economic growth and development in the benefitting countries by promoting increased production and exports of non-traditional products (USITC, 2015).

b. **The Caribbean Trade Partnership Act (CBTPA):** CBTPA was implemented in the year 2000, and expires in 2020. To be eligible, a country has to be a member of the CBERA countries and must have implemented and be following, or have made substantial progress toward implementing and following, certain customs procedures that allow for verification of the origin of products. The scheme provides expanded duty free access to the US market.

c. **African Growth and Opportunity Act (AGOA);** AGOA is a unilateral and non-reciprocal trade preference scheme offered by the US to sub-Saharan African countries. It was enacted in the year 2000 and has been extended to expire in the year 2025. To be eligible for this scheme, countries have to adhere to a number of principles (Tralac, 2020). These principles include:

   - establishing a market based economy; rule of law, political pluralism; the elimination of barriers to US trade and investment; economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through micro-credit or other programs; a system to combat corruption and bribery, and; protection of internationally recognized worker rights,

   - not being involved in activities that undermine US national security or foreign policy interests; and

- not being involved in acts that violate internationally recognized human rights or offer support for acts of international terrorism.

AGOA was formulated with a view to enhance the economic and political development of Sub–Saharan African countries by expanding access to U.S. market and investment markets. Specifically, AGOA intends to:

- Expand and deepen trade and investment relationship between US and Sub-Saharan African countries,
- Enhance economic growth and development,
- Facilitate regional and global integration of SSA countries
- Reduce the obstacles for US investors and businesses in SSA.

d. **Haitian Opportunity through Partnership Encouragement (HOPE) Act:** The Act gives preferential treatment for imports of apparel, textile and other goods from Haiti. It was enacted in 2007 and provides expanded trade benefits outside what the country receives under the CBTPA.

5 Recent Developments in Unilateral Trade Preferences

In recent years emerging countries such as China, Chile, Brazil, India, Republic of Korea, Thailand and Turkey have joined the developed countries in granting trade preferences to LDCs. These preferences came into existence after the 2005 Hong Kong WTO Ministerial Declaration which called on developing countries to offer duty-free and quota-free access to LDCs. Prominent amongst these is the China's unilateral trade preference system. The Chinese unilateral trade preference came into force in 2010. Under this scheme China grants Duty-Free and Quota-Free to 80,477 tariff lines from 41 LDCs with diplomatic relations with China (UNCTAD, 2018). The coming on board of emerging economies in granting trade preferences gives a new direction to the concept of unilateral trade preferences.

5.1 Opportunities and challenges of preference systems

Unilateral trade preference schemes provide many benefits to both granting and benefitting countries. It is without doubt that unilateral trade preferences can provide various opportunities for beneficiary countries. However, these benefits can only be realized if the beneficiary country is in a position to seize them. Studies show that the benefits of unilateral trade preferences vary from country to country depending on various factors. The benefits for eligible countries include the following:

- The most important benefit is the fact that products from recipient countries are able to be exported duty-free and quota free. Tariffs and quotas are among the major barriers that developing countries face when accessing foreign markets. The removal of these barriers has enabled developing countries to export more and earn more foreign exchange.
- Access to larger markets of the EU, US and other granting countries. This enhances economies of scale for most businesses.
- In certain instances recipient countries are given support in terms of export capacity building by granting countries.
- Evidence shows that countries that fully utilised the preferences increased their productive capacity, exports and employment creation. This, in turn, can lead to economic growth and poverty reduction.

However, benefits do not just accrue to eligible countries but also granting countries. The unilateral trade preferences increases the choice of goods sold in granting countries for which consumers pay a lower price than they would pay if the commodities were charged customs duty. Moreover, adherence to country eligibility requirements benefits both the granting and recipient countries. In addition, companies from granting countries are able to expand their investment into recipient countries.

Despite the benefits of the unilateral trade preferences, the utilisation levels are low among recipient countries and benefits are not equally distributed. The impacts vary considerably across countries due to their different export structures, resource endowment, geographical position, strategies and due to various constraints. The constraints preventing countries from accessing the preference schemes can be grouped into three categories namely **capacity constraints**, **preferential market access requirements** (Adami et al. 2016) and **other constraints.** C**apacity constraints** include: limited productive capacities and infrastructural challenges have limited beneficiary countries' ability to produce and export products eligible for preferences. **Market access requirements on the other hand** include technical barriers to trade, sanitary and phytosanitary measures and rules of origin. **Other challenges** refer to any other constrain that may not fall in the categories of capacity constraints and preferential market access requirements.

- **Capacity constraints**
  Most developing countries face capacity constraints which limit their ability to be competitive and take advantage of preferential schemes in preference-granting countries. Supply-side constraints have been a major source of difficulty, with many developing countries depending primarily on the export of primary commodities. The supply-side constraints are perpetuated

by unreliable energy supply, poor transport infrastructure, insufficiently developed service sectors, limited access to finance and credit, poor technology, cost of doing business, among other challenges. These factors make products from these countries uncompetitive.

- **Market access requirements**
  Despite duty- and quota-free market access, products from the benefitting countries still face challenges meeting foreign regulation requirements such as standards, sanitary and phytosanitary measures (SPS), technical requirements and others. Compliance with these requirements may be costly to an extent where they may outweigh the benefits of the tariff preference. Such costs may include setting up laboratories and changing of production systems. To get around this problem, preference-granting countries offer aid for trade to beneficiary countries to help them meet these requirements.

- **Other challenges of preferences**
  Most of the unilateral preference schemes are subject to revisions (sometimes annually). In addition to this most unilateral trade preferences such as the GSPs and their extensions like the AGOA are temporal and will expire at some point. These present the challenge of instability for exporters and discourage long term investment. Historic ties to some markets may also limit utilization of preferences in other countries (USITC, 2014).

Unilateral trade preferences may provide a disincentive for countries to diversify as they may concentrate on specialising in eligible products. A study by Adami et al. (2016) argues that the list of eligible products is limited and does not encourage diversification as it excludes key products that developing countries have comparative advantages in. Furthermore, geographical remoteness or political and economic instability can also present an impediment to access and utilization of preferences. For example, land-locked countries or countries lacking key infrastructure such as seaports often face challenges in terms of accessing preferential markets.

Countries are graduated from unilateral trade preference schemes when they no longer fulfil the economic criteria for the scheme, for example when they qualify as high-income countries or no longer qualify as LDCs (as is the case for EBA-preferences for example). In recent years Equatorial Guinea and Seychelles have graduated from the Generalized System of Preferences (GSP) program (USTR, 2018). Graduation from the unilateral preferential schemes implies that countries no longer have duty- and quota-free access to markets and therefore their exports now have to be subjected to tariffs when exported to foreign markets. The extent of the impact this has on the economy of the beneficiary country depends on the degree of engagement in preferential trade. Countries that have negligible use of

preferences are unlikely to feel the loss of benefits. Moreover, countries that export most of the products under zero MFN may equally have a small or no impact. The effect is mostly felt on those products and sectors that used to enjoy preferential access (UNCTAD, 2018).

5.2 Duty free and quota free schemes and preference erosion

According to Laird (2012), the importance of unilateral trade preferences has diminished due to MFN tariffs falling over time due to multilateral, regional and bilateral agreements. It is argued that as MFN tariffs continue to fall and the preferential margins get eroded, the importance of the unilateral preferential schemes diminishes. This is known as preference erosion. Multilateral and regional agreements are widely seen as a major contributor of preference erosion (Harrison, 2018). Preference erosion diminishes the benefits resulting from preferential treatment to beneficiary countries as it reduces the competitive advantage of exporters in a foreign market. Thus preference erosion may reduce the market access advantages as well as investment and growth (Dean, 2006). However, it should be noted here that the impacts of preference erosion are not always negative, it can have positive or no impact on some countries, for example if unilateral preferences being replaced with more extensive multilateral or bilateral trade agreements (Hoekman, Martin and Primo 2006). According to (Inama, 2006) preferential margin is the difference between the MFN rate of duty and the GSP or preferential rate of duty. Higher margins encourage utilization of the schemes as they provide a competitive edge to the beneficiaries. On the other hand, the reduction in the margins could lead to a reduction in the utilization rate of preferences as there are no incentives for utilizing unilateral preference schemes and no justification for complying with requirements of the markets (Alexandraki and Lankes, 2004).

Various factors have been found to make countries vulnerable to preference erosion and include the export dependence on preference-granting partners, the magnitude of preferences for which a country is eligible, the export-product concentration, and the utilization of preferences (Alexandraki, 2005). It has been observed that vulnerability to preference erosion rises with higher export-dependence on preference granting countries. Studies (Rau and Kavallari, 2013; Alexandraki and Lankes, 2004) show that vulnerability to preference erosion is product specific and affects mostly products such as sugar, bananas and - to a far lesser extent - textiles and clothing. Thus, preference erosion is seen as a problem of limited magnitude.

Preference erosion is an area of concern because it has various effects on exports and economic growth. Low et al. (2009) observed that some developing countries loose from preference erosion while many countries would suffer little or no preference erosion because their exports enjoy MFN duty free treatment on a large

share of their exports to preference. Dean and Wainio (2006) contends that that preference erosion had a small direct negative impact on investment and growth in Central America, and on growth in the Caribbean. Further, Lippoldt and Kowalski (2005) observed that, although liberalization may lead to preference erosion effects, it also results in positive welfare gains.

6 Unilateral Trade Preferences: The Case of Zambia

Zambia has access to various markets around the world. Like other developing countries, Zambia is eligible for a number of non-reciprocal trade schemes. The country enjoys preferential market access to several markets under GSP. Zambia has unilateral duty- and quota-free access to the EU market under EBA, an extension of the EU-GSP scheme. It also used to benefit from duty-free non-reciprocal access to the EU under the Cotonou Agreement, which was scheduled to expire 2014 (UNCTAD, 2016) and be replaced by Economic Partnership Agreement (EPA). Zambia also has duty- and quota-free access to the United States market under US-GSP and its extension under AGOA.

Access to these markets has enabled Zambia to export various eligible products to these markets and this has helped the country to earn foreign exchange needed for imports of intermediate goods and finished products. Exporting firms have been able to expand their production and thus increased employment. This affects economic growth and poverty reduction. Although still a primary commodity exporter, Zambia is slowly diversifying and improving the value addition and technological content of products (World Bank, 2014). Despite the duty- and quota-free access, wider markets and other benefits offered by unilateral trade preference granting country, Zambia has not taken full advantage of the unilateral trade preferences due to behind the border, at the border and beyond the border challenges. It has been observed that rate utilization of the EU preferences is higher than of US preferences for the AGOA countries (91.2% against 31.9%) (Davies and Nilsson, 2013). The utilization rate for Zambia mimics the global trends. Zambia's utilization rate of the AGOA unilateral trade preference scheme was below 0.05% (USITC, 2014) in 2013 while that of the EBA was about 24% (EU Commission, 2016) in the same year.

6.1 Factors affecting and influencing low utilisation of preferences

Zambia's utilization of preferences has generally been low. Many factors can be attributed to this phenomenon. Like any other country, Zambia trades more in its geographical region and most of the preferences granting countries are situated far away. Moreover, Zambia's landlocked position presents various challenges as it has to transport its products through other countries and then use other countries'

ports. This makes transportation of goods from Zambia to the preference granting countries costly and hence making Zambian products uncompetitive in relation to other countries producing and exporting similar products.

Another key issue affecting export competitiveness is the limited access to a wide range of services. Services are crucial for production as they are a critical input into production of a product. Moreover, a country can only fully benefit from trade if the services sector is well developed. In Zambia services such as financial, energy, education, and transport are reported to be major challenges to the businesses. Poor access to such critical services translates into competitive disadvantage in any sector, be it services, manufacturing or agriculture (World Bank, 2014).

Moreover, like in many LDCs, Zambian firms face various supply-side constraints which limit their capacity to fully utilize the preferences. The supply-side constraints are perpetuated by poor support infrastructure, not well developed service sectors, limited access to finance and credit, poor technology, high cost of doing business, lack of technical skills, as well as burdensome regulatory and tax regime.

Apart from the various behind the border constraints, Zambian products face various non-tariff barriers such as standards, sanitary and phyto-sanitary measure (SPS), technical barriers to trade (TBT), Rules of Origin, among others. These are mainly because of the limited quality standards infrastructure and in part due to use of poor technology in the production of exports to the preference granting countries who are highly technologically advanced. Being an agricultural based economy, Zambian agricultural products face SPS barriers and limited access to developed countries markets which are often heavily subsidized.

7 Conclusion

In conclusion, it has been noted that unilateral trade preferences play an important role in international trade by offering beneficiary countries duty- and quota-free access to markets of developed countries for a range of goods and services. This presents a great opportunity for the developing countries to expand their exports and realize the gains from trade which may include foreign exchange earnings, export competitiveness, employment creation, economic growth and poverty reduction. Despite these benefits many developing countries have not fully utilized the preferences due to many factors which affect mainly their supply side. Moreover, their products fail to meet international standards and hence cannot penetrate these markets. Zambia faces similar challenges and has not fully utilized the preferences.

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Chapter 9: Trade in Goods – Tariffs

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Tariffs are the oldest form of trade policy instruments and have been widely used by countries all around the world. A trade tariff, also known as customs duty, is a tax or charge generally applied on commodities that cross the border into or out of a domestic economy (UNCTAD, 2016a; Krugman, Obstfeld and Melitz, 2018). Tariffs are generally applied on imports (referred to as import duty) but can be applied on exports (referred to as export duty) as well. A tariff influences prices and subsequently quantities traded.

1.1 How tariffs are calculated

Tariffs can be calculated as ad-valorem[47], specific or compound (Salvatore, 2013). An ad valorem tariff is calculated as a percentage of the value of the traded commodity at the border while as specific tariff is charged as a fixed charge per unit of the traded commodity (for example per kilo, liter, item). The compound tariff combines the features of the ad valorem and specific tariff, it is thus charged as a percentage of the value as well as a fixed sum of the item traded. An example of a specific tariff would be a tariff of K20 on each imported pair of shoes. With an international price of K100 this would be equivalent to an ad valorem of 20% of the value of each pair of shoes. For less expensive shoes the ad valorem equivalent would be higher.

The most commonly used type of tariff rate is the ad valorem. Compared to the specific tariff, ad valorem tariffs are more transparent as they vary according the value of the commodity. They are also less trade distorting. Ad valorem tariff avoid the discrimination of low priced goods *(Vaidya, 2006)*. Since specific tariffs are based on quantity, when commodity prices fall, they do not change. Specific tariffs are more regressive and tend to be trade and production distorting because the level of protection depends on the value of the product (OECD 2001).

1.2 Why countries impose tariffs

Tariffs are regarded as one of the trade costs that influence the flow of commodity trade and alter the market access conditions of imports. A tariff raises the price of the imported commodity and thus reduces its quantity demanded in the importing economy. The cost imposed by a tariff renders the imported commodity less competitive relative to the like domestic commodity. Countries impose tariffs for various reasons, the two main reasons being:

- Source of government revenue: To raise revenue for government, particularly for developing countries because it is their major source of revenue

[47] Ad valorem is a latin word for “according to value”.

- Protect local industries and infant industries: Design to reduce the quantities of imported commodities and thus reducing competition for local products. It can also be used to shield the infant industries from competition from foreign products.

Other reasons for using tariffs could include:

- Self Sufficiency: To encourage domestic production of imported goods.
- Safeguard society from injurious commodities or reduce or discourage consumption of certain goods, for example cigarettes or alcohol.
- As trade remedial measure: A tariff can also be used to counteract dumping, subsidized imports or a surge in imports causing harm to the domestic economy.[48]

1.3 Types of tariffs

Tariffs can be classified as applied tariffs, bound tariffs and preferential tariffs. The bound tariff or bound Most Favoured Nation (MFN) tariff is the tariff a country has committed not to exceed in the WTO.[49] The MFN tariff for each product is the result of negotiations within the WTO. The applied tariff on the other hand is the actual tariff rate in effect (UNCTAD, 2019). Bureau, Guimbard and Jean (2019) distinguishes between the following types of tariffs:

a. The bound tariff: maximum tariff WTO member countries are committed not to exceed. Tariffs can only be increased beyond the bound MFN tariff under circumstances where a country wishes to address "unfair" trade practices or if negotiated with the countries most concerned by the deterioration of trade opportunities. This can result in compensation in the form of for example Tariff Rate Quotas (TRQs) with reduced or no tariffs.

b. Unilateral applied tariffs: This is a tariff "unilaterally applied", and is based on MFN or non-reciprocal preferences for imports from developing countries.[50]

c. Preferential applied tariff: these are usually a result of RTAs and are reciprocal.

The difference between the bound and the applied MFN tariffs is called the binding overhang or tariff water. The binding overhang or tariff water is usually higher among developing countries and smaller in developed countries. It is argued that

[48] For more information on trade remedies, consult chapter 12 in this volume.
[49] Most favoured nation (MFN) tariffs apply to all trade partners that are WTO members.

[50] For more information on unilateral trade preferences, consult chapter 8 in this volume.

a higher overhang can enable governments to have flexibility to adjust the applied tariff upwards or downwards without breaching the WTO obligations and also provides governments with leverage (have an advantage due to higher policy manoeuvrability) in trade negotiations. However, the trade policy manoeuvrability resulting from higher tariff waters also increases the unpredictability of a country's trade policy.

The binding overhangs are usually presented at product level, country level and regional level. Table 9.1 below provides an illustration of the binding overhang or tariff water at country levels. Taking the difference of the bound tariff rate (column 3) and the MFN applied tariff (column 4) in table 9.1, Zambia had an average binding overhang of 93.8% for all products, while the USA had 0%. As observed from Table 9.1, the developing countries such as Zambia, Botwana, Kenya, Ghana and Egypt have bound their tariffs way above the applied tariff with a view to having a wider policy space where they can manoeuvre around to change the tariff within the bound level. In comparison, developed countries like Swizerland, USA, Japan and Australia have bound their tariffs either close to or at the applied tariff level giving them a narrow policy space but higher policy predictability. Table 9.2 below provides an illustration of the binding overhang or tariff water for agricultural and non-agricultural products respectively.

Table 9.1: Binding overhang for selected countries, 2018, all products

Country/Territory	Binding coverage	Bound	MFN Applied	Binding Overhang
Angola	100	59.1	9.2	49.9
Botswana	94.3	18.8	7.7	11.1
Zambia	17.8	107.3	13.5	93.8
Egypt	99.3	36.6	19.1	17.5
Kenya	16.4	94.5	13.5	81
Ghana	15.4	92.5	11.9	80.6
Switzerland	97.7	8.2	6.6	1.6
USA	100	3.4	3.4	0
Japan	99.7	4.7	4.4	0.3
Australia	97.1	9.7	2.5	7.2

Source: WTO, ITC and UNCTAD 2019

Table 9.2: Binding overhang for selected countries, 2018- agricultural vs non-agricultural products

	AGRICULTURAL PRODUCTS			NON-AGRICULTURAL PRODUCTS			
Country/ Territory	**Bound**	**MFN Applied**	**Binding Overhang**	**Binding coverage**	**Bound**	**MFN Applied**	**Binding Overhang**
Angola	52.7	18.9	33.8	100	60.1	7.6	52.5
Botswana	36.6	8.7	27.9	94.3	15.7	7.5	8.2
Zambia	122.9	19	103.9	4.2	44.4	12.6	31.8
Egypt	91.2	63	28.2	99.2	27.4	11.8	15.6
Kenya	100	20.3	79.7	2.6	58.5	12.4	46.1
Ghana	96.6	15.9	80.7	1.3	40.7	11.3	29.4
Switzerland	49	36.5	12.5	99.7	2	1.8	0.2
USA	4.9	5.3	-0.4	100	3.2	3.1	0.1
Japan	19.3	15.7	3.6	99.6	2.5	2.5	0
Australia	3.5	1.2	2.3	96.7	10.7	2.7	8

Source: WTO, ITC and UNCTAD 2019

2 History of Tariff Liberalization

Over the years, governments the world over, particularly developed countries, have advocated for increased trade in their quest to alleviate poverty and promote economic growth. This has seen the formation of multilateral, regional and bilateral agreements resulting in increased global trade volumes. The process was triggered by the deterioration in the international economic relations between countries following the practice of protectionism that had negatively affected the world economy in the 1930's. Following the great depression of 1929 to 1939, many industrialized countries particularly the United States of America (US) implemented trade policies to protect their industrial and agricultural sectors. These policies saw their average tariff rates on dutiable imports rise to unprecedented levels (for instance, from 40.1% in 1929 to 59.1% in 1932) (USITC, 2020). This move however, led to a retaliation by its trading partners[51], eventually resulting in a trade war which saw the overall global trade decrease by some 66% between 1929 and 1934 (Jones, 1934).

The deteriorating economic relations between countries coupled with the reduction in global trade supported a push for institutions to govern world trade and prevent countries from taking unilateral actions with regards to global trade policies that would affect world trade in the future. This led to the realization among countries of the need for a multilateral institution to promote international trade through

[51] In 1930, Canada retaliated by imposing new tariffs on American exports. France and Britain also protested by engaging new trade partners. Germany on the other hand opted for an autarky system.

the progressive reduction or elimination of trade barriers such as tariffs and quotas. As a result, the General Agreement on Tariff and Trade (GATT) was birthed in 1948. The process began with the designing of a charter of a proposed International Trade Organization, which was intended not only to provide the provisions or the rules in world trade but also make decisions regarding employment, commodity agreements, and restrictive practices of trade, international investment and services.

In 1946, while negotiations on the charter of the International Trade Organization were taking place, a group of countries came to a consensus that there was a need for immediate tariff reduction. The United States took the initiative in preparing a document on a general agreement on tariffs and trade which was latter codified as the GATT. It was a looser form of the International Trade Organization devoted to the promotion of free trade through multilateral trade negotiations. The GATT had four main goals to be achieved, which included:

i. Improve the living standards of humanity;

ii. Increase employment opportunities;

iii. Increase the utilization of the natural wealth of the world; and

iv. Increase the production and exchange of goods.

These goals were to be achieved through the following functionalities:

i. Provision of a set of trade regulations that govern multilateral trade transactions carried out by GATT member countries.

ii. Provision of a forum for periodic negotiations on multilateral tariff reductions.

iii. Provision of a forum for the settlement of international trade disputes among members.

The GATT in general focused on efforts to reduce tariffs. The negotiations took the form of rounds. Eight such "rounds" were held from 1947 to 1993 with the final round leading to the replacement of the GATT by the WTO. Under the Uruguay Round (1986-1994), which established the WTO, countries committed to reduce tariffs and to bind them to levels which are difficult to raise so as to create predictable import conditions. Negotiations continued under the Doha Agenda but no agreements on new multilateral tariff reductions have been agreed upon since then.[52]

[52] Besides these negotiations, there has been tariff liberalization within the plurilateral agreement under the information technology agreement for certain products. For more information on this, search for the "Information Technology Agreement – an explanation" on the WTO homepage.

GATT rested on several general obligations, which are meant to enhance transparency and predictability in trade, of which some are particularly relevant for border protection:

i. *Non-discrimination*. This principle had two main features - the MFN rule and the national treatment policy. The MFN rule required that a GATT member had to apply the same conditions on all trade with other GATT members, that is, a GATT member had to grant the most favourable conditions under which it allowed trade in a certain product type to all other GATT members. The national treatment policy required that imported and locally produced goods should be treated equally (at least after the foreign goods had entered the market).

ii. *Binding and enforceable commitments*. The tariff commitments made by GATT members in a multilateral trade negotiation and on accession were binding, implying that a country could only change its commitments after negotiating with its trading partners, which would mean compensating them for loss of trade.

iii. *Prohibition of quantitative trade barriers.* Quantitative restrictions on exports or imports of any kind (for example, import or export quotas, restriction of the use of import or export licenses, supervision of payment products imported or exported), were generally prohibited (Article IX) and should not be used to protect domestic producers. This was because such practices interfered with normal commercial practice. Instead tariffs, which are more transparent, should be the only instrument used to protect domestic producers from competition. Quantitative restrictions today are not so widespread in developed countries. However, textiles, metals, and certain products, which came mostly from developing countries are often exposed to these obstacles.

3 The Theoretical Effects of Tariffs

According to economic theory, tariffs can have an impact on producers, consumers, government revenue and society at large. When a country raises its import tariff, the price of the imported good increases. According to microeconomic theory, a rise in the price of the commodity reduces the consumers' surplus, but raises the producers' surplus in the importing economy.[53] However, the effect of a tariff rise

[53] Consumers' surplus is the difference between what a consumer actually pays (determined by the market price) and what she or he was willing to pay for each unit of the commodity. Conversely, producers' surplus is the difference between what a producer receives (determined by the market price) and what she or he was willing to accept for each unit of the commodity.

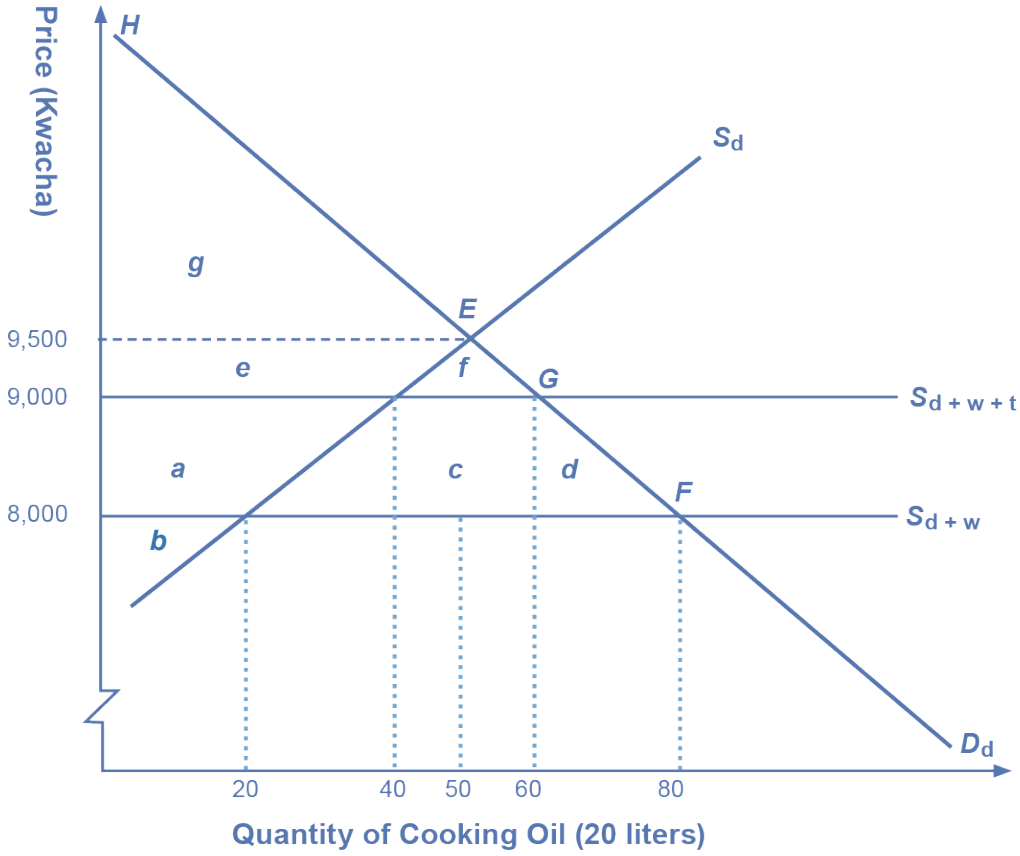
does not only affect the importing country, it affects the exporting country as well. As a result of raised tariffs, the price increases in the importing country. This is likely to benefit the domestic producers, while the domestic consumers have to pay a higher price - hence losing out. The government gains revenue, which can in turn be used in the provision of services such as social services. Conversely, the producers in the exporting country lose out as they have to reduce the export quantities while consumers in the exporting country gain. The concepts of consumer surplus and producer surplus help us to measure the cost and benefits of a tariff. Figure 9.3 below illustrates the tariff effects.

3.1 Theoretical analysis of the impact of import tariffs – importing small country case[54]

We analyse a hypothetical small country of Algebia - importing cooking oil. Figure 9.3 below presents the demand and supply of cooking oil. Line S_d represents the domestic supply curve while D_d represents the domestic demand curve. Line $S_d + w$ is the world supply curve without a tariff, while line. $S_d + w + t$ is the world supply curve with a tariff. Without trade, domestic producers in Algebia will supply 50 units of 20 liter containers of cooking oil at the market price K9500. In this case *g* will be the consumer surplus while *a*+*e*+*h* will be the producer surplus. If the country is exposed to free trade, $S_d + w$ is the supply of cooking from the rest of the world to Algebia, the total quantities of 20 liter containers of cooking oil consumed will now rise to 80 (20 from the domestic producers and 60 imported) at the price of K8000. This would give a consumer surplus of *a*+*b*+*c*+*d*+*e*+*f*+*g* while producer surplus will be *h*. Thus, free trade increases the consumer surplus but reduces the producer surplus. Now suppose Algebia imposes a tariff of *t*, thus shifting the world supply curve to $S_d + w + t$. As a result of the imposition of the tariff, *t*, the price increases by the amount of the tax and total consumption in Algebia reduces to 60 containers (40 from the domestic producers and 20 imported). This will reduce consumer surplus to *e*+*f*+*g* while producer surplus will increase to *a*+*h*. In addition, government collects tax revenue equal to *c*. Thus, a tariff increase will reduce consumer surplus and increase producer surplus. In addition, the Algebian economy experiences a deadweight loss equivalent to *b* and *d* due to a tariff increase.

[54] The small country assumption implies that a country's exports and imports have no influence on the world demand and prices. On the other hand a large country is a country with a significant share of trade on the world market and whose trade policies can influence world prices.

Figure 9.3: Demand and supply of cooking oil.



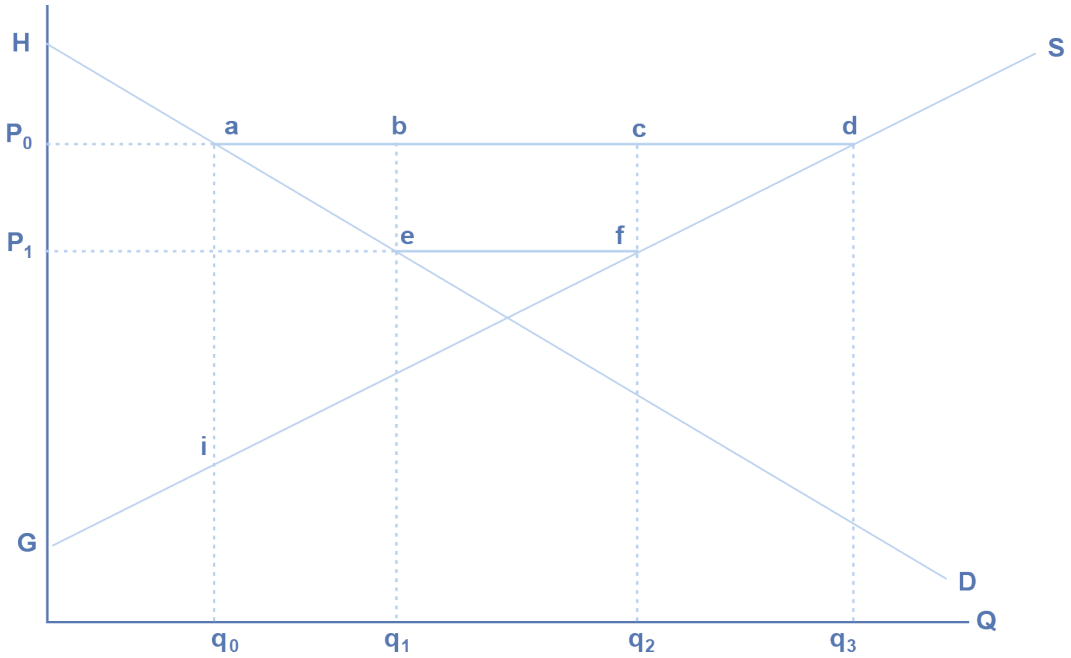
The above effects only apply to a small country case. If the tariff effect takes place in a large country, the assumptions may be more complex and can have an impact on the world market prices. This is because large countries usually have a significant share of trade on the world market. Since this is a small country case, the exporters cannot pass on the cost of the tax to their foreign consumers, therefore bear the full tax cost.

3.2 Theoretical analysis of the impact of export tariffs

A country can impose an export tariff to raise government revenue, lower domestic prices as producers opt to supply their products to the domestic market. We use figure 9.4 below to analyse the effects of the export tax on the small country. The domestic demand and domestic supply are depicted by D and S respectively. Before the export tariff (free trade) q_0 is the quantity supplied to the domestic economy at price p0 while q_0 to q_3 is exported. Introduction of the tariff reduces the domestic price to p_1, the total quantity supplied reduces in turn to q_2. The quantity supplied in the domestic economy increases while amount exported reduces to between q_1 and q_2.

The export tariff has various effects on the producers, consumers and welfare. According to the graph producer surplus reduces after the export tax from p_0dG to p_1fG. Consumer surplus increases from HaP_0 to HeP_1. The government collects tax represented by the area *bcef*. The areas represented by triangles *abe* and *cdf* are efficiency or deadweight loss resulting from the export tariff - this is the welfare loss.

Figure 9.4: Effects of an export tariff – small country case



Source: Parra, Schubert and Brutschin (2016)

4 Effects of Tariffs – Empirical Evidence

Various studies have been undertaken in different countries using various methodologies to establish the effects of tariff changes on the economy. Here we look at how changes (increase or decrease) in tariffs can impact the economy and its actors (consumers, producers and government). Tariffs can affect the resource allocation in the economy and that protected sectors become larger than they would otherwise be, at the expense of other less or not protected sector.

Countries undertake trade liberalization with a view to removing or progressively reducing barriers to trade which include tariff reduction. Lower import tariffs have the potential to lower import prices and subsequently consumer prices. Tariff reductions can also enable consumers to have access to a wider variety of goods. Lower prices and an increased variety of goods can thus enhance consumer welfare if tariff liberalization takes place. If these changes decrease the prices of food and other goods that constitute a large share of poor households' spending, it can be particularly beneficial for these households. On the producer side, lower import

prices may reduce the prices of imported inputs into production processes, which can lead to lower prices of their outputs enabling them to become more competitive. In the long run, competitive pressure may also enhance the efficiency of firms through better utilisation of their resources. A study by Saygili, Peters and Knebel (2018) shows that African countries may bear tariff revenue losses and adjustment costs in the short run while in the long run countries would experience welfare, output and employment gains. However, tariff reduction or removal may reduce the government revenue which may affect governments' ability to provide infrastructure and social services (Saygili, Peters and Knebel, 2018). These costs and benefits are however, not homogenous across countries.

On the other hand, an increase in tariffs will not only affect the countries trading directly, but also those that are not directly involved through spillover and ripple effects. The effects on various countries depends on various factors that are specific to a country as well as sector specific. Tariff increases may cause imports to be diverted to other countries or cause reduced demand for imports, as consumers substitute imported goods for cheaper, alternative goods or products from the local economy.

Free trade is beneficial to any country as it can maximize output and welfare. Tariffs can create distortion in international trade and reduce welfare. A unilateral tariff increase can in some cases provoke retaliation and lead to trade wars. According to Kowalski (2005) tariffs can influence the trade flows, production, and consumption as well as welfare of both the country imposing them and the trading partners. Furceri et al. (2019) found that tariffs have an adverse impact on output and productivity. The study also contends that tariffs can lead to a decline in consumption, unemployment and inequalities. Similarly, a study by Cheelo, Malata and Tembo (2012) estimating the likely impact of Zambia's joining the Tripartite FTA (COMESA-SADC-EAC) found that Zambia would have lost tax revenue and that tariff reforms alone cannot bring forth the significant change in trade and competitiveness.

When it comes to GVCs, tariffs can have a cumulative and knock-on effect along the chain which can ultimately impact the competiveness of the entire value chain (Miroudot, Rouzet and Spinelli, 2013). Considering that trade in goods go hand in hand with the trade in services, a tariff on goods can also have an impact on trade in services. Thus, tariffs can affect the sustained participation of a country into regional or global value chains.

The recent trade war between China and the United States of America provides a good example of the effects of raising tariffs on both trading partners. A number of studies have been undertaken to understand the effects. A study by Fajgelbaum et al. (2019) analysed the short run impact of the tariff increase on the US economy.

The study established that import and retaliatory tariffs caused imports and exports to fall in the US. In addition, consumers and importing firms lost while government benefitted from the resulting increase in revenue. Furthermore, a study by Amiti, Redding and Weinstein (2019) also established a fall in real incomes (deadweight loss), reduced participation in GVCs and a diversion of production and trade to other markets to avoid tariffs. The study also established that US producers increased the prices of their commodities as a result of reduced import competition.

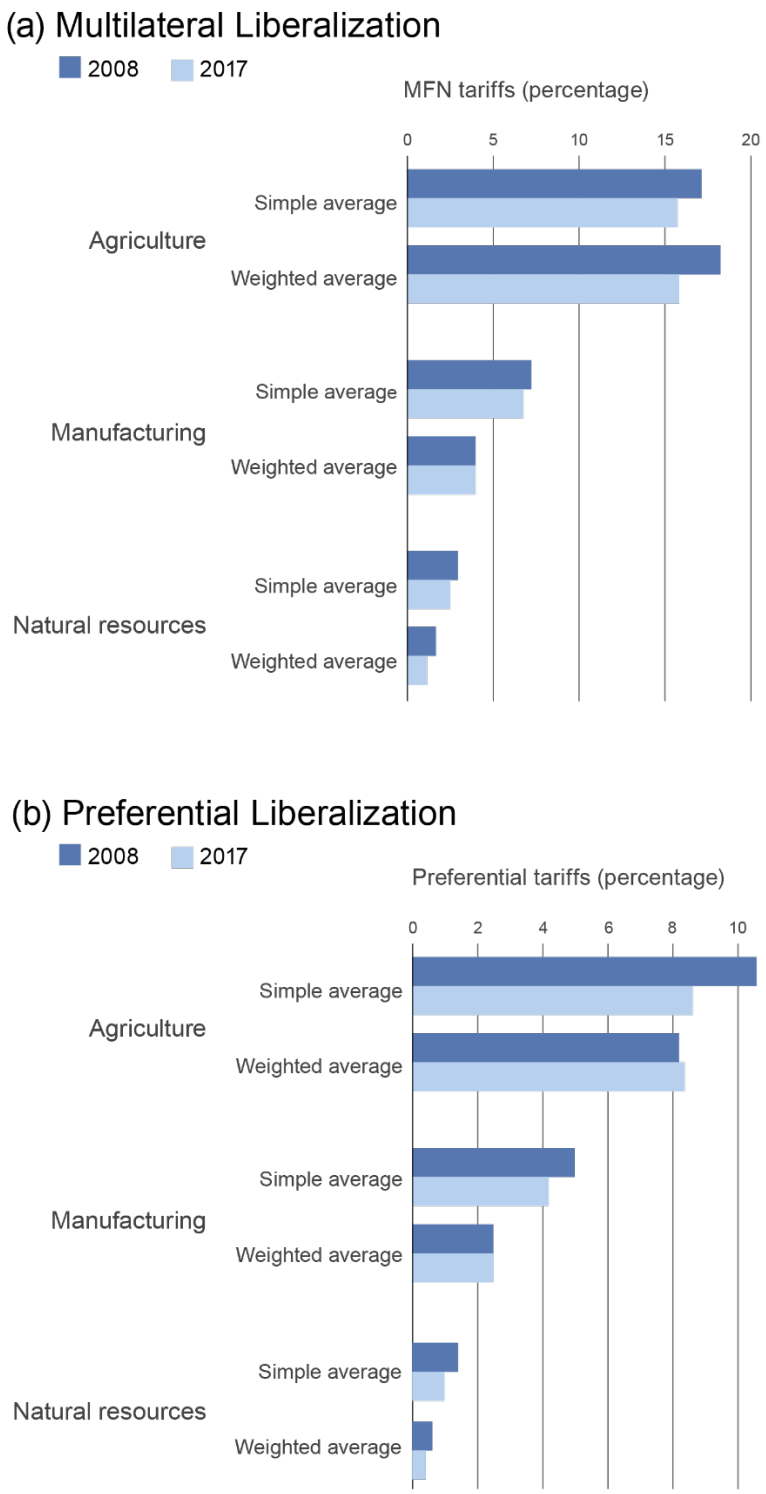
5 Trends in Tariffs

Since the inception of the GATT, tariffs have on average decreased over time in all countries around the world, although import restrictiveness has remained relatively high in developing countries in the recent years. The reduction has been necessitated by the proliferation of bilateral, regional and interregional FTAs (UNCTAD, 2016a).

Tariff reductions have been a major feature of trade negotiations and agreements at both multilateral, plurilateral, regional, bilateral and unilateral levels. The average tariff levels for all commodities for the major GATT participants were about 22% in 1947 (Bown and Irwin, 2015). By the Kennedy round (1964-1967), the average tariff levels of GATT participants were about 15% (Bown and Irwin, 2015). After the Uruguay Round tariffs were cut substantially. All in all, these agreements succeeded in reducing average tariffs on the world's industrial goods from 40 % of their market value in 1947 to less than 5 % in 1993. Agricultural tariffs were bound in the Uruguay Round and all non-tariff barriers were converted to tariffs – a process known as "tariffication", making agricultural trade more predictable.

Overall, international trade has experienced reductions in tariffs - albeit marginally - in manufacturing, agricultural and natural resources sectors. These reductions are depicted in figure 9.5 (panel *a* and *b*) below. Panel *a* of figure 9.5, shows the average MFN tariffs (simple average and weighted average) for 2008 and 2017 while panel *b* presents the preferential tariffs (simple average and weighted average) for both 2008 and 2017. A comparison of the two panels shows that since 2008, tariffs have reduced marginally on a multilateral and preferential basis. For agricultural products, both simple average MFN and simple average preferential tariffs reduced by 2% (UNCTAD, 2019). The manufacturing sector experienced higher simple average preferential tariff reduction compared to the simple average MFN tariff reduction. Despite being already low, simple average as well as weighted tariffs in natural resource trade reduced further.

Figure 9.5: Tariff reduction for manufactured goods, agricultural products and natural resources

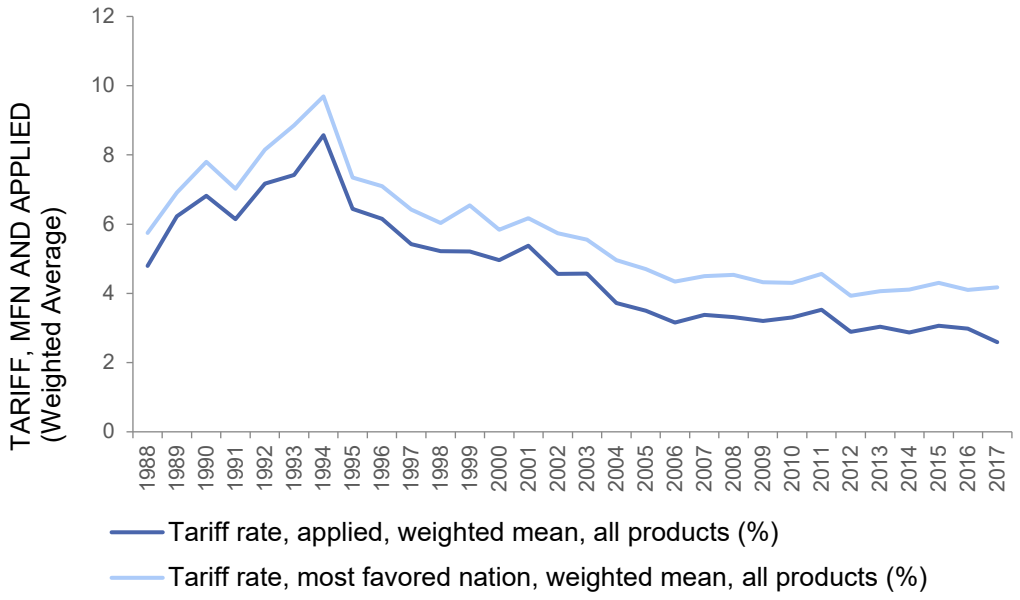


Source: UNCTAD (2019)

UNCTAD (2019) notes that international trade in recent years is largely driven by zero tariffs, which are either zero MFN duties and/or duty-free preferential access. Preferential access plays an important role for agricultural market access as well as for manufacturing products.

The average world tariffs have shown a declining trend ever since it took effect in 1988 as can be seen in figure 9.6.

Figure 9.6: Trends in tariffs globally



Source: Constructed using World Bank Development Indicators

Although there has been a reduction in MFN and applied tariffs, the reduction is not homogenous across regions, countries, sectors and products. Generally, the reduction has been higher in developed countries and lower in developing countries. Similarly, tariffs are comparatively still higher in agriculture compared to manufacturing and natural resources (see figure 9.5 above). Also, significant tariffs are still applied for some industrial good like textiles, motor vehicles, metal products and electrical equipment (OECD, 2018).

6 Tariffs and the Sustainable Development Goals (SDGs)

Table 9.7 below provides a link between some SDGs and targets, and tariffs. Like non-tariff measures, tariffs can have both indirect and direct effects on the SDGs. Under direct effects, tariffs are viewed to have an immediate effect on sustainability directly. On the other hand, indirect effects arise when tariffs affect

an intermediate factor, which in turn affects the SDGs or targets. Thus, tariffs increase the trade costs and affect market access. Table 9.7 below presents some direct linkages between tariffs and the SDGs.

Table 9.7: Tariffs and the SDGs

Goal/Target	Indicators and comment on progress
Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture	
Target 2.b: Correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect, in accordance with the mandate of the Doha Development Round.	The indicator is the percent change in import and export tariffs on agricultural products. Although some progress has been made, the tariffs in agriculture products remain high relative to tariffs for manufactured goods. Moreover average tariffs remain high. Tariffs on agricultural exports from sub-Saharan African countries to developed countries and transition economies on average are lowest, while to other developing regions are higher.
Goal 10. Reduce inequality within and among countries	
Target 10.a: Implement the principle of special and differential treatment for developing countries, in particular LDCs, in accordance with WTO agreements.	The target is the share of tariff lines applied to imports from LDCs/developing countries with zero-tariff. This target aims to improve LDCs' market access conditions as an important component of special and differential treatment for LDCs. Currently, the average tariffs facing LDCs' exports into developed and some developed countries are close to zero.
Goal 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development	
Target 17.7: Promote the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed.	The indicator for this target is the average applied tariffs imposed on environmental goods. It is envisaged that a reduction in the average applied tariffs imposed on environmental goods would help boost the production and trade of environmentally sound technologies. According to World Bank (2008) tariff reduction on clean energy technologies would increase the flow of such goods.

Goal/Target	Indicators and comment on progress
Target 17.10: Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization (WTO), including through the conclusion of negotiations within its Doha Development Agenda.	The indicator here is the worldwide weighted tariff-average. This involves looking at the market access conditions. Market access has improved over the years due to multilateral trade negotiations and the proliferation of preferential trade agreements
Target 17.11: Significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries' share of global exports	Market access is an important factor in increasing exports for developing countries. In order to enhance market access developing countries there is need to remove all trade barriers and more duty free quota free schemes have to be access.
Target 17.12: Realize timely implementation of duty-free, quota-free market access on a lasting basis for all least developed countries (LDCs), consistent with WTO decisions, including by ensuring that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.	The indicator for this target is the average tariffs faced by developing countries and LDCs (and small island developing States) by key sectors. Ensure increased duty-free access to developed and developing countries markets for products originating from LDCs. This target aims to improve LDCs' market access conditions as an important component of special and differential treatment for LDCs. Currently, the average tariffs facing LDCs' exports into developed and some developed countries are close to zero.

Sources: Constructed based on Bellman and Tipping (2015); UNCTAD (2016a)

The indirect effects of tariffs on the SDGs are due to the fact that tariffs are costs. Trade costs such as tariffs and non-tariff barriers reduce the trade opportunities and thus reduce trade's potential to create employment (SDG 8), reduce poverty (SDG 1) among others. For example, trade can help reduce poverty if governments can reduce tariffs on imported goods that form a major proportion of the poor households' basket. Tariff reduction can also enhance market access for businesses especially the micro and small enterprises, thus increasing their abilities to employ more people. Similarly, tariff reduction can have an influence on the food security dimensions. Tariff increases can lead to increased prices for food imports, making imported food items inaccessible for poor people. It should however be noted that tariff reduction alone cannot help achieve the SDGs. In recent years tariffs have fallen while non-tariff measures have become a more prominent barrier or trade cost.

7 Tariff Reforms in Zambia

Tariffs have been an important trade policy instrument from the time Zambia got independence in 1964. Tariffs were used as the main instrument of international trade besides other non-tariff restrictions. Before 1991, trade in Zambia was generally restricted by high tariffs and quotas. Tariffs were set very high, varying between 0 and 150 (UNCTAD, 2016b). This period was characterised by import substitution policies aimed at protecting local industries from foreign competition.

In 1991, the government introduced the fully-fledged Structural Adjustment Programme (SAP). Since 1991 the trade regime was fully liberalized. The trade reforms of the 1990s were characterized by reduction and rationalization of the level of nominal tariffs and the removal of all impediments to trade. By 1996 the nominal tariff rates were reduced according to four bands: 0, 5, 15 and 25 for raw materials, capital goods, intermediate goods and finished goods, respectively (UNCTAD, 2016b). Table 9.8 below shows the main tariff reforms of the 1990's.

Zambia being a member of SADC and COMESA enjoys reciprocal duty free access to other members of these two regional trade blocs. Zambia offers lower tariffs to imports from members of these two regional blocs in comparison to the MFN tariffs. As a result of reciprocal preferential treatment, the majority of Zambia's trade (both exports and imports) is within these two regional blocs, with SADC dominating. Both regional bodies are still Free Trade Areas although COMESA launched its *Customs Union* in 2009, which is yet to be operational. Once the Customs Union is operational, Zambia will migrate its tariff structure to the COMESA Customs Union Common External Tariff Structure, defined by four tariff bands of 0%, 0%, 10% and 25%. These tariff bands will apply to raw materials, capital goods, intermediate goods and finished goods, respectively (UNCTAD, 2016b). Although belonging to these regional blocs has increased trade flows and growth, Roningen and DeRosa (2003) observe that free trade scenarios and free trade area scenarios with the EU result in a significant loss of tariff revenue for Zambia.

Table 9.8: Trade tariff reform measures, 1991–2009

Year	Policies
1991	Nominal tariff levels reduced to a range of 0 to 50
1993	Nominal tariff levels reduced to a range of 0 to 40
1996	Nominal tariff levels reduced to a range of 0–25. SADC Trade Protocol signed
2000	COMESA FTA signed, with zero duty for trade among the nine members. SADC tariff reduction phase begins, with the objective of establishing a SADC FTA by 2012. AGOA Agreement signed

Source: UNCTAD (2016b).

The simple average MFN tariff rate in Zambia is 13.6 and the trade weighted average tariff rate is 8.5. According to WTO (2016) the simple average of the final bound tariffs is 105.9%. The binding coverage is 16.8 of all its tariff lines. It is worth mentioning here that as agreed upon under the Uruguay round, all tariff lines for agricultural products should be bound while for industrial products lack of binding may be relevant. For Zambia, the agricultural tariff lines are bound at an average of 123.3 while non-agriculture products tariff lines have been bound at an average of 44.4%. Currently, most tariffs are ad valorem and have sic tariff rates at 0 to 5%, 15%, 25%, 30% and 40% on raw materials, intermediate goods, final or consumption goods, steel and some wood products, respectively (WTO, 2016). Zero tariffs on raw material inputs into local production tend to lower costs and make domestic production competitive. Among the imports that attract the lowest tariff rates (mostly zero) are oilseeds, fats, oil, education materials; medical supplies; agricultural equipment and accessories; energy saving appliances, machinery and equipment; agricultural inputs; food and agriculture; Liquefied Petroleum Gas (LPG); capital equipment and machinery for the mining sector. This also applies to goods imported into the multi-facility economic zones (MFEZs). The products that attract high import duty include cocoa, tea, beverages, spirits, and tobacco, cosmetics, and sugar. Higher tariffs are used to protect local producers and consumers (WTO, 2016).

Zambia applies export duties to a few commodities for the purpose of encouraging local value addition before export. Products that are charged export taxes include mineral ores and mineral concentrates, waste and scrap of metal, and on some types of timber products.

Currently, tariffs still play an important role in the economy and for trade. According to the current 2018 National Trade Policy for Zambia, import and export taxes are a useful tool for trade in Zambia. The policy aims to use tariffs to influence production and the flow of goods into the country. Thus, from the current Trade Policy perspective export tariffs are to be used to encourage domestic value addition, while import tariffs will be used for combating aggressive trade policies and for environmental reasons as well as supporting domestic production and employment (MCTI, 2018).

Trade liberalization in Zambia had mixed effects and this varies from sector to sector. According to the UNDP (2016), trade liberalization in Zambia imposed negative consequences on the growth potential of the manufacturing sector. Most companies had to close down due to competition from foreign firms as the barriers to trade where removed. This led to an increase in unemployment. Some sectors like the textile industry shrunk and many people lost their jobs due to heavy competition from foreign products, while other sectors like the service sector grew. As a result of job losses many people, particularly women, got involved in cross-

border trade to make ends meet. Nair (2003) further contends that the firms in the manufacturing sector such as the textiles and clothing, glass, paper, wood and wood products, leather, rubber, etc, lost their domestic and foreign market shares due to import competition. Moreover, the country's value of imports was greater than the exports, which led to Balance of Payment (BoP) problems, external debt and also depreciation of the currency.

Although trade reforms had some negative impacts on the Zambian economy, it brought forth some positive aspects as well. Nair (2003) observed that some products such as the cut flowers and sugar among others benefitted from trade liberalisation as they were able to access external markets and benefitted from economies of scale. Since the introduction of liberalisation, value of imports mostly remained higher than exports and this increased BoP problems, external debt and also depreciation of the currency. Through trade liberalization, Zambia has access to inputs as well as machinery and equipment for industrial production. Moreover, Zambian firms have access to the wider global market for their products. Consumers have also been able to access a variety of goods and services, which have enhanced their standards of living. Greater liberalization stands to benefit the country although it may come with some costs. Opening up the economy has also enabled the country to attract foreign direct investment.

8 Conclusion

Historically, tariffs have been a major trade policy instrument in all countries world over. They play important roles as a source of revenue, protecting infant industry and protecting society from harmful goods. However, tariffs can have effects on consumer surplus, production as well as welfare effects. These effects do not only affect the tariff imposing countries but also on the country on receiving the import tariff. The significance of tariffs as stumbling blocks to the flow of goods across borders has declined over time through trade negotiations. This has resulted in beneficial effects of trade. Although tariffs have decreased over time, in recent years, non-tariff measures (NTMs) have increased as a significant source of trade costs affecting trade globally.

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Chapter 10: Rules of Origin

Authors: Erica Siyoto; Chibvalo Zombe

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

If trade in the world economy was complete free, the nations engaged in international trade would treat goods originating from any country the same way, and rules of origin would be unnecessary. However, because there exist multiple preferential trade agreements (PTAs), where nations have different trade policies between them and their various trade partners, rules of origin play an important role in world trade. Rules of origin ensure that the benefits or the restrictions implemented in different PTAs are confined to the targeted nations alone.

As methods of production change globally, where we see a single product being produced from materials sourced from different countries, as well as the production process taking place in different countries, the need to determine the origin of a product has become an essential part of world trade today. Rules of origin specify what proportion of a product must be processed or how much value must be added to it in a given country for it to be considered to have originated from that country. While rules of origin are essential to trade, very restrictive rules of origin limit the ability of firms to be incorporated in the international production networks. The need to prove origin may at times cause firms to use more costly resources and methods of production, or even alter their decision to produce or export certain goods.

Rules of origin entail that member countries of a given PTA can only benefit from the trade preferences in the agreement when they are able to prove that the traded goods originate from their country. On the other hand, rules of origin prevent non-originating goods from benefiting from the preferences of a trade agreement through transhipment. It must be noted, that the economic rationale for concluding a PTA is to increase the flow of trade among member counties. However, this may not be realised when the process of proving origin is too complicated and costly. In such a case the effect would be to hinder qualifying products from being granted tariff exemptions stipulated in a PTA. This would reduce trade potential between participating countries due to failure to prove origin. It is, therefore, necessary for trade policy makers to find the right balance so as to avoid making rules of origin too strict and thus hindering trade, or too lenient and thus allowing trade deflection.

2 Types of Rules of Origin

The WTO Agreement on Rules of Origin distinguishes between the following two types of rules of origin:

i. Non-preferential rules of origin; and

ii. Preferential rules of origin.

Non-preferential rules of origin distinguish foreign from domestic goods in non-preferential trade, or the so-called Most Favoured Nation (MFN) trade, where all countries face the same tariff. Non-preferential rules of origin are used when applying basic trade policy measures (anti-dumping and countervailing duties, safeguard measures, discriminatory quantitative restrictions or tariff quotas), for origin-marking requirements, for public procurement and for surveillance and statistical purposes.

Preferential rules of origin specify the requirements for a nation to be accorded preferential market access under a PTA. Preferential rules of origin are designated to ensure that PTAs benefit only the intended countries. They are negotiated based on the economic interests of the parties involved, which entails that preferential rules of origin are unavoidably different from agreement to agreement. Preferential rules of origin can be:

a. Unilateral (i.e. non-contractual or non-reciprocal): This is the case under the Generalised System of Preferences (GSP), AGOA and EBA.[55]

b. Contractual (reciprocal): These are rules negotiated within the context of free trade areas or regional integration arrangements, such as the North American Free Trade Agreement (NAFTA), the tripartite free trade area of Common Market for East and Southern Africa (COMESA), EAC, SADC and the economic partnership agreements (EPAs) of the European Union.

Since non-preferential rules of origin apply to MFN trade, where all countries face the same tariff, there is usually less incentive to misrepresent the origin of the goods. These rules are therefore argued to have less effect on trade than the preferential rules of origin. Preferential rules of origin are more debated and topical. These rules are an integral part of every PTA with the principal aim to prevent trade deflection. While rules of origin appear in non-preferential trade as well as in preferential trade, the focus in this chapter will be on rules of origin concerned with preferential trade, for the reasons given above.

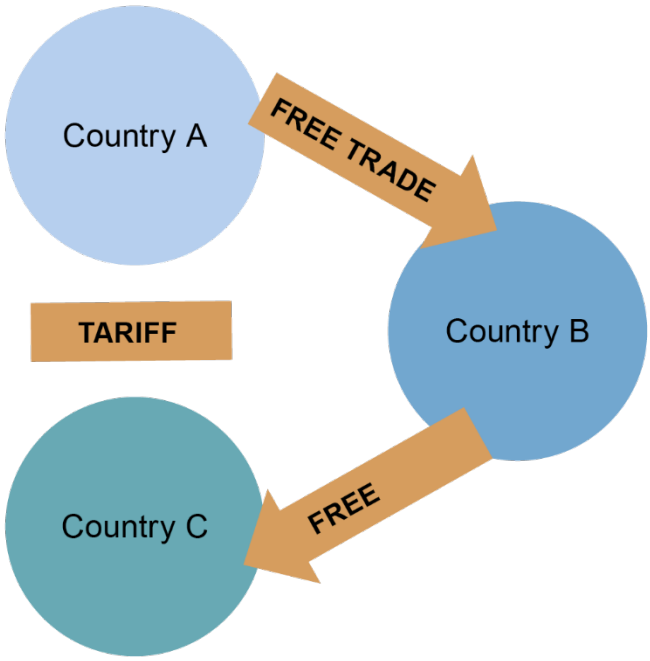
3 The Significance of Preferential Rules of Origin

In order to illustrate the economic rationale for rules of origin, we will use an example of three countries: A, B and C. In figure 10.1 below, we assume that there are two separate PTAs between country A and B, and between country B and C. This means that any trade between country A and C would call for the need of tariffs to be paid since no trade agreement exists for the two countries. However, no tariffs would be paid between country A and B, and between B and C due to

[55] For more information on unilateral trade arrangements, consult Chapter 8 in this volume.

existing trade agreements between them. Rules of origin would prevent goods manufactured in country A from being transhipped through country B in order to enter country C under preferences, thus avoiding the payment of duties in country C.

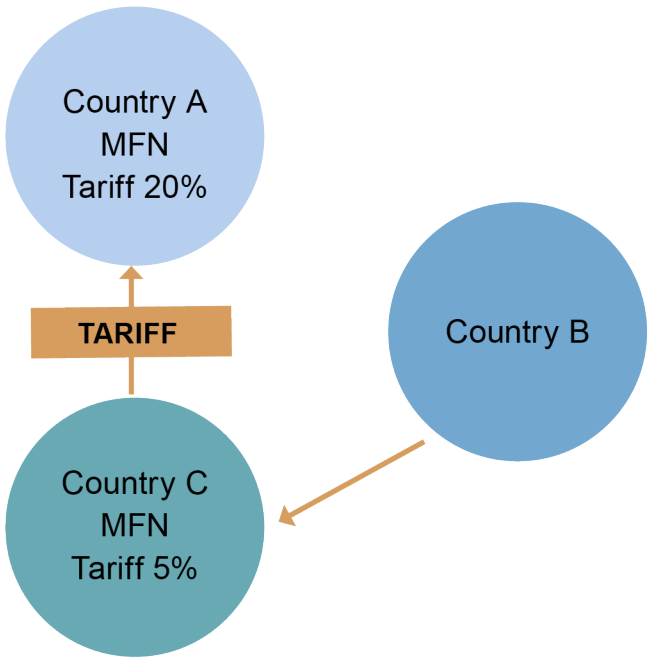
Figure 10.1: Trade deflection with two PTAs



Source: WCO, 2017

Rules of origin also prevent goods from being imported into a member country of a PTA through the other member country with the lowest external tariff barrier. In figure 10.2 below let us take an example of three countries again. This time there is only one preferential trade agreement between country A and C, which means tariffs on goods being traded between the two countries are at 0 percent. If country A has an external tariff of 20%, while country C has a lower external tariff of 5%, then country B's goods would first be moved to country C, paying only 5% tariffs, then later to country A with no tariffs, saving 15% in tariffs. Rules of origin would prevent goods manufactured in country B from being exported to nation A through nation B, the country offering the most favourable market access for countries outside the trade agreement.

Figure 10.2: Trade deflection with a single PTA



Source: WCO, 2017

Despite the historical purpose of rules of origin being to bar firms in countries outside the agreement from benefiting from the terms of the agreement by transhipment, meeting the requirements for rules of origin involves a lot of complexity and additional costs that may hinder an eligible commodity within the agreement from being traded. It is therefore a policy challenge to develop rules of origin which on one end are sufficient to distinguish between eligible and non-eligible goods, and on the other end do not generate costs that would offset the gains from the preferences.

4 The Impact of Rules of Origin on Trade Flows

The creation of a preferential trade agreement should promote trade among its member countries. When this happens, it is said that the preferential trade agreement has resulted in trade creation. This occurs when due to the elimination of trade barriers, more efficient production in the partner country will increase as there will be more opportunity to export, given that less efficient domestic production will be replaced with imports from the partner country or countries. The trade creation effect will be reduced and even eliminated when rules of origin become more stringent, since the cost of compliance with the rules of origin will exceed the benefits from preferences and imports will progressively be replaced by domestically produced goods.

Let us refer again to a case of three countries, A, B and C. We assume that only country A and B are members to a preferential trade agreement. However, country A has a higher external tariff than country B. If rules of origin are less stringent, they will less likely be able to prevent trade deflection.

In a case where rules of origin are more restrictive, transhipment of goods will not take place. Goods produced in country C, outside the trade agreement, will no longer be able to benefit from the tariff preferences between country A and B, and therefore will not be exported to country A through country B. This means that country A will more likely import goods from country B, instead of C, who is not member to the PTA. There will be an increase in trade between partners of a PTA. In other words, there will be an increase in trade diversion. Trade diversion is the reduction in imports from non-member countries of a free trade agreement and its substitution by imports from partner countries. On the other hand, more restrictive rules of origin prevent the inclusion of materials from non-member countries into the production of goods within a trade agreement area. Strict rules of origin are sometimes motivated by the argument that they stimulate integrated production structures in developing countries and thereby promote economic development. However, most of the literature opposes this view, arguing instead that more generous rules of origin are more likely to promote economic development by encouraging specialisation and the sourcing of inputs from the most competitive sources.

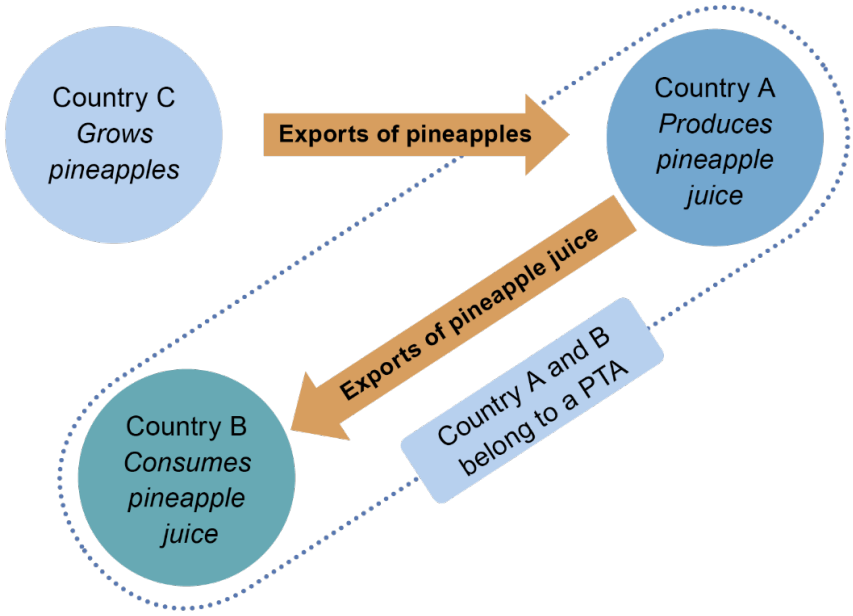
When rules of origin are overly restrictive, trade preferences become irrelevant as they will not be utilised. This is the case when rules of origin are so difficult and costly for an importers to comply with that they will not seek to take advantage of the preferential trade agreement, and there will be no promotion of trade resulting from the PTA. All this leads to one challenge for policy makers, and that is to design rules of origin that are neither too liberal to permit transhipment, nor too stringent in order to prevent trade deflection that they become protectionist.

The growing number of PTAs around the globe, each with different rules of origin creates challenges for customs and traders engaged in trade. With the prevalence of nations belonging to multiple PTAs, with each PTA having rules of origin that differ from the other PTA, complications for traders arise as it becomes hard to deal with the different rules of origin and the additional cost from the need to comply with the different system. This scenario is referred to in international trade literature as “the spaghetti bowl”. In some cases, this could distort trade to a point where the positive effects of a PTA are eroded. An important question considered by firms is whether the cost of proving origin outweighs the duty savings. This raises the urgent need of coming up with rules of origin that are simple, user friendly and trade facilitating.

5 Origin Determination

Determining the origin of a product would be less complex if the production of goods took place from materials obtained from one country and with production occurring in that one country. However, contemporary trade reality is different. Companies today produce final goods from a combination of materials sourced from many other countries. It has also become common for a firm to spread its production across a number of countries. In such a case, the question arises as to how we determine the origin of a product. To illustrate this point, we shall look at a case of three countries A, B, and C. Country A and B are part of a PTA. If country A grows pineapples and produces juice from it, and exports to country B, then it would be easy to conclude that the origin of the pineapple juice is country A. The situation changes if country C also grows pineapples and exports them to country A. If country A uses the imported pineapples to produce pineapple juice which it exports to country B, what is the origin of the pineapple juice? This would require a specification of how much transformation is required to take place in country A for the juice to origin from that country. That specification will depend on a given PTA.

Figure 10.3: Origin determination



Source: Authors' creation

Literature often distinguishes between product specific and general or regime-wider rules of origin. Although there is no harmonised set of preferential rules of origin, there are some common provisions entailed in most rules of origin protocols. While product-specific rules of origin differ between different sectors, general rules of origin normally apply to all sectors, irrespective of a product.

5.1 Product-specific rules of origin

There are two basic criteria for determining the origin of products: wholly obtained or produced, and substantially transformed (sufficient working or processing). The first criterion – goods wholly obtained or produced – applies where only one country or area is involved in the production of the goods. The other criterion – goods substantially transformed – applies where inputs from more than one country or area are used in the production of the goods.

5.1.1 Wholly obtained or produced goods

The criterion "wholly obtained or produced" is mainly used for natural products and for goods made from natural products which are obtained entirely in one country or area, comprising products extracted or harvested in a country and live animals born, raised or hunted there. The scope of wholly obtained or produced goods is normally interpreted in a very strict way, insofar as the addition of imported parts or materials excludes such products from being considered as wholly obtained or produced. The goods found in the list of wholly obtained or produced products are normally natural resource based goods or goods produced from such materials.

5.1.2 Substantial transformation

Suppose a country imports some of the materials used to produce a good for its export, can we say that the final good originates from the exporting country? To answer this question, we need to know whether the good has undergone "substantial" transformation in the exporting country or not. If it has, then the good can be said to have originated from the exporting country. There are three methods used to determine if a good has undergone "substantial" transformation that can be used separately or in combination with each other: Change of Tariff Classification (CTC), Ad valorem percentage criteria (VA) and Special technical requirements. These criteria are found in the product-specific rules (often called list rules) of the rules of origin protocol, and are typically based on the Harmonised System (HS) nomenclature. The product-specific rules establish the least amount of working or processing required for non-originating materials in order for the resulting product to obtain origin status.

Change of tariff classification: One way to establish substantial transformation is through the use of the change of tariff classification method. This method implies that the final product should have a different tariff classification from that of the imported third-country inputs. The change can be at chapter (two-digit level), heading (four-digit level), or subheading (six-digit level). Product classification is based on the Harmonized Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS". The HS is a nomenclature

which enables all physical goods moving across borders to be assigned to a class in a uniform manner all over the world. It is used as a basis for tariff classification and collection of data on international trade.[56]

Value-added rule: Regardless of changes in its tariff classification, a product is considered as originating when the value of the product is increased up to a specified level expressed by an ad valorem percentage. The rules based on a value-added/ad-valorem criterion may be described primarily in two distinct ways:

- a maximum allowance for non-originating materials (maximum third country content allowance), meaning that a final product can be considered as an originating product provided that the foreign inputs do not exceed a certain threshold;
- a minimum requirement of domestic content (minimum local content requirement) which entails that the domestic content, e.g. the value of originating materials and the manufacturing or processing operations carried out in a contracting party or in a specified area, must be equal to or exceed a given percentage of the value of the final product.

The exact methods for calculating the input materials and the final product are stipulated in the applicable agreement. The higher the allowed percentage for use of non-originating material, the more lenient the origin rule. The higher the minimum requirement for the domestic content, the more strict the origin rule.

Special Technical Requirement: This criterion prescribes for each product or product group certain manufacturing or processing operations that define origin (positive test) or that do not confer origin (negative test). The manufacturing or processing operations noted here mean that a product undergoes a process that changes its quality or appearance, such as a certain chemical reaction, distillation, or purification.

5.2 General rules of origin

The rules of origin we have considered so far are product specific, that is, they apply to a particular product such as pineapple juice. However, there are also rules that apply to all products and /or sectors rather than specific products, these are called general rules of origin. These rules can be divided into two categories: those that allow for leniency or “allowances” in the application of the product-specific rules of origin (cumulation and tolerance rules) and those that constitute additional criteria to be met (list of insufficient working or processing and the no drawback rule).

[56] For more information on the HS, consult Chapter 23 in this volume.

Cumulation

Normally rules of origin have to be complied with inside the customs territory of a given country. Goods imported from other countries are considered as non-originating and should undergo substantial transformation in order to acquire origin. However where the principle of cumulation applies, goods imported from other countries may also be considered as originating and do not need to undergo substantial transformation when used in the production of a finished product.

Cumulation allows for production in one country to include materials from another country and therefore widens the possibility of sourcing inputs. The higher the degree of cumulation, i.e. the greater the number of potential trading partners whose inputs can count towards satisfying the origin rules, the more liberal the rules and the easier it is to satisfy them. While broad cumulation rules can make countries more competitive in manufacturing processes, and thus more attractive for foreign direct investments, they may, however, increase the possibility of unintended utilisation of preferences by countries which do not participate in a preferential area. On the other hand, narrow cumulation possibilities may provide greater incentives to add value within the preferential trade scheme, but may also impose greater costs on producers. This creates a risk that the origin rules will not be satisfied or will only be satisfied at prohibitively high costs, resulting in the preferences not being utilised.

There are three types of cumulation: bilateral, diagonal, and full cumulation. The most basic is bilateral cumulation. This type of cumulation applies to all materials provided by the two parties to a PTA, and implies that originating inputs/components imported from the PTA partner, can be used in the production of the other PTA partner and qualify as originating material from that country.

Diagonal cumulation takes place on a regional basis. Qualifying materials from anywhere in the specified region can be used without undermining preferential access. In other words, parts and materials from anywhere in the region that qualify as originating can be used in the manufacture of a final product, which can then be exported with preferences to a partner country. Diagonal cumulation allows originating materials from regional partners to be further processed in another country in the group and treated as though the materials originated in the country where the processing is undertaken. This flexibility in sourcing is, however, constrained by the further requirement that the value added in the final stage of production exceeds the highest customs value of any of the inputs used from countries in the regional grouping.

In full cumulation, any processing activities carried out in any participating country in a regional group can be counted as qualifying content, regardless of whether the processing is sufficient to confer originating status on the materials themselves.

Full cumulation allows for greater fragmentation of production processes among the members of the regional group and, therefore, it stimulates increased economic linkages and trade within the region. Under full cumulation, all the processing carried out in participating countries is assessed in deciding whether there has been substantial transformation. Full cumulation, therefore, encourages deeper integration among participating countries.

De minimis/general tolerance rule

The *de minimis*, or the general tolerance rule, stipulates a maximum percentage of non-originating materials that can be used in production without affecting the defined origin of the final product. The tolerance rule alleviates the origin criteria in some cases, by offering the possibility to use non-originating inputs/materials to a certain extent (e.g. a certain percentage of the value or weight of the product). In other words, a product that contains non-originating materials that do not satisfy the applicable origin criterion is considered originating if the amount of the non-originating materials is within a specified limitation.

Principle of territoriality

The principle of territoriality is another general rule that is common in PTAs. It implies that the processing of the product must be carried out in the territories of the parties. However, some agreements have derogations that allow for outsourcing of processing by firms located within the PTA area to locations outside, provided that certain conditions are met.

Prohibition of duty drawback

By including a no-drawback rule, some PTAs prohibit duty drawback. The no-drawback rule prohibits the refund of tariffs on imported inputs that are later included in a final product exported to a PTA partner under preferential tariff rates. The aim of this prohibition is to avoid double preferences being given and thus create unfair competition in national markets. The no-drawback rule affects decisions relating to the sourcing of inputs by firms exporting within the trade area, encouraging firms to switch from imported inputs from non-participating countries towards sourcing inputs from participating countries.

Direct transport rule/Non-alteration

The direct transport rule ensures that the goods (under the PTA) transported from an exporting country are the same as those received by an importing country. To make sure that this done, the importing country requires that the goods are transported under the supervision of customs authorities in each of the countries they pass. The importing country may also require a “non-manipulation certificate”

(which is issued by authorities of the country where the goods pass) to guarantee that the goods have not been tempered with whilst in transit.

However, this rule has been replaced by the so-called non-alteration rule, which is mostly used in the EU and the PTAs between EU and its trading partners. Under this "new" rule, products originating from a country that is a member of a PTA are supposed to be the same as received in the importing country. This means that the products must not undergo any alteration or manipulation. The only changes to the products must be for the preservation of their condition. The rule allows for transit, storage and splitting of consignments in a non-party, provided they remain under customs supervision in that non-party.

6 Origin Procedures

PTAs establish rules that outline the procedures on how origin of a product can be proved and certified. In general, a claim for preferential tariff treatment is required to be supported by proof of origin, which must be presented to the customs authority of the importing country upon request. The administration of rules of origin is usually based on three consecutive steps:

1. Issuance of the certificate of origin, i.e. the documentary evidence proving origin;
2. Direct consignment conditions and related documentary evidence;
3. Verification and post-clearance recovery procedures.

Among the possible ways of administering rules of origin, the one most commonly used is the certificate of origin, the so-called CO. A CO is issued by the responsible governmental authority – usually the national customs authorities, though notably chambers of commerce may undertake this role in some national systems. It is issued on the basis of an exporter's submission of evidence that the goods are originating. It is usually stamped and/or signed by an official seal that is notified among the parties to the PTA or to the preference giving country.

On a random basis, or in cases of reasonable doubt, the importing country authorities may question the validity of such a CO, which is then sent back to the issuing authority to verify whether rules of origin have been complied with and whether the CO has been correctly issued. This process is called verification. Should the issuing authorities declare the CO to be invalid, the importing country may recover the duties from the importer. This process is called *a posteriori* recovery.

6.1 Key players involved in certification of origin

There are three main categories of players involved in certification of origin: the competent authorities, the importer and the exporter. The first key player is the customs authorities of the importing country. These may require a proof of origin in order to determine whether or not to apply certain trade measures at the border. If there are any trade measures applicable to export, then the customs authority in the exporting country would need a proof of origin as well. Secondly, the importer bears the responsibility to provide to the customs authority all required documents for the appropriate processing of imports. Thus, if a proof of origin is required by the customs authority of the importing country for a claim of preferential tariff treatment or for a non-preferential origin purpose, the importer needs a proof of origin. Thirdly, the exporter may need a proof of origin to provide to the importer who will submit it to the customs authority of the importing country, when requested by that authority.

Who issues a Proof of origin?

A certificate of origin is issued by a competent authority of the exporting country. In some countries the task of issuing certificates of origin is shared between an issuing authority and a competent authority. Self-issued certificates of origin and declarations of origin may be issued by the producer, manufacturer, exporter or importer himself.

What are the obligations and the liability of the players?

a. *Importer*
   Given that import tariffs are paid by the importer, it is the importer who seeks to be granted preferential treatment when importing goods. It is therefore the responsibility of the importer to provide the customs authority in the importing country with the necessary information regarding the origin of the goods. In some PTAs, the exporter is mandated to provide the documents regarding the origin of the goods. When an importer-based system is applicable for the issuance of proof or origin, the importer is accountable for the origin status of the goods.

b. *Exporter*
   The responsibility of the exporter may vary depending on the system for the issuance of a proof of origin. When a certificate of origin is issued by a competent authority, the exporter would be liable for the accuracy of the information provided to the competent authority when applying for the issuance of a certificate of origin. With regard to a verification requested subsequently by the customs authority of the importing country, the first contact point may be the competent authority that issued the certificate of origin.

c. *Competent authority*
The competent authority (this is usually the customs, but other entities can sometimes be allowed to sign and stamp certificates, for example chambers of commerce) plays an important role in a system utilising a certificate of origin issued by a competent authority as well as in an approved exporter system. It is commonly accepted that the issuer of a certificate of origin being a competent authority has the responsibility to establish and disseminate the related information. The competent authority plays an important role in the verification as well. In the majority of the existing trade agreements where a certificate of origin is issued by a competent authority, the competent authority is the contact point to receive the verification request from the importing country.

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Chapter 11: Subsidies in Manufacturing Goods

Authors: James Mulenga; Bupe Simuchimba

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Governments all over the world provide subsidies to achieve a variety of policy goals. The goals may include industrial development, innovation and strategic promotion of industries, income redistribution, environmental protection, and certain non-economic objectives among others (WTO, 2006). Governments can also intervene in the market using subsidies to correct market failures or decrease uncertainty in order to offset potential imbalances and ensure an efficient allocation of goods and services. Furthermore, subsidies are also used for social protection in order to provide resources to the poor and underprivileged (Omolo, 2013).

Subsidies can influence the demand and supply sides of the economy. On the demand side, subsidies can help cushion the price paid by consumers of goods and services, and hence encourage consumption. Governments may also provide subsidies to producers to lower their costs of production, encourage production of certain goods and services, and ultimately lower the price of the particular good or service. Although the majority of the subsidies are not intended to influence international trade, they end up doing so. Production subsidies can protect domestic firms from foreign competition and thus reduce world trade volumes. Export subsidies also provide a competitive advantage to subsidized exporters relative to unsubsidized exporters in other countries (Sykes, 2003) and thus are export expansionary. This chapter focuses on subsidies, indirect or direct, that provide support to the manufacturing sector.

1.1 Subsidies and classifications of subsidies

There is no precise definition of the concept of subsidies. Various authors have defined it differently and definitions range from narrow to broad. Narrow definitions view subsidies as government transfer of money to an entity in the private sector, with a view to providing a good or service at a lower price. Narrow definitions may also refer to various government policies that can favorably affect the competitive position of private entities (Sykes, 2003). A broader definition is provided by Horlick and Clarke (2016), who define subsidies as a subset of government interventions (or inactions) in the marketplace.

The WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) provides another broad definition of a subsidy as a public financial contribution by a government or any public body that confers a benefit to the recipient (WTO, 2006; UNCTAD, 2003). From this definition, three basic elements can be identified, namely: financial contribution, government or any public body and confers a benefit (UNCTAD, 2003). Thus, this definition covers measures that take the form of a *financial contribution*, or where there is any form of income or price support by *a government or any public body*. The financial contribution must

also be able to *confer a benefit*, that is, the recipient is better off than they would otherwise be.

2 Reasons for Use of Subsidies: Good and Bad Subsidies

2.1 Positive effects of subsidies: Good subsidies

Subsidies are usually put in place for various reasons, ranging from improvement in production or correction of market failures to environmental protection or efficient allocation of goods and services. Market failures can occur in the provision of public goods and merit goods such as education, health care, national security among others. Furthermore, a subsidy can also be used to correct externalities in the case of goods that provide a positive externality where production and consumption is less than what is considered socially optimal. In this case, a subsidy can be used to increase production or consumption of an under-produced good.

Subsidies are also used to promote industrial development which, in turn, enhances positive spillover effects. A subsidy can for example be provided to promote an industry that has an important role in a country's economy. This industry might run into some financial trouble and may need the support of the government in order to continue operating. The industry shutting down might also affect other healthy industries in the country. Hence, the government might step in and offer a subsidy.

Governments may also offer subsidies to assist infant industries. The infant industry may face strong competition from the foreign industries and may require a subsidy in order to survive. The government may continue subsidizing the infant industry until it is able to compete with foreign industries.

Subsidies can also be used in order to ensure that an industry operates in a way that is environmentally responsible. Currently, countries are concerned with protecting the world environment, especially after experiencing the effect of climate change and global warming. The industry might not be able to meet the cost of operating in an environmentally safe manner, hence a subsidy may be introduced to this effect. This could for instance include subsidies to enterprises to adopt clean technologies (WTO, 2006). In addition, subsidies are also used for social protection in order to provide resources to the poor and underprivileged. The government can for example provide subsidies to certain investments to encourage job creation and stimulate export competitiveness in an industry. Subsidies can also offer benefits to countries importing the subsidised products in form of lower prices (Sykes, 2003) and hence may have positive welfare effects.

2.2 Negative effects of subsidies: Bad subsidies

Subsidies are considered undesirable from an economic standpoint because they diminish market access opportunities (Sykes, 2003) and lead to resource allocation distortions. A subsidy can be considered "bad" if it prevents market access commitments and distorts resource allocation by affording protection that leads to unfair competition (Sykes, 2003), and thereby violating the principles of fair-trade. Subsidies may create negative international externalities and distort global resource allocation (Horlick and Clarke, 2016).

Subsidies to domestic production may affect trade in two ways, firstly through supporting lame-duck industries which are inefficient and uncompetitive thus reducing world trade, and secondly production subsidies can protect domestic firms from foreign competition and thus contract international trade flows. Similarly, export subsidies create trade distortions by providing a competitive advantage to subsidized exporters, enabling them to sell their products and services at a lower price in foreign markets, hence out-competing the firms in that market (Sykes, 2003) and hence causing injury to producers of the like product in the importing countries. Producers may also get locked into low levels of productivity, even when the technology and economic opportunity exist in other sectors. Moreover, subsidies are a cost and may not be available for most less developed countries. This is why they are mainly used by developed countries and some developing countries with good public finance.

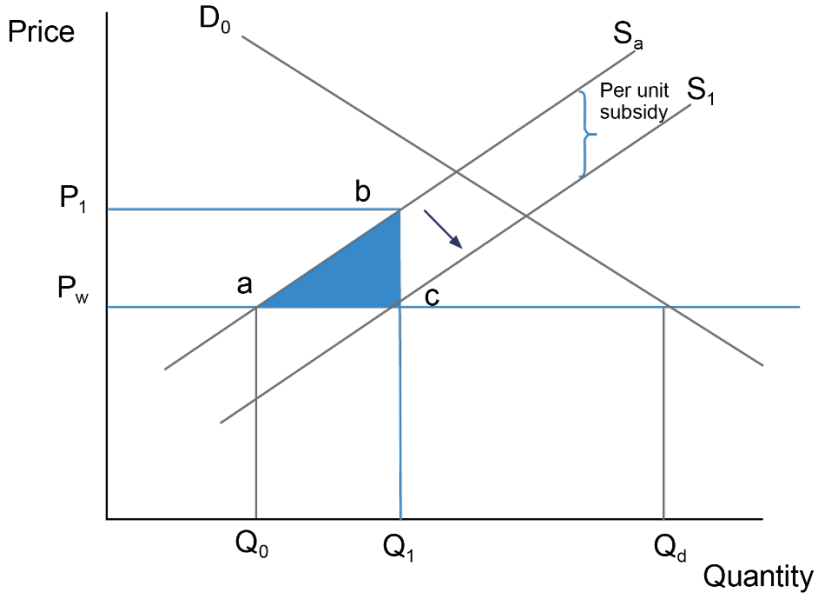
3 Graphical (Theoretical) Analysis of the Effects of Subsidies

Subsidies affect various actors in the economy differently. How these actors are affected can be seen through effects on income distribution or welfare grounds. The effect also depends on the type of subsidy introduced. In our analysis, we will concentrate on a large country case. This is because a large country will affect world trade and it will allow us to show how various actors are affected. We will also assume that there are only two countries in the world for simplicity.

3.1 Production subsidy

A production subsidy is a subsidy that is put in place to improve production in an industry. This may create employment in the country as well as allow the country to participate in the world market. Figure 11.1 depicts what happens when a production subsidy is introduced.

Figure 11.1: Effect of production subsidy



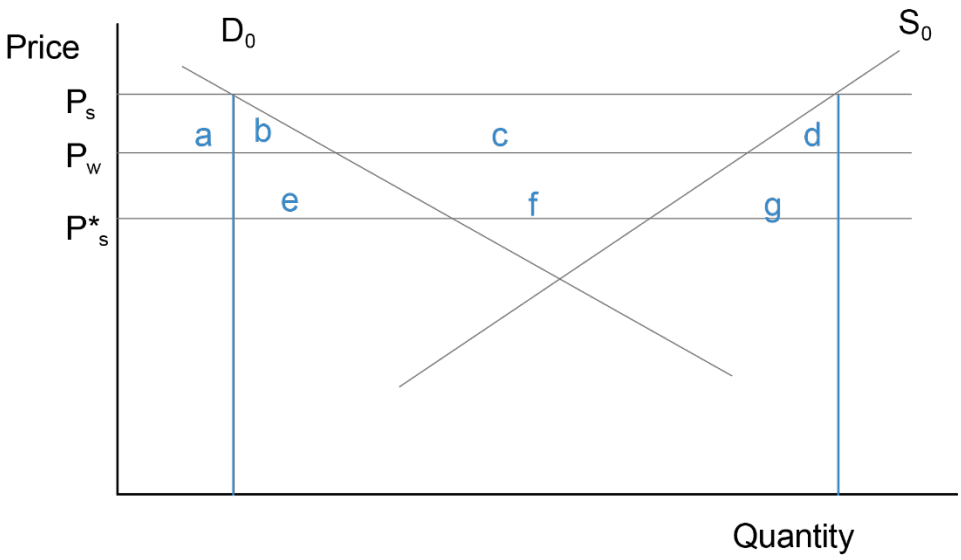
In figure 11.1, the world price is given by P_w, at this point the quantity to be demanded in the country is given by $0Q_d$. However, the country's supply curve is denoted by S_o and its demand is denoted by D_o. Hence, the amount produced in the country will be $0Q_o$. The country has excess demand and the only way it will meet this excess demand is by importing. This implies that the quantity Q_oQ_d is the amount imported by the country. In order to improve domestic production, the government will offer a subsidy to producers. This will increase the price from P_w to P_1. This will have the effect of increasing the quantity produced in the country to $0Q_1$ causing the supply curve to shift to S_1.

The additional cost to the economy will be represented by the shaded triangle abc. This leads to an overall welfare loss because resources have been inefficiently allocated. The additional output would cost less if obtained from the world market. The producer benefits through the production of extra units at a subsidized price. Consumers also benefit by paying a lower price. However, the government will need to obtain the amount spent on the subsidy from the people in the country. Furthermore, the country will now import less from the world market, which will affect the country it imports from if it is a large country.

3.2 Export Subsidy

An export subsidy is a subsidy put in place to encourage exports. When an export subsidy is imposed, the producers are able to export the good up to the point where the domestic price exceeds the foreign price by the amount of the subsidy. Figure 11.2 depicts what happens when an export subsidy is put in place.

Figure 11.2: Effect of export subsidy



In figure 11.2, P_w is the initial world price. A subsidy will increase price from P_w to P_s in the domestic country. The increase in price will increase production of the good by the domestic producers. This will eventually lead to an increase in exports as some of their output is directed towards the export market. The price in the export market will be higher than that in the domestic country. Hence, to ensure that the domestic producers provide the good in the domestic market, the price in the domestic market will also increase. However, the price in the foreign country will reduce price from P_w to P^*_S. This occurs because when domestic producers increase their level of exports, it leads to an increase in supply of the good on the world market. This results in a reduction in price for the foreign country. The effect of the export subsidy also implies that the rise in price in the domestic market is less than the subsidy introduced by the domestic country's government.

The implication of the subsidy is that domestic consumers lose out due to the increase in domestic price. This reduces their consumer surplus. The domestic consumers' loss is represented by the area a + b. On the other hand, the domestic producers benefit from the export subsidy. They experience an increase in producer surplus. This gain is represented by the area a+ b + c. As for the domestic county's government, it experiences a loss due to the subsidy of the area b +c +d +e +f + g. Since the subsidy is given per unit export, loss by the domestic government is equivalent to the amount of exports multiplied by the subsidy. This is the total cost for implementing the subsidy. Taking into consideration the loss experienced by the domestic consumers and government, together with the gains experienced by the domestic producers, the net welfare loss for the domestic country is the area b +d +e +f + g.

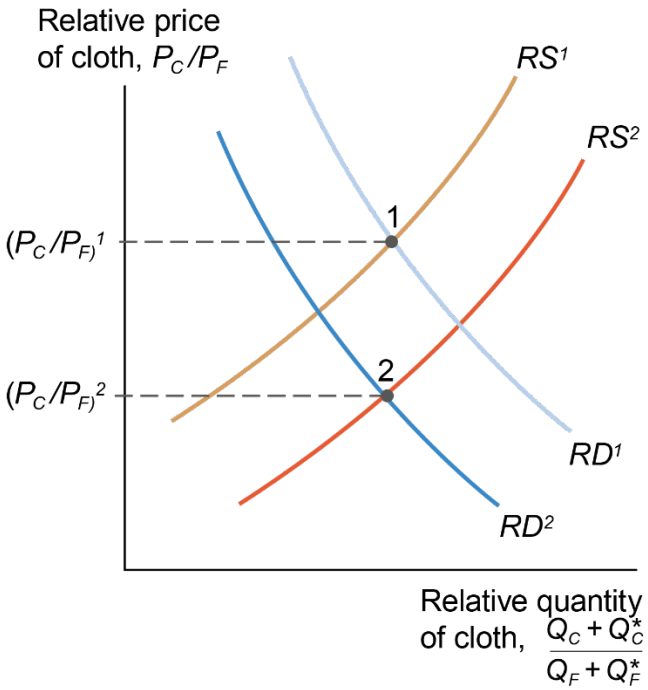
The overall effect of a subsidy for the implementing country is negative. An export subsidy creates a difference between the world price of the goods and the price at which domestic consumers purchase in the home country. This implies that the domestic consumers pay a higher price and hence it leads to welfare losses. However, this only holds when the domestic consumers are unable to purchase the good at a lower price on the world market. Meanwhile foreign consumers benefit from the lower world price. As for the domestic producers, they are the winners as they benefit directly from the subsidy provided by the government. These domestic producers will produce more, given the higher price, which will lead to an increase in output. The increase in production will require an increase in workers which improves employment. Furthermore, the increased production implies a higher profit for the domestic producers. Meanwhile foreign producers lose out because they now have to compete with the lower prices. This may force the industry to shut down which may affect the employment conditions in the foreign country. The foreign country is better off while the exporting country is worse off. This is because the increased benefit to foreign consumers offset the loss to the foreign producers.

Furthermore, for the domestic country, part of government revenue is given out as a subsidy. The size of the subsidy is greater than the increase in the domestic price since the world price falls. The amount of the subsidy needs to be financed by the government. This can be done through cutting back on some government programs to finance the subsidy. It can also be financed through loans or increased taxes. Whichever financing mechanism used will affect the consumers in the domestic country. Domestic consumers also suffer a welfare loss due to the increase in prices. In case of an export subsidy, the only beneficiaries are the domestic producers.

3.2.1 Effect of the export subsidy on the terms of trade

An export subsidy leads to a change in the terms of trade for the rest of the world and the exporting country. In as much as it supports the domestic producers, it increases the difference between the world price and the domestic price. This has implications on the terms of trade. To understand the implications, let us consider a domestic country trading in two goods, cloth and food. If the domestic country imposes a subsidy on cloth, for any given world price, the subsidy will increase the domestic country's price of cloth relative to the price of food by the amount of the subsidy. This implies that domestic producers will produce more cloth and less food because of the increase in the relative price of cloth. However, domestic consumers will substitute food for cloth as food is relative cheaper. The effect is shown in figure 11.3.

Figure 11.3: Effect of an export subsidy on the terms of trade



The subsidy will increase the world relative supply of cloth RS^1 to RS^2 and decrease the world relative demand for cloth from RD^1 to RD^2. This will affect the domestic country's terms of trade by reducing them since the relative price of cloth falls from $(P_c/P_f)^1$ to $(P_c/P_f)^2$.

In terms of losers and winners, the foreign country's terms of trade improve while that of the domestic country worsens. In this analysis it is assumed that the domestic and foreign country interact with only each other. It is a simplified model with only two countries that export and import from each other. In this case, an export subsidy enables a foreign country to be better off at the expense of the domestic country. The foreign country enjoys the lower price that the subsidy allows. Meanwhile, the domestic country experiences an increase in price. The domestic country's terms of trade deteriorate and the subsidy causes distortions in the country.

4 Disciplining the Use of Subsidies in the Multilateral Trading System – the SCM Agreement

Regardless of the objective for their usage, most subsidies can distort international trade and therefore should be regulated at multilateral level. Since 1947, subsidies have been regulated under multilateral trade agreements, including the GATT 1947. However, the GATT 1947 contained limited provisions and was quite tolerant of subsidies (Sykes, 2003). The Uruguay Round gave birth to the WTO Agreement on

Subsidies and Countervailing Measures which, among other things, established a definition of subsidies and addressed other limitations of the GATT 1947.

The SCM Agreement disciplines the use of subsidies and prescribes the actions a country can take regarding countervailing measures[57] in order to offset the injurious effects of foreign subsidization of products on their domestic firms (Hoekman, 2015). The SCM Agreement applies to all goods, that is, both agricultural and industrial products. Under the SCM Agreement, any subsidy that distorts the allocation of resources within the economy should be disciplined. Specific subsidies which were available only to a specific enterprise, industry or group of industries were considered to be distortive. Export and import subsidies for manufactured goods were banned by the SCM. The WTO Agreement on Subsidies and Countervailing Measures, however, provides special considerations for certain developed countries and less developed countries to apply subsidies to industry for purposes of promoting development (NBT, 2009).

5 Global Trends in Subsidies

Assessing progress and trends in subsidies since the implementation of the SCM Agreement is not an easy task due to the various definitions of what constitutes a subsidy across countries, creating a challenge in undertaking cross country analyses. Moreover, few countries notify all specific subsidies to the committee on SCM, as a consequence, it is difficult to clearly get a global picture on the levels and trends (WTO, 2006) of subsidies usage. A study by the National Board of Trade, Sweden (2009), has shown that the proportion of the GDP made up by subsidies has declined from 0.26 to 0.2 between 1995 and 2002 globally although the results vary from country to country. This has been attributed to global value chains, which have made the subsidies more cumbersome and less effective.

A more recent report by National Board of Trade, Sweden, highlights that *non-export subsidies* have become the most common type of subsidy and has been rising since the global financial crisis of 2008. Using the Global Trade Alert data, the report shows that a total of 172 non-export subsidies in the form of bailouts and other state aid measures were granted globally during 2015 alone. Ninety percent of these measures were implemented by G20 countries. Moreover, trade-finance measures have grown by 269 and 171 new export incentives been introduced (NBT, 2016). Despite progress made in reducing tariffs in multilateral trade, new barriers such as unfair use of trade subsidies have arisen (Singh, 2017). Due to the growing importance of sustainable production and consumption as well as the

[57] For more information on subsidies and countervailing measures, consult Chapter 12 in this volume.

importance of addressing climate change, green subsidies are becoming more and more important (Charnovitz, 2014).

6 Subsidies in Zambia

Subsidies have been used in Zambia even before the country gained independence in 1964. A few years after independence the new government decided to take full control of the economy through the Mulungushi Reforms of 1968 and the Matero Reforms of 1969. This essentially changed the country from a semi-liberal economy to a command economy, which made the state get fully involved in business activity. From independence to the mid 1970s the economy was doing fine thanks to a booming mining sector which cross-subsidised other economic activities. Using money from the mining sector, the government managed to make investments and established entities in various sectors of the economy.

However, there was a turnaround in the economic fortunes due to the oil crisis of the 1970s and a subsequent fall in copper prices. These had debilitating effects on the economy as well as the performance of state owned entities. Due to poor performance as well as inefficiencies in most state-owned entities, the government had to intervene through subsidies to ensure that they continued providing the goods and services and to preserve jobs.

Subsidies in production and consumer goods increased from the mid 1970s to the mid 1980s. Subsidies accounted for 12% of total government expenditure in 1975 but rose to 20% in 1980 (Andersson, Bigsten and Persson, 2000). During this period, the manufacturing sector was heavily protected and benefited from various types of subsidies. Services such as education, healthcare, transport and energy sector were also subsidized. In the 1990s the country went through full-fledged structural adjustment programmes, which focussed on macroeconomic stabilisation through decontrols of prices among other things. SAPs called for reduction of subsidies and this resulted in their reduction or complete removal.

In recent years, major subsidies in Zambia have taken the form of the Farmer's Input Support Programme (FISP), Food Reserve Agency (FRA), fuel and electricity.[58] The government subsidises oil prices to cushion consumers and the poor against high crude oil prices. The fuel subsidy has mainly been used to cover the mismatch between the revenue from pump prices and the cost of fuel arising from depreciation of the Kwacha – US Dollar exchange rate. IMF (2017) contends that fuel subsidies are regressive as they mostly benefit the highest income households. In view of this, the government decided to remove the fuel subsidy in

[58] For more information on the FISP and the FRA, consult Chapter 17 in this volume.

April 2013. Subsidies for electricity existed in the first and the second republics. The aim of facilitating subsidies was to protect the poor and to sustain and enhance economic growth (GRZ, 2016). However, the electricity subsidy is also regressive as it benefits the rich more than the poor (IMF, 2017). Generally, there has been an increase in the use of subsidies in Zambia over the years 2% of GDP in 2014 to 5.5% of GDP 2016 (World Bank, 2015; IMF, 2017). Fuel, electricity and agriculture subsidies increased in 2015 and 2016. Making up an ever-growing portion of the budget, it has crowded out expenditure in other sectors (GRZ, 2016). In addition to the FISP, electricity and fuel subsidies the government also offers various export promotion incentives particularly SMEs to enable them have access to foreign markets. Other incentives provided to exporters, which may be regarded as subsidies under the WTO definition, include (GRZ, 2005):

- **The duty drawback system:** Under this scheme exporters are reimbursed for customs duties and other taxes paid on imported inputs enabling them to access inputs at world prices.
- **Manufacturing under bond:** This scheme allows imported inputs to be kept under bond until used in the production of the good to be exported. The producer only pays customs duty on the imported inputs if they decide to sell the final product on the domestic market.
- **Export processing zones (EPZ):** The export processing zones are designed to have free trade zones, export processing zones and industrial parks. They are meant to create an enabling environment to support both export and domestic-oriented industries.

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Chapter 12: Trade Defence Instruments

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Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

The World Trade Organisation (WTO) advocates for non-discrimination, transparency and more open, free and predictable trade among member countries. However, more open trade comes with the risk of unfair practices and distortions. In view of this situation, member countries are allowed to temporarily suspend multilateral concessions and impose trade defence instruments to protect their domestic industries from surges in imports and unfair practices such as subsidies and dumping.[59] Imposition of trade defence instruments (also called trade remedies) requires that countries fulfil certain procedural and substantive requirements. Trade defence instruments constitute a derogation from the WTO's basic disciplines and are legitimized in order to counter "unfair competition" and to create a "level playing field with a view to sustaining domestic product, retain and create jobs and promote international competitiveness". The WTO recognizes three instruments/measures that countries can employ:

a. Safeguards measures (providing temporary relief from import surges);

b. Countervailing duties (used to counter the effects subsidies); and

c. Anti-dumping (used to counteract dumping).

Within the WTO system, the measures above are governed by three main agreements namely: the WTO Anti-Dumping Agreement (ADA), the WTO Agreement on Subsidies and Countervailing Measures (ASCM), and the WTO Agreement on Safeguards (ASG). These agreements prescribe conditions under which a member country can take remedial actions when faced with situations of subsidies, dumping and surge in imports, which may arise from trade liberalization.

2 Safeguard Measures

Safeguards are temporary measures that are imposed to deal with import surges – a situation in which imports of a product that increase so quickly and sharply that national producers cannot adapt immediately to the changed trade situation. In such cases, the WTO rules allow for short-term measures to regulate the imports, giving national companies temporary relief and time to adapt to this unforeseeable influx. Safeguard measures are also referred to as an "escape clause", as they enable a member to "escape" its general obligations in specified situations (Muyakwa, 2005). Safeguards normally apply to imports of the like product from all countries. During the period of application, the affected national industry is required to restructure itself. Safeguards can also be used as a preventive mechanism to

[59] For more details on exceptions from multilateral concessions, consult chapter 5 in this volume.

preclude injury likely to be caused by an influx in imports. According to UNCTAD (2013) safeguard measures can be in the form of tariff and non-tariff measures, which may include:

a. Safeguard duties: a temporary higher duty may be levied on imports of a product to prevent or remedy serious injury from a surge in imports and to allow the industry to adjust. The duty must be progressively reduced during the adjustment period if it is imposed for more than one year. For example, Country A can impose a safeguard duty on product B originating from the rest of the world. The safeguard duty can be imposed for a period of three years with 25% in year one, 15% in year two and 5% in year three.

b. Safeguard quantitative restrictions: Quantitative restrictions can take the form of quotas which are imposed on imports of a product to prevent or remedy serious injury from a surge in imports and to allow the industry to adjust. Similar to the safeguard duty, the quota must be progressively reduced during the adjustment period if it is imposed for more than one year. For example, Country A can impose a safeguard quota on product B originating from the rest of the world. The safeguard quota can be imposed for a period of three years with a quota of 500 units of B in year one, 1500 in year two and 25000 in year three.

c. Other forms: Safeguard measures can also take the form of tariff-rate quotas, price based measures or special levies, etc. These are implemented in the same way as described for safeguard duties and quotas.

In order to ensure adherence to the WTO principle of non-discrimination, affected member countries have to apply the safeguard measure to all like products from all origins. Prior to the imposition of safeguard measures, a country needs to satisfy three conditions as prescribed by the WTO Agreements as follows:

a. A country must find a recent increase in import volume that was unforeseen and the result of trade concessions;

b. A country must find that the increased imports have caused (or threatened to cause) the domestic industry to suffer serious injury;

c. A country must craft appropriate remedy that is no more restrictive than necessary to eliminate the serious injury caused by the imports.

2.1 Special safeguards for trade in agriculture

A special safeguard (SSG) is a measure that allows countries to temporarily raise tariffs when they face surges or price falls as a result of agricultural imports. The special safeguard differs from normal safeguards. The normal safeguard is undertaken when there is an import surge likely to cause, or threaten to cause,

serious injury to domestic industry. In the case of a normal safeguard, a country has to prove that the imports are causing or likely to cause injury to the domestic industry. With the special safeguard on the other hand, a country does not need to prove that serious injury is being caused to the domestic industry, and higher safeguard duties can be imposed automatically when import volumes rise above a certain level (quantity trigger), or if prices fall below a certain level (price trigger).

2.2 Effects of a safeguard

Crowley (2010) outlines various positive effects of safeguards as follows:

a. Safeguards facilitate greater trade liberalization due to the escape valve they offer.

b. Safeguards provide insurance against adverse economic shocks;

c. Safeguards protect infant industry: safeguard duties or safeguard quotas are used to protect the infant industry against foreign competition;

d. Protection of industry can also be justified on the employment preservation grounds.

Notwithstanding their positive effects, safeguard measures also present negative effects as they may increase the price and reduce the quantity of foreign goods, which could reduce the consumer's surplus. Moreover, choice is diminished.

3 Subsidies and Countervailing Measures

3.1 Subsidies

Subsidies can distort trade and impose harmful effects on trading countries. Subsidization involves a government of a particular country providing financial assistance to companies to produce or export goods. Since subsides distort trade, WTO member countries are allowed to counteract any trade-distorting effects of these subsidies on the national market – after an investigation into whether the subsidy is unfair and injuring domestic companies.

Subsidies may be used to correct market failures in the production of certain goods where the market provides less than the optimal amount of a certain essential good. Subsidies may also be used to encourage use of clean technologies. In addition, governments use subsidies as instruments of economic and social policy. It may provide subsidies to certain types of investments to encourage job creation and stimulate export competitiveness in an industry.

Consumers in the country that imports the subsidized commodity benefit from reduction in the price (Sykes, 2003). However, subsidies can also be wasteful if productive resources are diverted into domestic production and away from foreign production, and if they encourage inefficient production. They also have a tendency to diminish market access opportunities for competing exporters who do not receive a subsidy. Moreover, they have the potential to injure producers of the like product in the importing countries by making them uncompetitive pricewise.

The ASCM classifies subsidies into three categories: prohibited, actionable and non-actionable. Prohibited subsidies are those that distort international trade, and may hurt the trade of other countries. Actionable subsidies, on the other hand, relate to subsidies that could cause adverse effects to the interest of other member countries and may be permitted under certain conditions. Non-actionable subsidies are that are meant to enhance development or uplift the disadvantaged regions of an exporting country.

3.2 Countervailing measures

Measures used to counter trade distorting effects of subsidies are called countervailing measures. A countervailing measure is a border measure imposed on imports of a subsidized product from an exporting country. The countervailing measure can be introduced either through multilateral or domestic tracks. The multilateral track involves going through the WTO dispute settlement mechanism, while the domestic track entails that the importing country initiates an investigation.

The measures are imposed when there is evidence that a particular import product is causing injury to a domestic industry producing the like product in the importing country (UNCTAD, 2013). The countervailing measures are usually in form of duties on imports of the subsidized products (fixed, variable or ad-valorem).[60] In order for a country to impose countervailing measures, certain substantive requirements such as providing evidence of subsidization of a product, providing evidence of injury (e.g. loss of jobs) to the local industry, and a link between the import of the product and the particular injury need to be fulfilled.

3.3 Effects of a countervailing measure

Countervailing measures such as countervailing duties, may encourage efficient production and discourage wasteful subsidy practices, which can contribute to enhancing global welfare. Denner (2009) argues that countervailing measures do level the playing field for both local and international producers. However, other studies have found that countervailing measures may have negative welfare effects. When nations respond to subsidies with countervailing duties, they tend to reduce

[60] For more information on tariffs, consult chapter 9 in this volume

their economic welfare, all other things being equal (Sykes, 2003) because consumers pay a higher price. Countervailing duty proceedings tend to encourage protectionism. Clarke (2015) argues that countervailing measures are an ineffective tool as they are only applied to trade in goods neglecting services.

4 Anti-Dumping Measures

Dumping occurs when manufacturers from a third country sells goods in a country below the sales prices in their domestic market or below the cost of production. If a country can establish – through an investigation – that this is happening, it may correct any damage to national companies by imposing anti-dumping measures.

Typically these are duties on imports of the product from the country in question. The duties can be fixed, variable or a percentage of the total value (ad-valorem). These duties are imposed at the border to ensure that the unfair advantage enjoyed by the dumped product is eliminated. Dumping is regarded as an unfair trade practice by the WTO ADA and prescribes that a country should impose anti-dumping measures (duties or tariffs) if it can be established that the dumped goods cause "material injury" or "threat thereof" to the domestic industry of another country. The substantive and procedural requirements for the imposition of the anti-dumping measures are similar to those required for the imposition of countervailing measure. According to the WTO ADA, a country can impose anti-dumping measures if it can provide evidence of (WTO, n.d.):

a. Dumped product;

b. Material injury to the domestic industry producing the like product, threat of material injury or material retardation of the establishment of a domestic industry; and,

c. A causal link between the dumped imports and the injury.

According to the WTO, dumping in itself is not actionable, only dumping that causes injury. There are various indicators of injury, but the final decision is based on an overall evaluation of the indicators. The *injury margin* is calculated as the difference between the export price and the non-injurious domestic price, i.e. the theoretical price at which producers would be able to sell in the absence of injurious dumping. It is, accordingly, in the interest of the producers to identify a high, non-injurious domestic price in order to identify a high-injury margin (NBT, 2012).

4.1 Types of and reasons for dumping

BIS/DFID (2012) identifies various types of dumping which include:

a. Market expansion dumping: A company may cut the price for its products if it wants to break into a new overseas market;

b. Technological dumping: During the early stages of the product life cycle, the costs are high and fall in the later stages as a result of learning-by-doing and economies of scale. Thus in the early stages of the lifecycle the company sets the price below the costs and increases it in the later stages of the product cycle. This implies that products get dumped in the early stages of the product life cycle.

c. Cyclical Dumping: Economies pass through various stages of business cycles such as upswings, booms, recessions and depressions. During recessions producers may sell their products at below total cost;

d. Predatory Dumping: This involves an exporter setting the price of its products at below the average cost of production in order to drive out competitors in importing countries. This has negative consequences for consumers.

4.2 Effects of dumping and anti-dumping measures

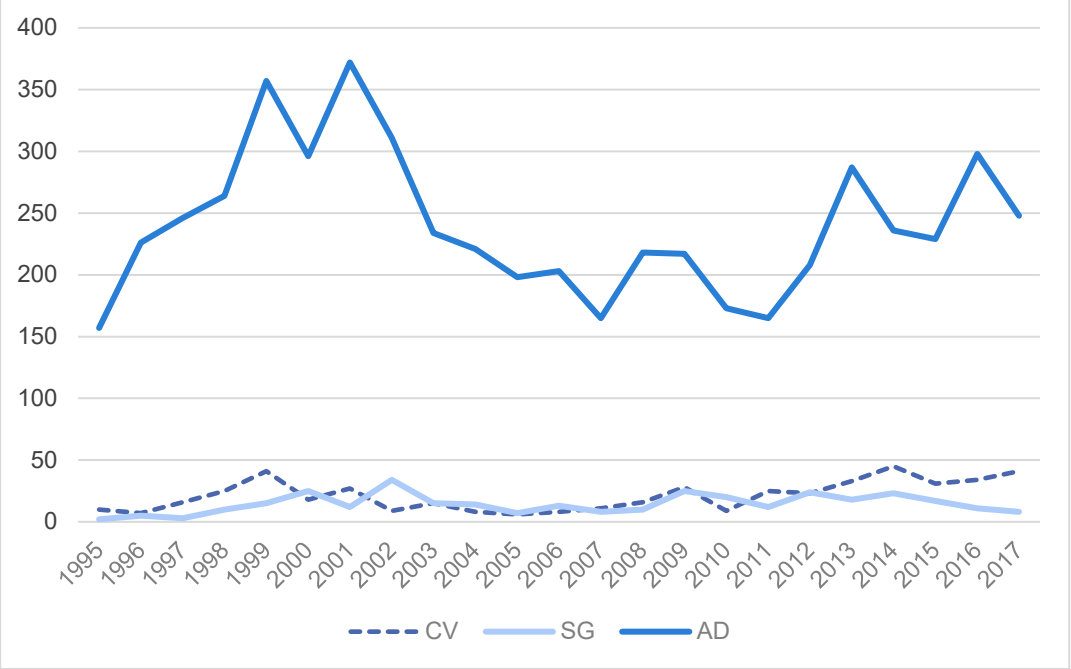
Dumping can have both positive and negative effects on the importing country. In terms of benefits, dumping is seen to have beneficial effects for consumers in the importing country as they benefit from variety and low prices. However, consumers may suffer if the dumping is predatory, as competing companies could be driven out of business, creating monopolies and leading to higher prices. The closure of businesses can also lead to job losses.

Anti-dumping measures may equally have positive and negative effects. They can promote fair trade between the domestic and foreign producers by offsetting artificial sources of competitive advantage from dumped products. However, Lindsey and Ikenson (2003) argue that antidumping measures discriminate against imports, thus creating unfair competition, which is the essence of protectionism. Imposition of anti-dumping duties, for example, would lead to an increase in prices which may lead to a reduction in consumer surplus. Voon (2010) argues that anti-dumping measures are economically irrational because they are usually passed on to the consumer by increasing the price of the good. Anti-dumping measure may also indirectly cause trade diversion where imports are diverted to countries not named in an AD petition (Sandkamp, 2018). They may have protectionist effect as they decrease in imports and increase in domestic production. It may also lead to trade wars as a reaction to anti-dumping duties.

5 Trends in Trade Remedial Measures

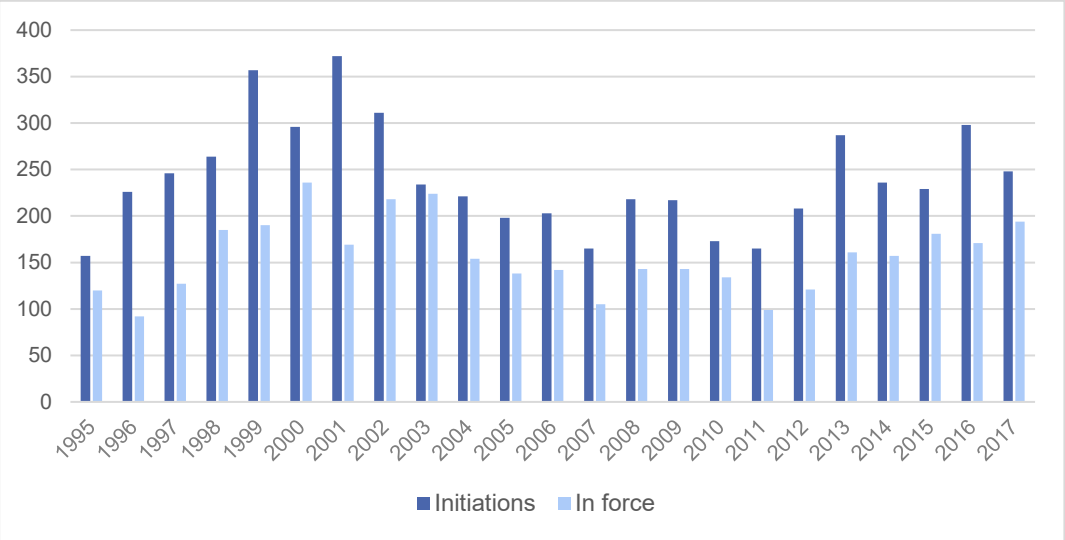
Generally, anti-dumping measures are prominently used as a trade remedy in global trade. According to figure 12.1 the anti-dumping measure consistently dominated the trade remedies. Figure 12.1 also presents the trends in countervailing measures and safeguards, which have remained low during the period from 1995 to 2017. Figure 12.2 further shows that the number of initiated antidumping measures and those in force increased between 1995 and 2001 and thereafter reduced up until 2007. After the global financial crisis the measures have increased slightly. Table 12.3 specifies the sectoral distribution of the anti-dumping measures of top five product categories. The highest number of measures were undertaken in the field of base metals and articles of metals, followed by products of the chemical and allied industries. These products are dumped possibly due to overcapacity in the home countries (Jones, 2010).

Figure 12.1: Trends in anti-dumping, safeguards and countervailing measures



Source: WTO (2017)

Figure 12.2: Anti-Dumping measures initiated and enforced from 1995 to 2017



Source: WTO (2017)

Table 12.3: Anti-dumping initiations by sector from 2000 to 2017

HS section name	2000–2004	2005–2009	2010–2014	2015–2017
Products of the chemical and allied industries	348	213	208	153
Resins, plastics and articles; rubber and articles	191	129	163	88
Textiles and articles	83	114	49	51
Base metals and articles	435	214	363	314
Machinery and electrical equipment	91	112	75	28

Source: WTO (2017)

Trade remedies play a crucial role in today's globalized world. Despite this importance their utilization varies between developed and developing countries. According to WTO data developed countries utilize these instruments more than developing countries, particularly African countries (WTO, 2017). According to Illy (2016) low utilization by African countries is mainly due to:

1. Absence of national legal and institutional frameworks;
2. The lack of expertise and high cost of trade remedies;
3. The disorganization of the African business community; and
4. Political factors.

6 Conclusion

Generally, trade defence instruments protect vulnerable industries and commodities from external competition and enable businesses to adjust and compete favourably. This prevents businesses from closure and hence preserves jobs. However, developing countries face challenges in undertaking the trade defence investigations due to lack of technical capacity and resources thus exposing their industries to the negative effects of import surges, dumped imports and subsided imports.

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Chapter 13: Technical Barriers to Trade

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Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 The TBT Agreement – an Overview

The WTO Agreement on Technical Barriers to Trade (the "TBT Agreement") entered into force with the establishment of the World Trade Organization (WTO) on 1 January 1995. It aims to ensure that regulations, standards and conformity assessment procedures do not create unnecessary barriers to trade. Suffice to say that the TBT Agreement is a multilateral agreement and thus, all WTO members subscribe to it *de jure*.

Governments use various methods to regulate the manufacture, sale and trade of goods by imposing Non-Tariff Measures (NTMs), and TBT is one kind of NTM along with Sanitary and Phytosanitary (SPS) measures, import/export quotas etc. (bearing in mind that TBT concerns all products except those covered by SPS). These methods can vary from country to country depending on the objective of the regulation, the market, local conditions, and the product.

The objectives of these measures are generally related to protecting health, safety, environment or national security and the different methods of regulation can be essential to achieving these objectives.

TBTs are measures that regulate the manufacture, sale or trade of goods, but which also create a barrier to the trade of those goods. A barrier could be the imposition of additional costs of compliance for an exporter, additional time to market or restrictive measures that prevent or hinder an exporter's access to market, or even certain safety requirements. The term barrier indicates that these measures are in fact barriers, but those barriers can be motivated by national security, prevention of deceptive practices, protection of human health or safety, animal or plant life or health, or the environment and be considered necessary.

The TBT Agreement divides measures into three categories; *technical regulations, standards* and *conformity assessment procedures* (MBIE, n.d.). Technical regulations and conformity assessment procedures are compulsory rules, i.e. product requirements and procedures for assuring that the requirements are fulfilled. Such compulsory measures, if they do not serve a legitimate purpose under the agreement, may hinder trade. There are thus necessary technical barriers to trade, which have a legitimate purpose as well as unnecessary technical barriers to trade. Standards[61] are not compulsory but may be adopted and made compulsory as Technical Regulations and Conformity Assessment Procedures. When this happens those Standards are sometimes called compulsory standards but are in fact Technical Regulations or Conformity Assessment Procedures.

[61] Note: Standards in the meaning of the TBT Agreement are voluntary.

The TBT Agreement can be summed up in five principles that are at the core Agreement. These principles are:

- *Transparency* – a WTO member planning to introduce a measure, i.e. a Technical Regulation or Conformity Assessment Procedure that might have an significant impact on trade should notify this to the WTO, and take into account comments submitted by other countries on the draft legislation. This is further discussed in section 2 below.
- *Non-discrimination and national treatment* – a measure should not discriminate among like products from different exporting members, and should apply in the same way to both imports and similar domestic goods.
- *Proportionality* – a measure should not be more trade restrictive than necessary to achieve the legitimate goal pursued.
- *Use of international standards* – whenever possible, international standards should be used as a basis for technical regulations.
- *Equivalence* – WTO members should consider accepting technical regulations of other members as equivalent to their own, provided that these measures are an effective way of addressing the objectives pursued (EU Commission, n.d).

1.1 Technical regulations

Technical Regulations can be understood as "a document, which lays down product characteristics or their related processes and production methods, administrative provisions, terminology, symbols, packaging, marking or labelling requirements... to a product, process or production method" (WTO, 1995a). When technical regulations do not fulfil a legitimate purpose under the Agreement, the scientific basis for the regulation is lacking or the rules are disproportionate they may be unnecessary technical barriers to trade.

TBTs have an enormous potential to increase trade costs and ultimately the cost of goods and services and hence the need to ensure that technical requirements are homogeneous among WTO members or indeed any regional trading area. For instance some regional organizations, such as the Organization for Economic Cooperation and Development (OECD), the International Regulatory Cooperation (IRC) as well as trade blocs such as the European Union (EU) and Common Market for Eastern and Southern Africa (COMESA), work to harmonise and synchronise various technical requirements among the countries so that they speak one language.

Notwithstanding the existence of the 'non-discrimination principle' in the TBT Agreement, which says that requirements should be the same for domestic and imported products, different countries have different ways to address a given regulatory objective and this leads to 'trade regulatory heterogeneity', which if not countered, may eventually lead to three types of trade costs (von Lampe et al. 2016);

i. Specification costs arise from adapting products and production processes to the different requirements on different national markets. Specification costs tend to be greater if regulations are more different. Increased cost is by itself not discrimination, this is however the case when a like product from another country is treated less favourably than a product of national origin.

ii. Conformity assessment costs relate to the need to demonstrate that products are in compliance with stipulated specifications. They may be due to differences in conformity assessment methods or relate to rigid conformity assessment procedures requiring tests or certificates from conformity assessment bodies in the bid to comply with some specifications.[62]

iii. Information costs accrue to firms for identifying, gathering and processing information on the regulatory requirements for offering products on the destination market. The magnitude of information costs depends on both the heterogeneity and the transparency of countries' regulatory regimes: understanding the technical regulations and conformity assessment procedures in their context may require substantial analysis, the higher these costs tend to be.

In Zambia, technical regulations are to comply with the National Technical Regulations Act, 2017 that provides for the principles of, and a framework for, technical regulations that are compliant with best practice and Zambia's regional and international obligations under different agreements. The Act further establishes the Department of Technical Regulation in the Ministry of Commerce Trade and Industry (MCTI). It provides for the development and implementation of technical regulations for public safety and health, consumer protection and environmental protection and provides technical guidance to regulatory agencies on the development, implementation, administration and review of technical regulations. It also domesticates the international and regional agreements on TBTs in order to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles to trade but implement legitimate policy objectives and measures; and provide for matters connected with, or incidental, to the foregoing (GRZ, 2017a).

[62] For example, UKAS (United Kingdom Accreditation Service) is a conformity assessment body and a member of IAF (International Accreditation Forum) and ILAC (International Laboratory Accreditation Cooperation).

This Act also works in tandem with other statutory regulations such as the Environmental Management Act, 2011, which is under the Ministry of Lands.

i. **Examples of Zambian technical regulations;** the Medicines and Allied Substances Act No. 3 of 2013 of the Laws of Zambia regulates and controls the manufacture, importation, storage, distribution, supply, sale and use of medicines and allied substances. Requirements on the product itself, such as specifications, approvals, packaging, labelling, or other requirements for sale of a product such as storage requirements, can be covered by technical regulations and conformity assessment procedures and thus by the TBT Agreement. In the given example, the Medicines and Allied Substances Act No. 3 of 2013 of the Laws of Zambia, is administered by the Zambia Medicine Regulatory Authority (ZAMRA), which is the statutory national medicine regulatory body for Zambia established under an Act of Parliament (ZAMRA, 2013). For instance, for a veterinary medicine to be approved for sale in Zambia, the following details must be submitted for analysis according to the technical requirements: a copy of current Good Manufacturing Practices (cGMP) certificates from the medicines regulatory authority of the country of manufacture, storage temperature specifications, dosage, pharmaceutical formula of the product, active and inactive chemical substances present in the drug, reasons for the inclusion of each of the inactive substances, patents and registration certificates and whether the product has been rejected before in other countries/regions and the reasons thereof (ZAMRA, n.d.).

Other technical regulation issuing agencies include the Competition and Consumer Protection Commission (CCPC), Zambia Compulsory Standards Agency (ZCSA), Business Regulatory Review Agency (BRRA), Zambia Environmental Management Agency (ZEMA), Zambia Revenue Authority (ZRA), Zambia Information and Communication Technology Authority (ZICTA), Zambia Chamber of Commerce and Industry (ZCCI) among others spread according to specific sectors (Mutale, 2018).

1.2 Standards

The Zambia Bureau of Standards (ZABS) is one of Zambia's key statutory organizations responsible for the preparations of national standards. It derives its strength from the Standards Acts Cap 416 of the Laws of Zambia established in 1994.

Standards in Zambia are developed as provided for by the Standards Act, 2017. This act names the ZABS and defines its powers and functions; provides for standardisation and quality assurance of products and services through the setting

of national standards and provision of conformity assessment services for products and services (GRZ, 2017b).

We also have the Compulsory Standards Act, 2017, which provides for the establishment of the Zambia Compulsory Standards Agency, its powers and functions, the administration and maintenance of compulsory standards for the purpose of public safety and health, consumer protection and environmental protection; and provides for matters connected with, or incidental to, the foregoing (GRZ, 2017c). However, under the TBT Agreement, compulsory standards are considered as technical regulations or conformity assessment procedures.

Like many other standardization bureaus, ZABS is not an island. It has a platform for networking internationally and regionally. At international level, ZABS networks with ISO (International Standards Organization) and IEC (International Electro-technical Organization) and functioning as the WTO TBT inquiry point. At the regional level, ZABS networks with COMESA (Common Market for Eastern and Southern Africa) and SADC (Southern African Development Community); and at the continental level it networks with ARSO (African Organization for Standardization) and AFSEC (African Electro-technical Standardization Commission) (Mutale, 2018). Activities of most of these organizations are closely related to the WTO TBT Committee and hence on a global scale, harmonization is achieved.

ZABS has three core functions, namely i) conduct testing of products to ensure minimum requirements and expectations on the product are met, ii) inspection of both local products (Domestic Quality Monitoring System – DQMS) and imported products (Import Quality Monitoring System – IQMS) and iii) certification.

1.3 Conformity assessment procedures (CAP) – testing, inspection and certification

Conformity assessment is the name given to the processes that are used to demonstrate that a product (tangible), service (intangible) or a management system or body meets specified requirements, which are primarily contained in standards and guides. In other words, conformity assessment procedures are the processes that need to be followed to be able to demonstrate that the product, service or system in question meets the requirements that are contained in Zambian technical regulations. Conformity assessments may also be voluntary and used by businesses to guarantee the quality or specification of products they are buying, or need as materials in their production.

The use of ISO standards in conformity assessment procedures allows for harmonization throughout the world and this, in turn, not only facilitates international trade between countries but also facilitates trade within countries by

giving the purchaser of the product or service confidence that it meets the outlined requirements (Chomba, n.d.). It is normally considered less of a barrier to trade if national requirements for compulsory conformity assessment are based on an international standard.

1.3.1 Components of conformity assessment

A conformity assessment may take many forms depending on the objectives of a regulation or whether it is a private scheme for conformity assessment. It usually falls in any of the three categories below.

i. Testing – this includes laboratory testing to ensure that products have the right content of chemical combinations. This may include if water found in the environment is contaminated by chemicals or heavy metals and if water and beverages (including beers) can be considered fit for consumption.

ii. Inspection – e.g. inspection of motor vehicles to ensure quality to the environment and users. A motor vehicle that falls short of the minimum requirements will not be certified fit and hence the Road Transport and Safety Agency (RTSA), a government agency responsible for regulating, reinforcing and monitoring domestic transport safety standards on the roads, will not register it for road usage in Zambia.

iii. Certification - a certificate of conformity to standards or technical regulations by an independent body as written assurance (a certificate) that a product, service or system meets specific requirements.

Conformity assessments may take into account the safety hazards inherent to the specific product (such as mechanical, electrical, thermal, fire or explosion, chemical, biological or radiation hazards); the severity of hazards; the homogeneity of a consignment; the reliability of the manufacturer/exporter and ultimately the final buyer and end use.

2 Transparency and Good Regulatory Practices (GRP)

The TBT Agreement is there to ensure that technical regulations developed by members of the WTO are transparent and thus harmonised. This makes trade more predictable among members and also makes it easier for the WTO and national agencies to regulate and evaluate the effects of agreed-upon trade instruments to ascertain whether or not they are meritorious. GRPs are defined as internationally recognised processes, systems, tools and methods to improve the quality of

regulations and ensure that regulatory outcomes are effective, transparent, inclusive and sustained (STDF, 2020).[63]

A number of developing countries are striving towards achieving and incorporating transparency and GRPs in their trade agreements. In a study by Molina and Khoroshavina (2015) on whether TBT provisions included in Regional Trade Agreements (RTAs) differ from those under the WTO TBT Agreement in 238 RTAs, it was found that all RTAs signed since 2010 systematically included TBT provisions and that the most frequent provisions were those referring to the TBT Agreement and transparency. Moreover, even if there were RTAs that included new or broader commitments than the TBT Agreement, their number remains very low.

Zambia is striving to improve its transparency and GRPs in its trade policy. This is done by bringing on board various stakeholders from both government departments and the private sector, as well as through the creation of the inclusive consultative forums such as the Zambia National TBT Committee, National Working Group on Trade (NWGT), Zambia National Famers' Union (ZNFA) and Zambia Association of Manufacturers (ZAM). Ideally, the interests and aspirations of all stakeholders are represented and addressed based on a trade policy instrument at hand within these consultative forums.

3 TBT Enquiry Point and Notification Authority

The WTO TBT Agreement requires that a country notifies other WTO member countries on any TBT measures or adjustments taken, which are likely to affect trade with other WTO members directly or indirectly. These may include, for instance, detailed specifications on how a particular veterinary drug from a country such as Tanzania must be packaged and labelled before it is exported to Zambia or any other WTO member country. To that effect, if any WTO member country wants to contact or notify the Zambian authorities, the information provided in table 13.1 below becomes very useful for that purpose.

[63] For more information on GRP, consult Chapter 20 in this volume.

Table 13.1

No.	Agency name	Contact Address
a	Zambia Bureau of Standards	Lechwe House, Freedom Way, South-End, P.O Box 5025, ZA, 15101, Ridgeway, Lusaka, Zambia. Email, zabs@zamnet.zm; info@zabs.org.zm Website: www.zabs.org.zm
b	National Notification Authority; Attention: Director of Foreign Trade Department, Ministry of Commerce Trade and Industry (MCTI)	P.O Box 31968, Ministry of Commerce Trade and Industry (MCTI), Lusaka Website: www.mcti.gov.zm

Source: WTO (2020).

4 TBT vs SPS: What is the Scope?

The scope of the WTO TBT Agreement must be considered in relation to the WTO SPS Agreement. However, the objectives that a WTO member may pursue under the TBT Agreement are not limited in the same way as those that fall under the SPS Agreement. TBT measures can be used, for instance, to meet requirements related to national security, prevention of deceptive practices, protection of the environment, and protection of human health or safety, or animal or plant life or health. The SPS Agreement, on the contrary, concerns pre-defined specific risks related to human health, mostly about food safety, and animal/plant health or life or protection from pests. Article 1.5 of the TBT Agreement excludes SPS measures from its scope. This means that, under strict rules, a TBT measure cannot be an SPS measure and vice versa (WTO, 2013). However, there are certain cases where a regulation can be double-barred, serving a purpose of a TBT and SPS at the same time. For example, a single regulation on food products could establish a requirement concerning the treatment of fruit to prevent the spread of pests (relevant under the SPS Agreement) and other requirements, unrelated to the pest risk, concerning the quality, grading and labelling of the same fruit (relevant under the TBT Agreement).[64]

5 TBT Infrastructure in Zambia

All WTO member countries have an obligation to implement the TBT Agreement. In Zambia, the TBT Agreement is implemented through several pieces of legislation. The MCTI together with ZABS, ZCSA and ZEMA as well as the Republic of Zambia Permanent Mission to the United Nations in Geneva implement the TBT

[64] For more details on the WTO SPS Agreement, consult Chapter 14 in this volume.

Agreement and ensure enforcement. There is a national TBT committee established to discuss Zambian interests between regulators and the business community.

To successfully implement the TBT Agreement, technical or quality infrastructure is paramount. A lack of appropriate infrastructure can harm trade competitiveness as firms located in developing country members, in particular small and medium sized enterprises (SMEs), may face substantial difficulties in demonstrating compliance with requirements in export markets, whether developed or developing (WTO, 2013).

Nevertheless, Zambia's TBT infrastructure, particularly the conformity assessment system, is still developing. The MCTI prepared a National Quality Policy which cabinet has since approved. There are a lot of proposed changes to re-align Zambia's quality infrastructure including the Conformity Assessment System to best international practice and WTO principles with regard to facilitating trade. In this context it should be noted that conformity assessment activities like inspection, certification, measurement and testing will be done by the private sector.

6 TBT committee Geneva

The TBT Committee usually meets three times every year. Its' mandate is to give "members the opportunity of consulting on any matters relating to the operation of [the] Agreement or the furtherance of its objectives" (WTO, 1995b). Meetings are open to all WTO members, and most countries send representatives. Countries who are not yet members of the WTO can participate as observers. Representatives are chosen by their respective countries and can be capital based trade officials, persons from their delegation in Geneva or from national regulatory and standardizing bodies.

The Committee has decided guidelines on best practice when implementing the TBT Agreement, the use of GRP, transparency and the work of standardisation bodies. The decisions and guidelines are not binding additions to the agreement, but their content may be through WTO case law.

6.1 Specific Trade Concerns (STCs)

Most of the agenda at the meetings of the TBT Committee in Geneva is about Specific Trade Concerns (STCs). An STC is an issue raised by WTO-member pointing out that another Members technical regulation or conformity assessment procedure discriminates against products from another member or creates more of a barrier to trade than necessary to achieve the given objective. Generally STCs are raised against technical regulations or conformity assessment procedures that are notified to the WTO as a part of a WTO Members obligations under the TBT

Agreement. It can also be because a technical regulation or a conformity assessment procedure has not been notified, and the raised concern is then that it should be notified so that other WTO Members may comment on it as provided for in the TBT Agreement. The WTO Member against whose regulation or procedure the STC has been raised responds to the comments by explaining why the measure is necessary, non-discriminatory or what actions they will take to correct the matter. Frequently several Members raise the same STC against a regulation or procedure of another Member, or give supporting statements during the committee. The Committee is a multilateral forum for discussion when it comes to STCs. That an STC has been raised does not mean that a formal WTO dispute settlement process cannot be used.

6.2 Bilateral meetings with trading partners

Before raising an STC or if something needs to be clarified, countries frequently request bilateral meetings with other WTO Members to discuss technical regulations or conformity assessment procedures, or other TBT related matters. An STC is usually only raised if a bilateral meeting is not possible or does not lead to an acceptable result or clarification. Even after an STC is raised it is still possible to have bilateral meetings, e.g. when delegates go to Geneva to attend the TBT Committee. Frequently many matters are solved this way, and the STC resolved wholly or partly. If a matter is solved or sufficiently clarified, STCs are sometimes withdrawn at the beginning of the Committee meeting.

7 TBT in Free Trade Agreements (TBT+)

When countries negotiate and agree on Free Trade Agreements (FTAs), most often there is a separate chapter on the TBT Agreement where all parties reaffirm their commitment to the TBT Agreement and in some cases the parties negotiate even more ambitious TBT chapters, so called TBT+.

The TBT+ aspects can include commitments ranging from exchanging information early in the regulatory processes for technical regulations to commitments on joint technical regulations or standards. This is something that is most commonly referred to as *International Regulatory Cooperation*. An example of an FTA with a high level of commitment on regulatory cooperation is the agreement between the EU and Canada, Ceta. Countries can also choose to cooperate when it comes to conformity assessment procedures. This can either be included in an FTA or in separate agreements called *Mutual Recognition Agreements, (MRAs)*, which aim at making it easier to put a product on the market in another country by not having to repeat testing or being able to test the products according to the import countries regulations.

8 Tools to keep track: ePing

All WTO countries have to notify their new technical regulations, standards and conformity assessment procedures to the WTO. In order for regulators, businesses and trading partners to be able to keep track of new notifications and if a trading partner comments on a TBT (or SPS) notification, the WTO, ITC and UN have built a web-based tool called ePing (WTO, ITC and UN, 2016).[65]

www.epingalert.org

[65] For more information and an exercise on ePing, consult chapter 5 in this volume.

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Chapter 14: Sanitary and Phytosanitary Measures

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Sanitary (human and animal health) and Phytosanitary (plant health) measures, also known to as SPS measures, refer to government regulations and procedures aimed at protecting the life and health of humans, animals and plants within the territory. Countries employ SPS measures in order to ensure food safety and prevent the spread of contagious animal diseases or devastating plant pests.

SPS measures are usually applied to both domestic and imported products and affect trade in i.e. live animals, meat, fish, processed food, agricultural products, plants and timber. Examples of SPS measures are import bans on certain meat products as a result of an outbreak of a contagious animal disease, restrictions regarding pesticides used on fruit and vegetables or restrictions regarding food additives. SPS measures may also include requirements that a product be treated in a particular way; for instance, wood pallets must be heat-treated in order to reduce the risk of spreading pests.

SPS requirements can lead to high costs for producers. If a producer exports to several markets with differing sets of regulations, the costs multiply and sometimes export opportunities are limited by contradicting standards in end markets. This can be the case when for example a food additive permitted in one country is banned in another. There are legitimate concerns behind the requirements in end markets, from the perspective of protection of their consumers, animals, plants and agricultural production possibilities. However, a problem for many developing country producers of agricultural and food products is that their possibilities to take part in international trade in these products depend on a functioning national SPS system, in order to comply with the SPS requirements of end markets. A national SPS system comprises of i.e. national programmes for the survey and control of plant pests or animal diseases, laboratories, export control stations, and other government institutions.

Thus, in order to promote trade and cut off barriers to trade related to SPS, enhancing knowledge about the requirements for exports and the means to fulfil these requirements is important, and many times includes investments in the national SPS system. Awareness about SPS requirements needs to reach producers, traders as well as officials in key authoritative bodies in developing countries.

2 The SPS Agreement

The SPS Agreement of the World Trade Organization (WTO) aims to strike a balance between, on the one hand, Member States' right to adopt measures protecting human, animal, and plant life and health and, on the other, the negative

trade effects such measures may cause (Rigod, 2013). In essence the agreement maintains the sovereign right of any government to choose the level of health protection it deems appropriate, but based on scientific risk assessment and international standards. Thereby, the SPS Agreement seeks to prevent the misuse of sovereign rights of states for protectionist purposes, or the risk of creating unnecessary barriers to global trade through SPS-measures.

2.1 Key features of the SPS Agreement

Certain trade restrictions are necessary in order to ensure food safety and animal and plant health protection. Yet, governments can be pressured to go beyond what is needed for health protection, especially as tariffs have been reduced as a result of the Uruguay Round of the WTO. This pressure may involve the use of SPS restrictions to shield domestic producers from economic competition. If this is the case, an SPS restriction, which is not actually required for health reasons can become an effective disguised protectionist device, and because of its technical complexity, a particularly deceptive and difficult trade barrier (WTO, 2020).

To address the risk that SPS measured are misused, and ensure that measures are not more trade restrictive than necessary, the WTO Members have agreed in the SPS Agreement that all SPS measures must be based on a scientific risk assessment and international standards. Members have also committed to transparency provisions, i.e. an obligation to notify SPS measures to the WTO, and provide opportunities for other countries to comment on the proposed regulations. The number of SPS notifications to the WTO have been on the increase in the recent years. However, this does not translate into an increase in SPS measures that restrict trade. Rather, it signifies an improvement in transparency that can facilitate trade among countries.

2.2 International standards

Through the SPS Agreement, governments are encouraged to establish national SPS measures based on international standards, guidelines and recommendations. This process is referred to as “harmonisation”. The WTO is not responsible for developing these international standards. Rather they are developed by three different global international standard setting organisations: the World Organisation for Animal Health (OIE) for animal health, the International Plant Protection Convention (IPPC, part of FAO) for plant health and the Codex Alimentarius (founded by WHO and FAO), as regards food safety. The SPS Agreement encourages members to actively take part in the work of the standard setting organizations, and most member governments choose to do so.

Standards are usually developed by leading scientists and governmental experts in the various fields of health protection. The work is often very complex and time

consuming, as once adopted, the standards are of very high global importance in the SPS field. Frequently, for developing countries, international standards are higher than the national requirements.

Furthermore, some countries may choose an appropriate level of protection that is higher than what would result from the application of the relevant international standard. This is allowed by the SPS Agreement, as long as the measure is based on a scientific risk assessment, which the member must then perform by itself. Thus, if a national requirement results in a greater restriction of trade than what would result from the application of the relevant international standard, the country may be asked by other WTO Members to provide scientific justification.

2.3 Adapting requirements to regional conditions

Given the differences in climate, existing pests or diseases, or food safety conditions, it is not always appropriate to impose the same SPS requirements on food, animal or plant products coming from different countries. As a result, SPS measures sometimes vary, depending on the country of origin of the food, animal or plant product in question.

Furthermore, under the SPS Agreement governments should also recognise that disease-free areas which may not correspond to political boundaries can exist when a disease or pest is present in other parts of a country. This is referred to as the principle of "regionalisation", requiring that governments appropriately adapt their requirements to regional conditions in exporting areas.

2.4 The SPS committee

There is a special committee within the WTO that has been established in order to manage matters relating to the SPS Agreement. This committee provides a forum for the exchange of information among Member governments on all aspects related to the implementation of the SPS Agreement. The SPS Committee has the responsibility to further the implementation of the Agreement, discuss matters with potential trade impacts, and maintain close co-operation with the international standard setting organizations. When a member introduces an SPS measure that is possibly not in line with the SPS Agreement, the issue may be raised by another member in the SPS Committee as a Specific Trade Concern (STC). Many times, Members also meet bilaterally in the margins of the SPS Committee meetings, to discuss SPS related trade concerns that they have with each other. If an issue cannot be settled, it is possible to employ the dispute settlement procedures of the WTO whereby advice from appropriate scientific experts can be sought (WTO, 2020).

3 SPS Measures in the Zambian Context

In this section, we deal with SPS measures in the Zambian context.

Zambia is a low-income country that aspires to diversify its trade away from dependency on copper production into higher value agro-food and light manufactured products. Meeting SPS requirements on end markets is key to enabling Zambian exporters to increase their exports in agro-food products. Complying with SPS requirements in end markets can also help Zambia achieve better agricultural productivity outcomes, as it entails investment in national plant and animal health, food safety, government institutions and control systems (WTO, 2020).

Meeting SPS requirements and raising SPS capacity in the country not only opens export possibilities, it also improves food safety and public health of the population in the country itself. Thus, improving and investing in SPS capacity plays a crucial role in facilitating trade and enabling sustainable development in Zambia.

Rathebe (2015) notes that there are a number of agencies in Zambia that oversee SPS controls on imports and exports. These include:

- *Ministry of Health*: The Ministry of Health has the mandate to ensure human health and disease control through surveillance, as recommended in the Health Information Regulations. Ministry of Health also ensures control of food coming into Zambia as per the Food and Drugs Act 303 and Public Health Act Cap 295. Normally at the borders, a health inspector issues and collects completed forms from travellers as part of the Ministry's SPS surveillance activities.
- *Zambia Bureau of Standards:* The Zambia Bureau of Standards is the country's Standards Body established by an Act of Parliament (Cap 416 of the Laws of Zambia). The mandate of the Zambia Bureau of Standards is to formulate national standards. These standards cover a wide range of products, processes and services including food hygiene, as well as specifications for bottled drinking water, animal feed, etc. The agency also develops standards for meat products in collaboration with the Zambian Department of Veterinary Services. Zambia Bureau of Standards also conducts quality control and calibrates measuring instruments (metrology). However, inspection of imports by the Zambia Bureau of Standards is limited to products that are covered by compulsory standards.
- *The Ministry of Agriculture and Livestock:* The Ministry of Agriculture and Livestock is organised into a number of departments. Overall, the Ministry of Agriculture is responsible for issuing trade permits to those that would like to trade in agriculture and livestock products.

- *The Department of Agri-Business and Marketing*: This body is in charge of issuing import and export permits for plants and plant products. The Department of Agri- Business and Marketing also guides on other documents that are required, such as phytosanitary certificates or plant import permits. This department has officials in some selected border ports.
- *Zambia Agriculture Research Institute (ZARI):* ZARI, through the Plant Quarantine and Phytosanitary Service (PQPS), the National Plant Protection Organization (NPPO), is responsible for issuing phytosanitary certificates, Plant Import Permits (PIP) and non-GMO certificates.
- *The Seed Control and Certification Institute (SCCI):* The SCCI is one of the departments under Ministry of Livestock. SCCI is a seed certification authority responsible for enforcing the Plant Variety and Seeds Act (CAP 236) of the laws of Zambia.
- *The Department of Veterinary Services*: This department exists to regulate the import and export of livestock, livestock products and by-products using the OIE risk analysis and management principles and methodologies. This is part of a sustainable and cost effective national strategy to protect the country from Diseases of National Economic Importance (DNEIs) and Transboundary Animal Diseases (TADs).
- *Zambia Environmental Management Agency:* The Zambia Environmental Management Agency's role is to safeguard human health and the environment through effective environmental management. Although this agency has no role in SPS controls at Zambia's boarders, agribusiness firms in Zambia, must register with the agency any kind of fertilizer, agrichemical and/or seed that they plan to use in their production processes.

3.1 Challenges with meeting international SPS requirements and implications for Zambian trade

Zambia faces challenges related to compliance with food safety, agricultural health, and/or other requirements applied by (potential) trade partner governments and/or private sector buyers. This affects the country's effective participation in international trade. Some of the challenges Zambian producers face include:

- Lack of capacity to meet the standards required by other countries targeted for exports. Different levels of income and acceptable risk lead to different regulations and conditions for production. As such for most firms in Zambia, meeting SPS requirements on export markets constitute a de facto barrier to exports.

- Lack of qualified officials that may understand and interpret the SPS Agreement, as well as the importance of investing in SPS capacity in Zambia, in order to engage other officials and decision makers
- Lack of adequate storage facilities and testing laboratories for food products that firms would require to export to regional and other markets
- Lack of funding for research and development in management of emerging pests given climate change challenges

3.2 Emerging opportunities in Zambia

Overcoming the challenges Zambia faces with development of an effective national SPS system is crucial to the country's full exploitation of sustainable economic growth from international trade. Thus, the following are some of the emerging opportunities that Zambia can exploit, despite the challenges in place:

- Capacity building of staff and private sector exporting companies to uphold SPS standards
- Building control capacity and further laboratory capacity
- Partnering with governments that can orient Zambia into upholding local food safety standards and up-holding/building analytical/laboratory capacity
- Research and development into the emerging pests and diseases and possibilities of managing the risk of them being barriers to exports for producers in Zambia
- Improving local storage infrastructure as well as preserving good health of the environment in which food export growth takes place

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Chapter 15: Intellectual Property Rights

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

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1 Origin and Rationale of Intellectual Property in the Global Trade Context

The term Intellectual Property Rights (IPRs) refers to creations of the mind, such as inventions, literary and artistic works, designs and names used in commerce (WIPO, 2020a). They are private rights given to persons or companies in order to give incentives to invest in intangible capital, which is beneficial to the society's economic development. There are different kinds of IPRs that protect different achievements and serve different purposes. For example, the rationale for protecting trademarks and geographical indications is to address a market imperfection related to consumer information about (the quality of) a product. The rationale for patents and copyright, on the other hand, is to encourage technical progress/ innovation and new creations.

IPRs attempt to resolve the conflict between the short-term need of consumers and users to access new information, and the long-term need for innovation, artistic creation and economic growth. IPRs in general mean that a right holder, for a limited period, has an exclusive right to commercially use and control the intellectual property (e.g. an invention, a literary work, a trademark). A right holder can however let others commercially use the intellectual property through granting a licence, often in return for a fee.

On an international level, IPRs are regulated in several international conventions administered by the World Intellectual Property Organisation (WIPO) (WIPO, 2020b). IPRs are however also regulated under the World Trade Organization (WTO) in the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement. The reason for regulating IPRs in a trade context is that inadequate IPR protection has been perceived as hindering international trade. Right holders who may had carried upfront costs, saw risks of facing competition from copying industries in export markets. A certain level of IPR protection may attract trade and foreign investment and make foreign right holders more willing to share the latest technology abroad.

2 The WTO TRIPS Agreement

The WTO establishes minimum standards for protection of IPRs through the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) (WTO, 2020a). The WTO TRIPS Agreement came into effect on 1 January 1995 and is one of the most comprehensive multilateral agreements on intellectual property. In order to facilitate the smooth flow of trade, the TRIPS Agreement seeks to reduce distortions and obstacles to international trade. The TRIPS

Agreement does so by taking into account the need to promote effective and adequate protection of intellectual property rights. The goal in TRIPS reflects a balance between different interests. Besides the protection of intellectual property rights, the goal is to contribute to the promotion of technological innovation and to the transfer and dissemination of technology. This in order to give advantage to both producers and users of technological knowledge in a way that is conducive to welfare at large (WTO, 2020b).[66] Further, the TRIPS Agreement stipulates that measures and procedures to enforce intellectual property rights should not themselves become barriers to legitimate trade (WTO, 2020b).

WTO member states have to ensure that the TRIPS standards are upheld.[67] Yet, they have some policy space. For example, as regards exceptions to the protection, in interpreting central notions and in some cases, choosing what should be protected.[68] Members are also free to implement more extensive protection than is required by TRIPS. Furthermore, in implementing the agreement, WTO members can freely determine the appropriate method of implementation of the agreement within their own legal systems and practices. Therefore, IPRs are governed by domestic laws that can differ between jurisdictions.

Developing countries may have a longer period to phase in IPRs as they apply in the TRIPS agreement. Developing countries can also ask for technical or financial cooperation from developed countries in order to facilitate the implementation of the agreement.[69] In addition, special transition arrangements operate in the case where a developing country does not presently provide product patent protection in the area of pharmaceuticals, for example.

Since TRIPS constitutes minimum standards, it is also possible to regulate IPRs in bilateral or regional free trade agreements between trade partners. This is something that countries frequently do. When these provisions go beyond what is regulated in TRIPS, this is often referred to as TRIPS Plus provisions. Agreeing on TRIPS Plus provisions, especially in bilateral free trade agreements, is a choice regarding all the various kinds of IPRs.

When it comes to TRIPS Plus provisions, each government has the leverage to decide for itself where the appropriate balance lies depending on the country's domestic priorities and capacities.[70]

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[66] See article 7 of the TRIPS Agreement.
[67] Beside the TRIPS Agreement, countries may also be bound by international treaties on intellectual property under the administration of WIPO, if they are parties.
[68] See article 8 of the TRIPS Agreement.
[69] See Article 67 of the TRIPS Agreement.
[70] It is important to note that that if a country agrees to TRIPS Plus provisions (e.g. better protection) in an free trade agreement with another party, it is debated in the literature whether they have to give the same protection to all WTO members as a result of the most-favoured-nation

2.1 The scope of the TRIPS Agreement

The TRIPS Agreement has three main features. These include standards, enforcement and dispute settlement. We look at these features below.

2.1.1 Standards

The TRIPS Agreement stipulates the minimum standards of protection that each member should provide. The main elements of protection are defined. This includes the subject-matter to be protected, the rights to be conferred as well as permissible exceptions to those rights. Furthermore, the minimum duration of protection is stipulated.

The WTO TRIPS agreement covers the following areas of intellectual property:

- Copyright and related rights: These include the rights of performers, producers of sound recordings and broadcasting organizations
- Trademarks including service marks
- Geographical indications including appellations of origin
- Industrial designs
- Patents including the protection of new varieties of plants
- The layout-designs of integrated circuits, and
- Undisclosed information including trade secrets and test data.

The TRIPS Agreement sets these standards by requiring, first, that the substantive obligations of the main conventions of the WIPO are complied with. These obligations relate to the Paris Convention for the Protection of Industrial Property (Paris Convention) and the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention). These conventions in their most recent versions, must be complied with. The main substantive provisions of these conventions are incorporated by reference. Therefore, such provisions become obligations under the TRIPS Agreement between TRIPS Member countries. However, this is with the exception of the provisions of the Berne Convention on moral rights. The relevant provisions are found in Articles 2.1 and 9.1 of the TRIPS Agreement which respectively relate to the Paris Convention and to the Berne Convention. Furthermore, the TRIPS Agreement has included a substantial number of additional obligations on matters where the pre-existing conventions are silent or were seen as being inadequate. Thus, the TRIPS Agreement is sometimes referred

principle in the TRIPS Agreement, article 4. There seems however to be different views on this in the literature. For relevant literature, see for example Lukauskas, Stern and Zanini (2013); Abbot, Cottier and Gurry (2015); WTO, WIPO and WHO (2012) as well as UNCTAD-ICTSD (2005).

to as a Berne and Paris-plus agreement. TRIPS also includes rules on enforcement of intellectual property rights.

2.1.2 Enforcement

The second main set of provisions in the TRIPS Agreement deal with basic rules on domestic procedures and remedies for the enforcement of intellectual property rights. The Agreement lays down certain general principles that are applicable to all IPR enforcement procedures. Furthermore, it also contains provisions on civil and administrative procedures and remedies, provisional measures, special requirements related to border measures and criminal procedures. These provisions all specify, in a certain amount of detail, the procedures and remedies that must be available in order to accord right holders the guidance to effectively enforce their rights.

2.1.3 Dispute settlement

Dispute resolution is an important part of the WTO TRIPS agreement. In this case, all disputes that emerge between WTO Members concerning the respect of the TRIPS obligations may be subject to the WTO's dispute settlement procedures.

The TRIPS Agreement additionally provides for certain basic principles of the WTO. These principles relate to non-discrimination, which is central to the facilitation of international trade. For instance, a member to the agreement may not give less favourable treatment than that it accords to its own nationals with regard to the protection of IPRs (principle of national treatment principle).[71] Furthermore, the most favoured nation principle also applies to IPR protection. In other words, members must treat all other member countries equally – if certain advantages are given to nationals of one member state, the same advantages must be extended to all member states.[72] The agreement also provides some general rules to ensure that procedural difficulties in acquiring or maintaining IPRs do not invalidate the substantive benefits that should flow from the agreement. The obligations under the agreement all apply equally to all member countries.

3 Different kinds of IPRs

IPRs take a variety of forms but can be divided into two branches, namely, copyright and industrial property rights. Copyright mainly deals with artistic and literary works that involve modes of expression such as music, books, video games, computer programs and compilation of data. Copyright protection is extended to expressions and not to ideas. In this case, obtaining copyright protection is

[71] See Article 3 of the TRIPS Agreement.
[72] See Article 4 of the TRIPS Agreement.

automatic without the need for registration or other formalities. Copyright protects the right holder against unauthorised copying or use of the work in the form it was expressed by the creator or initiator.

Industrial property rights have a wider coverage ranging from industry and commerce property to agricultural industries and all manufactured or natural products. Industrial property rights is basically a term for all different kinds of rights including patents, industrial designs, trademarks and geographical indications. Following registration, these rights protect either new inventions involving an inventive step (patents), new or original designs (industrial designs) or specific signs and symbols that are capable of distinguishing between different undertaking´s goods or services (trademarks). Geographical indications identify a good as originating in a certain geographical area.

The purpose of patents is to encourage innovation and technical development. It protects inventions, provided they are new, involve inventive steps and are capable of industrial application.

The patent owner has the exclusive right to prevent others that do not have the owner’s consent from making, using, offering for sale, or selling or importing the product. The owner of a trademark or industrial design has the exclusive right to prevent unauthorised use in the course of trade of the same or similar sign, or design that is a copy or substantially a copy. The owner or group of owners of a geographical indication can prevent the use of such indications for goods not originating from the geographical area in question.

4 IPRs and sustainable development

IPRs are an important means employed by firms to help protect their investments in innovation. IPRs have been widely used by governments with the goal of encouraging industrial development and economic growth for centuries.

From an environmental and sustainable development perspective, patents are often very significant (IISD and UNEP, 2020). For example, patents serve to protect and encourage innovation in cutting-edge technology, including green goods, which is crucial for economic growth and development. IPRs also protect investments in innovation by granting the innovator a temporary monopoly on the use of the innovation. Otherwise, rapid imitation could cut into the innovator's returns and decrease the incentive to innovate.

However, this is not without controversy. On the one hand, IPRs arguably raise the cost of the new technology and restrict its availability by restricting imitation. On the other hand, patent applications are normally published, which makes the

technical solutions known to the public. This makes it possible for other actors to conduct research around it and further develop the solution in question. This does not, however, include the commercialisation of the invention, which requires consent by the owner of the patent. This, in principle, means that a patent does not completely prevent firms from developing new innovations or making improvements that build on the original innovations.

Therefore, IPRs inherently embody a policy conflict or trade-off between the objective of providing an incentive to technological innovation and the objective of encouraging the rapid diffusion of new technology and the accumulation of technological knowledge. These competing objectives also represent powerful, competing economic interests—from research and development (R&D)-intensive and non-R&D-intensive firms at one level, to the industrialized, newly industrialized, and developing countries at another (Wallerstein, Mogee and Schoen, 1993).

4.1 IPRs and green innovations

These trade-offs are also relevant for green innovations. Green innovations largely relate to the creation or implementation of new, or significantly improved, goods and services, processes, marketing methods, organizational structures and institutional arrangements which – with or without intent – lead to environmental improvements compared to relevant alternatives (OECD, 2009). In order to achieve sustainable development, innovation in green technologies is critically important. Today, innovation and patents play an increasingly important role in the clean technology landscape, including smart grid, energy efficiency, lighting, electric transport, solar, energy storage and wind technologies. IPRs are also crucial and useful in relation to protecting biodiversity to users in different countries. Patent provisions that encourage the development of new plant varieties adapted to local climatic conditions can also spur environmentally useful innovation.

4.2 IPRs and access to medicine

Although there are attempts to balance emerging trade-offs in issues of IPRs, another issue that has been discussed is that of patents and access to affordable medicines. Areas of intersection between health, trade and intellectual property, focusing on access to and innovation of medicines and other medical technologies is still largely debated even by major global players.

The purpose of patents is to stimulate technical progress and innovation, which is important for development. The development of new medicines in general requires heavy investments in research and development. Once there, they are easy to copy by other competing companies. According to TRIPS, patents should be available for inventions, in all fields of technology, hence also for medical inventions. Yet, access to essential medicines and health services fulfills the right of everyone to

enjoy the highest attainable standard of health which is embedded in the International Covenant on Economic, Social and Cultural Rights as well as goal 3 of the 2030 Agenda.[73]

Affordable prices are a critical determinant of access to medicines, especially for countries with weak public systems. Similarly, this is the case for countries that have limited means but often required to secure medicines at market prices. Generic competition is a key factor in driving prices down; yet even low priced generic medicines are often still unaffordable for large parts of the population in many developing countries and availability of essential medicines in the public sector is still insufficient.

The possible effects of patent protection on prices was recognized by WTO members in the Doha declaration on the TRIPS agreement and public health in 2001. The declaration affirms that the agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all (WTO, 2001). Countries can also make use of the flexibilities and policy space available in TRIPS (WTO, WIPO and WHO, 2012). One of these flexibilities is compulsory licenses, which is a (forced) license to use or produce a patented product without the consent of the right holder/ owner under certain circumstances.

However, it is also worth noting that the World Health Organization (WHO) framework for access to medicines actually recognises that lack of access to medical technologies is rarely due to a single isolated factor, and thus includes for example, rational selection and use of medicines; affordable prices; sustainable financing; and reliable health and supply systems. Lack of efficient government procurement systems and absence of trade are other factors.

4.3 IPRs and economic development

To sum up, IPRs inherently embody a trade-off between the objective of providing an incentive to technological innovation and the objective of encouraging the rapid diffusion of new technology and the accumulation of technological knowledge. Stronger intellectual property protection could generally benefit countries in sectors where capacity for innovation is largely strong. Yet, for those sectors and countries with low innovative capacity, stronger intellectual property protection could translate into additional costs. Hence, they may affect countries in different ways. Furthermore, as competition is restricted IPRs may also have an effect on prices. Notwithstanding, weak intellectual property protection may deter investment that could bring innovative goods and techniques to the country. Imports and foreign

[73] For more information on the Sustainable Development Goals and Agenda 2030, consult Chapter 4 in this volume.

direct investments (FDI) are important channels for technology transfer which, in turn, are important for economic development.

Hassan, Yaqub and Diepeveen (2010) argue that stronger IPRs may positively affect the volume of FDI and imports, particularly in countries with strong technical absorptive capabilities where the risk of imitation is high. On the contrary, when risks of imitation are low, particularly in the poorest countries, firms in developed countries do not seem to be as sensitive to the level of protection. Therefore, reasonably balanced IPR protection may facilitate trade (import) and the flow of inward FDI. FDI introduces a country to new types of goods and services and new technical solutions. It may also generate important spillovers for developing economies, leading to the upgrade of domestic innovative capacity, increased R&D employment, better training and support to education (OECD, 2008).

International governments generally recognize the tradeoffs that are involved in IPR laws. As a result, each nation in the world trading system has established national IPR systems. National IPR systems, while based on multilateral rules such as TRIPS, attempt to strike a balance between competing objectives that are deemed appropriate from the national economic, political, and social context. Although IPRs are primarily a matter of *national* jurisdiction, if a country is a WTO member or party to any international convention on IPR, the national laws have to be in line with these rules. The implication of this is that the protection offered to an innovation is governed by the laws of the nation in which the innovation is made, used, or sold.

Different types of intellectual property rights may have different value to countries, depending on the structure of the economy. Although countries are bound by the TRIPS Agreement, they have some policy space when implementing the agreement. This policy space may be used in order to create an environment conducive to their growth and development. For example, by considering general trade-offs and balance points between different societal interests. It is important to note that the balance point varies for different countries, and will further be different within each country from sector to sector.

5 IPRs in Zambia

In Zambia, IPRs equally have the potential to spur innovation and economic development through innovation. Issues to do with IPRs are basically managed by the Patents and Companies Registration Agency (PACRA). PACRA is a semi-autonomous executive agency of the Zambian Ministry of Commerce, Trade and Industry. PACRA carries the principal function of operating a legal system for

registration and protection of commercial and industrial property. PACRA also serves as a legal depository of the information tendered for registration (PACRA, 2020).

PACRA's mission is to provide customers with focused, efficient and effective registration and protection systems for commercial and intellectual property rights. The agency also carries the mandate to:

Administer and attend to matters incidental to the Zambian Companies Act Cap. 388; The Registration of Business Names Act No 16 of 2011; Patents Act Cap. 400; Trade Marks Act Cap. 401 and Registered Designs Act Cap. 402.

Ensure Zambia's continued adherence to the various conventions and treaties on the protection of intellectual property, namely, trademarks, patents and industrial designs;

Promote the establishment and maintenance of a computerized information center for the publicity of company transactions, financial positions and the dissemination of technical information contained in patent documents to potential and actual user.

PACRA also has a wide range of activities that relate to stimulating an innovative business environment while safeguarding IPRs. The following are the services currently provided by the Agency:

- Registration of Industrial Designs;
- Registration of Trade Marks;
- Granting of Patents;
- Registration of Copyright and Related Rights;
- Incorporation of Companies;
- Registration of Business Names;
- Registration of Security Interests in Movable Property;
- Establishment of Business Regulatory Services Centres.
- Protection of Intergrated Circuits;
- Accreditation of Corporate Insolvency Practitioners; and
- Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore.

PACRA has physical presence in all of Zambia's provincial centres and offers business registration services online on their website. In an effort to take services closer to its customers and investors, the Agency also has strategic partnerships with Local Authorities countrywide (PACRA, 2018).

PACRA carries the above functions and activities in order to promote innovation and orderly trade for the benefit of traders and innovators in Zambia. PACRA ensures that there is a balance between the protection of IPRs but without restricting the flow of trade given that IPRs are territorial in nature.

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Chapter 16: Trade Facilitation

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Trade Facilitation has become an increasingly important undertaking, especially with the increasing uncertainties in the global economy that have raised barriers to trade. Despite a steady decline in tariffs, impediments to trade are still rampant and are affecting growth and threatening poverty reduction efforts in many countries (Constantinescu et al. 2019; Kanenga, 2016).[74] To that respect, a review of regional strategies in Africa, for example, indicates that almost 70% of such strategies deal with issues related to trade facilitation (including topics such as improving transport and logistic services, enhancing efficiency and transparency of customs, inter alia) (ITC, 2019). Trade Facilitation is seen as a stepping stone toward deeper regional integration, especially but not only for developing countries, and has also emerged as an important issue for the world trading system (WTO, 2020), serving as a mechanism for the promotion of competitiveness and human development.

This is an indication of the appreciation of the benefits of trade facilitation, particularly in African countries as they stand to benefit the most. It is particularly interesting to know whether this appreciation is actually commensurate with efforts at implementing reforms that would ease and enhance trade to maximize benefits thereof.

Trade facilitation is a key factor for international trade efficiency and the economic development of countries. The primary goal is to facilitate trade across borders, to make imports, exports and transit faster, cheaper and more predictable and at the same time ensure safety and security.

This chapter discusses what trade facilitation is, the benefits of implementing the trade facilitation agreement, and why and how trade facilitation should happen. It also provides local insights into trade facilitation from the Zambian perspective.

2 What is Trade Facilitation?

The World Trade Organization (WTO) gives a straight forward, yet comprehensive definition of what trade facilitation is.

Box 16.1: Definition of Trade Facilitation
Trade Facilitation is the simplification, modernization and harmonization of export and import processes. For simplicity, shortened as SMH (S=simplification, M=modernization, and H=harmonization).

Source: World Trade Organization, 2020

[74] Kanenga (2016), in an empirical study, also found existence of trade barriers, especially behind the border that impede trade in Zambia and other African counties.

From the above definition, not only is trade facilitation seen as the simplification, standardization and harmonization of export and import processes, but should include all activities, practices and formalities involved in collecting, presenting, communicating and processing the data required for the movement of goods in international trade. All these are aimed at reducing transaction costs and arrangements associated with trade.

It is important to note that there are various definitions of trade facilitation, including wider ones such as Moïsé et al. (2011) that include issues of customs, transport and transit, banking and insurance, business practices, and telecommunications, inter alia. From the African perspective, trade facilitation efforts must emphasize improvements in transportation, energy and administration of customs procedures.

For informal traders that depend on cross border trade for their livelihoods, trade facilitation is and should be about making things simpler for them. This entails fewer documents, documents being provided in a language that they can easily understand, friendly customs officers, user-friendly customs facilities and prompt clearance at borders. For them, it is not an issue of competitiveness, but rather, survival. Therefore, speeding up efforts toward trade facilitation would have a direct impact on their livelihoods.

In essence, trade facilitation aims to foster trade across borders[75] by raising the capacity for commerce and lowering the costs faced by traders - particularly, small-scale and female traders. This includes the simplification of rates, zero tolerance for violence and corruption, better infrastructure and physical conditions for officials and traders at the border, and support for trader's associations for better representation of poor and small traders (Calderon et al. 2019).

3 Benefits of Trade Facilitation

Why should we care so much about trade facilitation? As indicated earlier, now about 70% of regional strategies in Africa contain clauses on trade facilitation. Why is there such a surge in the need to facilitate trade? What potential benefits are likely to accrue to earnest implementers of this important agreement and who even stands to benefit the most?

[75] In our view, this should also include domestic trade, much emphasis is put on cross-border trade without paying much attention to a bulky of poor domestic traders who encounter countless challenges as they seek to safeguard their livelihoods.

Well, there are great potential gains to receive from trade facilitation. Time and money are wasted because of outdated trade procedures that cause bottlenecks, hamper business, stifle growth and hold back economic development. Unnecessary and excessive data and documentation requirements, lack of transparency in customs, excessive clearance times, lack of coordination, and the absence of modern techniques, are just a few of the problems contributing to this. Cumbersome trade procedures are particularly problematic for small and medium size enterprises (SMEs) since they often lack the means and capacity to comply with complex rules. That makes them uncompetitive as suppliers and hampers their integration into regional and international value chains.

For all actors, trade facilitation allows better access for businesses to production inputs from abroad and supporting greater participation in global value chains (GVCs). Countries where inputs can be imported and exported in a quick and reliable manner are also more attractive locations for foreign firms seeking to invest and offer consumers lower prices, higher quality products, and a greater array of goods (OECD, 2020).

Given the fact that growth has not been impressive on the continent and in Zambia, trade facilitation is a mechanism that can boost trade, thereby economic growth and ultimately poverty reduction. Amidst a challenging external environment, trade facilitation accords African countries an opportunity to boost intra-continental trade, especially in the advent of the African Continental Free Trade Agreement. Calderon (2019) stresses that, given African countries' volatility, trade facilitation can actually help in making their economies more resilient to external risks. Further, the Bank notes that African countries need to strengthen their domestic conditions, critical among them, is trade facilitation. It is also noted that low business confidence, partly driven by the slow pace of structural reforms, is holding back investment growth in some countries.

The World Trade Organization (2015) estimates show that the full implementation of the TFA could reduce trade costs by an average of 14.3% and boost global trade by up to $1 trillion per year, with the biggest gains in the poorest countries. It is also estimated that even a 1% reduction in trade costs would result in $40bn. These include diversification of exports from developing and least-developed countries to include new products and partners, increased involvement of these countries in global value chains, expanded participation of small and medium-sized enterprises in international trade, increased foreign direct investment, greater revenue collection and reduced incidence of corruption.

In a comprehensive study of trade facilitation and social welfare, Sakyi et al. (2018) found out that better trade facilitation results in improved social welfare outcomes, as Neufeld (2016) stressed on the time and cost saving effects. For example, if the Trade Facilitation Agreement is implemented in its entirety, it will lead to significant cost savings for the trade, up to 10 percent for OECD member countries and 17 percent for developing countries, this is according to estimates from the OECD (2015). Furthermore, the transaction costs account for between 1-15% of the total transaction value of goods being traded (Kleitz, 2002). The Economic Commission for Africa (ECA) modelling indicated that establishing a Continental Free Trade Agreement would boost intra-African trade by 52.5%, estimated that increases are highest for industrial products (53.3%) and substantially higher with supportive trade facilitation measures (ECA, 2020).

It is further assumed that, with full implementation of the trade facilitation agreement, it would be much easier to formalize the informal sector thereby increasing their level of productivity and employment creation, especially in developing countries (UNCTAD, 2016). This can increase foreign direct investment. If fully implemented, trade facilitation can lead to an increase in average economic growth in developing countries. This is seen as a positive step towards human, enterprise and institutional development (WTO, 2015).

3.1 Trade facilitation is a win-win

Trade facilitation benefits all stakeholders involved-the business community as well as governments. The business community gains from trade facilitation through faster and more predictable delivery and reduced transaction costs. It is important for traders that the application of rules is predictable. This will allow them to know what to expect in their everyday contacts with customs and other authorities. Simple and efficient trade procedures lift the burden of bureaucracy for companies and they can instead focus on their core activity.

This is particularly important for small and medium sized enterprises (SME´s) that face proportionally higher costs for complying with cumbersome procedures than larger companies. They will benefit largely from the trade facilitation agreement since it will provide a more transparent regulatory framework, easier and better access to information and support as well as simplified procedures.

In a transparent trade regime, market participants have a clear view of the rules applied on the respective markets. Their production can thus be based on an accurate assessment of potential costs, risks and market opportunities. Transparency is also essential for attracting foreign investments. A country with a transparent trading regime and efficient procedures is more likely to attract foreign investments and increase its international trade (WCO, 2020).

4 The Trade Facilitation Agreement

Trade facilitation was first brought to the WTO in 1996. It became an integrated part of the Doha Development Agenda (DDA) in 2004. The final text was agreed to by the trade ministers of WTO Members at the Bali Ministerial Conference in December 2013. In 2014, The World Trade Organization adopted an agreement on trade facilitation for world trade. It was the first time since the inception of the WTO in 1995 that a full multilateral trade agreement was concluded. The aim of the agreement is to facilitate trade and reduce corruption by clarifying and improving the regulatory framework that already exists in the WTO GATT Agreement.

The WTO Trade Facilitation Agreement (WTO TFA) provides a framework for the simplification of trade procedures that can reduce bureaucracy and the costs of international trade through efficient, transparent and predictable customs procedures. It builds on established best practices. It serves as a tool to improve the business environment by targeting administrative barriers to trade such as unnecessary border inspections, excessive document and data requirements, manual processes, lack of coordination among border authorities along with complex and inefficient rules and procedures. It also targets issues that cause delays to the movement of goods as well as increases trade costs that consumers are forced to pay for. The TFA contains binding rules on cooperation between customs and industry, customs authorities and other agencies as well as among customs authorities in different countries. It also includes rules about publication of information, faster customs clearance through modern working methods, use of risk analysis, simplifications for authorized operators, post control audit and advanced rulings.

The negotiations of the WTO Trade Facilitation Agreement that began in 2004 have contributed to highlight the importance of trade facilitation. Many countries realised the benefits of trade facilitation and initiated reforms even before the agreement was adopted. WTO members are legally bound to implement it and to begin reform efforts once they have completed the ratification process.

4.1 Scope and structure of the agreement

The TFA contains provisions for faster and more efficient border procedures, including through effective cooperation between customs and all border agencies.

Its main purpose is to:

- Clarify and improve transparency around fees and formalities, support efficient procedures, promote freedom of transit, and support effective and modern procedures to enable the movement, release and clearance of goods;

- Establish a basis for effective cooperation between customs or other relevant authorities on trade facilitation and customs compliance issues;
- Enhance technical assistance and capacity building support in this area.

The Trade Facilitation Agreement has three sections. The first section concerns the publication and availability of information. This section also contains provisions related to trade facilitation standards and obligations, and sets out key requirements to facilitate trade in a transparent and non-discriminatory manner that promotes economic growth in the implementing countries. Examples include articles about the publication of information, border agency cooperation, the release and clearance of goods and formalities related to importation, exportation and transit.

The second section concerns the special and differential treatment provisions for least-developed and developing county members.[76] The second section relates to the flexibilities provided for developing countries regarding implementation timeline of specific provisions of the agreement. The provisions under this section provide for a formal system of exemption from the more general requirements of the Trade Facilitation Agreement.

The third section concerns institutional arrangements and final provisions of the Trade Facilitation agreement.

In a nutshell, the first section lays out what should be implemented, the second section lays out how it should be implemented and lastly, the third section lays out who should implement it and their capacity to do so).

The agreement is binding for WTO members, when the agreement has been ratified by the member and has entered into force. However, not all provisions in the agreement are binding, some are “best endeavour”-provisions. The situation for developing countries is given special consideration in the agreement. Their obligations depend on their capacity and what support they can get for implementation. The developed countries have made a commitment to provide technical assistance and the agreement allows for special and differential treatment of countries that lack capacity to implement the provisions in the agreement.

4.2 Flexibilities provided for both developing countries and LDCs

There are a number of additional flexibilities provided in the agreement to ensure that the implementation of provisions of the TFA is adapted to the needs and capacities of developing countries:

[76] For more details on special and differential treatment, consult Chapter 6 in this volume.

- Possibility to extend deadlines for the notification of definitive implementation dates;
- An early warning mechanism provides for the extension of implementation dates notified in case of difficulties (for LDCs automatic extension for up to 3 years);
- Possibility to shift provisions between Categories B and C is provided;
- Possibility to obtain the examination of an Expert Group in case of self-assessment by a developing country Member of the lack of capacity to implement particular provision even after the assistance has been received;
- Grace period for application of the WTO dispute settlement procedures.

The TFA introduces a new concept of special and differential treatment. Developing countries, including least-developed countries (LDCs), are not exempted from applying mandatory standards and obligations of Section I, but they are left to define their own timeline and needs for complying with those particular standards and obligations, in line with their individual capacities and development needs and priorities. This means that all developing countries should classify the provisions of Section I into specific categories, depending on the timeline for their implementation and whether technical assistance is needed for implementation (WTO, Agreement on Trade Facilitation 2014). The different categories are summarized in the table below.

Table 16.1: Categories of provisions

Category	Description
A	Developing country Member or a least developed country Member designates for implementation upon entry into force of this Agreement, or in the case of a least-developed country Member within one year after entry into force, as provided in Article 15.
B	Developing country Member or a least developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement, as provided in Article 16.
C	Developing country Member or a least developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building, as provided for in Article 16.

5 How to Make Trade Facilitation Happen?

There are some basic issues that need to be taken into consideration before any work is undertaken. Before starting to implement trade facilitation measures, the specific circumstances, needs and capacities of the individual country have to be

taken into account. There is no single solution on how to implement measures to ensure transparency, harmonized or standardized procedures and information flows. International trade is a complex process, with many requirements, process and procedures. Many different stakeholders are involved. Trade facilitation reform is strengthened by consultations and partnerships with relevant stakeholders both from the public and the private sector, nationally and internationally. The key elements are a broad multilateral cooperation and also dialogue between:

- The Government (e.g. ministers of trade, transport and finance, including customs) in designing and implementing national laws and regulations regarding trade and transport.
- The business community (importers, exporters, freight forwarders etc.), since it has a first-hand knowledge of how regulations are enacted in practice. The expertise and experience of the companies and organisations that have practical experience is a valuable source of information to find suitable solutions to complex problems. A close and constructive dialogue will pave the way for innovative, effective, cost-efficient and simplifying solutions that will benefit all stakeholders involved; the business community and governments.

5.1 Costs and estimates

The costs of introducing and implementing trade facilitation measures are often discussed and some developing countries have expressed concerns about meeting costs especially in the context of the Trade facilitation negotiations in the DDA-round in the WTO. These concerns should not be neglected nor cost underestimated, but it is important to stress that many trade facilitation measures mean savings not only for trade and traders but also for governments and governmental agencies. Costs are mostly to be seen as investments, and as for all investments the return needs to be calculated. It should also be stressed that the alternative cost might be very high-the cost of maintaining cumbersome and dated procedures and demands on industry and trade.

The costs/investments involved with trade facilitation measures will affect both government and business, but there are few if any studies available that measure costs for industry. As the conditions vary from company to company, from industry to industry and from case to case there is a need to consult with industry. Industry will have to share a part of the burden, especially when it is a question of making paper-based procedures electronic or when new demands on electronic communication are raised.

Most cost studies are related to case studies, or are described in studies of country efforts to promote trade in general. An interesting overview of a number of countries are presented by the OECD (2009). Some of the thoughts presented below originate in that study.

As previously stated, many trade facilitation measures have been efforts to reduce costs, primarily for government agencies. Looking closer at the various trusted traders' schemes, Authorised Economic Operators and so on, there is considerable savings that can come from decreasing inspection for the companies that have agreed to work according to present standards. Also, data harmonisation and automated solutions for customs clearance will reduce the costs for man power, as will joint handling of data elements between authorities. Also, for industry the reduction of duplication of information will mean reduction in man hours. Also, more hands-on solutions like a shared border-post or joint opening of container between authorities will save time and money for all parties. Thus, the return on investment in the short perspective can sometimes be incentive enough. It has in many cases been a question of harvesting low-hanging fruit and cutting costs immediately.

However, also long-term effects need to be taken into account. Trade facilitation measures often need to have a pay-back time over many years and the efforts in training, communication and technical perfection of the measure might need to be extended over time. The efforts must be sustainable and long term. In fact, initial gains might be reversed if there is not continued support and political will to go through with a measure or a reform programme. It is also possible that a trade facilitation measure will mean large investments and little return for the authority responsible, but large returns for the economy as a whole, or for particular parts of industry. Then the return might well be just as great for government as a whole that in the end will benefit from increased incomes from taxes.

It can be very difficult to get a clear picture of the performance of investments in trade facilitation, since there are few performance measures. One particular area that usually drives cost is training since trade facilitation in many instances is about changing how customs and other authorities on the border work and cooperate. Apart from training there might also be regulatory costs, institutional costs and costs for equipment or infrastructure.

Regulatory costs derive from the fact that if legislation needs to be changed, this puts demands on ministries and parliaments to divide staff to draft new legislation and resources to the legislative process. This is often not a large issue since many trade facilitation measures are more of a practical nature, but it can be necessary especially when tasks and information is to be shared between authorities.

Some measures might entail changes in the institutional set up and new tasks. Examples could be a post clearance team, risk management staff or staff devoted to communication. In customs relocation of staff is common and that can drive costs in training or in temporary service disruptions.

Investments in infrastructure or equipment are not necessary for all sorts of trade facilitation measures, but they can be a prerequisite for some measures. Especially investments in ICT-technology can be costly and difficult to calculate in advance, but also other equipment that support risk-based management and non-intrusive inspections can be a heavy burden. In those cases, it is a high priority to make a fair assessment of the return on investment, to avoid transforming meagre or already smooth paper-based flows of information into electronic processes and to prioritise between investments.

There is of course in principal no difference in the reasoning around an investment in trade facilitation and the normal calculation on return on investment. The difficulty lies in estimating all costs pertinent and to see the gains that might come in other parts of the economy. This is one of the reasons for the importance of political will backing trade facilitation. In the end, and it cannot be stressed enough, there is no way of giving general directions on the costs involved. They need to be calculated from case to case, depending on the circumstances of the country or authority making the investment and the particular details of the problems the investment is supposed to solve.

5.2 Prerequisites to make trade facilitation happen

In order to make the sometimes-difficult move from Trade Facilitation theory to Trade Facilitation practice there are a number of issues that it makes sense to solve as quickly and as efficiently as possible in order not to stumble later on in the process. These are issues that are prerequisites to actually achieving trade facilitation and are common to all efforts to facilitate trade. It is vital that these issues are addressed at the very top levels of management and that there is an awareness of the importance of these processes. The main issues are listed and briefly described below.

5.3 Political commitment

Most trade facilitation measures will be realized only when political commitment has been ensured, especially such actions that could impact for instance revenue collection, cash flow issues, perceived decrease in citizen protection or legal issues. Therefore, implementation of such trade facilitation measures will be successful only through having political commitment. How that may be achieved and ensured varies between countries or regions, hence no direct advice can be detailed in this guide as approaches depend on political systems.

5.4 Coordination and clear goals

In most cases trade facilitation in its most efficient form is a multi-sectoral exercise. Therefore, it is important to identify what sectors will be impacted and ensure close coordination between all stakeholders, for instance through an appointed lead agency. This also has a clear link to the need for political commitment. If possible, it is also useful to set measurable objectives for the impact and effects that are desired. Often this would mean a breakdown of the long-term objectives into annual or biannual sub-objectives to ensure that process is on track according to the initial commitment and outline.

5.5 Needs assessment

If any needs assessment information is available, either through international or national organizations or private sector, i.e. consultancy agencies, it is advisable to make as much use of such material as possible as it often contains a competence-based perspective of the actual trade facilitation situation. At least it is recommended that any needs assessment is used as a platform to initiate discussions for future measures to be developed and implemented. The WCO and the World Bank have conducted such needs assessments in many countries, as well as other agencies and governments have done similar exercises. The results in the WCO case is property of the countries customs authority. To do a national scan of what needs assessments have been performed can be an important first step.

5.6 Business community involvement

To implement trade facilitation measures is not a one-sided process as every governmental initiative will benefit or in worst case burden the trade and transport sectors. Therefore, it is of outmost importance that the private sector stakeholders are participating in the design and development of any measure. This can be reached by using existing trade facilitation consultative committees and setting up taskforces, projects or other focused groups consisting of private and public sectors stakeholders.

5.7 Prioritisation

Everything cannot be done simultaneously; therefore, it is important that all stakeholders engage in sincere discussions on where to start, for instance by prioritizing the five most efficient trade facilitation measures. It could also be advised to create a multiannual trade facilitation plan to ensure that momentum is not lost through for instance change in Directors Generals or politicians.

5.8 Legislative measures

Trade Facilitation measures may require changes in legislation which in many economies could be a lengthy process depending of the political system. For instance, one of the most common legislative changes needed is to ensure in existing legislation that electronic messages or documents are equivalent to paper documents.

5.9 Challenges

In order to reap the full benefits of trade facilitation efforts, African countries must tackle parallel development challenges such as inadequate infrastructure; supply constraints associated with low levels of productivity, economic diversification and investment; and under-developed and under-regulated services. Bringing about the necessary changes will require significant investments in setting up regulatory frameworks, capacitating government officials, and implementing extensive soft and hard infrastructure projects to address the current bottlenecks (Perera, 2016).

Despite the much attention trade facilitation has attracted, no much results are achieved. Many developing countries still rank lowly on key trade facilitation indicators. To that effect, missing out on potential gains from trade. For example, the International Trade Centre estimates that Zambia has about $4 billion unrealized trade in exports (ITC, 2020). There is still a lot of trade policy inconsistencies. For example, Osnago et al. (2015) found out that trade uncertainty as a result of inconsistencies, is an important barrier to exports, and that the elimination of such would increase the probability of exports by 12%. In Zambia, the Indaba Agricultural Policy Research Institute (IAPRI) estimates that the maize ban cost the country $270.5 million. This is common in all developing countries and posses a great challenge to trade facilitation efforts.

Trade policy inconsistency manifests itself quite often in arbitrary import/export bans (Kaunda, 2018; Sihlobo, 2019; Kapembwa, 2019). The irony, even when export bans are imposed arbitrarily, for example, the practice continues in the background. Essentially, the countries lose from potential revenue and possible livelihoods for people involved in the export/import of such products.

We can only conclude that a full implementation of the trade facilitation measures has been proven to be beneficial for countries, especially developing ones. Holistically, this should include the reduction of the number of documents and procedures associated with the clearance of goods, the improvement of customs procedures so that they are compatible with international standards and that trade costs are minimized. Trade facilitation can be growth enhancing and a possible mechanism for poverty reduction if earnestly implemented.

6 Trade Facilitation Insights from Zambia

Zambia ratified the TFA in December 2015 and has since embarked on implementation of various articles of the TFA. Zambia has since deposited its Categories A, B and C commitments. Of these, 5.5% are Category A notifications, 27.7% Category B notifications, and 66.6 % Category C notifications (WTO, 2020).[77] Given the higher percentage of category C notifications, it can be deduced that Zambia's trade facilitation reform agenda is predominantly donor supported.

Article 23.2 of the TFA requires each Member to establish and/or maintain a National Committee on trade facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of provisions of the TFA. Consequently, Zambia set up the National Trade Facilitation Committee (NTFC) in January 2016. The NTFC is composed of Government Ministries and Agencies that have a mandate related to the movement of goods and services across the border. It also has private sector representation. The NTFC is co-chaired by Zambia Revenue Authority (ZRA) and Ministry of Commerce, Trade and Industry (MCTI). The Sub committees have been established. A Steering Committee has also been established to oversee the work of the NTFC. The Steering Committee is chaired by the Secretary to the Cabinet and is also composed of Permanent Secretaries and Heads of Border Agencies.

Zambia has been making good progress as far as TF is concerned, especially in the areas of information availability, involvement of trade community, appeal procedures, formalities-automation and documentation. Zambia has also shown impressive improvements over the past decade in removing business barriers and improving its logistics performance, which have contributed to an overall enabling environment for trade facilitation. The implementation of the TFA and creation of the NTFC have also improved government and private sector engagement (SAIIA, 2019).

The government has also made progress towards improving legislative frameworks in Zambia with the dual end-goal of improving the country's trade and economic growth and enabling trade facilitation reforms. A major step forward has been the enactment of the Border Management and Trade Facilitation Act Number N.A.B No. 12 of 2018. The Act is aimed at ensuring coordinated border management; improved efficiency in clearing of goods; the roll-out of OSBPs; and the development and maintenance of border infrastructure.

[77] Trade Facilitation Agreement Database, 'Implementation notifications (categories A, B, C)'.

In an occasional paper by the Southern Africa Institute of International Studies on "Implementing the FTA: Trade Facilitation Activities in Zambia", it was noted that for trade facilitation to benefit the country, strong political commitment and effort are required. It was also noted that, despite Zambia making progress in some areas (for example, implementation of the FTA has improved government and private sector engagement), there is still great need to remove business barriers (Parshotam, 2019).

Zambia is still not performing well when measured against the Ease of Doing Business and Logistics Performance (LPI). For example, between 2012 and 2018, Zambia had an average mean LPI of 2.49 and a percentage of highest performer of 59.4 during the same period and as of 2018, ranked 118, away from 1 as the best performer (Arvis et al. 2018). Key things that need to be addressed are; poor and limited infrastructure at border posts and across the country, further improvements in connectivity and data sharing mechanisms between countries at borders and traffic synchronization[78]. Further, there is need for Zambia to address inconsistencies in the manner trade facilitation measures are carried.

[78] The issue of traffic delays is still persistent, even at One Stop Border Posts (OSBP). This was physically observed when we took an educational tour to Chirundu OSBP with Trade Policy Students in 2018.

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Chapter 17: Agricultural Trade

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Agriculture is crucial for the survival of all humans and societies. From time immemorial agriculture has played a critical role for societies and individuals through the provision of food, employment and as a source of livelihood (Diao, 2010). For many developing countries, agriculture is a major export commodity and thus a source of foreign exchange for these countries. It also provides raw materials, labour and capital to fuel industrial production and growth. Similarly, the agricultural sector also provides a market for industrial products. Moreover, the sector is instrumental for poverty reduction in rural areas, and can enhance rural development. Generally, agriculture is crucial for achieving food security, economic growth and development (Wiggins, et al. 2015; Moïsé, 2013). Driven by population growth, the importance of agriculture has continued to grow around the world and it is key to ending world hunger, achieving food security and improving nutrition. It is estimated that the world's population will increase to 9.1 billion people by the year 2050 and this will require the agricultural sector globally to expand its food production by 60% (FAO, 2015) to cater for the needs of the growing population.

2 Why Do Countries Undertake Agricultural Trade?

Nations trade in agricultural products because they are not self-sufficient and cannot produce all agricultural products they need. This is because countries are not equally endowed with favourable climatic conditions and soils for the growth of various crops, and may not have the geographical features required for certain agricultural activities such as pastoral farming, aquaculture, floriculture etc. These variations in endowment and production necessitate trade in agricultural products.

Globally, agricultural trade continues to play an important role in various economies. Its importance in global trade has continued to rise driven by high demand, particularly in emerging economies as well as the growing world population. The emergence of GVCs in the food sector is also increasing the importance of agricultural trade. The 2015-16 FAO report on The State of Agricultural Markets indicates that the value of global agricultural exports nearly tripled between 2000 and 2012, while agricultural exports increased by about 60% in volume terms over the same period (FAO, 2015).

Undoubtedly, agricultural trade presents various opportunities for trading countries. Through agricultural trade countries are able to earn foreign exchange, which can be used to import agricultural machinery and technologies. This can in turn raise productive efficiency and increase production in the sector and stimulating economic growth. Trade in agricultural products offers great potential to boost

incomes for farmers and participants in the agricultural value chain. It enables farmers to earn incomes that can be used to import products that are not produced domestically, thus improving their welfare. Trade can also give processing industries better access to raw materials, which affects their competitiveness on domestic as well as foreign markets. Consumers also benefit from trade in agriculture as the increased supply of agricultural products on the domestic market leads to lower prices, broader choice (Clapp, 2014) and improved quality. Reduced prices of agricultural produce entail increased access to food by everyone enhancing food security.

International and intra-regional trade in agriculture is also key to improving food security and contributing to the stabilization of local and regional food markets by making them less vulnerable to external shocks such as floods, droughts, disease outbreaks for plant and animals among others (Badiane, Sunday and Collins, 2018). It provides food, which is essential for human survival, and it is a source of livelihood for most people around the world (Clapp, 2015). Thus, it is crucial for achieving the SDGs, and particularly the goal to end world hunger by the year 2030 (Martin, 2017).

However, agriculture can also lead to other effects. For example, the expansion of agricultural land continues to be the main driver of deforestation as it removes the forest cover, depletes ground water, and erodes biodiversity. This is a contributor to global warming (FAO, 2017c). Food and agriculture sectors also contribute substantially to green house gas emissions. Climate change can affect food production, food security and nutrition. Agricultural productivity depends on natural resources. Each directly affects the other. At the same time, agricultural growth is a precondition for sustainable development, without it development cannot take place (GEF and CGIAR, 2002)[79].

Notwithstanding the importance of agricultural trade for developing countries, Africa only accounts for a minor share of global agricultural exports. Moreover, African countries trade less amongst themselves than with the rest of the world. This is mainly due to the various domestic and global constraints faced by farmers, which include poor quality of physical infrastructure, inefficient customs processes and stringent food safety and traceability requirements in importing countries, among other factors. Trade in agriculture is affected by various challenges, including constrains to increasing productivity; underdeveloped connections between smallholder producers and other value chain actors; access to credit; and increasingly frequent and unpredictable weather patterns (Badiane, Sunday and Collins, 2018). Furthermore, agricultural productivity growth has been weak, with low value addition per worker (FAO, 2018). Moreover, most developing countries

[79] For more information on sustainable development, consult Chapter 4 in this volume.

are characterized by poor services such as transportation services, energy, telecommunications and agricultural extension services. These factors make the agricultural products uncompetitive on the world market.

3 Trade Policy Tools and Their Implications

Changes in trade policy tools such as tariffs, export taxes, export restrictions, subsidies, state-managed marketing boards, and public stockholding can have various consequences on the various segments of society, including farmers, consumers, food industry, other industries and government revenue. A tariff on imported agricultural final products may increase its domestic price and reduce the quantity sold, but may increase government revenue from it. It may protect local farmers from competition hence encouraging inefficiencies. In this instance consumers loose out and generally this may lead to loss in welfare. Similarly, an import tariff on agricultural commodities increases the cost of production for agro-processing industries that depend on inputs from abroad for their production. The increased production cost will ultimately fall on the consumers who have to pay a higher price.

Subsidies are usually put in place for various reasons ranging from improvement in production to protection of the environment. A subsidy can be considered “bad” if it prevents market access commitments and distort resource allocation by affording protection leading to unfair competition (Sykes, 2003). An export subsidy raises the price in the exporting country, decreasing its consumer surplus (consumers worse off) and increasing its producer surplus (producers better off). Other trade policy tools that may influence trade in agriculture include TBTs and SPS, export taxes, etc. For a detailed treatment of effects of the trade policy tools (tariffs and non-tariff measures) check the respective chapters.

3.1 Uniqueness and rationale for protection of the agricultural sector

Agricultural commodities possess unique features in comparison to other tradable goods as they are perishable in nature, have low income elasticities, are affected by climatic changes and weather patterns and fluctuations in prices. It is because of the agricultural sectors unique qualities that it has its own agreement as a sector within the WTO. The sector is also one of the most protected sectors globally, particularly in developed countries, for the same reasons.

The rationale for protecting the agricultural sector is justified based on economic, cultural and political grounds. Countries protect the sector for various reasons which may include:

1. Food security: Ensuring food availability, access, utilization and stability of food supply for the population.
2. Protection of farmers' income: Protection, such as minimum prices guarantees income for farmers.
3. Market stabilization: The sector is vulnerable to fluctuations in prices as well as external shocks, the government intervenes to reduce fluctuations.
4. Political reasons: In Zambia, maize is considered as a political crop as it is a staple food. Government can lose support if it fails to provide adequate food supply for their population.
5. Self sufficiency: some countries apply tariffs or use subsidies to achieve a certain level of self-sufficiency for national security reasons.
6. Rural development, protection of rural economies.

Protection of the sector provides a barrier to free flow of agricultural products and may distort markets. Moreover, barriers to imports of agricultural products prevent people from having access to the much needed food and increases world hunger. In fact, a study by Fabiosa (2008) indicates that world hunger can be reduced if the agricultural sector is liberalized.

4 Changes in the Structure and Trends of Agricultural Trade

Agricultural trade, like any trade in goods, has gone through some changes over time. The real value of agro-food products traded internationally has grown for both imports and exports. Among the drivers of this growth has been the increasing role of developing countries, particularly the emerging economies (Brazil, Russia, India, Indonesia, China and South Africa), which have become increasingly important among the top 20 agricultural trading countries over the period 2000 to 2016 (FAO, 2018). Other contributing factors are population growth, developments in transports, information and communication technology as well as an increased openness in global agricultural trade (FAO 2018).

International trade in agricultural products increased at a higher pace than production in the period 2001-2016 (OECD, 2018). FAO (2015) further observes that the emergence of GVCs in the food sector and bilateral and regional agreements are driving trade in agricultural goods. Generally, the agriculture sector is incorporated into value chains as a supplier of raw materials, with the food sectors participating in terms of sourcing inputs from around the globe (OECD, 2016c). The participation in agro-food GVCs is however not the same for all

countries and regions. Participation is higher in Asia and Europe compared with other regional groupings (Greenville, Kawasaki and Beaujeu, 2017). Considering that agro-foods have relatively high services content in exports and in final value, efficient services are critical for agro-food GVCs participation.

The tables below present the world's top 20 exporters and importers of agricultural products. The tables show that the USA as a single country has consistently been a major importer and exporter of agricultural products over the period 2000 to 2016, although its share in both has reduced slightly. As a member grouping, the European Union (EU) dominates trade in agricultural products. Table 17.2 shows that emerging countries like China, Brazil, India and Indonesia have become more prominent exporters as well as importers of agricultural products. Their increasing demand has been fuelled by the increasing per capita incomes and high populations while their exports have increased due to higher productivity and more 'south to south' trade (FAO, 2018). Given the increasing role of emerging economies on global agricultural markets, their trade and support policies are of increasing importance for other developing countries.

Further changes in agricultural trade patterns can be expected due to the uneven impact of climate change across the world. Climatic changes are likely to affect agriculture through various avenues and subsequently change comparative advantages for agriculture in different regions and this may affect agricultural trade across the globe (FAO, 2018)

Table 17.1: Major importers of agricultural products: share of total import value, 2000 and 2016

	2000		2016	
Rank	**Country**	**Share total import (%)**	**Country**	**Share total import (%)**
1	European Union (Member Organization)	45.3	European Union (Member Organization)	39.1
2	United States	10.1	United States	10.1
3	Japan	8.1	China	8.2
4	Canada	2.8	Japan	4.2
5	Mexico	2.3	Canada	2.7
6	China	2.3	Mexico	2
7	China, Hong Kong SAR	2	China, Hong Kong SAR	1.9
8	Republic of Korea	2	India	1.9
9	Russian Federation	1.7	Republic of Korea	1.9
10	Saudi Arabia	1.2	Russia Federation	1.9
11	Switzerland	1.2	Indonesia	1.4
12	Indonesia	1	Vietnam	1.3

	2000		2016	
Rank	**Country**	**Share total import (%)**	**Country**	**Share total import (%)**
13	Brazil	0.9	United Arab Emirates	1.2
14	Malaysia	0.8	Malaysia	1.1
15	Egypt	0.8	Australia	1
16	Turkey	0.8	Turkey	1
17	India	0.7	Switzerland	0.9
18	Thailand	0.7	Singapore	0.9
19	Philippines	0.6	Thailand	0.9
20	Algeria	0.6	Saudi Arabia	0.9
Total		**86.5**		**84.5**

Source: FAO, 2018

Table 17.2: Major exporters of agricultural products: share of total export value, 2000 and 2016

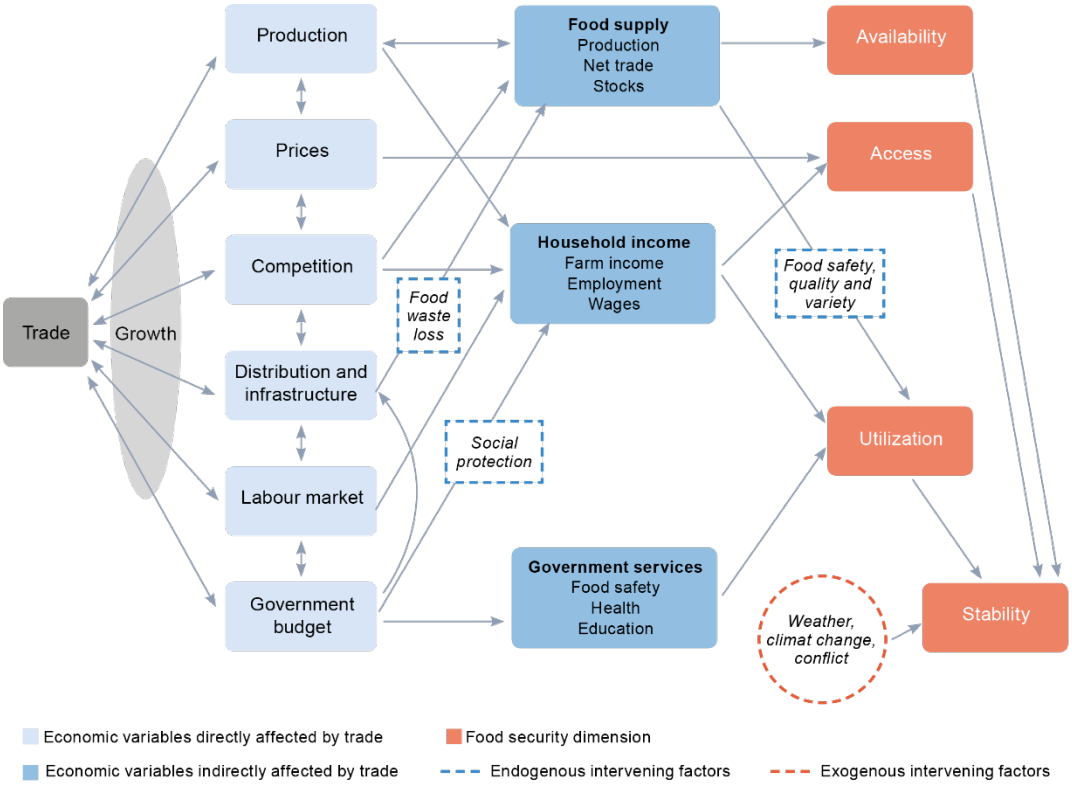
	2000		2016	
Rank	**Country**	**Share total export (%)**	**Country**	**Share total export (%)**
1	European Union (Member Organization)	46.9	European Union (Member Organization)	41.1
2	United States	14	United States	11
3	Canada	3.9	Brazil	5.7
4	Australia	3.7	China	4.2
5	Brazil	3.2	Canada	3.4
6	China	3.0	Argentina	2.8
7	Argentina	2.7	Australia	2.5
8	Mexico	1.9	Indonesia	2.4
9	New Zealand	1.6	Mexico	2.3
10	Thailand	1.5	India	2.2
11	Malaysia	1.4	Thailand	2.0
12	India	1.2	Malaysia	1.8
13	Indonesia	1.1	New Zealand	1.6
14	Turkey	0.9	Vietnam	1.3
15	Colombia	0.7	Turkey	1.3
16	Chile	0.7	Russian Federation	1.1
17	Singapore	0.7	Chile	0.9
18	Vietnam	0.6	Singapore	0.8
19	South Africa	0.6	Switzerland	0.7
20	Switzerland	0.6	South Africa	0.7
Total		**90.9**		**89.8**

Source: FAO, 2018

5 Agricultural Trade and Food Security

Trade in agricultural products affects all four dimensions of food security, namely food availability, access, utilization and stability (FAO, 2015) and is key to eradicating world hunger by 2030. However, the linkages between trade and food security are quite complex and heterogeneous, with several channels of interaction affecting the different dimensions of food security simultaneously (FAO, 2015). Opening to trade can bring forth advantages such as increased availability of food in importing countries and put downward pressure on consumer prices, but it can also impose risks on the importing country such as subjecting the countries to market shocks resulting from import surges. According to Martin (2017) trade can affect food security though income changes; productivity gains; substitution effects; food price volatility; and changes in dietary diversity and quality. The channels of interaction can be seen in the figure below:

Figure 17.3: Effect of trade on the dimensions of food security (availability, access, utilization and stability)



Source: FAO, 2015.

The short run and long run effects of trade on the four dimensions of food security can be both positive and negative. The table below highlights the effects.

Table 17.4: Potential benefits and costs of trade on the four dimensions of food security

Food Security Dimensions		Potential Positive Effects	Potential Negative Effects
AVAILABILITY	**Short run**	Trade can boost imports. This increases variety of food available.	Trade may decrease food availability in the domestic market if country is net exporter.
	Long run	Greater specialization and productivity improvements may boost food production.	For net exporters there may be a decline in domestic availability of staples as production is diverted toward exports; In net food importers, some producers are likely to curtail production, which may have negative effects in rural areas
ACCESS	**Short run**	Food and input prices are likely to decrease for net food importing countries	Domestic prices of exportable products may increase for net food-exporting countries
	Long run	Incomes would rise in competitive sectors, due to greater market access, and growth and employment would be supported by export growth and FDI inflow	Incomes may decline in import-competing sectors, with some producers transitioning out of agriculture.
UTILISATION	**Short run**	Greater variety of food available may promote a more balanced diet	There may be greater consumption of food that is cheaper, high in calories and low in nutritional value
	Long run	Food safety and quality may improve if international standards are applied more rigorously	Prioritization of commodity exports may divert land and resources from traditional and indigenous foods, which are often superior from a nutritional perspective
STABILITY	**Short run**	Imports mitigate likelihood of shortages resulting from local production risks	Countries may be more vulnerable to changes in exporters trade policy, such as export bans
	Long run	Global markets are less prone to policy – or weather-induced shocks	Sectors at earlier stages of development may become more susceptible to price shocks and import surges

Source: Constructed from FAO 2016a.

The ultimate effect of trade on food security pillars can be varied and context specific. Various factors affect how trade affects, either positively or negatively, the four food security pillars and these include (FAO, 2016a):

- The functioning of domestic food markets: The nature of competition or restrictions in the market.

- The ability and willingness of producers to respond to changing incentives: Quality aspects and changes in technology etc.
- The participation of smallholders in markets: Are conditions favourable for small holder farmers to participate?

6 The WTO and Agricultural Trade: Principles and Key Disciplines

Prior to the Uruguay Round, the rules for trade in agriculture were set in the GATT 1947. The GATT 1947 focused on import access issues and allowed individual countries to protect and provide support to their respective agricultural sectors. Compared to the rules applied to industrial goods, the rules for trade in agricultural products had various exemptions and exceptions, which led to the use of import bans, quotas, high import duties as well as the use of distortive subsidies among others (WTO, 2015). The rationale for this was that agriculture was an important and unique sector and that protecting and supporting the sector would enhance food security and ensure price stability (Singh, 2017). However, this led to a highly distorted agricultural production and global market, as well as high levels of inefficiencies as production was not based on comparative advantage. To address these issues the Uruguay round (1986 to 1992) negotiations gave birth to the Agreement on Agriculture (AoA). The AoA sought to establish a fairer and more market-oriented trading system in order to address trade barriers and distortions. This was done under three pillars namely; increase market access; reduce (trade distorting) domestic support measures; increase export competition (UNCTAD, 2003).

The countries negotiating the AoA (to some extent) took into account that it would not be fair to impose the same level of commitments on all countries. The WTO AoA therefore contains provisions which give developing countries special treatment called “special and differential treatment” provisions. These provisions include lower reduction commitments for tariffs, export subsidies and domestic support; longer implementation periods for various reduction provisions; and some specific exemptions from reduction commitments for export subsidies and domestic support. (UNCTAD, 2003).[80]

[80] For more information on the principle of special and differential treatment, consult Chapter 6 in this volume.

6.1 Increase market access

The importance of market access for agricultural products cannot be overemphasized. Market access issues include import tariffs and quotas that protect local producers from competing imports (World Bank, 2007). Prior to the AoA, trade in agriculture was characterized by various non tariff border measures impeding access to markets particularly in the developed countries. The main idea behind the pillar of increasing market access has been to stimulate investment, production and trade in agriculture through more reliance on markets for allocation of resources and making markets transparent, predictable and competitive.

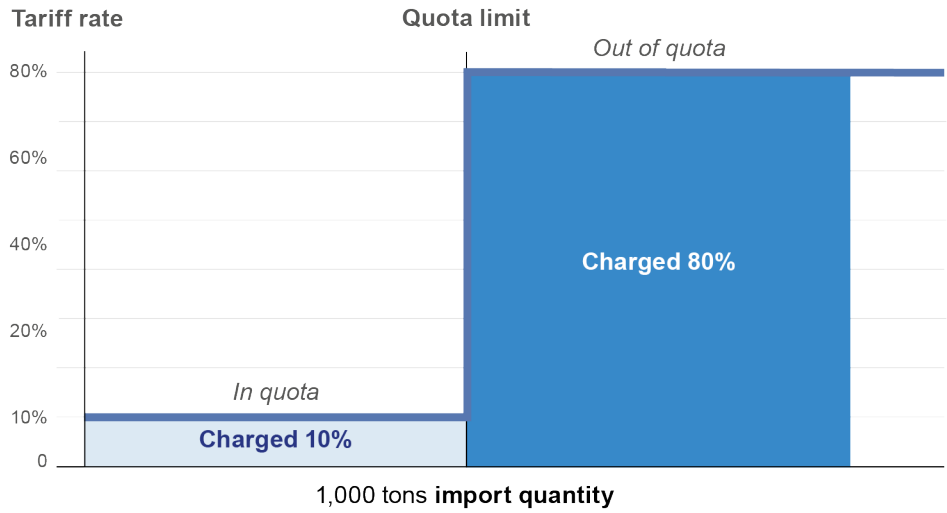
The key principle under AoA's market access pillar was to bind tariffs, progressively reduce tariffs and convert non-tariff border measures into tariffs (for example import quotas, minimum import prices). The purpose of these principles was to make trading conditions more open, predictable and stable.

Non-tariff measures were bound using either the "tariffication" process ("translating" these measures to a tariff) or "ceiling bindings". Developing countries did not have resources to undertake comprehensive tariffication of all unbound tariffs, but had the option to offer "ceiling bindings", in the form of a maximum tariff applied to either groups of agricultural products or to all of them.

Tariffication was done by calculating the difference between domestic and world market prices (the price-gap method) (Aksoy, 2005). Tariffication still resulted in high tariffs, some of them prohibitive; as a result commitments (current access commitments and minimum access opportunities) were made to ensure that tariffication does not affect trade in agriculture negatively. These commitments were administered through the establishment of "*tariff-rate quotas"* (TRQs)[81] (UNCTAD, 2003). Members further agreed to reduce tariffs progressively for over six (developed countries) to ten years (developing countries). LDCs had to make tariff bindings, but did not have to make any tariff reductions.

[81] A (TRQ) is a two-levelled tariff whereby the tariff rate charged depends on the volume of imports. A lower (in-quota) tariff is charged on imports within the quota volume. A higher (over-quota) tariff is charged on imports in excess of the quota volume. (UNCTAD, 2003).

Figure 17.5: Tariff-rate quotas



Source: WTO (2001)

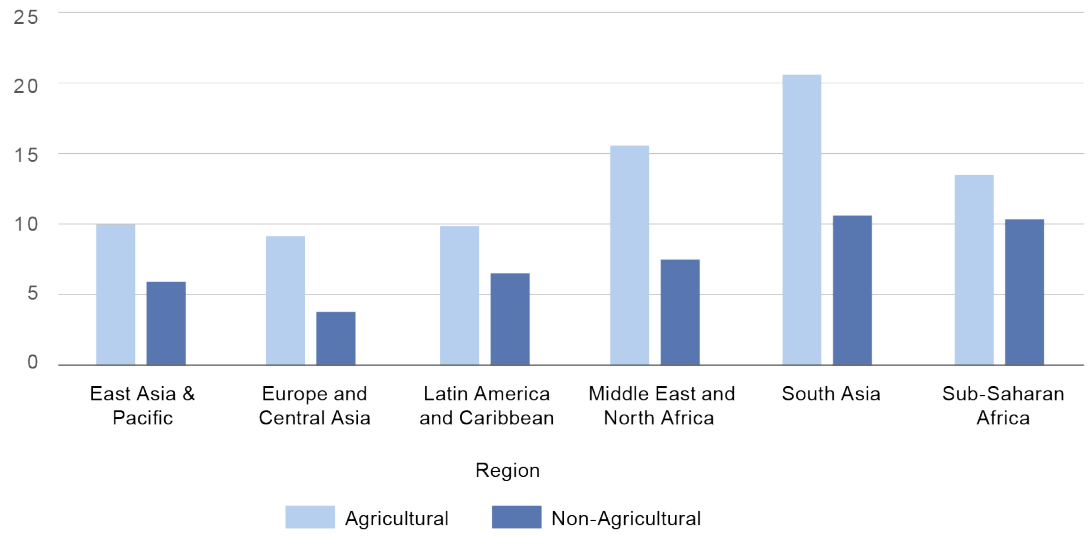
The Agreement also allowed the temporary imposition of an additional duty, called a special safeguard, under certain circumstances (OECD, 2014). These circumstances could either be due to a surge in imports (volume trigger) or as a result of a drop in import prices below a specified benchmarked price (price trigger). This is called a special safeguard because the government does not have to provide evidence that the import surge is causing serious injury to domestic producers as is the case when the general safeguard mechanism in the WTO is used (WTO, 2015). This incentive was only accessible to members that converted non-tariff border measures to tariffs. Most developing countries do not have access to this special safeguard as they made ceiling bindings, although they can still use the general special safeguard (van Tongeren, 2014).

6.1.1 Progress in market access

Notwithstanding the tariff reductions made as a result of the AoA, applied tariffs for agricultural products are on average still high. Data from WITS-TRAINS give an idea of the level of trade restrictions imposed on imported agricultural products relative to industrial goods, using World Trade Organization classifications. Figure 17.6 summarizes the WITS-TRAINS data by developing (low and middle income) region. All regions have higher applied tariffs on agricultural products than on non-agricultural products and these differences are often substantial. For example, average tariffs on agriculture are at least double the level of non-agricultural tariffs in South Asia, the Middle East and North Africa, and Europe and Central Asia, however the difference in Sub-Saharan Africa is relatively small.

Despite the implementation of the pillar of increased market access, access to developed countries' markets by developing countries still remains limited. This is due to an increase in the utilization of non-tariff measures such as the SPS measures and technical regulations. By their very nature, TBTs and SPS can restrict trade in agriculture. Although they play an important role in every society by ensuring safety and health of humans, plants and animals, SPS and TBT measures can be abused as protectionism tools, which can affect the growth of international trade and hurt consumers' welfare by limiting their choices (Kang and Ramizo, 2017). Studies show that SPS and TBTs negatively affect exports of developing countries more than those of their developed counterparts (Disdier, Fontagné and Mimouni, 2007). However, SPS measures can also have a trade-enhancing effect as they can contribute to increased confidence in products and in this sense can facilitate trade.

Figure 17.6: Simple average applied tariff rate on agricultural versus non-agricultural products, by developing region, latest available year (%)



Source: Shepherd and Stones (2017)

6.2 Reduce trade-distorting domestic support measures

This pillar of the AoA was meant to discipline and reduce trade distorting domestic support. It is worth noting that the disciplines for domestic support had the purpose of:

- Classifying support to agriculture and distinguishing "good" support from "bad" support from a trade perspective. Bad support refers to support that harms farmers in other countries.

- Reducing and limit the use of "bad" support that that has negative impact on farmers in other countries (to ensure policy space to use "good" support).
- Encouraging reforms of agricultural policies in a market-oriented direction.

Domestic support includes direct support to farmers linked to the type, price, and volume of production. Domestic support can take various forms, including direct payments, loan programs, storage programs, and so forth. These forms of support can lead to excess production and distorted prices. Domestic support can be categorized into two broad categories (Aksoy, 2005):

- **Support that does not distort trade**: This covers all support with no, or minimal, distortive effect on trade. This includes support categorized as green and blue boxes in the AoA,
- **Trade-distorting**[82] **support:** this is support which is trade distorting and is classified as Amber Box. An example of this category is government buying-in at a guaranteed price.

The different categories of support are are usually elaborated as green box, developing box, blue box and amber box and indicate the trade effects of the programs.

i. Green box: Under the green box support measures are permitted because they have no, or at most minimal, trade-distorting effect on production and trade. These can be generally applicable government programmes, domestic food aid programmes, direct payments, environmental aid and regional assistance, and payment for relief from natural disasters. The green box is available to both developed and developing countries. There is no ceiling for the use of green box support.

ii. Development box: For developing countries some categories of trade distorting support can be used without any monetary limits, as such support is perceived to contribute to agricultural and rural development. This means that developing countries have been granted more policy space in accordance with the principle of special and differential treatment, for example to use investment subsidies generally available to agriculture (and not limited to a specific sector) and input subsidies provided to low-income producers.

iii. Blue Box programs are those that are considered trade distorting, but the programs have production limits embedded in them (UNCTAD, 2003). These programs are permitted under AoA to encourage reforms of more

[82] Trade distortion means prices or quantities produced differ from those under competition. Production decisions influenced by support, farmers not (only) guided by market signal.

trade distorting policies. They constitute direct payments under production-limiting programmes that are made on fixed areas or yield or a fixed number of livestock.

iv. Amber Box programs are all domestic support measures which distort production and trade (Banga, 2014). They are considered the most trade distorting and are limited (capped) under the AoA. The reduction commitments are expressed in terms of an aggregate measure of support (AMS)[83]. They include measures to support prices (provided either through administered prices - involving transfers from consumers - or through certain types of direct payments from governments), input subsides or subsidies directly related to production quantities. The commitments that WTO-members made in the Uruguay Round to reduce trade distorting support were based on their historic use of such support. As a result many developed countries have the possibility to provide substantial amounts of trade distorting support to their farmers without breaching their WTO commitments. All countries are allowed to use a minimal ("*de minimis*") amount of trade distorting support.

[83] AMS is a monetary expression of the size of annual transfers provided for a specific agricultural product in favour of the producers of that product, or non-product-specific support provided in favour of agricultural producers in general (UNCTAD, 2003).

Table 17.7: Summaries of the categories of domestic support

Measures that are not subject to reduction commitments. These may be used without monetary limits on support, provided the relevant implementation criteria are met. Exemption of support measures from reduction commitments may fall under the following three basic policy categories or "boxes":			**Measures that are subject to scheduled reduction commitments and bound limits. Measures that do not meet the exemption criteria of Green Box, Development Box, or Blue Box, are often referred to as Amber Box measures.**	
Green Box	**Development Box**	**Blue Box**	**Amber Box**	**"De minimis"**
Green Box measures include domestic policies that are considered to have no or minimal impact on trade and production. *Examples:* Government services on research and development, extension, and investment in infrastructure. Direct payments to producers of basic agricultural products, such as income support that is decoupled from production, assistance to promote structural adjustment in agriculture, and Direct payments under environmental and regional assistance programmes.	Development Box measures provide developing countries with additional flexibility in providing domestic support. The category covers measures taken by developing countries, whether direct or indirect, that are an integral part of their development programmes and encourage agricultural and rural development. *Examples:* These include investment subsidies available to agriculture, agricultural input subsidies generally available to low-income or resource-poor producers, and domestic support to producers to encourage diversification from growing illicit narcotic crops.	Blue Box measures are similar to Amber Box measures but require farmers to limit production, thus limiting production distortions. At present, there are no limits on Blue Box subsidies.	The Amber Box includes measures to support prices or input subsidies directly related to production. This support is subject to limits: 32 WTO members that had non-exempt domestic support during the base period undertook reduction commitments. Members without such commitments must limit their Amber Box support within the *de minimis* levels. The reduction commitments are expressed in terms of the "Total Aggregate Measurement of Support" (Total AMS), which effectively bounds trade-distorting support.	*De minimis* levels are minimal amounts of domestic support that are allowed even though they distort trade – up to 5% of the value of production for developed countries, 10% for most developing countries. The *de minimis* provision applies both to support associated with a specific product and non-product-specific support.

Source: FAO, 2018

A lot of progress has been made regarding the use of domestic support, particularly in developed countries. Domestic agricultural policies have been radically reformed in a number of countries in recent years in a more market-oriented direction. Overall measures of support point to a fall in the level of support provided to agricultural producers worldwide. Trade-distorting support as measured by either total aggregate measurement of support (AMS) and Producer Support Estimate (PSE) have declined substantially for the major subsidizing

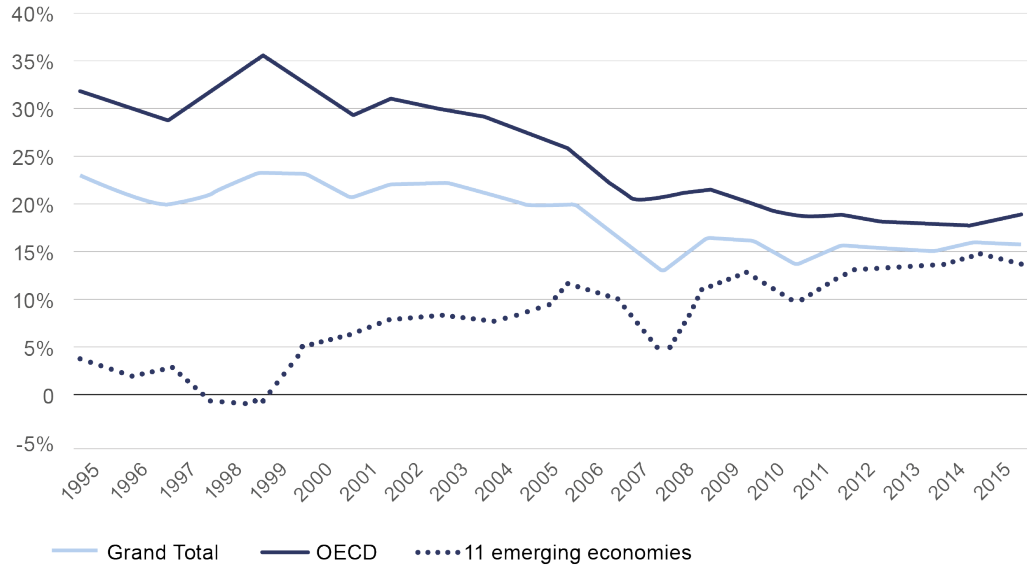
countries over the last 20 years (Brink, 2014). As indicated in Figure 17.8, the overall level of support for agriculture globally has declined over the period 1995 to 2016 captured by the OECD's PSE database for agricultural policies and support. The percentage PSE in figure 17.8 illustrates the share of a farmer's income that come from government support with the remaining share being incomes from the market. The percentage PSE for OECD countries show a declining trend while that of the emerging countries has been increasing and there is convergence in the two.

Box shifting has been a characteristic feature of most developed countries' domestic support as they have reformed their agricultural policies in order to reduce their use of Blue and Amber box support, and instead increase the use of Green box support (Banga, 2014). Several developed countries, for instance the EU, have introduced decoupled payments to support farmers in a less trade distorting way.

Some studies argue that the green box is abused by most countries. A study by (Yumin, Hongxia and Mayu, 2004) contends that de-coupled income support measures, income insurance, relief for natural disasters and payments for structural adjustment and agricultural environmental programs in the green box can affect production through their impact on income, wealth, expectations, risks and other variables. However, this is not the case for all countries, particularly those that adhere to the general requirements of the green box of being minimally production- and trade-distorting. In this vein, Mittenzwei, Britz and Wieck, (2014) conclude that support under the green box distorts the absolute volumes of production and trade only to a minor extent. Despite their utility, many developing countries cannot afford, or lack the facilities for, the application of most measures contained in the Green Box

Although there has been a general decline in support to agriculture, this does not relate to all products. In all, rice, maize, beef, pork and dairy are the most supported products and the support is usually delivered through market price support, i.e. maintaining higher than world market prices on the domestic market. Much of the support is provided by those countries that are able to influence trade in agricultural products. For example the US and the EU (along with Japan and Korea), account for a significant share of total support for beef and dairy. China also plays a big role in the total level of support that is provided for rice, maize, and pork (Greenville, 2017).

Figure 17.8: Evolution of producer support estimate (PSE), 1995 to 2016 (percentage of gross farm receipts).



Source: OECD (2017 in Greenville, Jared. 2017)

Notes: The nine developing economies that were included in the PSE database in 2015 were: Brazil, China, Colombia, Indonesia, Kazakhstan, the Russian Federation, South Africa, the Ukraine, and Viet Nam (from 2000 onwards).

6.3 Increase export competition or export subsidies

Export subsidies distort competition on international markets, discourage local production in the importing countries, and create a dependency on international markets (De Schutter, 2009). According to UNCTAD (2003), subsidies under this category may include;

- Cash payments
- Exports of government stock at lower than market prices
- Producer or processor-financed export subsidies;
- Export marketing subsidies;
- Subsidies on transportation and freight;
- Subsidies on commodities dependent on its incorporation in export commodities.

Export subsidies for agricultural products distort trade by making subsidized products artificially competitive on the world market, reducing their supply and increasing their prices on the domestic market (Greenville, 2017). Export subsidies provide the exporters a price advantage, encouraging overproduction, and have the potential to depress world market prices and can cause surges which may displace domestic production. WTO members were required to undertake reforms on export subsidies by reducing subsidized export quantities, and the amount of money spent subsidizing exports and not exceeding a cap for quantities and money spent. For most Members this cap was zero. However, some types of export subsidies were exempted for developing countries.

6.3.1 Progress in export competition

As a result of the export subsidy commitments, 25 members could use export subsidies within the limits established during the Uruguay Round. In addition to this, developing countries could use some specific types of export subsidies (to reduce marketing or domestic transport costs) under the exceptions of the AoA. As an example, India has made use of this exception for its subsidies to internal transports of sugar (WTO, 2012).

The main user of direct export subsidies over the years was the EU. Several reforms of the EU's agricultural policies gradually resulted in less use of export subsidies until the instrument was more or less abandoned by the EU in 2013 (Matthews, 2015). A few other developed countries, including Canada, continued using export subsidies.

7 Beyond the Uruguay Round: Agricultural Trade Negotiations in the WTO

7.1 Doha Round

The Doha round, also known as the Doha Development Agenda (DDA), is the latest and longest round of multilateral trade negotiations among WTO members (Tigere & Siziba, 2017). The round was launched in 2001 and covers areas such as services, agriculture, market access for industrial goods and topics related to intellectual property rights. Its objective was to lower trade barriers and revise trade rules in areas of priority interest to developing countries with a view to boosting their economic growth.

Specifically for agriculture, the aim of the round was to continue the reform process and to reduce distortions in agricultural trade by substantially improving market access, reducing all forms of export subsidies and trade distorting domestic support (WTO, 2015). Although the objective of the reform process was to increase

the market-orientation of the global trading system, other concerns than trade were also to be taken into account, in particular food security and protection of the environment, as well as the need for special and differential treatment of developing countries.

In the 2030 Agenda two targets refer to the Doha Round. Under SDG 2 (zero hunger) one of the targets is to correct and prevent trade restrictions and distortions in world agricultural markets in accordance with the mandate of the Doha Development Round. Under SDG 17 (partnerships for the goals) a target is to promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the WTO, including through the conclusion of negotiations under its Doha Development Agenda.

7.1.1 Members have formed coalitions in negotiating groups

To get more leverage in the negotiations on agriculture many members have sought coalitions with other members in more or less permanent negotiating groups or on specific topics. There are several negotiating groups on agriculture and many developing country members take part in more than one group. Developing countries are represented in many groups, for example the LDC Group (least-developed countries), the G33 (a group of developing countries seeking more flexibility to protect their agricultural sectors from import competition) and the Cairns group (a group of major agricultural exporters supporting increased liberalization of trade, some of them developing countries). Some negotiating groups focus on a specific topic like the Cotton-4 group, consisting of four West African countries seeking elimination of tariffs and trade distorting subsidies for cotton. On some issues, there are conflicting interests among developing countries.

7.1.2 Changes on world markets and the policy landscape affecting negotiations

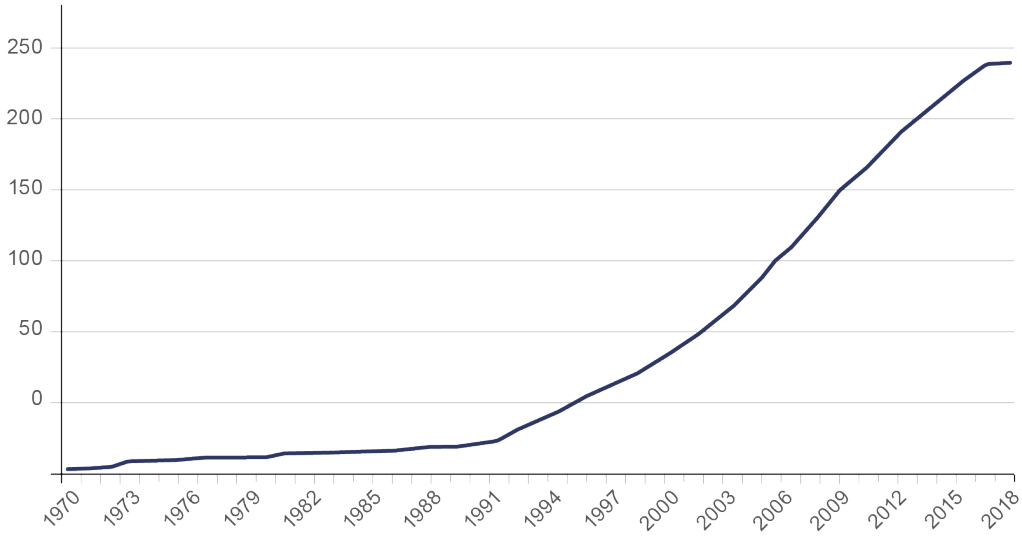
Since the launch of the negotiations, there have been substantial changes on world markets and in the policy landscape for agricultural trade. Emerging economies have become more important players on world agricultural markets and trade between developing countries has increased.

High growth in emerging economies has made it possible for some of these countries to provide more support to their agricultural sector, which could be a cause of concerns for other developing countries. Furthermore, the increasing economic strength of emerging economies as well the market impact of their policies has led to requests from some developed countries that the emerging economies should make more far-reaching commitments than other developing countries. This is a controversial issue, as it would imply more differentiation between developing countries.

Higher long-term food prices and the price hikes for food in 2008 and 2011 has also influenced the dynamics of the negotiations. For example policy instruments like export subsidies became less relevant for countries to use.

Another important factor influencing the dynamics of the negotiations is the rapid increase in regional or bilateral trade agreements, which have reduced or eliminated tariffs between the parties. As the WTO negotiations on agricultural trade have not delivered commitments on increased market access, members have turned to bilateral and regional negotiations to liberalize trade, including in agricultural products. This tariff liberalization has increased trade in agricultural products between their member countries (Korinek and Melatos, 2009). RTAs usually cover tariffs but do not generally include domestic support provisions (FAO, 2017a) as the impact of domestic support generally goes beyond bilateral or regional trade relationships. This implies that the WTO and multilateral negotiations are still relevant and important to address the use of trade distorting domestic support.

Figure 17.9: Cumulative number of physical RTAs in force



Source: WTO Statistics

The preferential trade agreements cover a large number of agricultural products but normally some products are exempted from tariff liberalization or only subject to partial liberalization (tariff rate quotas). A study by OECD (2015) found that each region has a number of sensitive products it seeks to protect and in most regions sectors such as sugar, meat, cereals and dairy are slow in eliminating tariffs. As RTAs tend to limit liberalization for sensitive agricultural products and as complex and diverse rules of origin might limit the value of tariff preferences, multilateral tariff reduction would still be valuable for WTO Members. However, the appetite

for multilateral tariff liberalization for agricultural products seems to be limited among most members.

7.2 From negotiations of a full package to pragmatism

During the almost two decades that have passed since the Doha round, the negotiations on agriculture have been suspended and resumed several times. Initially, the goal of negotiations was to reach an agreement on all agricultural issues. However, WTO members have not succeeded in reaching an agreement on an entire package for agriculture. There are many reasons for this such as the difficulties to reach consensus between over 160 members, as well as changes on global agricultural markets and in policies described above. These changes have led to shifts in members' priorities and have made negotiating texts from earlier stages of the negotiations less relevant and suitable to address the current challenges and distortions on world markets.

As a result, Members have pursued a more pragmatic approach in agricultural talks and negotiations since 2011 when they agreed to focus on the topics where progress could most likely be achieved. This approach has resulted in ministerial decisions on specific issues, for example on public stockholding for food security purposes in 2013 and export subsidies in 2015.

It was the trend of higher food prices as well as the gradual elimination of export subsidies in the EU that paved the way for the Ministerial decision on export subsidies taken in Nairobi in 2015. In this decision members agreed to eliminate agricultural export subsidies. Under the special and differential treatment provisions, developing countries were granted time limited exemptions for subsidies to marketing and transport costs for exports (WTO, 2015).

7.3 Key issues in agricultural talks in the WTO

Many issues remain to be solved on agriculture. Most WTO members give high-priority to addressing trade-distorting domestic support. A fundamental issue is how to make the commitments for trade-distorting support fairer and more balanced between members in order to level the playing field in agricultural trade. With current rules in the WTO, some major developed countries have more policy space to use trade-distorting agricultural support than developing countries have. One approach proposed to address this problem is to limit trade-distorting support to a certain percentage of the value of production, with a higher level for developing countries than for developed countries.

Although there is some convergence on this approach, several difficult issues need to be resolved. One of these issues is whether emerging economies should make tougher commitments than other developing countries. However, it is a controversial issue to introduce differentiation between different groups of developing countries. Another controversial issue is whether or not exemptions for some types of trade-distorting support for developing countries - for example input subsidies - should be maintained or not. As the use of such support has increased in some emerging economies these exemptions have been questioned by some developed countries. At the same time, many developing countries have concerns about the green box, that is mainly used by developed countries, and have questioned the idea that all the support that fit into the green box is trade neutral (i.e. not distortive).

A group of developing country members (the G33) is demanding more policy space to raise tariffs when imports of basic agricultural products surge or import prices are very low. They argue that they need such a safeguard to protect the incomes of their small-scale farmers from trade distortions linked to subsidization in major exporting developed countries. However, some export-oriented developing countries are concerned that the introduction of a safeguard could be detrimental for the development of South-South trade in agricultural products. The proponents of a special safeguard argue that this is a stand-alone issue whereas many other countries argue that a safeguard can only be introduced as part of a large package including tariff reductions. As few members are currently interested in negotiating tariff reductions, it has been hard to make progress on the issue of a special safeguard.

Box 17.10: Decisions from the Ministerial Conferences in Bali and Nairobi
Ninth Ministerial Conference in Bali, December 2013
The 2013 Bali Ministerial conference gave rise to the following decisions:
Need to find a lasting solution for countries' public stockholding programmes for food security involving food purchases.
Expand the **Green Box list of "general services" to** include spending on land use, land reform, water management, rural livelihood security and other purposes related to development and reducing poverty.
All forms of **export subsidies** to be kept low and a commitment to enhance transparency and improve monitoring.
Tariff (or tariff-rate) quota administration calls for countries to notify how actual imports compare with the sizes of the quotas.
Market access, domestic support and export competition on cotton.

Tenth Ministerial Conference in Nairobi, December 2015
At the Nairobi Ministerial Conference, WTO member countries have made a landmark decision to eliminate agricultural export subsidies (WTO, 2015). Key commitments in the Nairobi 10th Ministerial Conference also known as the "Nairobi Package" includes (FAO, 2017b; FAO, 2016b):

1. Abolishing export subsidies for agro-exports: The decision requires developed countries to eliminate their remaining scheduled export subsidy entitlements. It contains disciplines limiting financing for agricultural exporters (use of export credits, export credit guarantees or insurance programmes etc.)

Public stockholding for food security purposes: State trading enterprise should not circumvent any other disciplines of the Nairobi decision. In addition, the use of export monopoly powers by agricultural exporting state trading enterprises should not have trade-distorting effects and should not displace or restrain exports of another member country (FAO, 2017b).
Measures related to cotton; the decision requires that cotton related exports from less developed countries be granted duty-free and quota-free access to developed and other developing country's markets. The decision also called for an end to cotton export subsidies.

8 Agricultural Trade in Zambia

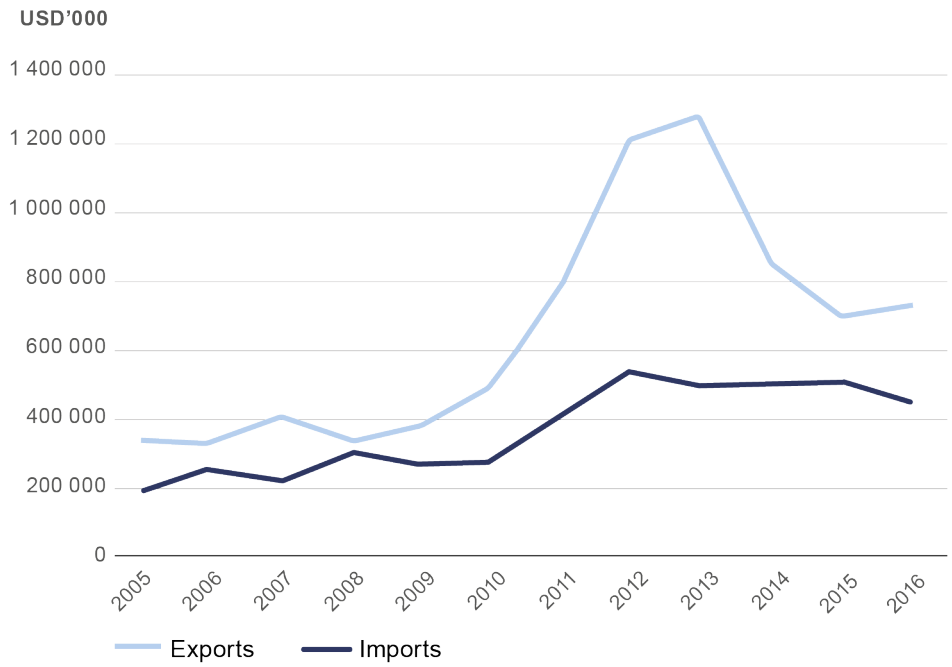
8.1 Significance of the agricultural sector and trade

In Zambia, the agricultural sector is an important sector in terms of contribution to GDP, employment, food security and livelihood sustenance. About 59% of Zambia's population lives in rural areas and the majority of these are engaged in agriculture or agricultural related activities (CSO, 2015). Agriculture accounted for about 49% of the total employed persons in Zambia (CSO, 2015) and 10 % of the GDP in 2013 (UNCTAD, 2016). Realising this importance, the government has designated the agricultural sector as one of the key sectors for achieving economic diversification and poverty reduction. This importance arises from the fact that Zambia has a comparative advantage in this sector because the country is endowed with some of the best land, climate and water resources in Africa. The sector is

crucial for poverty reduction as the majority of poor people are engaged in the agricultural sector. Moreover, the sector plays a central role in the achievement of national food security. It is for these reasons that the government has chosen to protect the sector.

Agricultural trade is important to Zambia and its importance has been increasing over time. In terms of exports, Zambia's agricultural sector has recorded a growth. According to the World Bank (2016), the sector also contributed 9.6% of total exports from Zambia. The exports grew at an average annual rate of 15% from 2003 to 2010 (GRZ, 2014). Zambia's agricultural exports constitute generally primary agricultural products. Primary agriculture contribute about 35 % to the country's total non-traditional exports and about 10% of the total export earnings for the country (ZDA, 2011). The major formal exports include sugar and molasses, tobacco, wheat, horticulture, coffee, soya and cotton lint. Informal agricultural exports are also significant. Zambia exports a number of its agricultural products to the neighboring countries particularly Democratic Republic of Congo. Zambia also imports various agricultural products from other countries, mainly edible oils, wheat flour, fruits and fruit juices, dairy among others. Overall, the country has been a net exporter of agricultural products in the last decade as shown on the figure below.

Figure 17.11: Agriculture imports and exports trends, 2005–2016 (USD '000)



Source: WTO statistics

Zambia has the potential to become the major supplier of agricultural products to the region. However, the agricultural sector faces several challenges that limit the sector from performing to its fullest potential. These challenges include limited access to foreign markets due to stringent food safety regulations, reliance on rain-fed practices, access to improved road networks, poor irrigation infrastructures and mechanization, a weak research and development system, as well as limited access to credit particularly for smallholder farmers (WTO, 2016; Moïsé *et al.,* 2013). It also matters for agriculture how well services markets are functioning. Services are a critical input into production and trade of any good or service. The agricultural sector cannot function effectively in the absence of a well functioning service sector. Services such as finance, energy, road transport, advertising, extension services etc. play a critical role for the development and growth of the agricultural sector. However, the service sectors are not well developed in Zambia and this inhibits the optimal growth of the sector.

8.2 Market access, domestic support and export subsidies in Zambia

8.2.1 Market access

Zambia liberalized her trade in the 1990s in line with the WTO requirements. This has seen a progressive reduction and streamlining of its import tariffs, and the removal of quotas. As a result Zambia became one of the most open economies in Africa. Zambia bound customs tariffs on 16.7% of all tariff lines: all tariffs on agricultural products are bound, while 3.7% of all tariff lines for non-agricultural products are bound. The simple average applied MFN tariff (18.9%) for agricultural products and the simple average of the final bound tariffs (123.3%) indicate a high protection for the agricultural sector (WTO, 2016). The substantial gap between bound and applied tariffs indicate that Zambia can raise many tariffs on agricultural products without being in conflict with its WTO commitments. The country has a simplified and non-restrictive export procedure, although it imposes bans on export of maize – the country's staple food to prevent shortages.

In terms of export markets, Zambia enjoys access to all COMESA, SADC and EAC countries through current preferential trade arrangements (UNCTAD, 2015). Beyond this Zambia enjoys non-reciprocal duty- free quota free access into the EU market under EBA, the US market under AGOA and GSP, and GSP to a number of developed countries. It products have also got access to other WTO member countries under MFN tariffs.

Although Zambia's agricultural products have tariff preferences to various markets, Zambian exporters often face challenges when entering other international markets due to rules of origin, sanitary and phytosanitary measures, labelling requirements, quality standards and certification requirements in advanced economies. There is

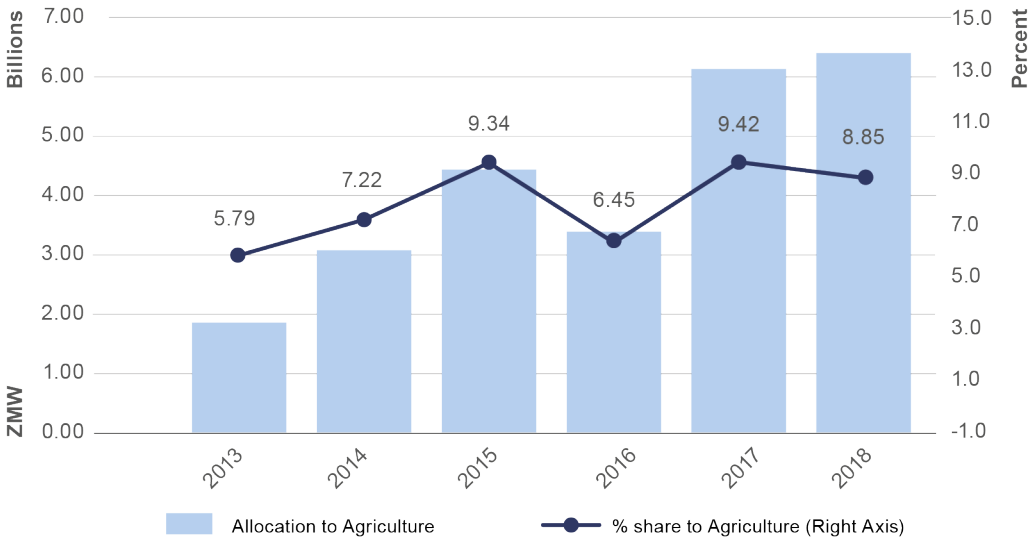
also the issue facing competition from subsidized production in accessing the European Union market (UNCTAD, 2015). Sanitary and phyto-sanitary measures (SPS) and technical barriers to trade (TBT) reduce participation in agricultural trade and agro value chains (OECD, 2016c). As highlighted in the chapters on SPS and TBTs, many producers in developing countries do not have the capacity to fulfill SPS measures, TBT requirements or private standards. The costs of complying with SPS, TBTs and private standards are high for developing countries (Wolff, 2008). In addition, the costs of getting information about the regulations and standards are also high. However, fulfilling requirements in SPS measures, TBTs and private standards on demanding markets is one way of value addition for exporting firms.

8.2.2 Domestic support

Since independence, Zambia's agriculture has been supported by government through research and production subsides. Much of Zambia's domestic support falls under the green box and development box categories in the WTO. Zambia has spent significant portions of the Green Box support either on public stockholding for food security purposes or domestic food aid. From independence, government has provided various forms of support to the sector. However, much of the support was eliminated after 1991 when the economy was liberalized.

In 2002, the government introduced the Fertilizer Support Programme with a view to increasing productivity, reducing poverty, improving household and national food security, incomes and access to inputs. Later on, the Fertilizer Support Program was renamed the Farmer Input Support Program in 2009/10 (Ricker-Gilbert, et al. 2013). The FISP has been criticized for not achieving its intended targets and crowding-out of private investors hence undermining its effectiveness. Crop yields have remained low and rural poverty has not been reduced significantly (Kuteya et al 2016). Zambia is now in the process of reforming the FISP to implement the subsidy programme through a flexible electronic voucher (E-voucher) (Chapoto and Chisanga, 2016). Besides input support the government also provides support for Research and development in agriculture through Zambia Agriculture Research Institute (ZARI). The figure below shows the budgetary allocations to the agricultural sector, which has generally been lower than the 10% Comprehensive Africa Agriculture Development Programme (CAADP) recommended.

Figure 17.12: Share of agriculture budget/spending to total government budget



Source: Chapoto, Chisanga and Kabisa, 2017

In order to address the constraints related with the FISP, the government and other stakeholders have implemented the e-voucher system to distribute inputs. Inputs under the e-voucher are distributed using a mobile delivery and tracking system. The system is web-based and can be accessed using a mobile phone. The inputs are distributed to eligible farmers through private sector suppliers (Sitko et al., 2012). Each eligible farmer receives a Voucher Scratch Card (VSC), which is linked to their specific National Registration Card (NRC) number. The card entitles the beneficiary to a specified array of agricultural inputs and implements which can be collected at retail agro-dealer outlets. The e-voucher has various advantages over the FISP which include eliminating transaction costs, being more market oriented and improving targeting among others.

Much of the agricultural support has been channelled towards the main staple crop - maize. Maize dominates the agricultural sector's production and is crucial for national food security. The government has been pursuing an interventionist policy in the maize market through subsidizing the inputs and the outputs which absorb over 50% of agricultural budget (Chapoto et al., 2015). Besides this, the government intervenes through setting floor prices for the maize. Government has generally intervened through the Food Reserve Agency (FRA), the Farmer Input Support Programme (FISP), as well as through export bans from time to time. One of the aims of this interventionist approach has been to ensure food security in the country. However, government intervention has not only distorted maize prices and supply levels but also led to markedly low maize market competitiveness and concomitantly, low maize productivity and other inefficiencies (UNCTAD, 2016).

Maize is crucial for household food security for the majority of Zambians. By and large having maize security implies having food security. Relying on maize for food security has some advantages to the country and the region. The major part of Zambia has good climatic conditions and soils suitable for the cultivation of the crop. The crop is easy to grow with minimal investment and has a high yield potential when hybrid seed and fertilizer are used. As such, Zambia has the capacity to produce a surplus and export to other neighboring countries with deficits like Congo DR. Moreover, the crop forms a major component of people's diets in the region (Grant et al., 2012) as it maize makes up 49.4% of the average daily calorie intake in the country (FAO, 2013).

However, focusing on maize alone for food security exposes the country to various risks. It is mostly a rain fed seasonal crop, as such increasing variability of precipitation and frequency of droughts and floods are likely to causes volatility in annual production and reduce crop yields in general (Grant et al., 2012). Moreover, the crop is also prone to pest infestation like army worms, stock borer, among others which may also affect yields. These factors in turn cause volatility in prices and incomes of farmers affecting their food security. Government's emphasis on maize also shifts resources from key agricultural growth activities such as research and infrastructure development (Chapoto et al., 2015) as well as from other sectors with potential for growth and causes overproduction of maize, which may lead to nutritional diversity problems. The emphasis also discourages crop rotation, increases overexploitation of soils and leads to increased ecological and climatic risks (Achterbosch, van Berkum and Meijerink, 2014) which may decrease productivity and quality of the produce.

Despite the various support measures, a number of Zambian households are food insecure. Chapoto, Chisanga and Kabisa (2017) argue that 50% of the population are food insecure. Various factors influence food insecurity at household level and may include unfavourable climatic conditions, disease and insect attacks among others. Chizuni, (2003) attributed the food insecurity in rural areas to low productivity, limited access to agricultural services and resources and emphasis on maize production at the expense of traditional crops. Although maize forms the major component of food security, other crops like cassava and finger millet are grown and contribute to food security in Western, Northern and Northwestern parts of the country (Samatebele, 2003). Emphasis on one crop exposes the households and the country to risks of fluctuations in supply and prices. It is for this reason that government has shifted its emphasis on maize mono-crop to crop diversification in the sector.

8.3 Trade facilitation and agricultural trade

Many developing countries rely heavily on the production and export of agricultural products. For agricultural products, trade facilitation is crucial as it enables speedy movement of agricultural products considering that they are perishable (Liapis, (2015). Being an agriculturally dominated economy and a landlocked country, trade facilitation is crucial for Zambia's agricultural exports. To derive full benefits from trade in agricultural commodities requires efficient facilitation particularly at the border as delays at the border or in transit may lead to spoilage and losses (USAID, 2013).[84]

The agricultural sector in Zambia is mainly rural based. Farmers still face many challenges with access to inputs and markets for their products. This is mainly due to the fact that farmers do not have access to efficient road transport. As highlighted by the World Bank Report, the Rural Access Index (RAI) is estimated at 17.0 percent, leaving about 6.9 million rural residents unconnected to roads in good or fair condition (Transport and ICT, 2016). Trade costs also arise mainly as a result of delays at borders which hurt small traders more and exporters who depend on imported inputs (World Bank, 2014). Zambia is ranked 161 out of 190 economies on the ease of trading across borders (World Bank, 2017). This translates to higher costs of doing business in relation to other countries. To overcome this, Zambia has implemented the one-stop border posts to improve procedures in the areas of transit of goods, customs valuation and clearance of goods. However, Zambia being landlocked requires the regional harmonization in customs procedures and trade rules (UNCTAD, 2016). This situation presents a barrier to trade in agricultural products.

The OECD's Trade Facilitation Indicators (TFI) measure the performance of countries in the trade facilitation area. Zambia exceeds or is closest to the average performance of lower middle income countries in the areas of information availability, involvement of trade community, appeal procedures, fees and charges, formalities, border agency co-operation. Performance has improved between 2015 and 2017 in the areas of involvement of trade community, advance rulings, fees and charges, and governance and impartiality. Performance in the other areas is stable, with the exception of automation, where some ground was lost. Performance in all TFI areas is below best performance

[84] For more information on Trade Facilitation, consult Chapter 16 in this volume.

8.4 Concluding remarks

In Zambia the agricultural sector is a key sector for economic growth, employment, poverty reduction and food security. It is in fact the major employer in the country. Despite registering growth in production and exports over the years, the sector still faces a lot of challenges which impede it from performing to its full potential. Challenges which include limited access to foreign markets, reliance on rain-fed practices, access to improved road networks, poor irrigation infrastructures and mechanization, a weak research and development system, as well as limited access to credit particularly for smallholder farmers. To enable the sector perform to its full potential, these impediments need to be addressed. Various aspects need to be considered here and these include:

1. Diversify the sector from dependence on export of one crop as well as minimise government intervention in maize production and marketing
2. Invest more in livestock and fisheries.
3. Remove restrictions on maize exports to encourage production and increase incomes for farmers. Most importantly encourage value addition to maize before export, for example export mealie meal to encourage value addition.
4. Encourage comprehensive investment in the agricultural sector focusing on irrigation development, crop, soil, and livestock science research and development, extension programs, physical infrastructure development.
5. Encourage the private sector to play its role in the production and marketing of agricultural goods.
6. Ensure compliance with regional and global food safety and quality standards to ensure that Zambian agricultural products can access these markets. In addition, improve trade facilitation measure for the products.
7. Encourage the agro-processing industries to add value to agricultural produce before export. Encourage FDI inflow into the industry to invest in value addition as well as productivity enhancing technologies.

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Chapter 18: Trade in Services

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction to the Economics of Services Trade

According to Mattoo and Payton (2007), to say that "services and services trade matter for Zambia's development is immediately obvious". The challenge is that Zambia, just like many other developing countries, struggles to derive maximum benefits from different services which would spur economic growth and development. We all know what services are because most of us probably access, provide or come into contact with them on a daily basis. For example, when we wake up in the morning, we probably use water provided by e.g. Lusaka Water and Sewerage Company, we have our breakfast cooked using electricity provided by Zambia Electricity Supply Corporation (ZESCO), and maybe get to the university by bus. All of these are services.

The World Trade Organization (WTO) lists services in terms of 12 sectors as follows:

1. Business and professional
2. Communications, all types
3. Construction
4. Distribution
5. Education
6. Environment
7. Financial
8. Health and social
9. Tourism
10. Recreation and cultural
11. Transport, all types
12. Other[85]

The 12 services sectors above are usually generic or broad. Overall, this list of services sectors could be expanded to show several services delivered to customers around the world and/or services which would ensure an effective supply chain and the delivery of goods. For example, transport services include maritime transport services, passenger transportation, freight transportation, rental of vessels with crew, maintenance and repair of vessels, pushing and towing services, and

[85] Other denotes all services covered by GATS except transportation, tourism and travel services, and other services not included elsewhere.

supporting services for maritime transport. All these services go towards the delivery of goods for customer satisfaction.

The question that may be asked is "why are services important to a country like Zambia?" There are several answers to this. It could be argued that the performance of services and services sectors can ensure growth and poverty reduction and the attainment of the Sustainable Development Goals in many ways. For instance, in 2007, services are said to have accounted for about 64% of Zambia's GDP compared to 47% in other sub-Saharan African countries excluding South Africa (Mattoo and Payton, 2007). According to the 2019 World Trade Report, global trade in commercial services was worth US$ 13.3 trillion in 2017. Furthermore, in the same year, world services exports from LDCs stood at 0.3% or US$ 38.3 billion of world services exports. The production of commercial services in LDCs is now on average 40% of GDP. Such contributions to GDP and economic growth happen because services play key roles as:

a. **Inputs**: there are no goods that can be produced and exported without services as a key input. For instance, the production and exportation of copper in Zambia benefits from services such as those highlighted in figure 18.1, including maintenance and repair (of various machinery on the mine site); cargo handling (of copper concentrates to smelters within the SADC region); and medical services (for the miners) among other services.

b. **Facilitators**: according to the National Board of Trade Sweden, "Without services, global value chains will grind to a halt" (NBT, 2013). Services facilitate not only the production of goods but also the processes of economic growth, for example through financing (bank financial institutions) value-chains, thereby contributing to GDP. It is further noted that "Services are the oil in the machinery which makes it possible for the value chains to function at all. For example, transport is needed to distribute necessary goods and IT and communication services are needed to coordinate production" (NBT, 2013).

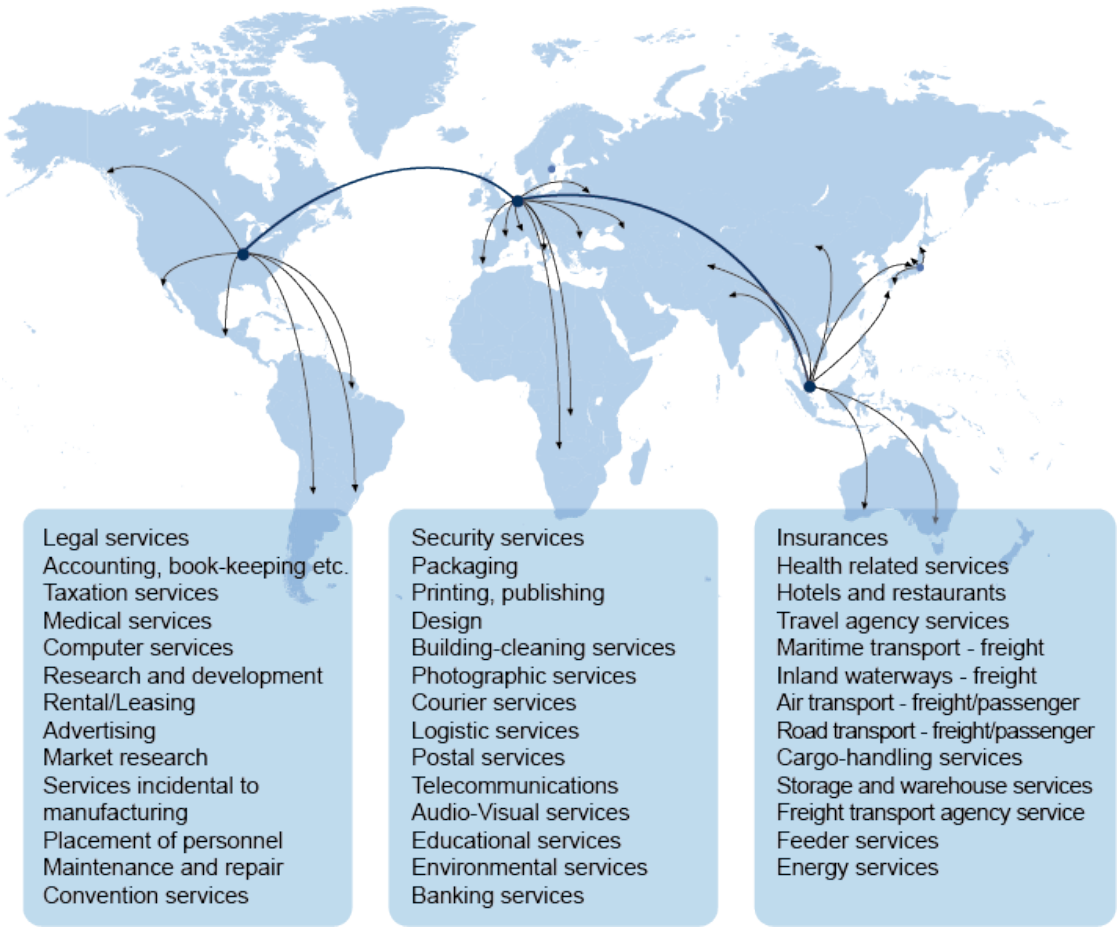
c. **Innovators**: the "innovative" role of services in today's economy can be seen from the concept of "servicification". It is noted that:

> *Servicification describes a process where non-services sectors in the economy: 1. buy and produce more services than before, and 2. sell and export more services, often as a package deal with the good. Companies in non-service sectors use an increasing number of services in their production. To develop goods and stay competitive entails research and development. Running the company demands legal, administrative and economic services as well as auditing and communications. Selling requires marketing and to get the goods to*

> *customers entail transport and logistics. Companies can either produce the services themselves or buy them from external suppliers. Services are added to goods to add value (NBT, 2013).*

Servicification would therefore entail a myriad services being produced more than before and becoming inputs in manufacturing more than before. As in figure 18.1, it is this servicification which would result in an effective supply chain, delivery of goods and attainment of consumer satisfaction.

Figure 18.1: Services for an effective supply chain, delivery of goods and customer consumption



Source: NBT (2012)

It has to be understood that although services are discussed in a local context in this Chapter, the focus is local context of international trade in services. Therefore, we define, explain and analyse services in the context of multilateral trade in services architecture resident in the World Trade Organization (WTO) framework.

2 Multilateral Regulation of Services Trade

International trade in services is regulated through the GATS (General Agreement on Trade in Services). GATS is one of the three core legal pillars (GATT; GATS; TRIPS) establishing the WTO. GATS provides the definition of an internationally traded service, coverage of services suppliers, and specifies the obligations of governments among others. Before detailing the structure of the GATS, let us begin by understanding what services are.

2.1 Defining an internationally traded service and modes of supply

Defining services commences with an understanding of the self-explanatory core characteristics of services, which are:

a. **Intangibility:** unlike goods, which can be seen and touched, services are intangible.

b. **Instorability:** goods can be stored and used another time. Services have the "highest perishability degree", in other words, they cannot be stored.

c. **Simultaneous production and consumption:** similar to (b) above, services are consumed at the same time as they are produced. As an example, a transport service enabling you to fly from one country to the other is produced at the same time as when you consume it. You may pay for an air ticket in advance but your consumption of such a service takes effect at the time you are aboard the airline and flying – that is the production time. A haircut at a barber shop is the easiest example of this characteristic.

In the context of international trade, a service is traded when a supplier from country A and a customer from country B are involved in a transaction, regardless of the location (whether in country A or B) of the transaction. Therefore, the GATS classifies services through what is referred to as "modes of supply", and states that "trade in services is defined as the supply of a service" in the context of four (4) modes of supply. The mode of supply is determined by considering which component of the service is crossing the border, e.g. whether it is the service, service supplier or service consumer:

Table 18.2: Summary of Modes of Supply

Mode #	Short Narrative/Title	Description
Mode 1	Cross-border supply	A service crosses the border from the service supplier in country A to a service consumer in country B
Mode 2	Consumption abroad	A service consumer crosses the border from country C to consume a service supplied by a service supplier in country D
Mode 3	Commercial presence	A service supplier from country E crosses the border and establishes presence in country F to supply the service

Mode #	Short Narrative/Title	Description
		to consumers in that country or to other countries (exporting from country F).
Mode 4	Movement/presence of natural persons	A service supplier (as a natural person) temporarily crosses the border from country X to country Y to provide a service

Source: author's own based on GATS

Under mode one, examples include e-banking, telemedicine, a phone call or e-mail from Zambia to Sweden, and supply of electricity from one country to another. In the third quarter of 2018 for instance, Zambia Electricity Supply Company (ZESCO) signed an MoU with ESCOM of Malawi to supply electricity to that country for five years. In mode two, tourism, health and education services are some examples. For example, a tourist from Sweden can come to Zambia to visit the Victoria Falls or watch the big five animals in Kafue National Park. Some among the students in the Trade Policy and Development course will go abroad once they graduate to consume education services when they study for their master's degree. In terms of health care, a number of Zambian political and famous personalities have over the past years died in South African hospitals where they went to seek specialist treatment.

Mode three would involve for example, Prudential or Sanlam Insurance Companies and Standard Chattered Bank establishing branches, a subsidiary or affiliate in Zambia to provide bank and non-bank financial services to customers in the country. Shoprite supermarket chain store is a unique example which could fit into mode three. Ordinarily, Shoprite is involved in "trade in goods". However, if we consider what it does when selling the goods as "retailing" then it qualifies to be in this mode of supply because retailing is a service. Toyota Zambia is another double-barrelled example of the goods-services supply nexus by selling vehicles as well as repair and maintenance services. However, most examples which would fall under mode three qualify for a detailed analysis under a distinct WTO – Trade and Investment – which is not covered by GATS.

Mode four is the presence/movement of natural persons which takes place when a service supplier (as a natural person) temporarily crosses the border from country X to country Y to provide a service. Ideally, mode four should involve a "temporary" aspect thus a classic example would be when Ben Carson (a US Neurosurgeon/Medical Doctor) came to Zambia to split the Siamese twins about two decades ago. Therefore, mode four occurs when an expert crosses the border temporarily to provide a service.

2.2 The General Agreement on Trade in Services (GATS) and its goals

In understanding the GATS, it is vital to start by the landmarks that characterised the establishment of the Agreement. According to the WTO (2012), there are three landmarks:

a. **1986-1993:** Negotiation as part of the Uruguay Round (UR).

b. **1994:** Signature of the Final Act of the UR, including the General Agreement on Trade in Services.

c. **1 January 1995:** the GATS enters into force

The GATS has three main goals. It is aiming to:

- Progressively liberalize trade in services
- Encourage economic growth and development
- Increase the participation of developing countries.

There is a background to the way the goals are framed seemingly in favour of developing countries. It can be noted that at the time of negotiating GATS in 1994 and subsequently establishing the WTO in 1995, members rendered cognizance to the fact that developing countries were in a special situation, and would therefore not liberalize immediately. Furthermore, it was recognized that the services trade pillar of the WTO was fairly new, unlike the goods side which had almost a 50 years' experience during the existence of GATT, which provided readily available lessons for learning. The developing countries hardly had experience with services trade. As such, it became evidently clear that members in the now global South needed more time to achieve the objective of progressive liberalization.

2.3 GATS – structure and administration

Delving into the GATS structure and related discussions gives us an understanding of trade law related to services. As such, we will refer to a number of legal terminologies and frameworks.

To start with, GATS which came into effect in 1995, constitutes Annex 1B to the agreement establishing the WTO. It is a "rules-based" framework for international trade in services. It is composed of 29 articles categorized in 6 parts plus the Annexes. A summary of the GATS structure can be found in table 18.3 below.

Table 18.3: Summary of GATS Structure

Parts	Description
Part I	Agreement scope & trade definition
Part II	General obligations & disciplines all members are bound to follow
Part III	Specific commitments of each member
Part IV	Establishes basis for members to enter into successive negotiation rounds
Part V	Instituitional & procedural provisions
Part VI	Final provisions
Annexes	Article II exemptions

Source: Author's based on (ITC, CS, UNCTAD and WTO, 2002)

Part I of the agreement provides the scope of the GATS and states that it is an agreement that applies to measures by members of the WTO affecting trade in services. Additionally, all the modes of supply and definition of services discussed earlier are defined in this part of the GATS. Part II sets out the general obligations and disciplines every member of the WTO is bound to follow. In part, this covers the core principles (e.g. transparency) anchoring the GATS which are discussed in the next section. General obligations can be organized in two categories:

- **General / unconditional obligations:** these must be followed by all members. They include MFN, transparency (publication) and domestic regulation in terms of review of decisions.
- **Conditional obligations / specific commitments:** these must be followed in sectors where members have made commitments. They include the notification aspect of transparency as well as administration of measures and licensing requirements which both fall under domestic regulation as well.

Part III concerns a schedule of specific commitments and will be presented in detail in section 2.5 below. Part IV provides for the basis for member countries in the WTO to enter into successive rounds of negotiations so that they can progressively achieve higher levels of liberalization as the ultimate goal for which the WTO was established. Key to Part V is the establishment of the institutional structure, namely the Council for Trade in Services within the WTO framework, and the dispute settlement procedures. These two are essential when members feel they are unfairly treated and need legal redress. Part VI makes reference to the Annexes to GATS, and Article XXVIII specifically provides definitions for the many legal concepts used throughout the Agreement.

Annexes as the last set of GATS clarify how the Agreement applies under different circumstances members may be faced with. As an example, the Annex on Article II on Exemptions basically spells out the conditions under which a member country, at the time GATS entered into force, could be exempted from observing the MFN obligations including the associated processes should the review and termination of such exemptions be sought. At the time the WTO came into being, 61 lists of derogations from Article II had been submitted and agreed to by members.

The GATS structure outlined above could further be condensed into three main elements as illustrated in table 18.4 below.

Table 18.4: The Three Main Elements of GATS

Main Element	Summary Description
Framework Agreement	Contains basic obligations and provisions applying to all services in all members
Schedule of Specific Commitments	Contains further national commitments which will be subject of a continuing process of liberalization
Annexes	Address particular policy concerns or the special situation of individual services sectors and modes.

Source: Authors' own based on (WTO, 2012)

GATS is administered by a number of bodies which form part of the WTO operative structure as in figure 18.5. The Ministerial Conference (just like in GATT) is the highest decision-making body on matters related to GATS. It draws input from the General Council which also relies on the Council for Trade in Services – anchored by two committees and two working parties.

Figure 18.5: WTO Working Bodies on GATS

Source: WTO (2012)

2.4 Core GATS Principles

The structure of the GATS is essentially built around three (or if split, four) basic principles of trade. These are:

Transparency

This is provided for under Article III of GATS (which falls under Part II of the structure above). Under this principle, members of the WTO are obliged to clarify all policies and regulations governing services trade; and ensure that they are readily available and accessible to all foreign suppliers of services. Therefore, the key issue under transparency is publication of new or changed policies, laws or regulation that can affect trade in services. Added to this is the requirement to establish and maintain enquiry points, as well as follow a fair judicial review when members are aggrieved. There are some exceptions for publication, such as emergency situations.

Non-discrimination

- This is two-fold, and consists of Most-Favoured Nation (MFN) on the one hand; and on the other hand, National Treatment (NT):
- **MFN:** Article II (under Part II) of the agreement states that all services suppliers and services from member countries must be treated the same when they seek entry into another member country. Article II states that "each member shall accord immediately and unconditionally to services and service suppliers of any other member treatment no less favourable than that it accords to like services and service suppliers of any other country" (WTO, 2002). One possible exception here is when for instance one of the members seeking entry into another country is not a member of an RTA (Regional Trade Agreement) unlike another member. In general, MFN is famously referred to as "favour one, favour all".
- **NT:** Article XVII of the GATS (which falls under Part III) is "National Treatment". NT is part of the main basis for the schedule of specific commitments discussed in the next section. According to the principle of National Treatment, "each Member shall accord to services and service suppliers of any other Member…treatment no less favourable than that it accords to its own like services and service suppliers" (WTO, 2002).

As can be seen from the non-discrimination principle, the concept of "likeness" – like service and like service supplier – is crucially significant to services trade as much as it is to trade in goods. Likeness entails that "unlike" services or service suppliers can be treated differently. There are three main challenges that arise in determining likeness (whether in trade in goods or services):

- **The characteristics/qualities challenge:** authorities dealing with respective situations grapple with which characteristics or qualities are important in assessing "likeness".
- **The extent/degree challenge:** they have to establish the degree or extent to which the services or service suppliers share qualities/characteristics for their "likeness" to be upheld.
- **The perspective challenge:** there are usually many stakeholders involved in services and/or service suppliers. The core question then becomes from whose perspective should likeness be judged and established?

Market access

This is another core aspect of the schedule of specific commitments. The Market Access principle states that "Services and services providers from foreign markets shall be granted access to the domestic market under conditions that are not trade-distorting, according to the liberalization commitments scheduled by the host country" (ITC et al., 2002).

2.5 Schedule of specific commitments and market access

2.5.1 Definition and governance of schedules of specific commitments

The schedule of specific commitments (shortened as "the schedule") is a document which is a legal instrument that presents the commitments undertaken as a result of past general or sectoral service negotiations for each member, sector by sector; mode of supply by mode of supply (WTO, 2012). *"Scheduling"* would thus mean "agreeing to bind a given service sector or subsector" (ITC et al., 2002). A specific commitment is an undertaking by a member to provide the following things for a specified service activity:

- Market access
- National treatment
- Additional commitments.

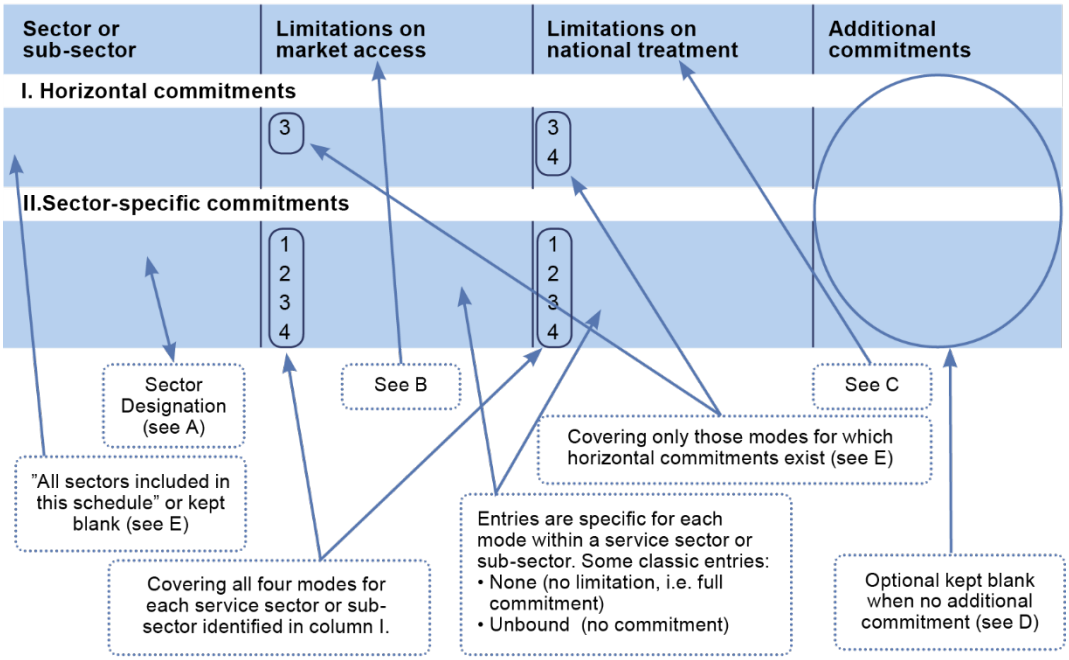
In the member's schedules, the clearly defined commitments are "bound" on an MFN basis. When a member makes a commitment, it "binds" the specified level of market access and national treatment, and undertakes not to impose any new measures that would restrict entry into the market or the operation of the service. The implications of specific commitments are similar to a tariff binding (in GATT). They are a guarantee to services suppliers in other countries that the conditions of entry and operation in the market will not be changed to their disadvantage (without being renegotiated) (WTO, 2018). Binding commitments means that they

can only be modified once renegotiated. Given the difficult process of "unbinding", the schedules have an inherent strong degree of predictability thus guaranteeing foreign exporters and importers of services and investors in the specified sectors that no sudden changes in services regulations will take place (WTO, 2002, 2012).

2.5.2 Structure of the schedule

Figure 18.6 below illustrates the basic structure of a schedule of specific commitments used by members to allow for comparability:

Figure 18.6: Basic Structure of a Schedule of Specific Commitments



Source: (WTO, 2012)

Columns

The schedule is better read/understood by looking at columns. Based on WTO (2012), the columns can be further detailed as follows:

- **Column 1 (Sectoral Column):** contains the sector or subsector which is the subject of the commitment a Member is making.
- **Column 2 (Market Access Column):** contains limitations on market access, which a "like" foreign importer or exporter may face. When a member undertakes a commitment in a sector or subsector it must indicate (as per transparency principle) for each mode of supply what limitations, if any, it maintains on market access.

- **Column 3 (National Treatment Column):** contains limitations on national treatment. The national treatment obligation under Article XVII of the GATS is to accord to the services and service suppliers of any other member treatment no less favourable than is accorded to domestic services and service suppliers. This column thus allows for NT to be implemented on equitable rather than equal treatment of members, a principle called "equality of competitive opportunity". This principle is crucial in that "equal treatment" if applied in all cases would place some foreign suppliers at a competitive disadvantage, and other times the local supplier and services become disadvantaged (ITC et al., 2002).
- **Column 4 (Additional Commitments Column):** governments may enter any additional commitments which are not subject to scheduling under market access or national treatment. Entries in this column are not obligatory but a member may decide in a given sector to make additional commitments relating to measures other than those subject to scheduling under Articles XVI and XVII, for example qualifications, standards and licensing matters. This column is to be used to indicate positive undertakings, not the listing of additional limitations or restrictions.

Horizontal and Sectoral Commitments
Beyond the columns, the schedule is divided into horizontal and sectoral commitments (WTO, 2018).

"Horizontal" commitments (Part I of the Schedule) stipulate limitations that apply to all the sectors included in the schedule. Any evaluation of sector-specific commitments must therefore take the horizontal entries into account. Horizontal commitments often refer to a particular mode of supply, notably commercial presence and the presence of natural persons.

Sectoral commitments (Part II of the schedule) contain a list of commitments which apply to trade in services in a particular sector or subsector.

These two parts of the schedule help avoid lengthy repetitions throughout the sectors covered. Other mandatory components of the schedule are outlined in Article XX of the GATS.

2.6 Zambia's schedule and general/standard nomenclature

At the time Zambia's schedule entered into force in 1995 at the establishment of the WTO, the country had made commitments in only four (4) sectors – business, construction/engineering, health, and tourism. In figure 18.7, the display of 1 of 6 pages of Zambia's schedule illustrates application of the columns, modes, and horizontal commitments discussed above.

Table 18.7: Part 1 of Zambia's Schedule

Modes of supply: 1) Cross-border supply, 2) Consumption abroad, 3) Commercial presence, 4) Presence of natural persons			
Sector or subsector	**Limitations on market access**	**Limitations on national treatment**	**Additional commitments**
I. Horizontal commitments			
All sectors included in this schedule	4) Unbound except for measures concerning the entry and temporary stay of natural persons employed in management and expert jobs for the implementation of foreign investment. The employment of such persons shall be agreed upon by the contracting parties and approved by the Ministry of Home Affairs. Enterprises must also provide for training in higher skills for Zambians to enable them to assume specialized roles.	3) Whitin permission from Bank of Zambia, a foreign-controlled company can obtain loans or overdrafts of up to one third of the value of its paid up capital. 4) Unbound except for measures concerning the categories of persons referred to in the market access column.	

Source: WTO website

Figure 18.8 which presents page 2 of Zambia's schedule not only continues with the aspects on page 1, but also exposes us to nomenclature of the GATS such as "none" and "unbound". According to ITC et al., (2002), "**none**" means Zambia has no limitations on foreign services or foreign services suppliers (in a respective mode), which do not comply with the relevant provisions of market access or NT. Simply put, "none" means there are no restrictions. "**Unbound**" implies that Zambia may have or introduce measures that are not consistent with/do not comply with GATS provisions of market access and NT. Put simply, unbound implies regulations can change any time. Where **"bound"** is found in a members' schedule, it refers to the "self-imposed obligation [by a member] to maintain the degree of liberalization specified in schedules for a particular services sector or subsector" (ITC et al., 2002).

Table 18.8: Part 2 of Zambia's Schedule

Modes of supply: 1) Cross-border supply, 2) Consumption abroad, 3) Commercial presence, 4) Presence of natural persons			
Sector or subsector	**Limitations on market access**	**Limitations on national treatment**	**Additional commitments**
II. Sector-specific commitments			
1 Business Services			
A. Professional Services			
b) Accountancy (862)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal selection	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal selection	
h) Medical and dental services (9312)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal selection	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal selection	
j) Services provided by midwifes, nurses, physiotherapists and para-medical personnel (93191)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal selection	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal selection	

Source: WTO website

3 Regional Trade Agreements (RTAs) and Unilateral Trade Preferences in Services

Liberalisation of trade in services can come as a result of multilateral, pluriteral and regional/bilateral agreements. A study by the World Bank (2009) has shown the importance of liberalization of trade in services for production and international trade. To enhance liberalisation of trade in services, countries are permitted under Article V of the GATS to enter into regional trade agreements or free trade agreements.

3.1 Liberalisation of trade in services in RTAs

Until the 1990s, regional trade arrangements (RTAs) were few and very limited in scope, focusing mostly on trade in goods rather than trade in services. However, a few RTAs covered services and these included the European Union (EU), the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA), and the Canada-United States Free Trade Agreement (CUSFTA)

(Stephenson and Robert, 2011). In recent years, RTAs covering trade in services have proliferated, with 158 out of 311 agreements in force covering services. The proliferation is a result of the increasing awareness about the importance of services for production and employment in all economies around the world (World Bank, 2009).

It has been argued that there is a need for more focus on trade liberalisation in regional settings due to the significant potential between neighbouring or regional countries (Hoekman, 2017). RTAs have tended to complement the WTO agreements by including chapters on investment, competition policy, electronic commerce and intellectual property rights that apply to both goods and services (Stephenson and Robert, 2011; Marconini, 2009). Stephenson and Robert (2011) however, contend that RTAs have not been able to push countries to liberalize their service sectors at a faster pace than they would otherwise have done on their own. Most services sector liberalisation is usually unilateral in nature. Thus, services provisions in RTAs should primarily be seen not as a way of opening markets, but as a way of keeping them open.

Liberalisation of trade in services under RTAs and bilateral trade agreements follows various approaches (Mattoo and Zanini, 2013). Some RTAs replicate the GATS positive list. Under this approach a country is required to explicitly list the services sectors in which it undertakes market access and national treatment commitments as well as the exceptions to these commitments (WTO, 2019; European Commission, 2016). Others pursue a negative-list methodology, which does not require explicit listing of committed sectors. Under this approach, all services sectors that are not listed are open (liberalized) unless otherwise stated (WTO, 2019; European Commission, 2016). Finally, there is a hybrid approach to services market opening, which involves the use of both the negative listing and the positive listing (European Commission, 2016). Under most RTAs, trade in services falls under the negative list approach which differs from the GATS (Hoekman, 2017).

In fact, by the end of 2018, 60% of RTAs containing services provisions were using a negative list approach (WTO, 2019). Mattoo and Zanini (2013) contend that preferential arrangements can contribute to further liberalizing the multilateral trading system if they have substantial sectoral coverage, provide for the absence or elimination of substantially all discrimination between or among the parties to the agreement in sectors subject to multilateral commitments, and if they do not result in higher trade and investment barriers against third countries.

3.2 Unilateral trade preferences: the services waiver

The WTO GATS prescribes that developed countries can grant non-reciprocal trade preferences to some or all developing countries. These non-reciprocal trade preference arrangements can involve lowering tariffs on imported goods/or allowing preferential access for service suppliers from these countries without reciprocation. The services waiver was adopted in 2011 at the Geneva Ministerial conference. The waiver allows developed and developing countries to abrogate the MFN treatment and offer preferential treatment to services from least-developed countries (LDCs) (Carpio and Mir, 2014). It is envisaged that the waiver would stimulate trade in services for LDCs and enhance service liberalisation. However, LDCs face supply side constraints which will impede them from taking advantage of the preferences (Mendoza et al., 2016). Therefore application of the waiver should be complemented with provision of technical assistance and capacity building to LDCs in order to ensure that they utilise the waiver.

4 Zambia's Experience with Trade in Services

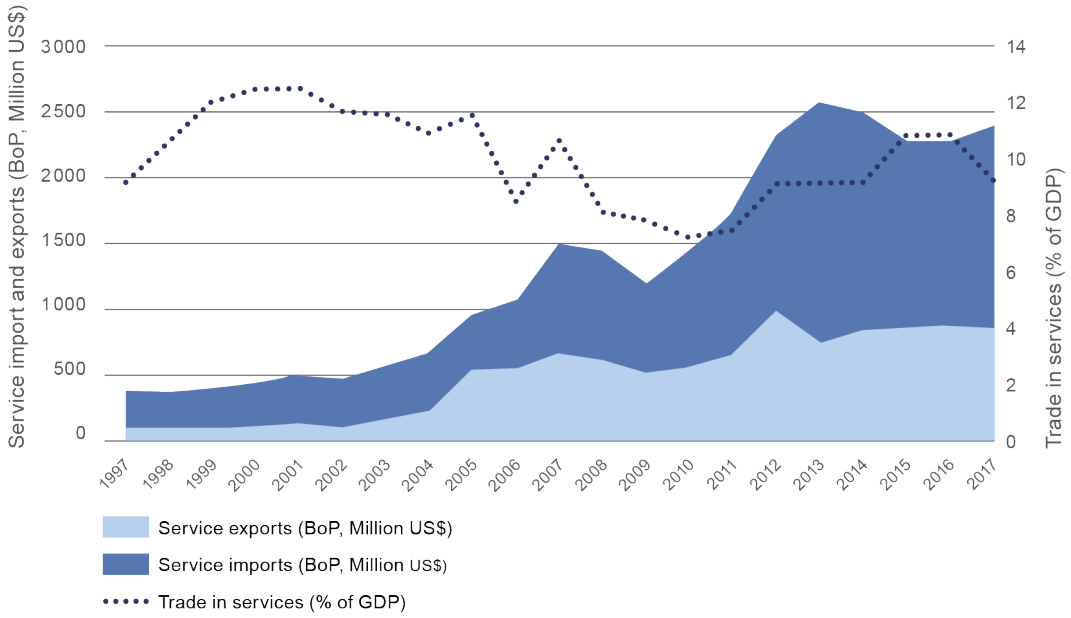
Services play an important role in any economy world over. In Zambia, like in many other countries, services are important as they are a critical input into production of goods and other services (Dihel and Goswami, 2016). The service sector has been one of the main contributors to economic growth and employment creation since independence in 1964. Between 1960 and 2002, about 90% of Zambia's economic growth was attributed to service sector growth and since 2002, it has continued to contribute about 50% of the national GDP growth rate (Mattoo and Payton, 2007; Mulungu and Ng'ombe, 2017). A study by UNCTAD (2016) has observed an increase in the contribution of services to GDP from 51% in 1995 to 70% in 2013. This has also been observed by other researchers (Ndulo and Chanda, 2016). They further noted that the average contribution of services sector jobs to total jobs between 2000 and 2013 was 69.07%, making the service sector the major contributor to jobs in Zambia.

4.1 Trade in services in Zambia and trends

Countries trade in services for the same reasons that they trade in goods. Countries cannot produce all the services they need, therefore they need to trade. According to Dihel and Goswami (2016) cost difference, quality differences, non-availability of services in the home economy and distance between countries are drivers of trade in services in African countries. Various barriers hinder trade in services such as skills shortages, regulatory hurdles and diverging standard and requirements.

Zambia trades in services through the four modes of supply: cross-border trade, consumption abroad, commercial presence, and movement of natural persons. However, the data is not disaggregated into the four modes of supply. Notwithstanding the fact that services are a dominant contributor to employment and economic growth, the sector has in the past not contributed much to exports and imports in Zambia. In the recent years, trade in services has increased with imports growing faster than exports, which is highlighted in figure 18.9 below. Similarly, trade in commercial[86] services has increased with imports outpacing exports. This is illustrated in figure 18.10. Clearly trade in services is becoming more and more important, particularly as a result of the continued implementation of trade reforms which started in the 1990's.

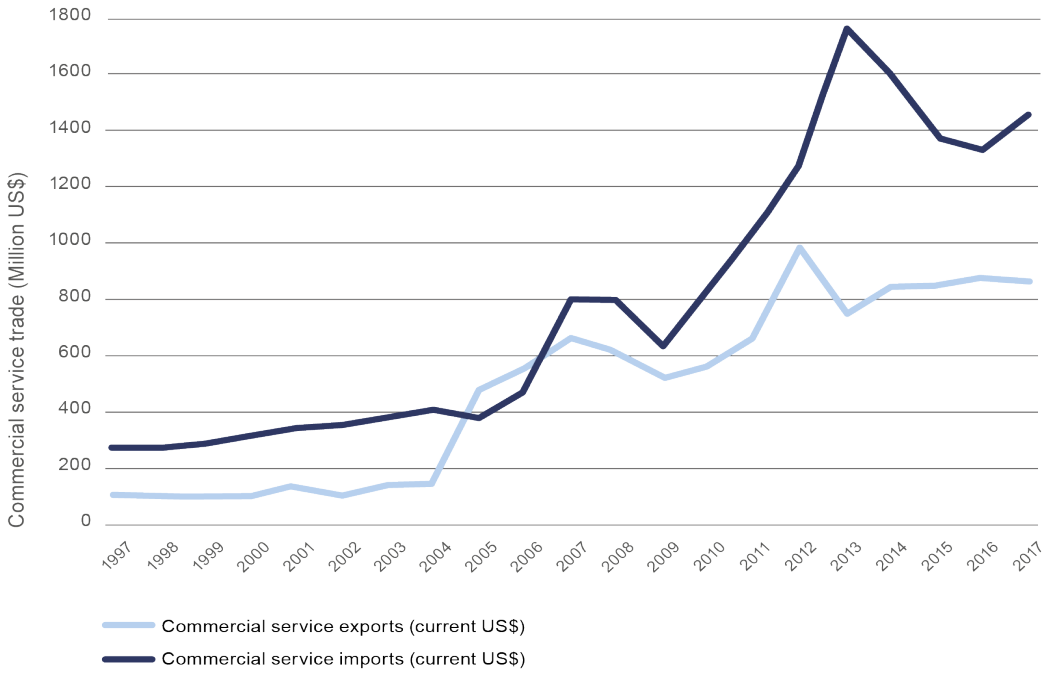
Figure 18.9: Trade in services as a percentage of GDP and service export and imports



Source: Author's analysis based on WDI data.

[86] Commercial service exports (imports) are total service exports (imports) minus exports (imports) of government services not included elsewhere. International transactions in services are defined by the IMF's Balance of Payments Manual (1993) as the economic output of intangible commodities that may be produced, transferred, and consumed at the same time. Definitions may vary among reporting economies.

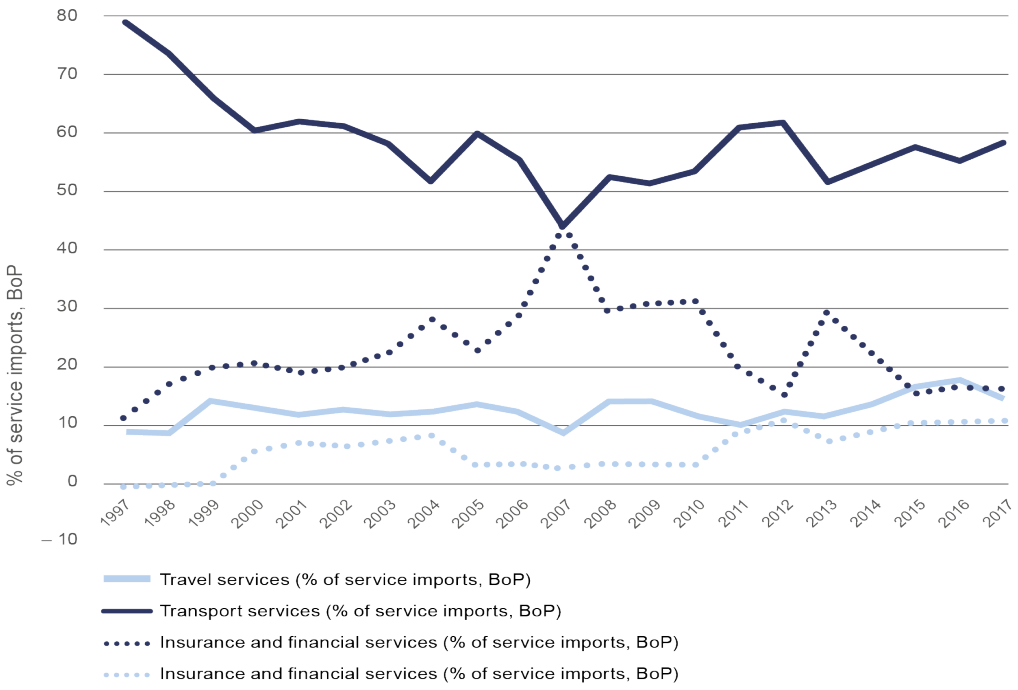
Figure 18.10: Trends in Zambia's export and imports of commercial services, 1997–2017



Source: Author's analysis based on WDI data.

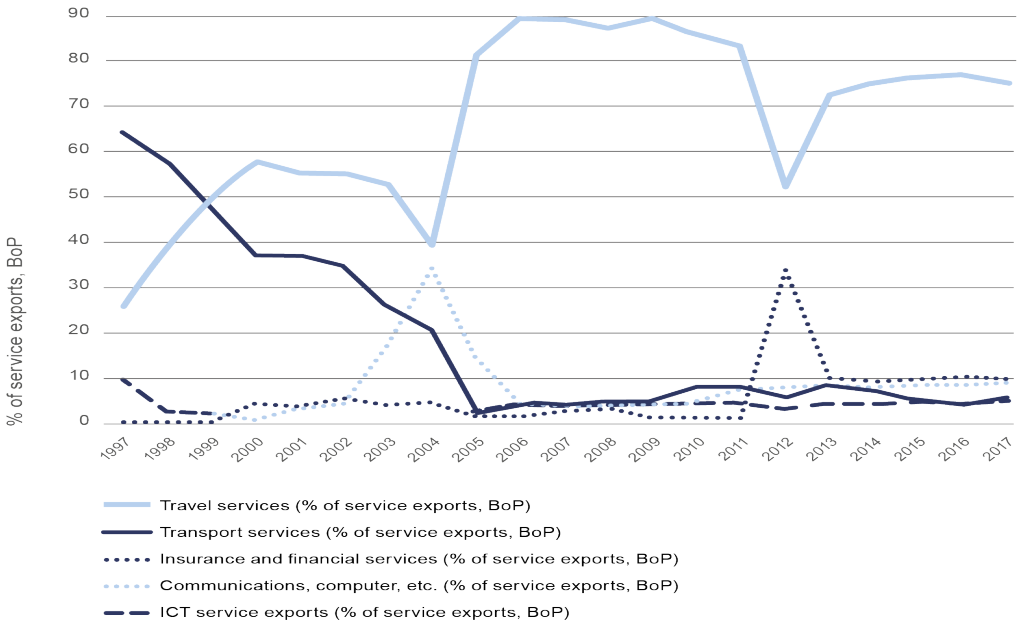
In terms of the composition of services trade, figure 18.11 shows the trends in major services imported from the rest of the world. Figure 18.12 shows the trends in major services exported from Zambia to the rest of the world. The figures demonstrate that Zambia trades in a limited number of services. These include ICT, travel, transport, insurance and finance, as well as communication services. Travel services have shown an upward trend and dominate the service exports accounting for about 75.44% of total services exports. Import of transport services has consistently dominated the service exports from 1997 to 2017 and accounted for 58% of the total service imports in 2017.

Figure 18.11: Composition of Zambia's services imports, 1997–2017



Source: Author's analysis based on WDI data.

Figure 18.12: Composition of Zambia's services exports, 1997–2017



Source: Author's analysis based on WDI data.

4.2 Overview of key service sectors in Zambia

Various studies (Ndulo and Chanda, 2016; UNCTAD, 2016; WTO, 2016) have identified the key service sectors in Zambia, which will be briefly presented below.

4.2.1 Transport

An efficient transport system is a critical ingredient for economic development of any country world over (Filip and Popa, 2014; Faridi et al, 2011; World Bank, 2011). This is because the transport system directly links various economic activities thereby promoting production, trade and enabling movement of people from place to place. Indirectly, an efficient transport system catalyses investment and the emergence and growth of industries wherever it is established. In Zambia, like in most countries, the major forms of transport include road, rail, air and water. The road transport dominates the sector as it carries the largest percentage of the cargo and people (GRZ, 2014). The railway system is generally inefficient in Zambia. Transport costs are comparatively higher than other countries in the region and remain one of the drivers of the high cost of doing business in the country (UNCTAD, 2016).

4.2.2 Telecommunications

Telecommunication services play an important role in all spheres of life and all sectors of the economy. In Zambia the telecommunications sector is dominated by fixed-line services as well as mobile and internet services (UNCTAD, 2016). The land line services are provided by Zambia Telecommunications Company Limited (ZAMTEL). The mobile service providers include ZAMTEL, Airtel and MTN. Internet services are provided by the three mobile service providers and other internet service providers. Despite the liberalization of the sector, it still remains limited, unreliable and expensive (UNCTAD, 2016).

4.2.3 Financial services

Finance is the lifeblood of any economy. Financial services are key services that affect the production of all goods and services in the economy (Ndulo and Chanda, 2016). Financial services are provided by both the banking and non-banking financial institutions. Prior to liberalization the sector was small and very inefficient. After liberalization the sector has witnessed growth in the number of players and number of products offered. The sector is characterized by imperfect competition making it vulnerable to monopolistic and other pervasive tendencies, and this provides an explanation for the persistently high lending rates. The government, in an effort to improve financial inclusion, has continued to pursue reform measures directed at addressing weaknesses in the financial sector to improve market infrastructure, increase competition and increase access to finance (WTO, 2016). Other services include microfinance services and insurance companies.

4.2.4 Energy

Energy is another crucial service for the majority of economic activities. The energy sector in Zambia is not well diversified. The most important source of energy in Zambia is electricity and petroleum. As a result of growth in the economy and growth in business activities the demand for electricity has increased without a corresponding investment in the sector. This has resulted in a mismatch between demand and supply and led to deficits in supply, disrupted economic activities and adversely affected production of goods (Ndulo and Chanda, 2016).

4.2.5 Tourism

Zambia has a comparative advantage in tourism, with abundant natural resources and a variety of wildlife. The contribution of tourism to Zambia's service exports, economy and employment is already significant but it is still modest compared to neighbouring countries (GRZ, 2014). The number of tourists visiting Zambia has been increasing but lags behind its peers like Zimbabwe, Tanzania and Kenya. The tourism industry has been growing over the years owing to increased investment in tourism infrastructure (WTO, 2016). The sector performance can be further enhanced by increasing investment into the sector and addressing both the supply-side and demand side constraints.

4.3 Zambia's services trade performance

Services in Zambia, such as transport, telecommunications, financial and energy sectors are unreliable, unproductive, expensive, uncompetitive and generally inefficient (UNCTAD, 2016). Inefficient services increase the costs of production and make the products and services uncompetitive on the world market. The competitiveness of most exported goods depends largely on critical services inputs. Continued efforts are, therefore, being made to address the challenges in order to improve the efficiency of the service sector.

Under the WTO, Zambia is party to the General Agreement on Trade in Services (GATS), whose objectives are to ensure that all member countries are treated equitably when accessing foreign markets and to promote progressive liberalization of trade in services. Under the GATS, Zambia has bound market access in certain business services, construction and related engineering services, healthcare and social services, as well as tourism and travel-related services (WTO, 2016). Committing the services under the WTO would help remove the distortions in the service sector and enhance its integration in the world market.

The narrow range of service import and export shows that Zambia has not fully engaged in trade in services with the rest of the world. Various factors prevent Zambia from fully expanding her export of services. These factors include:

1. limited services supply capacity,
2. inadequate regulatory framework,
3. absence of a national policy concerning services trade,
4. difficulties in translating regulatory frameworks into opportunities,
5. fragmentation of regional markets for services through restrictive regulatory policies and regulatory heterogeneity (WTO, 2016; GRZ, 2014).

4.4 How can Zambia enhance her trade in services?

Zambia's service sector has the potential to grow and contribute to export growth. The key to enhancing its growth lies in addressing the various impediments that affect the service sector. This would involve full liberalization of the key services, as well as addressing the supply side constraints such as enhancing the capacity of local service providers and reducing the regulatory impediments.

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Chapter 19: Trade and Investment

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Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

Many countries the world over have highlighted the importance of trade and investment in their economies. In developing countries for instance, trade and investment are considered catalysts for economic growth as well as the engines that drive the development agenda (Makki and Somwaru, 2004; Were, 2015). Empirical evidence suggests that countries more open to trade and investment tend to be more productive and grow faster (Dollar 1992; Harrison 1996; Frankel and Romer 1999). While on the one hand investment which is mostly in the form of foreign direct investment (FDI) aims to create jobs, bring in cutting-edge knowledge and technology, connect to global value chains, and diversify and upgrade production capabilities in economies (World Bank, 2018), trade on the other hand facilitates more efficient production of goods and services by shifting production to countries that have comparative advantage in producing them (Makki and Somwaru, 2004).

Literature shows that there is a close link between the two aspects, for instance Were (2015) contends that trade, particularly via the investment channel, is an avenue through which developing countries, including African countries, can adopt new technologies and attract FDI to unlock their potential, e.g., by active integration into regional and global value chains. Trade and investment have played a significant role in developing countries, least developed countries (LDCs) and economies in transition through promoting productive employment, decent job opportunities, reducing poverty, transfer of technology, as well as new business and management models. For this reason these economies have continued to implement policies aimed at promoting trade and investment with the broader aim of attaining economic growth and development. It is worth noting that almost all the global documents on promoting sustainable development and economic growth, most notably The 2030 Agenda for Sustainable Development and Addis Ababa Action Agenda of the Third International Conference on Financing for Development, recognize this vital role of trade and investment to enhance global efforts to effectively realize the sustainable development goals. However, despite the importance of trade, this chapter sets its focus only on investment. The chapter is structured as follows: first, it will define investment and discuss the different types of investment, then it will discuss the investment policy and regulation at the global stage and then finally narrow the discussion to the Zambian situation.

2 Definition and Types of Investments

The charter of the International Centre for Settlement of Investment Disputes (ICSID), which is the institution mandated to preside over investment matters did not formally define what an investment is.[87] To fill this void, the Investment Policy Framework for Sustainable Development (IPFSD) has come in to provide a set of guidelines that should be covered in International Investment Agreements (IIA) (UNCTAD, 2015) which stipulate that an investment should:

i. Offer coverage of any tangible and intangible assets in the host State (through an illustrative/open-ended list) directly or indirectly owned/controlled by covered investors.

ii. Compile an exhaustive list of covered investments and/or excludes certain types of assets from coverage e.g.

   - Portfolio investment (with or without the definition of the term).
   - Sovereign debt instruments.
   - Commercial contracts for the sale of goods or services.
   - Assets for non-business purposes.
   - Intellectual property rights not protected under domestic law.

iii. Require investments to fulfill specific characteristics e.g. that the investor

   - Involves commitment of capital, expectation of profit and assumption of risk.
   - Involves assets acquired for the purpose of establishing lasting economic relations.
   - Delivers a positive development impact in the host country (i.e. parties could list specific criteria according to the needs and operations).

iv. Use a narrow, exclusively enterprise-based definition which covers only enterprises owned/controlled by an investor (i.e. no other asset, are covered by the treaty).

[87] Various tribunals have been set up to come up with an official definition of investments, which after so much struggle eventually settled for the Salini test. The Salini test defines an investment as having four elements: (1) a contribution of money or assets (2) a certain duration (3) an element of risk and (4) a contribution to the economic development of the host state. However, Salinis definition has been subject to controversy pertaining to the requirement of a contribution to the host state's economy and as such BITs continue to use their own definitions.

v. Includes legality requirement i.e. that investment must be made in "accordance with host country laws and regulations."

In line with these guidelines, investment treaties worldwide have come up with various definitions of what qualifies as an investment in their bilateral investment treaties (BITs). One classic definition is the principle-based approach employed by many BITs. According to this definition, investment is any kind of asset that an investor owns or controls, directly or indirectly that has the characteristics of an investment, which include: the commitment of capital, the expectation of gain or profit, or the assumption of risk (UNCTAD, 2020).

The first essential point with regard to this definition is that it involves the commitment of capital. Capital is by definition the sum of money or other liquid assets established for the purpose of investment. Therefore, investors are willing to set aside some money or assets for the sole purpose of investing into something. The second essential point with regard to this definition is that there is an expectation of gain or profit.[88] This means that the investment is made with the main purpose of accruing or generating wealth or a benefit from the investment. Finally the third point involves the assumption of risk. The risk for an investment is connected to how easy it is to move the investment i.e. when the investment is more difficult to sell or transfer, then it is considered a high risk investment and vice versa.

Not all types of investments are alike, they may be grouped into foreign (international) and local (domestic) investment and further divided into investment in the means of production, and purely financial investment (New Encyclopaedia Britannica, 2003). Basically all types of investments may provide a monetary return to the investor. The classification of investment into foreign and domestic depends on the identity of the investor, as this has legal connotations. While a foreign investment is an investment made by a foreign resident and "involves the transfer of tangible or intangible assets from one country into another for the purpose of use in that country to generate wealth under the total or partial control of the owner of the assets" (Sornarajah, 2010). Domestic investment on the other hand is an investment by a domestic resident in his or her own country rather than abroad. In as much as an economy needs *both* foreign and domestic investment, more attention is given to foreign investment, particularly in developing economies. This is because foreign investment is assumed to bring many benefits, among them; substantial capital flows, the transfer of more advanced technologies, and the transfer of managerial or marketing practices among other benefits. This chapter will therefore focus on foreign investment.

[88] This excludes assets for non-business purposes as provided in the Investment Policy Framework for Sustainable Development (IPFSD) guidelines.

The most common foreign investments into the economies of developing countries can be grouped into four broad categories: FDI, Portfolio Investment (PI), Official Development Assistance (ODA), and Other private capital flows.

2.1 Foreign Direct Investment (FDI)

Over the last decade, FDI has been the greatest source of external finance for developing countries, exceeding PI and other private capital flows as well as ODA (UNCTAD, 2011). FDI is defined as an investment involving a long-term relationship and reflecting a lasting interest and control by a resident entity in one economy (foreign direct investor or parent enterprise) into an enterprise resident in an economy other than that of the foreign direct investor (FDI enterprise or affiliate enterprise or foreign affiliate) (UNCTAD, 2011).

According to the UN, FDI implies that the investor exerts a significant degree of influence on the management (an equity capital stake of 10 percent or more) of the enterprise resident in the other economy. It involves investing in a foreign market in order to carry out a specific business activity. In addition, FDI is undertaken to acquire lasting interests meaning that foreign investment is made for long term.

There are two types of FDIs: (i) Mergers and Acquisitions (M&As); and (ii) Greenfield Investments. M&As bring separate companies together to form larger ones or involve taking over of capital, assets and liabilities of existing enterprises. Greenfield Investments on the other hand are new investments which involve setting up a new entity. The advantages of M&As over Greenfield investments is that they provide immediate access to the host market, to the assets owned by the local enterprise (including potentially its intellectual property), to a skilled and experienced workforce, and to an established supply chain whereas the latter do not. In addition, M&As facilitates quick entry and immediate access to local resources and they require less time to start production (Marinescu, 2016). On the other hand, the advantage of establishing a new entity as the vehicle for the investment is that the new enterprise can be structured more easily to fit the investor's business needs and can be expanded gradually if necessary and involves less risk (UNCTAD, 2011).

Empirically, since the 90s, M&As have dominated greenfield investments in worldwide FDI and they continue to gain prominence although the gap is narrowing. As of 2016, global M&As stood at $869 billion while global greenfield projects stood at $828 billion (UNCTAD, 2017). According to Marinescu (2016), during the 1990s, M&As became a widely used mode of transnational corporation (TNC) entry and expansion in virtually all industries. The surge in the M&As particularly in African countries was as a result of the structural transformation that most of the countries were undergoing, which involved privatization of state owned

enterprises as they transformed their economies into more market based economies. The surge was also compounded by the changes that occurred in the global marketplace, including the fierce international competition triggered by excess capacity in several industries, and the strategic posture taken by oligopolies (Marinescu, 2016).

There have been many M&As that have taken place at the global stage. In Zambia, notable M&As which began mainly after the privatization of state owned enterprises in the 1990s are: the 2007 acquisition of 49% shares of the Zambia National Commercial Bank by RABO Bank of the Netherlands and the recent takeover of Finance Bank Zambia (FBZ) by the Financial Group Atlas Mara Limited in 2016. The deal involved the acquisition of FBZ and its subsidiaries for US$61 million in cash and 3.3 million Atlas Mara shares, plus a deferred contingent consideration of up to 1.3 million shares (Lusaka Times, 2016). In Zambia, Greenfield investments have been taking place in various sectors but most notably in mining (particularly, the exploration of new copper deposits), agriculture (in particular horticulture and floriculture production) and in tourism (UNCTAD, 2006). Among the Greenfield investments in the mining sector are the Kansanshi mine, Lumwana Copper mines, Albidon Nickel mine and Chambeshi Copper Smelter. Other projects have been in the services sector for example, the Sun Resort International Hotel to support Government's objective to develop the Victoria Falls area as a prime tourist destination.

According to Dunning (1993), a widely recognized economist in the investment field, there are four motives for investment; (a) Market-seeking; (b) Efficiency-seeking; (c) Resource-seeking; and (d) Strategic asset-seeking.

a. **Market-seeking**
   This form of FDI is driven by the current size or expected growth of the host market. The market size can be further enlarged by regional, preferential and bilateral trade agreements with other countries.

b. **Efficiency-seeking**
   This form of FDI aims to rationalize the investor's operations by taking advantage of lower costs or economies of scale and scope.

c. **Resource-seeking**
   This form of FDI takes place when the investor wants to acquire resources such as raw materials in the country they decide to invest in.

d. **Strategic asset-seeking**
   This type of FDI is driven by access to created assets in the host country, for example special skills or technology.

Investors engage in FDI that combines characteristics of the above categories when making their investment decisions. FDI as compared to other forms of investment is more stable, less prone to volatility and can bring significant development benefits to the country and as such, many developing countries have designed incentive packages to attract it (UNDP, 2011). According to OECD (2002), the developmental benefits attributed to FDI include technology spillovers, assisting in human capital formation, contributing to international trade integration, and helping create a more competitive business environment and enhancing enterprise development. All of these contribute to higher economic growth, which is the most potent tool for poverty alleviation (OECD, 2002).

2.2 Portfolio Investment (PI)

A portfolio investment occurs when investors purchase non-controlling interests in foreign companies or buy foreign corporate or government bonds, short-term securities, or notes (USG, 2004). ***It involves the*** movement of money for the purpose of buying shares in a company formed or functioning in another country (Sornarajah, 2010). The World Bank defines portfolio flows as consisting of "bonds, equity (comprising direct stock market purchases, American Depository Receipts (ADRs), and country funds), and money market instruments (such as certificates of deposits (CDs) and commercial paper". The point of departure of portfolio investment from other types of investment, particularly FDI, is that it may not necessarily involve ownership, management and control of the company or its assets. As such, it tends to be much more volatile as compared to other types of investments as investors can pull out or sell off their assets with relative ease. While portfolio investment is intended to provide an alternative source of capital to developing economies, its contribution has been rather low, though growing over the years. An attractive feature is that it can provide equity finance for developing countries with fewer of the difficulties about foreign control that are associated with direct investment (USG, 2004).

2.3 Official Development Assistance (ODA)

It provides concessional international public finance to low- and middle-income countries with the greatest needs and least ability to mobilize other resources. ODA is defined as government aid designed to promote the economic development and welfare of developing countries (OECD, 2018). Aid includes grants, "soft" loans (where the grant element is at least 25% of the total) and the provision of technical assistance (OECD, 2018). ODA is an important, but relatively small, source of finance for development in developing countries. In recent years however, the finance to developing countries has been on the rise following the commitments contained in both the Monterrey Consensus and the Doha Declaration on Financing for Development, including Target 17.2 of the Sustainable Development Goals

(SDGs). The SDG target 17.2 outlines the commitment by many developed countries to achieve the target of 0.7 per cent of ODA/Gross National Income (GNI) and 0.15 - 0.2 per cent of ODA/GNI to the LDCs. In addition, the Addis agenda committed to encourage ODA of 0.2 per cent of GNI to LDCs, and to recognize those countries that allocate at least 50 per cent of ODA to LDCs (OECD, 2018). The major advantage of ODA is that it is less volatile and more predictable in most countries.

2.4 Other private capital flows and remittances

These include short term banking sector capital flows in the form of currency and deposits among other private capital flows and remittances by migrants to their home countries. These are quite unstable because they are highly volatile and tend to be more susceptible to external shocks and currency instability compared to other private capital flows such as FDI and PI. Nonetheless, remittances are an important and growing source of foreign funds for several developing countries as they constitute a large source of foreign income relative to other financial flows (UNDP, 2011).

3 Purpose of Investment and its Relationship to Trade

Literature shows that there is a rather complex relationship between investment particularly FDI which is the major form of investment coming into the developing economies and international trade. The complex relationship stems from the fact that empirical evidence fails to arrive at a clear cut explanation of the relationship between the two (i.e whether they are complementary of substitutes). Empirical literature that supports the notion that FDI promotes exports of host countries contend that it does so by (i) augmenting domestic capital for exports, (ii) helping transfer of technology and new products for exports, (iii) facilitating access to new and large foreign markets, and (iv) providing training for the local workforce and upgrading technical and management skills (Zhang, 2016). Dagli (2017) also point to a positive and significant effect of FDI on exports at a bilateral and sectoral level, which suggests a complementarity between the two. On the other hand, however, it is sometimes suggested that FDI may (i) lower or replace domestic savings and investment; (ii) transfer technologies that are low level or inappropriate for the host country's factor proportions; (iii) target primarily the host country's domestic market and thus not increase exports; (iv) inhibit the expansion of indigenous firms that might become exporters; and (v) not help developing the host country's dynamic comparative advantages by focusing solely on local cheap labour and raw materials (Zhang, 2016). When FDI affects exports negatively then,

they are considered substitutes. However, whether complements or substitutes, trade and investment have played a significant role in developing countries as already outlined.

In theory, there are basically two major reasons why a country particularly a developing country will try to promote investment. Firstly, investment promotes international competitiveness. When a country promotes investment, especially in its productive sectors through adopting new and more efficient technologies, it will produce goods and services which provide better value than its foreign competitors thereby granting its products competitive advantage. With a rise in competitiveness, the country will experience a surge in its exports which ultimately will improve its balance of trade situation. Secondly, investment has the potential to promote economic growth through:

- Capital transfers
- Employment creation both directly and indirectly
- Skills transfer and development through training of the local workforce.
- Technology transfers
- Revenue generation through taxes and, or duties on traded goods.
- Improve the host country's environment by way of possessing clean technologies and modern environmental management systems.
- Enhances enterprise development

However, it is important to note that in practice, investment does not always lead to positive spill-over effects. The presence of foreign firms may lead to local firms experiencing losses in their market share due to increased competition; declining productivity; intense pressure to exit the business due to technology intensity by multinationals and also foreign firms will bid away high-quality labor from domestic firms by offering higher wages and benefits (Farole and Winkler, 2014). FDI may also have negative spill-overs on the environment. According to the 'pollution havens' hypothesis, companies will move their operations to less developed countries in order to take advantage of less stringent environmental regulations (Mabey and McNally, 1999). Therefore in order to attract investment, countries may purposely undervalue their environment which poses distinct threats to achieving environmental sustainability (Mabey and McNally, 1999). Furthermore, some argue that FDI can contribute to the exploitation of workers by subjecting them to long working hours and poor working conditions as firms want to reduce their costs, also known as "race to the bottom".[89] FDI may also result in

[89] For more information on this, consult chapter 4 in this volume.

income inequality as established in a study by Clark et al. (2011). These effects may ultimately lead to a reduction in international trade.

4 Investment Policy and Regulation

It is no hidden fact that investment is an important aspect of a country's growth and development prospects. As such, there is a need to attract not only the right investment in the right sectors or to facilitate interactions with the local economy or to maximize the absorption potential of the local **players**, but there is also need to provide a favourable policy and regulatory framework both at the global and local levels. At the global level, the regulatory role is undertaken by the World Trade Organization (WTO) while at the national level, the national governments are responsible. Furthermore, countries are also parties to preferential trade agreements which have proliferated in the last three decades. Embedded within these preferential agreements are provisions that provide policy guidelines to member countries.

4.1 WTO regulation on FDI

The WTO is mandated to oversee all global investment policy and regulation issues so as to foster investment. Its main areas of work on trade and investment are categorized into three instruments:[90]

i. **A Working Group established in 1996 to conduct analytical work on the relationship between trade and investment.**
At the 1996 Singapore Ministerial Conference, Ministers from WTO member-countries came up with four subjects which were originally to be included in the Doha Development Agenda. They included: trade and investment, competition policy, transparency in government procurement and trade facilitation. The negotiations were to start after the 2003 Cancún Ministerial Conference and decisions were to be undertaken on the basis of explicit consensus. However, there was no consensus, and the members agreed on 1 August 2004 to proceed with negotiations in only one subject, trade facilitation. The other three were dropped from the Doha agenda.

ii. **The Agreement on Trade-Related Investment Measures (TRIMs).**
The global FDI boom experienced in the late 1980s, saw recipient countries impose numerous restrictions on investment with an aim to protect and foster domestic industries and to prevent the outflow of foreign exchange reserves. These restrictions were a contravention to the GATT rules and as such, during the Uruguay Round negotiations, a comprehensive Agreement

[90] For more details on this, consult chapter 5 in this volume.

on TRIMS was established to address these restrictions. TRIMS is one of the Multilateral Agreements on Trade in Goods which prohibits trade-related investment measures, such as local content requirements, manufacturing requirement, technology transfer requirements among other requirements that are inconsistent with basic provisions of GATT 1994. Before the TRIMS agreement, there were few international agreements that provided disciplines for measures restricting foreign investment. These agreements provided only limited guidance in terms of content and country coverage. TRIMS recognizes that since certain investment measures can have trade-restrictive and distorting effects on trade in goods, members will not be allowed to apply a measure that is prohibited by the provisions of GATT Article III (national treatment) or Article XI (quantitative restrictions) (WTO, 2020). In addition, it provides an illustrative list that explicitly prohibits local content requirements, trade balancing requirements, foreign exchange restrictions and export restrictions (domestic sales requirements) that would violate Article III:4 or XI:1 of GATT 1994.[91] It is also important to mention that the TRIMs Agreement is not intended to impose new obligations, but to clarify the pre-existing GATT 1947 obligations and to rectify any measures inconsistent with the WTO TRIMS Agreement, within a set period of time, with a few exceptions. See the list of exceptional Provisions of the TRIMs Agreement in Appendix 1.

iii. **The General Agreement on Trade in Services (GATS)**

The past two decades have seen trade in services become the most dynamic segment of world trade, growing more quickly than trade in goods, with developing countries significantly increasing their export shares of world services exports. The GATS was developed to cover trade in services which has over the years rapidly become an important component of international trade. GATS provides the legal ground rules for international trade in services, allowing WTO members the flexibility to open their markets to foreign competition. The Agreement reflects the gradual transfer of responsibility for many services from government-owned suppliers to the private sector and the increased potential for trade in services brought about by advances in information and communication technology (WTO, 2015).

The FDI aspects under the GATS agreement are covered in one of four modes of supply of services (Mode 3) which addresses foreign investment in services through the supply of services by a foreign company setting up operations in a host country.[92] Mode 3 represents

[91] See Appendix 1 for Examples of TRIMs explicitly prohibited by the TRIMs Agreement.
[92] See Appendix 2 for the modes of supply.

55 per cent of total services trade and is the most open in terms of commitments by WTO members, reflecting its crucial role in driving the international supply of services, transferring know-how and improving the capacity of economies to participate in global value chains (WTO, 2015).

WTO members are bound by law to the commitments they sign which guarantee access to their markets only in those sectors and modes of supply specified in their "schedules of commitments", subject to any "limitations" they wish to maintain. However, the only obligation that applies across all services covered by the GATS is the most-favoured-nation (MFN) principle, meaning that suppliers of services from all countries are treated in the same way (WTO, 2015). On average, WTO members have listed about 50 services sectors in their schedules of commitments with the most commonly included sectors being: tourism, followed by infrastructure services (financial services, business services, and telecommunications). Education and health services are the least frequently included services in the schedules of commitments (WTO, 2015).

4.2 Investment policy instruments outside the WTO

While the WTO has the mandate to oversee all global investment policy and regulation issues at the global stage, countries have also come up with initiatives to try and foster investment. Among these initiatives are Investment Promotion and Protection Agreements (IPPAs) and IIAs or BITs.

i. **IPPAs**
Investment Promotion and Protection Agreements (IPPAs) are agreements signed between Governments and private companies undertaking significant investments in the economy (amounting to US$10 million and above), which protect their investment against political risk (OECD, 2012). The IPPAs promote investments by granting assurances to investors on the safety of their investments and the Government's commitment not to expropriate without due process of law (OECD, 2012). Zambia has signed 12 IPPAs so far, and three of them have been ratified (with Germany in 1972, with Switzerland in 1995, and with France in 2014) (WTO, 2016).

ii. **BITs or IIAs**
There exists BITs or IIAs between Governments whose objectives are to protect investments and encourage firms to make investments in either country's territories. The purpose of these agreements is to create such conditions which are favorable for fostering greater investments by the investors of one country in the territory of the other country. As of 2016,

there were Over 2,750 BITs globally of which Africa accounted for 854 (UNECA, 2016). Zambia has signed two BITs since 2009 (with the United Kingdom in 2010 and with Mauritius in 2015), but neither have been ratified (WTO, 2016).

4.3 Investment protection

When a company makes an international investment, it may encounter problems which – for a variety of reasons – cannot always be solved through the domestic legal system. The problems that could arise may range from occurrences of expropriations by the host country by force, discrimination, expropriation without proper compensation, revocation of business licenses to abuses by the host state such as lack of due process and not being able to make international transfers of capital (EU, 2013). As a result, investment protection provisions, including investor-state dispute settlement (ISDS), are important for investment flows. Investment protection entails striking a balance between the right of the country to regulate and the need to protect investors, as well as to making sure the arbitration system itself is above reproach (EU, 2013). In Zambia, Articles 16(1) of the Constitution and 35(1) and (2) of the Act provide for the protection of investments.

As a general rule, common to almost all IIAs are the following key provisions[93] (UNCTAD, 2009):

1. **General standards of treatment (after entry)**
    - Fair and equitable treatment in accordance with international law;
    - National treatment – foreign investors must not be treated less favourably than their domestic counterparts;
    - Most favoured nation (MFN) treatment – i.e. non-discrimination among investors of different foreign nationality;
2. **Protection of foreign investors**
    - Guarantees of compensation based on international standards in case of expropriation of foreign property;
    - Guarantees of the free transfer and repatriation of capital and profits;

[93] There are various BITs/IIAs worldwide and policymakers in each BITs/IIA need to decide how to treat foreign investment, how to balance investor rights and obligations, how to incorporate sustainable development considerations and how to deal with the interaction between the two instruments.

1. **Dispute settlement**
   In case of an investment dispute, the right of the foreign investor to challenge the host country measure before an international arbitration tribunal.

4.4 Investment promotion in Zambia

4.4.1 Investment facilitation and regulation

Zambia has over the years adopted a number of investment promotion and facilitation measures, including incentives. The country's investment promotion strategy is adopted from the OECD Policy Framework for Investment (PFI) which was developed to help governments mobilize private investment that supports steady economic growth and sustainable development, and thus contribute to the prosperity of countries and their citizens and the fight against poverty (OECD, 2011). Inspired by the 2002 United Nations Monterrey Consensus on Financing for Development, which ascribes to governments the responsibility for creating the right conditions for private investment to flourish, the PFI aims to support development and the fight against poverty and to promote responsible participation of all governments in the global economy (OECD, 2020).

Zambia is one of the dynamic growth poles of Southern Africa, thanks to important progress since the early nineties in reforming and strengthening the policy framework for investment which has seen FDI flows rise from US$45 million in 1992 reaching its all-time high of US$2.1 billion in 2013 before falling slightly to US$1.6 billion in 2015. The reforms which the country has undertaken were aimed at building a more efficient framework for setting up businesses, hence addressing some of the structural and operational bottlenecks inherited from the centrally planned economy prior to 1990. These economic reforms took place in three stages: Stage I - the economic reforms of the 1990s; Stage II - the Private Sector Development Reform Programme I (PSDRP I) from 2006 – 2009 and Stage III - the PSDRP II from 2009 – 2014.

The first stage of the economic reforms began with the country liberalizing its trade regime and embarking on a privatization programme in 1992, initially by targeting a few small-scale companies. The reforms included (NEPAD and OECD, 2011):

- Abolition of price controls
- Liberalization of interest rates
- Abolition of exchange rate controls
- 100% repatriation of profits

- No restrictions on investment in virtually all sectors of the economy. The only activities potentially closed to the private sector are arms production, security printing and the manufacture of dangerous substances, for which case-by-case investment approval is needed (UNCTAD, 2006).
- Privatization of state-owned enterprises
- Trade reforms aimed at simplifying and harmonizing the tariff structure
- Removal of quantitative restrictions on imports

These reforms were designed to introduce a market-based and private sector-driven economy and this was to be done through the enactment of various pieces of legislation and statutory institutions created, to implement the reforms.

A more ambitious reform agenda was introduced in 2004 under the PSDRP with an aim to improve the investment climate and boost the private sector‘s contribution to economic growth. The PSDRP I was structured to address obstacles to investment around six reform areas, as follows (OECD, 2011):

- Policy environment and institutions
- Regulations and laws
- Infrastructure
- Business facilitation and economic diversification
- Trade expansion
- Local empowerment

The focus of the PSDRP I was on: strengthening public agencies that support private sector development; improving the investment code and regulatory framework; and encouraging private investment in infrastructure. As a result, a total of about 72 reform areas were identified for removal of administrative and regulatory obstacles to investment and private sector growth (OECD, 2011).

The PSDRP II targeted the fast tracking of reforms in a number of key sectors that were identified as critical for establishing an improved competitive business environment. The priority areas for the PSDRP II were as follows;

- Business licensing and regulatory framework
- MSME development
- Labour reform and labour productivity
- Public Private Partnerships development

- Trade expansion

The focus of the PSDRP II included reforms on; Capacity building for the private sector, communication, doing business reforms and gender mainstreaming.

The reform programmes embarked by the country have achieved a number of successes. Among the reform areas which achieved successes include investment promotion, facilitation and regulation in Zambia. Table 19.1 shows the private sector development reform plan and the results achieved in the period 2004 to 2015.

Table 19.1: Zambia's reform plan and results achieved: 2004–2016

Item	Reform Area	Reform Objectives	Results Achieved
1	Policy Environment & Institutions	Create the enabling macroeconomic environment, strengthen the public agencies that support PSD and enhance public/private dialogue	ZDA established and operational Small Claims Court established Credit Reference Bureau established Credit Guarantee Scheme for MSMEs established at Development Bank of Zambia Business Regulatory Review Agency was established
2	Regulations & Law	Improve regulatory frameworks and revise investment code to foster PSD	Acts Parliament passed, relating to: Zambia Tourism Board Act Tourism and Hospitality Act Small Claims Court Act Labour and Industrial Relations Act Business Regulatory Act
3	Infrastructure	Enhance the infrastructural platform for PSD by encouraging private investment in infrastructure (PPI)	ICT Act passed International Gateway liberalised PPP Policy approved PPP Act passed PPP Unit established at Minsitry of Finance and National Planning Information and Communications Technology (ICT) Policy approved Postal Services Act Electronic Communication Transactions (ECT) Act Energy Policy approved
4	Business Facilitation & Economic Diversification	Remove administrative barriers to business entry and operation, and facilitate development of high-growth sectors (tourism, gemstones, agribusiness, manufacturing)	Computerisation of Department of Immigration, Ministry of Lands and PACRA undertaken International Gateway liberalised 170 Business Licenses identified for elimination and rationalisation E – Registry at ZDA established PACRA is in the process of establishing on-line systems for name search and filing of registration forms E-payment scheme introduced by ZRA with Access Bank to speed up settlement of customs payments

Item	Reform Area	Reform Objectives	Results Achieved
5	Trade Expansion	Create greater opportunities for access to regional and international markets By Zambian businesses	One Stop Border Post established at Chirundu, i.e. main border for road cargo between Zimbabwe and Zambia Pre-clearance system established by ZRA Scanners installed for goods inspections at major borders by ZRA Simplified trade regime established for MSMEs
6.	Local Empowerment	Unlock the growth potential of the MSME sector through business development support and local empowerment initiatives	MSME policy approved Citizens Economic Empowerment Act MSME division established at ZDA

Source: OECD (2011) and WTO (2016)

4.5 Relevant government agencies and stakeholders

The institutional and regulatory framework for investment in Zambia is mandated to the Zambia Development Agency (ZDA) which was established in 2006 by an Act of Parliament (ZDA Act). The Agency was mandated to undertake investment facilitation and promotion functions on behalf of the government in addition to the functions it assumed from the mandates previously carried out by the five statutory bodies dissolved after the ZDA was formally made operational on 1 January, 2007. The institutions were the Export Board of Zambia (EBZ), Zambia Export Processing Zone Authority (ZEPZA), Small Enterprise Development Board (SEDB), Zambia investment Centre (ZIC) and the Zambia Privatization Agency (ZPA).

The Zambian government has also partnered with various institutions in the areas of investment promotion and facilitation. Examples of such initiatives include: training in various aspects of investment promotion and marketing by the International Law Development Organisation (IDLO); Capacity-building programmes relating to investment promotion and facilitation with the Japanese International Cooperation agency (JICA); Technical assistance to ZDA in the establishment of the One Stop Shop facility with the International Finance Cooperation (IFC); and Staff training in the development and implementation of the Client Charter with UNCTAD. The ZDA is also a member of the World Association of Investment Promotion Agencies (WAIPA), which in collaboration with international development agencies allows the ZDA to access information (including tools and techniques) for strengthening its investment facilitation functions, and for the monitoring of cost structures of investment projects (OECD, 2011). The ZDA has also been working closely with MIDA–Malaysia in developing plans and strategies for the promotion of Multi Facility Economic Zones (MFEZs) (OECD, 2011).

There have also been other programmes aimed at improving the investment climate which the Government has embarked on, such as the Strategic Action Initiative for Economic Development (SAIED), commonly referred to as the Triangle of Hope (ToH), supported by the Government of Japan through the JICA (OECD, 2011). This programme was aimed at working towards addressing issues relating to the high cost of doing business in Zambia and to transparency & accountability. The Government has also linked the systems of the agencies operating in the one-stop shop by introducing a One-Stop Shop Integrated System (OSSIS); and establishing an electronic single window for trade (e-Single Window) to link all trade agencies using the ASYCUDA World system (WTO, 2016). In addition, the establishment of the e-Tax Online system allows taxpayers to register for tax and file returns electronically. The Ministry of Land introduced the Zambia Integrated Land Management and Information System (ZILMIS) to reduce the number of days required to complete the process of registering property. Zambia has also established an online visa system (e-Visa) at the Zambia Department of Immigration (ZDI), allowing visitors to apply for visas online (WTO, 2016).

In terms of incentives, the country has given various investment incentives to private businesses both foreign and domestic as a way of improving the business environment. These incentives include; no laws or practices that discriminate against foreign investors by prohibiting, limiting or conditioning foreign investment in any sector of the economy; investment incentives, such as: tax relief, less bureaucratic and easy to obtain work permits, and unrestricted access to land; stable and predictable fiscal incentives; preferential procurement incentives for companies that operate locally. Other investment incentives put in place to stimulate private sector investment through the ZDA Act are (OECD, 2011):

- Statutory protection of investment
- The right to repatriate 100 percent of profits and dividends without any restrictions.
- The ZDA Act provides for additional incentives for investments of US$10 Million in priority sectors[94] involved in value addition.[95]
- The ZDA Act also provides for additional incentives for investments of US$ 500,000 and above in priority sectors/products and MFEZ (ZDA, 2012).[96]

[94] According to the ZDA act, “a priority sector or product” means a sector or product that has a high growth potential.
[95] See Appendix 3 for the priority sectors and products.
[96] See Appendix 4 for the MFEZ priority sectors.

Despite scoring tremendous successes in improving the business and operating environment for companies, especially for foreign investors, a number of weaknesses still remain apparent after the reform programme. For example:

- There still remain weaknesses in the regulatory framework vis-à-vis lack of a complete and coherent investment policy.
- The ZDA lacks the capacity to promote and facilitate investment in a focused manner as its mandate is too broad. It needs to be given a more streamlined mandate and independent Charter.
- A lengthy bureaucratic process when registering with the ZDA to obtain incentives for investment in certain priority sectors.
- An unpredictable and unfair tax system which is costly to administer and gives room for corrupt practices on the part of tax administration officials with power to grant or deny incentives.
- Poor infrastructure in terms of roads and hydro-electricity energy generation plants.
- Skills challenges due to the mismatch between labour supply and industry demands.

4.5.1 Legal framework surrounding foreign investment in Zambia

For the investment agenda to be implemented effectively, the legal framework surrounding the various operations must be in place. In this regard, Zambia has passed various laws through the countries legislature and also continues to push for a legal framework up to global standards that would attract foreign investment in Zambia. Some of the laws passed to promote foreign investment and trade include:

- The ZDA Act of 2006, which offers a wide range of incentives in the form of allowances, exemptions and concessions to companies.
- The Companies Act of 1994, which governs the registration of companies in Zambia.
- The Zambia Revenue Authority's Customs and Excise Act, Income Tax Act of 1966 and the Value Added Tax of 1995, which provide for general incentives to investors in various sectors.
- The Employment Act Cap 268, Zambia's basic employment law that provides for required minimum employment contractual terms.
- The Immigration and Deportation Act Cap 123, regulates the entry into and residency in Zambia of visitors, expatriates and immigrants.

- Citizens Economic Empowerment Act of 2006
- Trade and Licensing Act of 2007
- Tourism and Hospitality Act of 2007
- Mine and Minerals Act of 2007
- Control of Goods Act of 2006

4.6 Doing business and competitiveness

Zambia has implemented several reforms aimed at improving its business environment and attracting foreign investment. This has seen the country's ranking on the World Bank's Doing Business Index improve - moving from 99 in 2008 (record high) to 85 in 2018 out of 190 economies and recording a record low of 80 in 2010. In addition, the country has also seen some improvements in terms of its competitiveness, rising to 96 out of 138 countries on the Global Competitive Index (GCI), 2016 – 2017 from its initial 117 out of 128 in 2007. Despite these achievements, the country still needs to simplify the investment regime by aligning regulations and procedures that result in administrative bureaucracy and unnecessary compliance costs, improve the regulatory framework, streamline the mandate and revising the ZDA Act to provide the grounds for a more focused and gradually a more autonomous agency among others. Furthermore, curtailing direct government involvement in facilitating investors' activities beyond policy oversight and aligning human resource development strategies with industry demands by promoting science education which can provide a strong platform for technical training.

5 Conclusion

Zambia has undergone a massive investment reform programme since the early 90's. This has been with a view of improving its investment climate so as to attract foreign investment. The investment reform process has yielded results seeing FDI flows rise from US$45 million in 1992 reaching a peak of US$2.1 billion in 2013. The country recognizes the important role that investment plays in the economy and as such it has developed with various incentives and investment promotion initiatives so as to make it attractive for investment. There is however a need to address the bottlenecks that stand in the way to making the country a favourable investment destination, for instance, the country may need to simplify the investment regime by aligning regulations and procedures that result in administrative bureaucracy and unnecessary compliance costs; improve the regulatory framework; streamline the mandate and revise the ZDA Act to provide the grounds for a more focused and

gradually a more autonomous agency; curtail direct government involvement in facilitating investors‘ activities beyond policy oversight and align human resource development strategies with industry demands by promoting science education which can provide a strong platform for technical training.

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Appendices

Appendix 1: Exceptional provisions of the TRIMs Agreement

Transition Period	Measures specifically prohibited by the TRIMs Agreement need not be eliminated immediately, although such measures must be notified to the WTO within 90 days after the entry into force of the TRIMs Agreement. Developed countries will have a period of two years in which to abolish such measures; in principle, developing countries will have five years and least-developed countries will have seven years.
Exceptions for Developing Countries	Developing countries are permitted to retain TRIMs which constitute a violation of GATT Article III or XI, provided that the measures meet the conditions of GATT Article XVIII which allows specified derogation from the GATT provisions, by virtue of the economic development needs of developing countries.
Equitable provisions	In order to avoid damaging the competitiveness of companies already subject to TRIMs, governments are allowed to apply the same TRIMs to new foreign direct investment during the transitional period described in (1) above.

Note that this figure is not exhaustive, but simply illustrates TRIMs that are prohibited by the TRIMs Agreement.

Appendix 2: The modes of supply

Mode 1	Covers services supplied from one country to another (for example, call centre services).
Mode 2	Covers consumers or firms making use of a service in another country (for example, through international tourism).
Mode 3	Covers a foreign company setting up subsidiaries or branches to provide services in another country (such as a bank setting up a branch overseas).
Mode 4	Covers individuals travelling from their own country to supply services in another (for example, a consultant travelling abroad to provide an IT service).

Appendix 3: Priority sectors and products

a. Floriculture fresh flowers and dried flowers

b. Horticulture fresh and dried vegetables

c. Processed foods wheat flour other processed foods

d. Beverages and stimulants

- Tea and tea products
- Coffee and coffee products

e. Production and the processing of the following products in the textile sector

- Cotton
- Cotton yarn
- Fabric
- Garments

f. Manufacturing of the following engineering products

- Copper products
- Iron ore and steel
- Cobalt
- Other engineering products

g. Beneficiation of phosphates and any other related material into fertilizer

h. Beneficiation of rock materials into cement

i. Production and processing of raw timber into wood products

j. Production and processing of the following products in the leather sector:

- Cattle hides
- Crust leather
- Leather products

k. Building of mini-hydro power stations

l. Education and skills training

Appendix 4: MFEZ priority sectors

a. Information and Communication Technology (ICT)
   - Development of computer software
   - Assembly/manufacture of ICT equipment

b. Health
   - Manufacture of pharmaceutical products;
   - Repair and maintenance of medical equipment;
   - Provision of laundry services to medical institutions;
   - Ambulance services;
   - Medical laboratory services;
   - Diagnostic services; and
   - Other medical services.

c. Education and skills training

d. Manufacture of:
   - Machinery & machinery components
   - Iron & steel products
   - Electrical and electronic products & components & parts thereof;
   - Chemicals & petrochemicals
   - Pharmaceutical & related products
   - Wood & wood products
   - Palm oil & their derivatives
   - Pulp, paper & paper board
   - Textile & textile products
   - Transport equipment, component & accessories
   - Clay-based, sand-based & other non-metallic mineral products;
   - Plastic products
   - Professional medical, scientific, & measuring devices/parts

- Rubber products
- Leather & leather products
- Packaging & printing materials
- Fertilizer
- Cement

e. Tourism

f. Processing of:

- agricultural products
- forest products
- non-ferrous metals & their products
- gemstones

Chapter 20: Good Regulatory Practice and Regulatory Impact Assessments

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

The greatest economic gains occur when regulators move towards open and transparent marketplaces where community interests are supported without imposing excessive regulation on business. Therefore, before implementing the regulatory system, regulators should consider alternative approaches to fulfil legitimate objectives and the need to minimise the use of mandatory measures. Furthermore, regulatory processes and requirements should be understandable, accessible and practicable. When possible, regulations should enable those affected to understand the implications of regulatory measures.

Good Regulatory Practice (GRP) is a practical approach to the development of rules and regulations and the implementation of laws and international agreements. The emphasis is on how to best implement the provisions in the agreement in order to achieve a particular policy objective. For instance, through taking into account *legitimate objectives* (health, safety, national security, deceptive practices etc.) while *avoiding unnecessary barriers to trade*. Technical regulations are neither efficient nor effective if they are not complied with or cannot be effectively enforced.

Technical regulations that are outdated or poorly designed may not achieve their intended policy objectives and can contribute to inefficient regulatory arrangements. When inappropriately applied, technical regulations can lead to unnecessary restrictions on industry and traders as well as to unreasonable increases in costs.

The challenge is to develop a regulatory system that can effectively deal with the increasing demands for regulation, and to ensure that regulatory interventions are optimal. This requires that the right incentives, principles, procedures, and institutions of government are in place and working effectively to ensure that regulation is necessary, cost effective, and in the best interest of society.

Good regulatory practices will lead to better regulatory outcomes. More transparent regulatory agendas and planning improves the chances of multilateral regulatory cooperation. Regulators in the same product areas can exchange experiences and know-how. As authorities, they are likely to achieve their public policy goals better and have more of the desired impact.

Whilst doing so, it will allow regulators to improve their regulatory processes in order to achieve their mandated policy objectives whilst reducing regulatory friction between domestic systems and facilitating trade. It will provide a good, open and inclusive basis for improving the functioning of the multilateral trading system and facilitating trade from all countries.

GRP should be distinguished from (international) regulatory cooperation (IRC), which deals with regulatory co-operation and exchange of information between countries and/ or regions. Trade policy makers take interest in both IRC and GRP with the distinction that IRC is a strategy to reduce regulatory divergence and costs that are related to that, and GRP seeks to mainstream and adequately balance different public policy objectives, among them international trade policy objectives in the domestic regulatory process. In developing a domestic regulatory framework, nations ought to take into account the international regulatory environment or else there could be unnecessary costs created and the intended objective may not be met. Regulatory divergence could create a trade barrier in the case that it increases trade costs in the form of specification costs, conformity assessment costs and information costs.

2 Basic principles for Good Regulatory Practice (GRP)

2.1 Transparency

This includes:

a. Transparency of regulatory proposals and legislation already in force by having them publicly available, preferably in one or more WTO languages (English, French or Spanish) on the legislators website;

b. Transparency in the regulatory framework of a country so that stakeholders can understand the regulatory process and how and when they can submit comments to regulatory proposals.

Having clearly regulated public consultation mechanisms to improve transparency, such as “publication for comment” practices and other practices that allow wide access, will assist in this process. This includes notifying WTO countries of proposed technical regulations and not making a decision until both national and trading partners have had the opportunity to comment.

2.2 Coordination

Having an efficient internal coordination of rulemaking activities, which are inclusive. This includes in particular the ability to manage regulatory reform and coordinate with regulators involved in preparation, adoption and application of rules and regulations, and with other stakeholders.

2.3 Analysis and evaluation

This includes the capacity to ensure that better policy options are chosen by establishing a systematic and consistent framework for assessing the potential impacts of government action, including impacts on trade. This is preferably done by making a Regulatory Impact Assessment (RIA), which is an evidence-based process for identifying and assessing regulatory alternatives.

2.4 Review

After a legislation has been in force for a while, it is important to make sure it still serves its original purpose. This can preferably be done by making an ex-post RIA, which is an analysis similar to the ex-ante RIA but focuses on how well the regulation has solved the problem it was intended to solve. Maybe an amendment to the regulation is needed, there might be opportunities to simplify the regulation to help businesses or the analysis finds that the regulation is not serving its intended purpose anymore, in which case it should be repealed.

3 Regulatory Impact Assessment (RIA)

3.1 *What* is a RIA?

RIA is a process of systematically identifying and assessing the expected effects of regulatory proposals, using a consistent analytical method, such as cost/benefit analysis.

RIA is a comparative process: it is based on determining the underlying regulatory objectives sought and identifying all the policy interventions that are capable of achieving them. These “feasible alternatives” must all be assessed, using the same method, to inform decision-makers about the effectiveness and efficiency of different options and enable the most effective and efficient options to be systematically chosen.

RIAs are an important part of the consultation process where stakeholders get a chance to comment on the proposal. How else are those affected going to understand how this proposal is going to affect them? Conducting an impact assessment for a proposed regulation can be a challenging task, but is necessary since the information they provide enables stakeholders to comment in a sufficiently comprehensive manner on any proposed regulation.

A RIA is important to help regulators and policy makers to better understand the costs of a proposed regulation along with the benefits.

A RIA should be done both before a regulatory decision is made (ex-ante) and after the regulation has entered into force and been in force a while (ex-post). Monitoring is essential to assess whether the regulation is achieving the indented objectives, or if circumstances or desired objectives of the regulation have changed. It is also essential to assess whether the regulation is achieving the desired objectives in a proportionate way.

RIA is one tool to achieve GRP, but it does not cover a complete approach to GRP. It means that the economic, social and environmental effects of a regulation should be evaluated, and the impact of a regulation to competition should be analysed. RIA should result in simplified regulation and also include a status quo-scenario (i.e. no new regulation).

3.2 *Why* make a RIA?

A comprehensive RIA helps the regulator in formulating regulations as it makes the basis for the decision to regulate more complete.

In turn, a complete basis makes the regulation easier to support and communicate to those who will be affected by the regulation. There will always be some stakeholders that are not in favour of the legislation, but by performing a RIA you will have the argument to support the decision, since you can show both benefits and costs of the proposal.

A regulator can avoid unnecessary costs to business, as estimating costs and benefits of alternatives will give the regulator a clearer picture of which alternative is less invasive to business.

A RIA can also be helpful in fulfilling obligations to notify the WTO.[97] It will help other countries understand the basis and reason for a technical regulation as they will understand what alternatives you have considered, the impacts of other alternatives as well as why you have chosen to regulate in the way you have.

The RIA helps ensure that a regulation is prepared in an open, transparent manner and subsequently achieves its objective at minimum cost to those affected. This is regardless of whether it is the government itself, a business owner or civil society.

3.3 *When* to make a RIA

Before the regulator decides upon new rules and regulations, it is important that the effects are documented as early as possible in an impact assessment. Those who will be affected by the regulation should be consulted on the draft and the impact

[97] For more information on notifications to the WTO, consult for instance chapter 13 and 14 in this volume.

assessment. A RIA that is made before a regulation is decided is an *ex-ante* analysis.

Although RIA is mostly used ex-ante, it is also often applied to evaluate the consequences of regulatory decisions after they have operated for some time. Such ex-post RIAs follow the same principles and include the same components as the ex-ante ones.

3.4 *How* to make a RIA?

A RIA should contain the following components:

- **Problem description:** Describing the background to the problem and why the RIA is being made.
- **Alternative solutions**: Outlining alternatives. If it is difficult to start, keeping status quo is also an alternative. The next step in identifying alternative solutions is to decide upon if a regulation actually is necessary.
- **Who will be affected and how**: In order to outline who will be affected by the regulation it is important to keep a broad perspective. The groups who will be directly affected are often easier to identify, but those affected indirectly could be more difficult. Early forms of consultation can assist at this stage. The rationale behind identifying who will be affected is to ascertain that the future regulation is effective. It´s also necessary in order to calculate the time and costs for the affected stakeholders. Costs for all stakeholders should be estimated as far as possible, both government entities as well as businesses and trading partners.
- **Compatibility with WTO membership and other trade agreements/regulation**: Is the proposed regulation WTO compatible? Are there any aspects that should be taken into account vis-à-vis trade with countries that have a trade agreement with Zambia?

4 GRP in Zambia

4.1 Involved agencies

The importance of GRP to the improvement of the quality of regulations and to the achievement of better regulatory outcomes cannot be overemphasized. Recognizing the importance of GRP, the government established the Business Regulatory Review Agency (BRRA) in 2014 as part of the Private Sector Development Reform Programme (PSDRP). Prior to the establishment of BRRA, matters relating to GRP were handled by the Policy Analysis and Coordination (PAC) Division of

Cabinet. Prior to the BRRA, the business regulatory framework was characterised by multiple regulatory agencies, ministries and departments. This resulted in duplication of regulatory efforts, and made processes cumbersome and costly. In view of this, the PSDRP recommended that a single specialised agency be established to coordinate and oversee various regulatory agencies. Thus, BRRA was established as a statutory body under the Business Regulatory Act No. 3 of 2014 (GRZ, 2014).

BRRA became operational in 2016 and is charged with the responsibility of reviewing and approving proposed policies and laws that affect business activity to ensure they are legitimate and serve the intended purpose. This means developing and disseminating guidelines and standards for regulators to undertake RIAs and public consultations; monitoring and evaluating the business regulatory framework in the various sectors and building capacity in RIAs, among others. The agency is committed to ensuring that policies, laws and regulations introduced by various regulatory agencies are sound, robust, of high quality and do not stifle private investment.

The agency has the following objectives (BRRA, 2016):

a. To improve the quality of regulation by ensuring that businesses are regulated in a fair, equitable and transparent manner and for specific and legitimate reasons (better regulation);

b. To ensure consistent regulation, curb red tape and abuse of regulatory powers and that businesses have a say in their regulation;

c. To ensure that regulatory bodies discharge their functions effectively and efficiently and in a coordinated manner;

d. To ease and reduce the cost of compliance with regulation; and ultimately,

e. Foster a pro-business, transparent, simpler and cost effective regulatory regime.

4.2 Structure and use of impact assessments in Zambia

There are various approaches that can be used to enhance good regulatory practice in a country. In Zambia, as dictated by the Business Regulatory Act No. 3 of 2014, the core principles of GRP encompasses the use of RIA[98], stakeholder engagement as well as coordination and cooperation with other government agencies. The Act prescribes that any proposed policies or laws from public bodies to regulate business activity should first of all be approved by BRRA before they are taken to Cabinet for final approval. This is to ensure that there are no internal duplications

[98] RIA is the main tool for GRP in Zambia.

and inconsistencies. Secondly, the Act also prescribes that any proposed policies or laws from public bodies to regulate business activity should hold public consultation with all relevant stakeholders of the proposed policy or law. Stakeholder consultation enables acceptance of the policy by stakeholders as well as increasing the chances of successful implementation and enhances transparency. Thirdly, the Act requires that public bodies should perform a RIA of the proposed policies or laws (GRZ, 2014). A RIA is undertaken to understand the costs and benefits of a proposed regulation or policy and to ensure that the negative consequences of a proposed regulation or policy are minimized or avoided. Thus, the RIA provides critical information to policy makers before they endorse a policy decision.

BRRA categorizes the RIA process into three phases, namely i) initial RIA ii) partial RIA and iii) full RIA. The initial RIA brings out a description of merit and demerits of the proposed policy or regulation. The partial RIA builds upon the initial RIA by including more data and analysis. The full RIA also builds upon the partial RIA. Under the full RIA, a more rigorous analysis is undertaken, which can be quantitative or a mix of qualitative and quantitative analyses. A full RIA is undertaken when it is established under the initial and partial RIAs that the proposed regulation or policy will have significant socioeconomic and environmental impacts.

According to the Regulatory Impact Assessment Handbook for Regulatory Agencies and Public Bodies in Zambia, the RIA should have the following outline (BRRA, 2018):

a. Prepare a preliminary schedule and outline plan of RIA process.

b. Problem definition and baseline: This stage involves a clear description of the problem as well as outlining the baseline. It also involves justification for new law or policy. This stage further involves risk assessment (i.e. risk identification, risk analysis and risk evaluation).

c. Setting the goals and objectives: Once the problem is defined, the third step involves setting objectives outlining what the proposed intervention wishes to achieve.

d. Identification of options: Here various regulatory and non-regulatory options to are considered. These options are supposed to be in line with the objectives. The options can involve doing nothing about it; seeking direction intervention through policy, legislation etc; and indirect options such as procedures, among others.

e. Comparison of costs and benefits of options: This step involves comparing the positive and negatives for all the options. Quantitative comparisons of costs with benefits can be done using various RIA methodologies such as a

cost-benefit analysis; cost-effectiveness analysis; multi-criteria analysis; and standard cost model.

f. Stakeholder consultations: This is a crucial part of the RIA and has to be undertaken at every stage of the RIA. Stakeholder consultations ensure that the proposed policy or regulation gets the widest possible effect, and ensures transparency of the process. It also helps create acceptance among the stakeholders, thus enhancing compliance with regulation. Stakeholder consultations can be passive or active. Active consultation may involve seeking information through advisory groups, committees, public hearings, focus group discussions, peer reviews, and surveys; while passive consultation may involve notice and comments and consultations via the use of information and communication technologies.

g. Selecting the preferred option and making recommendations: This step involves selecting the recommended option, which will produce the best result. The selected option should be justified with evidence.

h. An implementation, monitoring and evaluation plan: This is a document, which outlines how the implemented policy or enforced regulation is tracked and assessed against the set objectives. Monitoring and evaluation is meant to assess whether a regulation or policy is meeting its intended objectives.

All these principles or tools of GRP endeavour to promote high quality regulation. Basedow and Kauffmann (2016) describe high quality regulation as that regulation, which achieves its intended objective at minimal costs on society, stakeholders, the environment and the state.

4.3 Challenges and prospects

In order to discharge their functions effectively and achieve the set objectives, institutions such as BRRA need to be well equipped with both economic and human resources. This is because ensuring GRP is a costly and time-consuming exercise, which requires a lot of diverse competence. In the early years of its operation, BRRA has been facing various challenges, which have affected its functioning. Firstly, the agency is not sufficiently staffed and higher levels of expertise than what is currently available to the agency is needed. Secondly, some regulatory agencies have resisted the mainstreaming of RIA in policy and legislation formulation processes rendering it difficult to implement. Thirdly, the agency is not adequately funded, which has led to delayed implementation of key programmes. These are in part due to the fact that the agency is in its infancy. In addition, the regulators and government agencies lack the capacity and skills to undertake rigorous analysis of the costs and benefits under the RIA. Moreover, data

collection is a costly exercise and most regulators opt to use less costly and less comprehensive data for their RIA analyses.

To overcome some of the challenges the agency is facing, various strategies and activities have been undertaken. BRRA has enhanced awareness and sensitisation campaigns on the provisions of the Business Regulatory Act No. 3 of 2014. The agency has also implemented the Single Licensing System for the tourism and agriculture sectors to facilitate compliance with multiple regulatory requirements. In addition, the agency has undertaken trainings/workshops on RIA processes for regulators and government ministries. Various members of staff at the agency have also been trained to equip them with various expertise. The agency further intends to provide capacity building on advanced data analysis methods to regulatory agencies.

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Chapter 21: Trade Negotiations

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This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

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1 Introduction

Generally, negotiations can be defined as a process whereby two or more parties seek an agreement to establish what each shall give or take, or perform and receive in a transaction between them (Lee, 2014). Through negotiations people with different or even opposing needs are able to arrive at an agreement where both parties are better off. Specifically, trade negotiations involve two or more parties seeking an agreement on how they will conduct trade between and among themselves. Accordingly, the outcome of any successful trade negotiation is an agreement. Most of these trade negotiations are complex and involve multi-issues, multiple members and multi rounds and that is the reason why they take long to complete. The issues negotiated may range from tariffs, non-tariff issues, intellectual property rights, the environment, health and safety, or any issue influenced by trade liberalization (UNCTAD, 2004).

Although international trade creates interdependence between and among countries, it can also bring forth conflicting interests. Interdependence in the trading system implies that any governments' unilateral actions affect outcomes abroad, i.e. impose upon them positive or negative externalities. With unilateral policy choices, governments may fail to take into account the impact of their actions on interests abroad. Thus, international trade negotiations provide means for countries (parties) to internalize the externalities that their unilateral choices (trade policies) impose on others (Grossman, 2016; Grossman and Horn, 2012) and this is achieved through the harmonization of different countries' trade policies.

Nations undertake trade negotiations because they expect to derive some benefit from them (da Conceição-Heldt, 2011) as well as to achieve certain national objectives. Trade negotiations may be undertaken with a view to enhancing trade facilitation between nations, deepen the economic integration and in the long run the objective may be to maximize welfare. In addition, Love and Lattimore (2009) observe that countries engage in international trade agreements with a view to increasing their market size, attract foreign investment, provide insurance policy against future restrictions on access to foreign markets. Further, Monning and Feketekuty (2002) contend that an effective negotiation process can also help promote important international objectives such as economic development, business interests, environmental protection, labour rights, and political stability, and consequently poverty reduction.

2 Rationale for Trade Negotiations: Why Do Nations Undertake Trade Negotiations?

Countries engage in trade negotiations for various reasons which may include economic, political and strategic. Countries, may for example wish to:

- improve market access (Goode, 2005);
- strengthen strategic linkages among members;
- prevent loss of competitive advantage if left out of negotiations – the *domino effect* (Goode, 2005);
- respond to the lack of self-sufficiency and dependence on other countries (Grossman and Horn, 2012);
- prevent other countries from following beggar-thy-neighbour policies[99], avoid damaging trade wars, while not restricting the ability of governments to achieve their domestic policy objectives.

International trade negotiations have evolved over time from simple to complex. In recent years, trade negotiations have come to not only cover trade in goods but also behind the border issues. Under the GATT 1947, trade negotiations focused on reciprocal reduction of border barriers, such as tariffs and quotas, that protected markets for manufactured goods. Although these trade negotiations have been considered successful in these respects, many challenges continued to exist in multilateral trade.

Global trade has changed, and trade negotiations have become more and more complex. For example, they have come to focus on further tariff reduction and change practices by constraining, reconciling, or even harmonizing rules (Devereaux, Lawrence and Watkins, 2006). Trade negotiations also cover broader, and more complex issues such as trade in services and trade-related intellectual property rights. Moreover, in the recent years developing countries have become more active in trade negotiations as they have become more reliant on international trade (Jones, 2013).

It is worth noting that trade negotiations about services differ from trade negotiations about goods, as they focus much more on domestic regulations that limit the consumption or production of services produced abroad, the movement of service-producers and/or consumers across the border, and the ability of foreign service providers to establish themselves in the host country (World Bank, 2016).

[99] Beggar-thy-neighbour policy is a policy that benefits the one that implements it while harming that country's trading partners. This usually involves imposing trade barriers on trading partners, and the rationale is to increase exports and reduce imports. This may lead to trade wars.

Countries become engaged in negotiations on trade in services to address barriers to services trade.

3 Types and Levels of Negotiations

Trade negotiations can also range from simple to complex depending on the number of countries involved, issues to be negotiated and the levels of negotiating activity. The simplest form of negotiations involves two parties negotiating over a single issue, while the complex form involves multiple issues, many parties and many levels of negotiating activity, and linked rounds of ongoing interactions (Devereaux, Lawrence and Watkins, 2006). Although bilateral negotiations can be complex, the WTO negotiations are usually the most complex as they involve various topics and agendas; multiple parties (at different development levels) and can be undertaken over a period of many years. Trade negotiations can be at various levels and these may include:

1. **Multilateral level:** By definition, multilateral trade negotiations involve many parties. These negotiations take place under the auspices of the WTO and involve all WTO members. They usually involve multiple issues and are time consuming – it may take years to arrive at consensus (Devereaux, Lawrence and Watkins, 2006). Once agreed upon they provide wider benefits to the countries involved. Multilateral negotiations cover goods, services and intellectual property rights. Through multilateral negotiations, a number of countries meet as a group to regulate market access and to develop rules that will bind the participating countries. The main challenge under multilateral negotiations involves the difficulty in reaching a mutually acceptable agreement due to multiplicity of perspectives.
2. **Plurilateral level:** Plurilateral trade negotiations are characterised by the involvement of three or more countries, with a view to their contribution to rulemaking and liberalization in trade (Nakatomi, 2013). Plurilateral trade agreements involve several WTO member countries with a common interest. These negotiations may be on a single topic or various topics. They may arise from the failure to find agreement among all the WTO members giving rise to a smaller group of countries, with a common interest, deciding to conclude the agreement between themselves.
3. **Bilateral level:** Bilateral trade negotiations are between two countries. In such agreements two countries agree to loosen trade restrictions to expand business opportunities between them. They lower tariffs and confer preferred trade status with each other. They are easier to negotiate and

implement than plurilateral and multilateral agreements, since they only involve two countries.

Bilateral or plurilateral trade negotiations aim to establish preferential trade agreements that liberalize trade between two or among a few countries. These agreements have the advantage of being easier to negotiate compared to the multilateral negotiations among others. However, their multiplicity in global trade may undermine and supplant the multilateral WTO approach.

Trade negotiations can also vary in complexity depending on number of countries involved, number of issues to be negotiated, the number of different levels where negotiations take place and the number of negotiation rounds expected:

- **Multi-country negotiations:** These involve many countries such as the multilateral trade negotiations. The Uruguay round for example had 25 contracting parties.
- **Multi-issue negotiations:** Under the multi-issue negotiations several issues are negotiated, for example the Doha round had around 20 topics to be negotiated.
- **Multi-level negotiations:** Multi-level negotiations may involve negotiations taking place at different levels such as domestic level, sub-groups level, etc.
- **Multi-round negotiations**: Multi-round negotiations involves the same countries (parties) negotiating through several rounds. A trade round is a series of multilateral negotiations.

4 Negotiation Process: Negotiation in Practice

In order for any negotiation to be a success, planning and preparation are crucial. Bhattacharya (2005) has divided the negotiation process into seven steps as follows, with the majority of the process involving planning and preparation:

1. identification of the problem to be resolved through negotiation,
2. identification of interests of all parties involved,
3. an effective consultation process with the relevant stakeholders,
4. the establishment of a negotiating machinery and supporting institutions to develop the negotiating agenda,
5. the formulation of a negotiating strategy,
6. the actual negotiation, and

7. the assessment of the negotiation outcome before an agreement is signed.

These steps can be condensed into three interlinked phases, namely: pre-negotiation, negotiation and post negotiation. These phases are further described in the next sections.

4.1 Pre-negotiation phase

The various important aspects that define a negotiation outcome occur before the parties start to negotiate, that is, they occur during the pre-negotiation stage. Pre-negotiations cover the first five steps identified by Bhattacharya (2005), thus, this stage involves planning for the actual negotiations. It is widely acknowledged that this stage can determine the success of any negotiation.

Under this stage the problem to be resolved through negotiation is identified. Once the problem has been identified, the second step involves identifying and consulting relevant stakeholders (state and non-state actors) to ensure a balance between different interests. In addition, research analyses are undertaken on the issue at hand. Consultations with key stakeholders play an essential role in the identification of national interests in negotiations. It is also important in facilitating national acceptance and implementation of the results of negotiations (UNCTAD, 2004).

In addition to stakeholders' consultations, data analysis is undertaken to provide input to the negotiation plans. Stakeholders' consultations and detailed analyses help in the formulation of negotiating objectives, the development of a negotiating strategy and the drafting of negotiating proposals (Monning and Feketekuty, 2002). Negotiating objectives provide a sense of direction for the negotiations, while a negotiating strategy provides a road map for getting to the desired goal and a negotiating proposal specifies how others are in the negotiation (World Bank, n.d). Analysis of the impact of various proposals made in multilateral and regional trade negotiations is also crucial at this stage.

During this stage, preparations for the negotiations are made. This can include putting a negotiating team in place and participating various committees (such as the WTO committees, or inter-institutional trade committees, to galvanize stakeholders' active contributions to trade negotiations). At this stage, a country's position (negotiation mandate) is formed. The negotiation mandate is given by the relevant government departments. The negotiation mandate contains government approval to proceed with the formal negotiations, grants authority to represent the government, and delimits the negotiating team's authority (ADB, 2008). This mandate describes the objectives, scope and content of the agreement from the perspective of the country or regional body (UNCTAD, 2016).

Under the pre-negotiation stage, it is important to establish the Best Alternative to a Negotiated Agreement (BATNA) which is commonly referred to as 'a fallback option' (Lewicki, Barry and Saunders, 2016; Devereaux, Lawrence and Watkins, 2006). The BATNA involves having alternatives in a situation where negotiations do no reach an agreement. Establishing a BATNA requires analysis of the various consequences of an agreement to be undertaken. BATNAs give negotiators the power to walk away from any negotiation when the emerging deal is not very good (Lewicki, Barry and Saunders, 2016).

4.1.1 Negotiating Strategy and tactics

As alluded to earlier, the negotiation strategies are formulated during this stage. A strategy is a careful plan or method for achieving an end (Alfredson and Cungu, 2008). Thus, it provides a road map for getting to the desired negotiating goal. Negotiation strategies employed by the negotiators can determine the success of any trade negotiation, which is why it is important to plan which strategies the negotiating team will employ. The main strategies employed as highlighted by Alfredson and Cungu (2008) include:

1. **Distributive Strategies**, also known as "zero-sum", competitive, or "win-lose" strategies are based on this competitive view of negotiations. It involves claiming as much value as possible for one party. Each side seeks to claim the maximum amount of value. This strategy involves maximizing value for one party through manipulation, forcing and withholding information.
2. **Integrative approach:** Also known as positive sum or win-win strategy. It focuses on creating value for both parties. Parties seek simultaneously to create value and to claim value. Value is created through cooperation, sharing information and mutual problem solving.

It is worth noting here that most bargaining situations involve both integrative and distributive elements. While undertaking actual negotiations various tactics are employed. Tactics refer to the skill of using available means to achieve an end (Alfredson and Cungu, 2008). Tactics are short-term, adaptive moves designed to enact or pursue broad (or higher-level) strategies (Lewicki, Barry and Saunders, 2016). Negotiators need to draw upon various tactical elements, which include forum shopping, agenda setting, coalition building, and grassroots organizing among others (Devereaux, Lawrence and Watkins, 2006):

- Forum shopping: identifying the most promising forum in which to pursue one's objectives and then ensuring that negotiations take place there. Often, where a negotiation takes place strongly affects gains and losses.

- Agenda-setting: This is a *process* variable leading to inclusion or exclusion of issues being negotiated. In the macro sense, it refers to the big issues included in any trade round: in the micro sense, to issues included or excluded during meetings as the round progresses as negotiating parties work toward formulas and frameworks (Singh, 1989). In complex trade negotiations, those who control the agenda for the talks and the sequencing of issues strongly affect outcomes.
- Coalition building: This is another important element in the actual negotiations to build economic clout to negotiate and advance issues of common interests (UNCTAD, 2004). Coalitions may be formed to either promote or block a particular agenda item. Less developed countries can increase their bargaining power by forming coalitions.

4.2 Actual negotiation phase

Here actual negotiations take place face to face. During this stage the strategies and tactics devised during the pre-negotiation stage are put into practice. It is worth noting here that negotiators do not use one strategy throughout the entire negotiation process but employ various strategies and tactics. Thus making the negotiation processes dynamic.

Most negotiating processes are divided into plenary (formal) meetings and informal meetings. Plenaries are usually used for the purpose of adopting agendas, adopting decisions and to inform participants about progress and challenges and how these challenges could be resolved (UNCTAD, 2016; Goode, 2005). Plenaries ensure that transparency in negotiations is promoted as they are open to all. The bulk of the negotiations take place in informal meetings. Informal meetings on the other hand serve the purpose addressing specific agenda items and preparing positions to report at the plenaries (Love and Lattimore, 2009). Unlike the plenaries, informal meetings are not bound by rules for conducting business and thus provide a conducive forum for negotiations.

In order to succeed at negotiations, negotiators need to possess certain skills such as active listening and asking questions, timely use of silence, taking breaks from the negotiating table, organizing brain storming sessions, use of objective criteria, practicing role reversal and dealing with dirty tricks and ultimatums (World Bank, n.d.; Monning and Feketekuty, 2002).

4.3 Post-negotiation phase

This phase covers the implementation of trade agreements. This phase is important because it ensures that the content of the agreement is realized to its full potential, makes sure that companies can use and benefit from the agreement and ensures that trade barriers are removed while preventing new trade barriers from emerging. Signing an agreement is by no means the end of the story—many details and ambiguities often remain to be negotiated and are sometimes renegotiated during implementation (Devereaux, Lawrence and Watkins, 2006). As such, the negotiation process continues beyond the adoption of the trade agreement, that is, they may continue with modifications to the rules when hurdles are encountered in the implementation of the agreement (UNCTAD, 2004). Implementation may require changes at national level in legislation, policies and measures to take align them to what is agreed upon. Thus, implementation presents another capacity challenge to countries that have higher resource constraints.

5 Capacity to Negotiate: Trade Negotiations and Challenges for Developing Countries

In the 1950s and 1960s, most developing countries' trade policies focused on import substitution and industrialization strategies, which decreased their interest in international trade negotiations (Page, 2004). In recent years, most of them adopted trade liberalization strategies, which has compelled many developing countries to get more and more involved in trade negotiations to harmonise trade policies with their trading partners. International trade liberalization presents various opportunities and challenges for developing countries. Trade liberalisation has made them susceptible to changes in the international markets and hence triggering their interests in trade negotiations and its outcomes.

Despite their growing interest in trade negotiations, developing countries face structural, economic and political constraints when participating in trade negotiations (Jones, 2013). Specifically, the limitations may include insufficient human, financial, and technical resources, which adversely affects their ability to adequately prepare for trade negotiations (South Centre, 2004). As such, developing countries need to make investments in these areas to build capacity to fully participate in complex multi-issue trade negotiations at bilateral, regional, or multilateral levels. Trade negotiation capacity-building efforts allow developing countries to fully participate in trade negotiations as well as to design national trade policies that can better capture gains from trade (UNCTAD, 2004).

Developing countries have the ability to initiate their issues for negotiations and influence their outcomes. In recent years, a number of developing countries have been negotiating as common characteristic groups (Page, 2004). However, Mendez-Parra, Balchin and Calabrese, (2015) argue that LDCs have tended to follow a defensive strategy in the WTO negotiations as reflected in their concerns on preference erosion and special products, and their focus on special and differential treatment (SDT) provisions. In order to be more effective and obtain gains, they need to develop long term experience and expertise in the process of international negotiations (Page, 2002).

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Chapter 22: Trade Policy Implementation

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Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction: Rationale of Trade Policy Implementation

A well-designed trade policy is critical, but just as essential is the need for effective implementation (ITC, 2011). Governments around the world implement trade policies targeting international trade flows (both imports and exports) (Jehle, 2013) with the ultimate goal of achieving various other objectives. Trade policy formulation, negotiation and implementation in a wide sense may cover many issues, which encompass tariffs and non-tariff measures. The idea of implementing trade policy is to ensure that trade policy influences the flow of goods, services, capital and data across the borders. The objective is also to create an enabling environment for domestic economic actors to engage in international trade and thereby generate growth and contribute to development. The ultimate objective of trade policy implementation is, thus, to enhance economic growth, create employment, achieve balance of payment stability, protect domestic firms and consumers, as well as reduce poverty.

Generally, policy implementation reflects a complex change process where government decisions are transformed into programs, procedures, regulations, or practices aimed at social betterment (DeGroff and Cargo, 2009). Trade policy implementation can be looked at as a process of putting trade policy into action with the goal of achieving the objectives set in the trade policy. Implementation forms the final stage of the trade policy planning process and it is actually the operational phase under which the plans are realized.

It is worth noting here that implementation of various aspects (instruments) of trade policy can take different forms, some simple others complex. Thus, requirements and procedures for implementing tariff changes are different from other aspects such as trade facilitation, TBT, SPS measures etc. For example, in order to effectively implement a TBT agreement a country has to have a minimum institutional infrastructure that includes a national standards body, an enquiry point and a notification authority among others (ITC, 2008).[100] The process may also require reviewing regulations as well as training personnel. Implementing a change in trade taxes, on the other hand might not be as complex. However, generally trade policy implementation requires resources such as human, physical, financial and logistical resources, among others.

[100] For more information on Technical Barriers to Trade, consult Chapter 13 in this volume.

In order for trade policy to be successful, a country must ensure that certain conditions (depending on the aspect of trade being implemented) are met such as:

- Key support infrastructure, both soft (eg. telecommunications) and hard (eg road networks).
- Clear action plan and, most importantly, a strong political commitment (European Commission, 2010).
- Effective legal system, which is always a prerequisite in terms of offering certainty in the interpretation and implementation of trade policies as well as dispute settlement (European Commission, 2010).
- National institutions and bodies required for implementation of international trade agreements.
- Harmonisation of trade policy with other national policies and development plans (ITC, 2011) such as the Seventh National Development Plan (7NDP) in Zambia.
- Capacity to undertake impact assessments.
- Stakeholder involvement, particularly the private sector (Brenton, 2013).
- Transparency in implementation.
- Financial and technical resources (ITC, 2011).

According to the European Commission (2010) developing countries face various challenges in the implementation of trade policy and at national level which include:

1. Skills gaps: lack and limited technical skills;
2. Limited human, physical and financial resources;
3. Regulatory gaps: rudimentary and often outdated regulation;
4. Weak trade policy co-ordination within government;
5. High compliance costs (Henson and Jaffee, 2013).

To overcome these challenges, developing countries can be assisted with capacity building and other support through Aid for Trade. The support can include developing special provisions for developing countries and least developed countries (LDCs) and provide them with technical assistance and capacity building to help them implement better trade facilitation policies and practices (ITC, 2011). Special and differentiated treatment for developing countries and Aid for Trade is discussed in Chapter 6 in this volume.

2 Institutional Framework for Trade Policy Implementation in Zambia

A clearly defined implementation framework is key for the successful implementation of national trade policy. Trade policy covers various issues and influences various actors and thus encompasses a number government ministries and non-governmental actors. In Zambia, the Ministry of Commerce Trade and Industry (MCTI) through the Department of International Trade is responsible for formulation, implementation and evaluation of national trade policy.

Key implementing agencies under the MCTI include the Competition and Consumer Protection Commission (CCPC), Zambia Bureau of Standards (ZABS), Business Regulatory Review Agency (BRRA), and Zambia Development Agency (ZDA) (WTO, 2016). Due to its multi-sectoral coverage, trade policy implementation is done in collaboration with other relevant ministries, public institutions, regulators and statutory bodies. Key ministries include Ministry of Agriculture, Food and Fisheries, Ministry of Environment and Natural Resources, Ministry of Tourism, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Finance etc. Other key stakeholders include the private sector, civil society and non-governmental organisations as well as the academia.

Under MCTI, trade policy formulation, monitoring, and review are conducted by technical working groups on trade. MCTI has established a National Working Group on Trade (NWGT) to help in the formulation of trade policies, negotiation strategies and implementation (UNCTAD 2015). The NWGT is made up of representatives from other government ministries and agencies such as Ministry of Agriculture, Livestock and Fisheries, Ministry of Justice, Ministry of Finance, Ministry of Tourism, and the Zambia Revenue Authority.

The private sector is represented by the Zambia National Farmers Union (ZNFU), Zambia Chamber of Commerce and Industry (ZACCI), Zambia Chamber of Small and Medium Business Associations (ZCSMBA), and Zambia Association of Manufacturers (ZAM). In terms of legal framework, the main legislation on international trade are the Customs and Excise Act and the Control of Goods Act. The Customs and Excise Department of the Zambia Revenue Authority (ZRA) is responsible customs administration (WTO, 2016).

3 Domestication of Trade Agreements in Zambia

3.1 Legal domestication

For the FTA to become operational (domesticated) in Zambia, the Ministry of Commerce, Trade and Industry in collaboration with other line Ministries and agencies, will identify areas in the existing domestic legal frameworks that need to be revised and aligned to the FTA. There are a number of ways in which an FTA may be domesticated including the use of other enforceable means such as a statutory instrument or amending an act to adopt the commitments in the FTA.

Naturally, the main domestic law affected by domesticating an FTA is the Customs and Excise Act and therefore, the Minister of Finance is expected to issue a Statutory Instrument to adjust the import duties as stipulated in the FTA. Similarly, other line ministries responsible for Agriculture, Livestock, Health, and Transport, whose laws affect trade are also expected to issue statutory instruments that will align domestic laws and regulations to the FTA.

Once the domestic laws and regulations are aligned to the FTA, the countries are prepared start to trade on a preferential basis on a reciprocal basis implying that the other countries also domesticate the FTA using their internal process to start utilising the FTA.

3.2 Institutional domestication

FTAs will usually contain provisions that require parties to establish/ mandate institutions that would be responsible for implementing certain provisions of an FTA. For instance, in the TFTA, parties are expected to establish National Monitoring Committees that would coordinate the reported NTBs and the Committee is expected to be comprised of various stakeholders from both public and private sectors.

As a practical example, FTAs such as the AfCFTA and the TFTA (as well as beyond these FTAs at WTO) have provisions that require parties to establish or mandate certain structures in their countries that would oversee the implementation of some provisions of the Agreement and these provisions may be similar.

To this effect, Zambia and many other countries, have opted to use the already existing structures to avoid proliferation of such structures. For instance, if a TBT National Committee is established in line with a provision in the WTO, and if TFTA and AfCFTA require that parties establish a TBT Committee, what Zambia usually does is to extend the mandate for the already existing National TBT committee to also include the work on TFTA and AfCFTA. In this way, the country avoids duplicating or creating three National TBT Committees for WTO, AfCFTA and TFTA.

3.3 Anchoring an FTA with the private sector

Considering the fact that the main objective of an FTA is to create or increase market opportunities for domestic operators, and thereby strengthen their potential to take advantage of the benefits of international trade and contribute to sustainable development, it is essential to anchor the agreements with the domestic stakeholders.

When analysing the reasons for low level of utilisation of preferences offered by trade agreements, it is often concluded that lack of awareness by domestic companies, difficulties in understanding the rules for each product and difficulties in using the procedures for obtaining documents needed to be able to benefit from preferential treatment are among the most common obstacles. That is why it is crucial to develop methods and channels for disseminating relevant information to the private sector.

This is particularly important with regard to the SMEs, who usually have less resources and expertise to familiarise themselves with the content and application of new agreements. Such dissemination activities could be both central and regional, general and sectoral. Help in identifying and networking with relevant private sector stakeholders as well as in the actual information activity can be obtained from business organisations, sectoral associations or regional chambers of commerce.

Also with the modern FTAs, which cover more than traditional trade issues, there are opportunities opening for sectoral cooperation in broader trade related areas such as for example: technical rules and standardisation, SPS issues such as use of veterinary medicines or animal welfare, good governance, as well as various trade-related sustainability issues, such as sustainable production and use of forestry- or marine-resources or decent work. These issues, due to their very nature, require anchoring with a broader scope of stakeholders relevant for the areas in question.

This aspect of domestication is yet to be fully developed in Zambia. The problem of low utilisation of preferences has been identified and will need to be addressed. In this process, it would be advisable to build on best practices from countries that have already addressed the issue in their national systems, and organised their efforts towards effectively informing stakeholders on trade agreements under negotiation and implementation.

Dissemination and publicity of an FTA is also important for the purposes of transparency towards the private sector, again especially the MSMEs who may not have the capacity to easily access such information.

4 Policy Coherence

Naturally, different national policies have an effect on each other because of the interlinked nature of development. Therefore, when formulating policies, it is required by the Cabinet handbook manual that a Ministry takes into account the crosscutting effect in order for the national policies to provide synergies to each other and together achieve the overall objective of sustainable development. In addition to the need for policy coherence at national level, there is also need to align domestic policies to international obligations.

This section aims at highlighting some of the policy coherence issues that exists between the National Trade Policy (GRZ, 2018) and the other social, economic and developmental policies such as industrial, financial, agriculture, energy, environmental, gender, disability and youth policies as well as coherence with international trade instruments.

Policy coherence is also important for trade to contribute to inclusive sustainable economic growth as envisaged in the National Developmental Documents such as the Vision 2030 (GRZ, 2016a) and the Seventh National Development Plan (GRZ, 2017).

4.1 The National Trade Policy (NTP)

The NTP was born out of the 2009 Commercial Trade and Industrial Policy review that was done in 2014. The review recommended a separation of the trade and industrial policies in line with international best practice. Following wider stakeholder consultations, the NTP was launched in 2018 by Hon. Christopher B. Yaluma, MP, Minister of Commerce, Trade and Industry.

The NTP sets out Government's approach to trade development with a view to creating and maintaining a competitive private sector in a dynamic domestic and international market environment. The ultimate goal is to create sustainable jobs and wealth for the benefit of the Zambian people. The underlying focus of the NTP is to support Zambia’s industrialisation agenda through the promotion of domestic and international trade.

The vision of the Policy is to make Zambia a net exporter of value added goods and services through competitiveness at the domestic, regional and global level. The general objective of the Policy is to contribute towards Zambia’s economic diversification by promoting and stimulating a competitive trade sector in order to increase the market share in the global economy. The NTP has strategies such as the National Export Strategies and Local Content Strategy that emanate from it and complement it.

4.2 Coherence with other national policies

As earlier mentioned, implementation of Trade policy affects other social and economic sectors of the country and similarly, other sector policies in the country affect the way trade is conducted.

As a practical example, Government's policy on climate and environmental protection may discourage the harvest and trading of certain species of trees/ timber in order to preserve the eco-system. On the other hand, one of the objectives in the national trade policy would be to promote Non-Traditional Exports and timber is one of the viable products to help achieve this objective. In such a situation, there is always need for Government Ministries to liaise with each other in order for them to implement such divergent policies in a manner that will strike a balance and achieve objectives of both policies. Failure to do so would result in a situation which would be referred to as policy incoherence / inconsistency by Government.

For example, the environmental policy would be couched in such a manner that the harvest of timber would only be permitted if there is proof of having planted trees of similar amount within the same vicinity as opposed to imposing a total ban. Many more, other similar examples on health, security and environment may be cited where policies can potentially conflict with trade policy.

In the context of coherence with trade policy, one can differentiate between crosscutting policies and complementary policies. On the one hand, the NTP has a section where it clearly outlines the crosscutting issues to trade policy such as gender, youth, HIV/AIDS, environment and disability that need to be taken on board in implementing the trade policy in order for trade to contribute towards inclusive sustainable growth as envisaged in the Seventh National Development Plan.

On the other hand, there are other policies such as financial and industrial policies that may be cited, which are expected to complement or augment the trade policy and which are not explicitly mentioned in the NTP. Effective implementation of the complementary policies is required to provide synergies among them.

For instance, a financial policy that is flexible to allow capital outflow will attract investments and this will boost industrialisation as envisaged in the industrial policy. A successful industrial policy entails enhanced trade in line with the trade policy. Therefore, the three policies can provide synergies to each other because enhanced trade will further support the industry and contribute to the financial sector.

However, it is important to mention that even among the economic policies that are expected to complement each other, there are instances when their effects are contradictory. For instance, trade policy might be saying that Zambia will be a private sector led open and competitive economy while on the other hand the

industrial policy might be promoting certain strategic sectors which are not developed by protecting them from international competition.

Again, just like the above example on trade and environment, policy makers would need to find a balancing act to accommodate both objectives of the two policies. For instance, the industrial policy would be couched in such a manner that the measure to protect the particular industry, say cereals, is kept within a certain time line in order to allow growth of the sector until it is able to stand competition from international trade. The trade policy has a provision for such a derogation from competitive trade.

4.3 Coherence with international obligations and policies

Policy coherence in trade at domestic level needs to be accompanied by coherence with international trade agreements as well as other international obligations, if it is to achieve its intended objectives. Developing policies which are inconsistent with international trade obligations (especially those that are perceived to be protectionist) have the potential to frustrate national trade policy efforts for an economy trying to boost its exports through international trade, if other countries retaliate by imposing similar measures.

International trade agreements entail reduced policy space for parties and therefore policy makers may need to align newly developed domestic policies to what has been subscribed to at international level. For example, once party to an international trade agreement, a country cannot unilaterally impose duties or ban imports beyond what was agreed in the trade protocol as this would attract retaliation from other trading partners that would affect the achievement of the set objectives in the national trade policy.

For instance, using the previous example, domestic industrial policy may require that certain sectors are not exposed to competition by opening to international trade due to legitimate critical role they play in our economy, for instance if a sector regarded as key to national food security. In this instance, policy makers are supposed to utilise provisions in the agreement to achieve such objectives. International trade agreements are usually crafted in a flexible manner to give policy space to Governments in case they want to pursue a legitimate objective such as the one cited above. COMESA and SADC have provisions that outline how Members may derogate from the commitments in order for them to develop an infant industry.

On the other hand, it is important for learners to know that regional groupings such as COMESA and SADC have regional policies such as regional industrial policy and the infrastructure policies, among others. It is also necessary that the national policies such as the industrial policy are aligned to regional policies as this provides additional synergies if such policies are pursued at a regional level.

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Chapter 23: Data for Trade Policy

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Table of Contents

This chapter is part of the *Textbook on Trade Policy and Development,* which has been written primarily by authors affiliated to the University of Zambia, Copperbelt University, Mulungushi University and the Zambian Ministry of Commerce, Trade and Industry, with support from the National Board of Trade, Sweden.

For further reference, background, list of authors, table of abbreviations and the like, see the chapter entitled *Preface* in the textbook.

1 Introduction

> *"Quantitative and detailed trade policy information and analysis are more necessary now than they have ever been. In recent years, globalization and, more specifically, trade opening have become increasingly contentious. Questions have been asked about whether the gains from trade exceed the costs of trade. Concerns regarding the distributional consequences of trade reforms have also been expressed. It is, therefore, important for policy-makers and other trade policy stakeholders to have access to detailed, reliable information and analysis on the effects of trade policies, as this information is needed at different stages of the policy-making process." (UNCTAD and WTO, 2012).*

Data is synonymous to "information". Data analysis involves the examination of data or information in order to identify patterns and draw conclusions (Keyes, 2016). Data is key for decision making regardless of the field of study. This includes decisions about trade and trade –related issues and policies. Trade data collection, retrieval and analysis are bedrocks of good policy formulation, implementation, monitoring and evaluation. If the right trade data is collected, processed, analysed and interpreted correctly, it can go a long way in ensuring that the policy formulation is evidence-based and thus responsive to national, regional and global development needs. This, however, depends on availability, reliability and quality of data collection and processing in a given country or region. This is true for both quantitative and qualitative data.[101] In this chapter, we introduce sources and methods of gathering and analysing quantitative data for the purpose of designing, implementing and evaluating trade policy.

2 Organizing and Classifying Trade Data: the Harmonized Commodity Description and Coding System

Nomenclatures are systems used to organize and classify trade-related data. There are different types of nomenclatures, with different levels of detail and product coverage. Some commonly used nomenclatures include Standard International Trade Classification (SITC), classification by Broad Economic Categories (BEC), and the Harmonized Commodity Description and Coding system, more commonly known as the Harmonized System (HS).

[101] The means of integrating different types of data in trade policy analysis is discussed in Chapter 20 on Good Regulatory Practice and Regulatory Impact Assessments.

This chapter focuses on the HS-system, since it is one of the most widely used international systems of names and numbers to classify traded products. The HS-system is particularly important in trade data analysis due to the level of detail available when it comes to product classification, and the fact that it underpins the international customs system. The HS was developed by the World Customs Organization (WCO; WCO 2018), and is a nomenclature covering all products. The system allows trading countries to classify goods on a common basis, e.g. for customs purposes. It is currently used by over 200 countries and customs or economic unions to classify over 98% of world trade. It is an important tool in identifying commodities, tariff offers and trade policy issues.

2.1 Purposes of HS codes

The HS serves several purposes. Its first and most fundamental purpose is categorization of goods so that governments can assign and collect import duties and taxes (which are major source of revenue for most governments). However, it is also used for several other areas of government regulation and business practices. These include:

1. **Trade negotiations:** the schedules of tariff concessions in the World Trade Organization (WTO) and in Free Trade Agreements (FTAs) are all dependent on HS codes. Earlier in the text we gave an example of the AfCFTA which Zambia is in the process of ratifying is dependent on HS codes. Any tariff offers a country makes as it negotiates with others are dependent on HS codes.
2. **Rules of origin (RoO)**[102]**:** an example here would be determining the origin of a grass-woven basket, and how there is change of tariff classification. The raw material which is grass e.g. grown/harvested from a swamp will have the code HS 1401 which is for vegetable material for plaiting/weaving. When dried and used to make a basket, the code becomes HS 4602 as straw basket. Both HS 1401 and HS 4602 can be exported, and as such, have different tariff classification making it possible for HS to be used as a basis for RoO.
3. **Monitoring of controlled goods:** such goods include wastes, narcotics, chemical weapons, ozone layer depleting substances, and endangered species. in Zambia, the Zambia Revenue Authority (ZRA) which is the customs agency, collaborates with other government entities such as the Drug Enforcement Commission (DEC) and Zambia Wild life Authority (ZAWA) to monitor the movements of goods of their respective interest. For instance, DEC would be interested in some of the drugs under

[102] For more information on Rules of Origin, consult Chapter 10 in this volume.

pharmaceutical products starting from HS 3001 onwards; and DEC would be interested in controlling the export of ivory whose code is HS 0507.

4. **Internal taxes:** once goods have crossed the border, they are subjected to internal taxes just like the domestically produced goods. This is why, as we shall see later, the HS codes go beyond the standard 6 digits to accommodate national purposes.

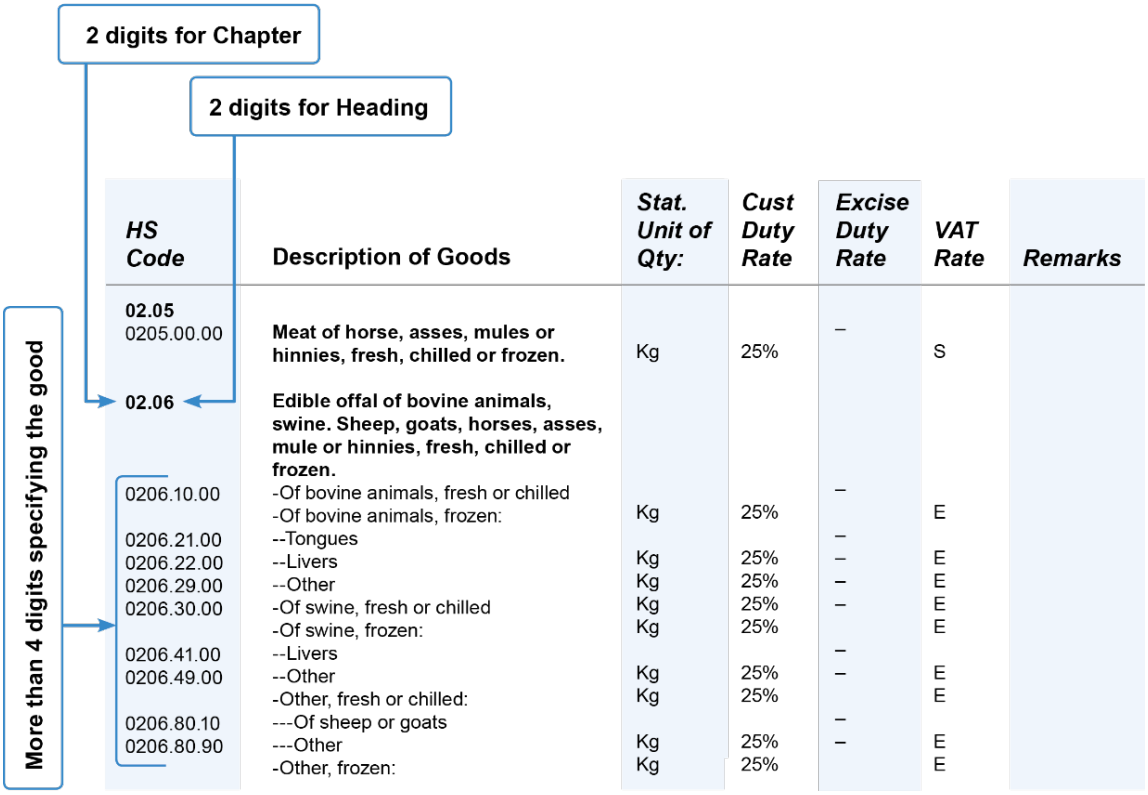
5. **Statistical reporting:** the statistical data HS provides can be processed into national and international trade information that informs trade policy, economic research and analysis, and corporate decisions.

2.2 Using and understanding HS-codes

The HS code enables all physical goods moving across borders to be assigned to a specific category in a uniform manner applicable all over the world. Commodities are classified according to the HS code using a six-digit code system. It is a structured nomenclature that consists of a series of 4-digit headings which are further sub-divided into 5 and 6 digit sub-headings, which specify the type of commodity.

For example, when determining the HS-code for frozen cow tongue, the classification would be as follows. The first two digits of the code identify which chapter, or broad category, of the HS-code the commodity belongs to. In this case, frozen cow tongue would fall under chapter 02, “Meat and edible meat offal”. The first two digits of the code will therefore be 02. The next two digits further specify what heading under chapter 02 the product corresponds to. In this case, the product falls under heading 06, “Edible offal of bovine animals, swine, sheep, goats, horses, asses, mule or hinnies, fresh, chilled or frozen”. The first four digits of the HS-code are therefore 0206. The last two digits of the six-digit HS-code are even more specific. In this case, frozen cow tongue would fall under the category “Of bovine animals, frozen tongues”, represented by the digits 21. Therefore the whole HS-code for frozen cow tongue would be 020621, as can be seen in figure 23.1 below.

Figure 23.2: Example of HS codes at 2, 4, 6 and more than 6 digits, from Zambian Tariff Book



It can be noted that the more the digits, the more the good being traded is being specified. In the context of RoO, the progression in the number of digits of the HS codes denotes the level of refinement of the good or value addition thereof thereby necessitating the change in tariff classification of respective goods. For example, Zambia's main export good at 2 digit level is HS code 74 = copper and articles thereof. When smelting and refinement occurs, at 4 digit level, you get to have copper as e.g. HS code 7401 = copper mates; cement copper "precipitated copper", among others.

The HS code is periodically revised and updated to reflect changes in the types of goods being traded. This can for instance include new classifications due to changing technology and products, requests from WCO member states, or for public policy reasons, e.g. as a means of more easily monitoring trade in specific goods related to public health. It is worth noting that the extent of product and trading partner coverage can differ substantially between revisions, which in turn can affect the type and quantity of data available.

To quickly search or find out some HS codes for some products, we recommend for instance the website provided by Foreign Trade Online (Foreign Trade Online, 2020).[103] In this Chapter, we use HS codes much more when retrieving and analysing data from databases and software such as the World Bank's World Integrated Trade Solutions (WITS) and International Trade Centre's (ITC) Market Analysis Tools.

The structure of the HS-code is discussed in more detail in the sections below.

2.2.1 Sections in HS

The HS is composed of 21 Sections. HS is based on a methodical classification of various criteria such as nature, what they are or any other such criteria thereby making it logically structured. For example, animal and animal products are found in one section; machinery and mechanical appliances which are grouped by function, are also found in another section, and the arrangement goes on for all goods in existence around the world. This implies that the 21 sections systematically group together goods found in the same sector of the economy. Note that although Sections appear in the outline of the HS document, the actual codes do not include sections but chapters onwards.

2.2.2 Chapters in HS

The Chapters are themselves arranged in the 21 Sections discussed above. For example, Section I is about "Live Animal; and Animal Products", and has five (5) chapters as follows:

Table 23.2: An example of HS chapters within one of the 21 sections

Chapter	Description
01	Animals; Live
02	Meat and Edible Meat Offal
03	Fish and Crustaceans, Molluscs and Other Aquatic Invertebrates
04	Dairy Produce; Birds' Eggs; Natural Honey; Edible Products of Animal Origin, Not Elsewhere Specified Or Included
05	Animal Originated Products; Not Elsewhere Specified or Included

There are 96 Chapters 01 to 100 but some Chapters e.g. 77 are reserved for possible future use or national adaptions. Some Sections therefore have more Chapters than others. In summary, the **HS at 2 digits** represents the Chapter of the good (which is broader) e.g. 01 = Chapter 1 which about live animals (generally);

[103] Follow this link for easy reference to Foreign Trade Online.

02 = Chapter 2 is about meat and edible meat offal; 03 = Chapter 3 is about fish and crustaceans, molluses and other aquatic invertebrates.

2.2.3 Headings in HS

There are a total of 1,222 headings (HS 2017). When an HS code is e.g. 0101, the first 2 digits represent a Chapter whereas the last two are the Heading. Therefore, the **HS with 4 digits** represents the Heading which is the grouping within the Chapter e.g. 0101 = Live horses, asses, mules and hinnies.

2.2.4 Sub-headings in HS

The 6 digit becomes the sub-heading or product level. **HS at 6 digits** is now the Product-level where the codes represent the products within the groupings e.g. 010121 = Horses; live, pure-bred breeding animals.

Whereas the international HS codes end at 6 digits, codes having more than 6 digits are usable for national level reasons. Beyond 6 digits, the HS further specifies the products as can be seen in figure 23.1 above.

3 Sources and Methods for Retrieving and Analysing Data

There are several sources of reliable trade data. Broadly speaking, trade data can be accessed at the national level as well as from international level entities or organizations. This part of the chapter is specifically aimed at guiding students on where exactly to find validated data from both at national and international sources.

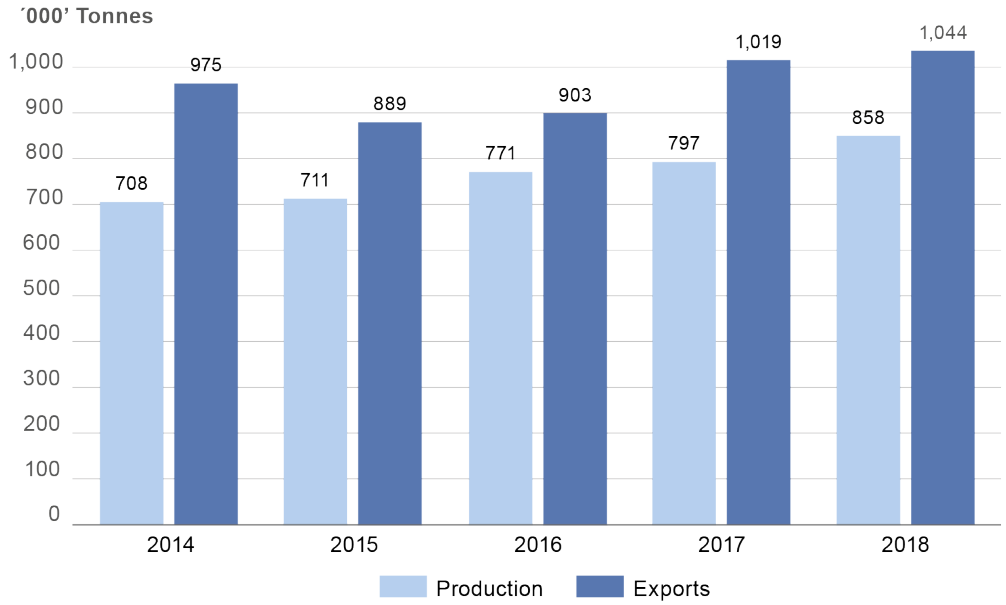
3.1 National

At the national level, government bodies are major centres for data in most of nations. Different types of data can be accessed from different stakeholders. For example, the Customs/Revenue Authority usually has data on customs and tariffs; the Central Bank is likely to have data about exports, imports and GDP; and national statistical offices or bureaus of statistics are likely to have consolidated data on everything including trade data. Meanwhile, national government bodies and agencies are likely to have other types of general public data.

In many African nations the core source of data for the nation is the bureau of statistics. This applies to for example to Kenya, Lesotho, Nigeria, Uganda, Republic of Tanzania and Sudan among others. In other countries, the core centre for data at national level is accessed from their National Institutes of Statistics or similar offices. This is the case in for instance Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, South Sudan, Swaziland, Togo, Tunisia, Zambia and

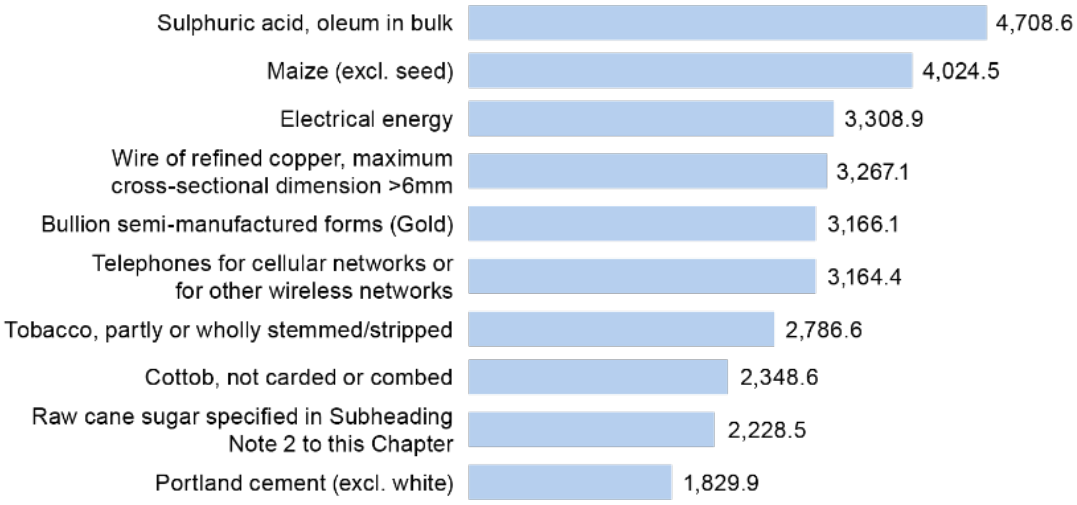
Zimbabwe. Some examples of the type of data available and how it is presented for Zambia can be seen in figures 23.3 and 23.4 below.

Figure 23.3: Domestic production of refined copper vs. total exports of refined copper, 2014–2018



Source: Zamstats (2020a).

Figure 23.4: Top 10 non-traditional exports (K' Million), 2014–2018



Source: Zamstats (2020a)

In Zambia, the Ministry of Commerce, Industry and Trade (MCTI) and National statistics office are key sources. MCTI is Zambia's major government body in charge of dispensing national policy for private sector development. It coordinates

industrial, commercial and trade matters and mediates with several public and private sector bodies to expedite the execution of government sector policies linked to trade and industry. With the mission of enabling and promoting the growth, development and competitiveness of commercial, trade and industrial sectors in order to enhance social-economic development (MCTI, 2020). As such, MCTI is a key source of primary and secondary data on several trade issues.

Additionally, there are other partners who work hand in hand with the MCTI, these include the African Development Bank, World Bank Zambia, Indaba Agricultural Policy Research Institute (IAPRI) among others. It is important to note that MCTI has validated consolidated trade data from all government line ministries/partners given that trade occurs in virtually all sectors. For example, the Ministry of Health is better placed to have data on how many CT scan machines they imported in a particular year even if the customs authority could have such data as well. This means that it is important also to note that determining the most relevant and reliable source for data will depend on what type of trade data you need. Table 23.5 below exemplifies some of the line ministries and agencies found in Zambia and the type of data one can access from them.

Table 23.5: Sample of the type of data found at various institutions at national level in Zambia

No	Institutional name of sources of data	Type of data
1	National Statistics Agency (formerly Central Statistics Office (CSO))	This site makes available all types of data, which can be accessed through a search on a particular topic, industry, source, country or region (Knoema, 2020). Available data include: social statistics, agriculture and environmental statistics, census statistics, economic statistics as well as information research and dissemination (Zamstats, 2020b).
2	Zambia Revenue Authority (ZRA)	The HS handbook at ZRA contains the heading numbers and information pertaining to imports and export trade statistics and also production statistics, such as: Customs Clearance and Valuation – this involves documents such as bill of lading, airway bill and commercial invoice. Additionally, the importer fills the ZRA form CE20 which is the standard form for entry as well as exit; Tariff Structure – Zambia applies tariffs on the cost insurance and freight (CIF); Import Restrictions – these include environmental health and safety measures; Sanitary and Phytosanitary Regulations – these apply to imports of live animals, plants and seeds; Export Procedures – this includes an obligation to complete an export declaration form ZRA CE 20 mostly for statistical reasons; Regional Agreements – for example – COMESA, which commenced in 1981, while FTA became effective since 1 November 2000 with only 9 participating countries.

No	Institutional name of sources of data	Type of data
3	Bank Of Zambia (BOZ)	BOZ provides access to data on the analysis of the path of merchandise trade between Zambia and its main trading partner countries. Furthermore, the institution functions as a statistical communiqué of international trade in merchandise statistics. For example exports are reported as free on board (FOB), while imports are valued at cost, including of insurance and freight (CIF) (BOZ, 2020). The Quarterly Survey of Business Options and Expectations (QSBOE) is issued by the Bank of Zambia and is intended to make available data on the business community's views on opportunities as well as the existing and potential macroeconomic evaluation. Moreover, it offers a guide to prospective developments (BOZ, 2020).
4	IAPRI	This site offers information on: Various research themes e.g. market development and trade; agriculture food and nutrition; Publications e.g. technical papers; Media outreach, bulletins and documentaries such as "Agriculture in Zambia, Maize Puzzle."

Source: Authors compilation.

3.2 International

At international level, data can be packaged at a regional or global level. Sources for regional-level data include the African Development Bank, SADC, COMESA and AU.

Meanwhile, some sources for global-level data are the WTO, the United Nations Conference on Trade and Development (UNCTAD), the World Bank (WB), and the ITC. Some of the software and databases include the ITC´s Market Analysis Tools (ITC, 2019); UNCTAD statistics (UNCTAD, 2020); the WTO's Tariff Analysis online (WTO, 2020) and the World Bank's WITS (WB, 2020a).

3.2.1 ITC data retrieval and analysis

Different types of software and databases provide different types of data, which can be analysed in different ways. Knowledge of Microsoft Excel is cardinal if one is to meaningfully process and analyse the data. Note that even if data can be both qualitative and quantitative, this section focuses on retrieving and analysing quantitative/numerical/statistical data. This section relies on Market Analysis Tools and WITS to illustrate how data could be retrieved and analysed.

ITC's Market Intelligence Tools

The ITC is a joint agency of the United Nations and the WTO. It claims to be the only multilateral agency fully dedicated to supporting the internationalisation of SMEs. This enables the organization to foster sustainable development as it ensures the expansion of trade opportunities for SMEs. The ITC has on its website what is called Market/Trade Intelligence within which there is a set of Market Analysis Tools as follows:

Trade Map: this provides on-line access to one of the world's largest trade databases. It accords the user vast information on indicators on export performance, international demand, alternative markets and the role of competitors from both the product and country perspective. There is also contact information for companies in 64 countries making it possible for any business to access various suppliers of goods and services.

Trade Map can be used to retrieve various types export and import data for several countries around the world. More data that can be retrieved includes trade balance and re-exports. Trade Map covers 220 countries and territories and 5300 products of the HS discussed earlier. Trade Map has the core advantage of allowing users to retrieve data for a long period of time at one. That is, it has data from 2001 to the most recent year for which data is available. This makes it possible to compute trend lines and see how the performance of trade between two trading partners has been. In this chapter, we shall use Trade Map, particularly focusing on imports and exports of goods, as the example for data retrieval and analysis.

Market Access Map: this provides information on applied customs tariffs, including Most Favoured Nation (MFN) tariffs and unilateral and trade agreement preferences. Additionally, tariff rate quotas, trade remedies, rules of origin, plus the corresponding certificates, bound tariffs of WTO members, non-tariff measures and trade flows are all accessible through this map.

The other five maps available through ITC are: investment map; sustainability map; export potential map; and procurement map. All these have a specific focus in enabling users have access to different types of data that addresses their needs. Governments, through their missions abroad say at the UN or WTO or regional bodies, can for instance use such data in trade negotiations.

See exercise 1 in Annex 1 for a practical application of data retrieval and analysis. Note also that the data retrieved through this exercise is the same used in computing the Trade Intensity Index in the next section.

Trade Intensity Index (TII)

The Trade Intensity Index (TII) is a measure used to determine whether the value of trade between two countries is greater or smaller than would be expected on the basis of their importance in world trade. It is defined as the share of one country's exports going to a partner divided by the share of world exports going to the partner (WB, 2010). It is calculated as:

Tij = (xij/Xit)/(xwj/Xwt)

Where **xij** and **xwj** are the values of country **i**'s exports and of world exports to country **j** and where **Xit** and **Xwt** are country i's total exports and total world exports respectively. An index of more (less) than one indicates a bilateral trade flow that is larger (smaller) than expected given the partner country's importance in world trade.

For further details on the above definition, see chapter 3 in this volume.

The Trade Intensity Index can be used for several different purposes, including but not limited to:

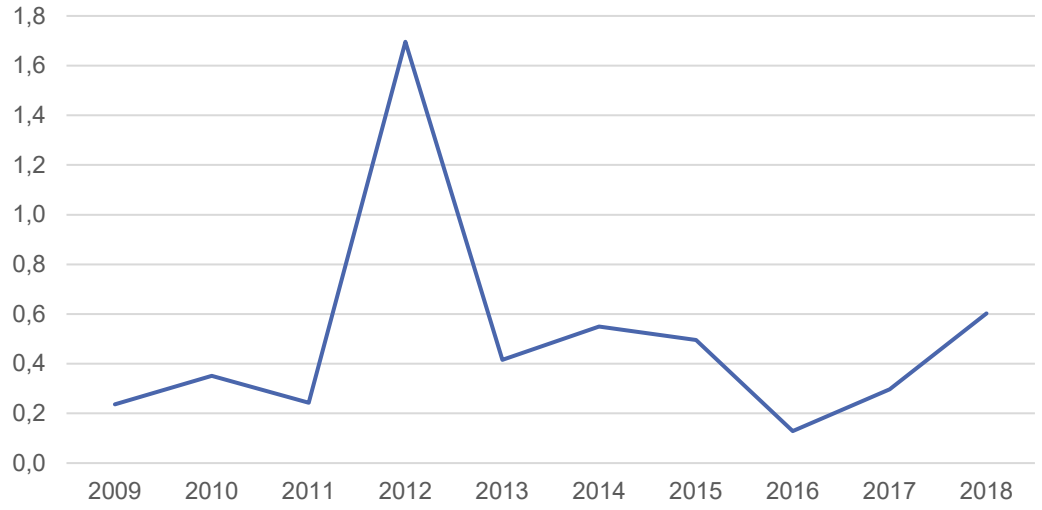
- Assess the pattern of trade between countries and/or regions
- Analyse the importance of a trading partner to a country's overall trade
- Measure the level of dependence one country has on another in terms of trade
- Though contested, TII, as a measure of trade dependence, has also been used in colonial studies as a basis for increased influence an economically and politically powerful country has on another, usually a developing country. See for example Maswana (2015). This is so because trade (market access for both finished products and raw materials) has always been one of the major factors for domination.
- Assess how intensely one country trades with another
- Measure a country's trade specialization with partners, for example, if country **"i"**'s trade intensity index with country **"j"** is higher, it may mean that country "i" has specialized in trading more with country **"j"** than the rest of the world, and, but not only these.[104]
- Assess the level of trade ties between two countries and/or regions. See also Luo et al. (2018); Ibrahim and Sari (2019); Li and Edmonds (2010).

[104] TII is now widely used in different contexts and for different reasons

Application of TII-Zambia and Angola

From the data obtained from the ITC (2020) at 2-digit level (i.e. the same dataset obtained through the retrieval process outlined earlier), Angola is an insignificant trade partner of Zambia. The Angolan market is very small for Zambia's current export products. Strategically and for political reasons, the Zambian government can consider developing new products specifically for this market, which is in line with Zambia's National Trade Policy and Export Strategy-export development. Figure 23.6 below presents Zambia's Trade Intensity Index with Angola.

Figure 23.6: Zambia's TII with Angola 2009–2018



Source: Kanenga's calculations based on ITC data (2020).

The graph above shows that Zambia does not intensely trade with Angola, which has tended to specialize in trade with other countries. Intuitively, this means that Zambia does not depend on Angola for trade. The intensity between 2009 and 2018 averaged 0.5, which is less than an index of 1. During the same period, the highest was in 2012 with an index of 1.7, which is extremely insignificant when compared to countries like the Congo DR, which had an index of 267.1 in 2009, 223.9 in 2012 and 249.1 in 2018. It is also low compared with South Africa, which had an index of 17.7 in 2009, 16 in 2012 and 10 in 2018, respectively. During the same period, the largest share Angola contributed to Zambia's total merchandize exports was 0.3% in 2012, with an average of 0.1%. However, there are possibilities of expanding this market through the development of new products. Angola has trade potential in maize seed for sowing, cane or bet sugar and chemically pure sucrose, among others, though the potential is small compared to other partners.

See table 23.7 below on how the TII is calculated. For the formula, make reference to the definition above.

Table 23.7: Zambia's TII with Angola 2001-2018

	Xij	Xit	Xij/Xit	Xwj	Xwt	Xwj/Xwt	TII
2001	33	987411	3.34207E-05	*	6,127,467,761	*	*
2002	407	956349	0.000425577	*	6,424,391,781	*	*
2003	1104	980445	0.001126019	*	7,486,202,969	*	*
2004	400	1575627	0.000253867	4887851	9,099,996,891	0.000537	0.472639
2005	559	1809763	0.00030888	5886523	10,340,858,415	0.000569	0.54261
2006	400	3770370	0.00010609	8069924	11,956,256,558	0.000675	0.157182
2007	569	4617454	0.000123228	11094843	13,832,342,053	0.000802	0.153633
2008	1309	5098688	0.000256733	*	15,969,594,225	*	*
2009	1978	4312055	0.000458714	23918854	12,346,656,501	0.001937	0.236783
2010	3037	7200267	0.00042179	18143269	15,095,502,449	0.001202	0.350936
2011	2456	8809856	0.000278779	20790996	18,103,987,370	0.001148	0.24275
2012	24798	9364653	0.002648043	28722984	18,395,803,866	0.001561	1.695954
2013	6242	10594069	0.000589198	26756063	18,881,587,009	0.001417	0.415793
2014	8101	9687918	0.000836196	28753499	18,878,970,324	0.001523	0.54903
2015	3538	6979472	0.000506915	16757790	16,399,773,904	0.001022	0.496085
2016	746	6425588	0.000116098	14311911	15,881,855,749	0.000901	0.128834
2017	2123	8125838	0.000261265	15462319	17,550,866,220	0.000881	0.296555
2018	4632	9052165	0.000511701	16385608	19,284,580,098	0.00085	0.602232

Note:
Xit=Zambia's exports to Angola; Xit=Zambia's total exports; Xwj=world exports to Angola; Xwt=world exports & TII=Trade Intensity Index
*=Data not available

Source: Kanenga's calculations based on ITC data (2020)

3.2.2 WITS data retrieval and analysis[105]

WITS is a tool the World Bank has developed in close collaboration with various International Organizations such as UNCTAD, ITC, United Nations Statistical Division (UNSD) and WTO. WITS is a software that contains aggregated data from several different databases, and which provides data about international merchandise trade, tariff and non-tariff measures (NTM). WITS enables users to have access to international trade and trade protection related data. It also provides built-in analytical tools which allow for the assessment of the impact tariff changes could have.

[105] It has to be underscored that even if citations in this section are hardly made, all information used to write such a section is from within WITS both before and after logging in. The WITS user manual can be accessed under this link and is also a key source of information used in writing this section of the chapter (WB, UNSD, WTO and UNCTAD, 2011).

What is so important for us in this chapter is that it empowers us with the capabilities with which to retrieve and analyse data on trade and tariffs. We can also convert the between different nomenclatures (a core concept defined in the next section), and customize country and product groups among others. Ultimately, WITS is a powerful tool for visualizing and downloading the data outlined above. It also makes it possible to calculate the impact of trade creation and trade diversion using the in-built simulation tool in WITS.

Its core aim therefore is to enable access to and retrieve data and information on various merchandise trade and tariffs data compilation as well as NTMs. For example as we shall see later, when you browse the Country profile section, you obtain countries exports, imports and tariff statistics together with relevant development data. In summary, WITS serves a number of purposes such as enabling the users to find the following:

1. Trade values and quantities for products on various nomenclatures;
2. Tariff rates for products in different markets based on various product classifications;
3. Compare tariffs across markets;
4. Analyse protection levels for countries and products over time;
5. Compare scenarios of changes to applied or bound tariffs;
6. Simulate economic impacts of various market access conditions.

Contents of WITS

WITS is based on three main databases (WB, 2020b):

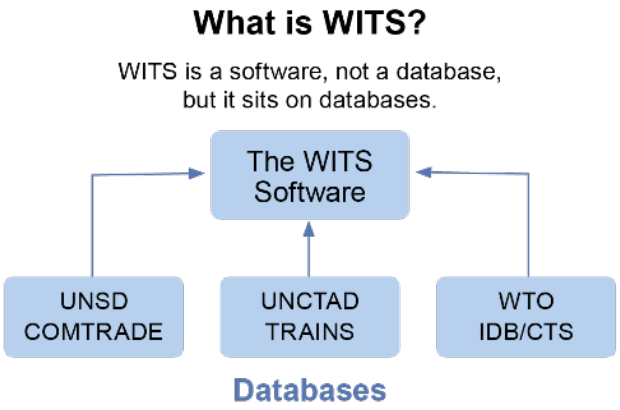
1. The Commodity Trade (UN Comtrade) database maintained by The United Nation Statistical Division (UNSD). The UN Comtrade comprises annual imports and exports statistics for over 160 reporting countries or areas around the world. These trade statistics basically focus on the value and quantity for every commodity traded, and broken down by trading partner.
2. The Trade Analysis and Information Systems (TRAINS) maintained by UNCTAD. TRAINS as a trade and market access information system combines three aspects:
    - A database containing data
    - a joint primary data collection with the ITC, UNCTAD/WTO (ITC), and
    - the WITS software.

Ultimately, TRAINS serves both as a data depository and an analytical tool which policy-makers and analysts and practitioners engaged in international merchandise trade can utilize. Multilateral or bilateral trade negotiators also find it to be a powerful tool just like those using it for general research on international merchandise trade.

3. The Integrated Data Base (IDB) and the Consolidated Tariff Schedule Data Base (CTS) maintained by the WTO. The IDB contains applied customs duties at the tariff line level whereas the CTS consists of Members' commitments on trade in goods which are essentially two-fold – bound tariffs and specific commitments in trade in agricultural goods.

It is therefore these three databases which make WITS a software illustrated in figure 23.8 below.

Figure 23.8: Summary of WITS composition



Source: Authors construction

Go to exercise 2 (E2.1) in Annex 1 for further guidance on how to access WITS and description of core concepts.

Nomenclatures in WITS

The concept of nomenclature is crucially significant if one is to appreciate WITS. All queries one makes in retrieving data are based on the nomenclature (or classification) principle. In WITS, nomenclatures are standard internationally recognized classifications used for trade, tariff, and industry and national income accounting purposes. This can include nomenclatures like SITC, or the HS-code previously described in section 2 of this chapter. In the quest to standardize the content, format and structure of outputs and make them comparable across countries, governments and international organizations use the classifications (nomenclatures).

Nomenclatures are revisable with the passage of time for the basic reason of taking into account changes in international trade. For example, the HS nomenclature discussed in section 2, was introduced in 1988 has since undergone about five major revisions with the latest being HS 2017, and the next earmarked for 2022. In each revision, some product categories are extended or added whereas others are deleted or combined with others thus the total number of products reduces or increases in each revision (WB, UNSD, WTO and UNCTAD, 2011). The extent of product and trading partner coverage can differ substantially between different revisions. It is however possible to link different revisions in order to extend the available amount of data through the use of correspondence tables. For more information refer to the link below.[106] As a result, the type of data available to a certain extent depends on which nomenclature is used, since different nomenclatures will have different types of data.

In terms of deciding which nomenclature to use, it is all dependent on the individuals' interests and/or requirements of a particular study they are undertaking. Settling on one nomenclature means incurring potential trade-offs. If on one hand as an example, the maximum level of trade detail is required, selecting the most current Harmonized System (HS) will be the best. The trade-off one incurs is that the number of years available will be few due to the fact that countries only began using this classification in 1988.

On the other hand, if one wants to retrieve data with the maximum number of years, using SITC Revision 1 is the best because it has data from as way back as 1962. The disadvantage is that this trade classification is less detailed.

See exercise 2 (E2.2) in Annex 1 for a step by step guideline for WITS data retrieval.

4 Key Trade Indices and Selected Methods of Data Analysis

4.1 General overview

Trade data analysis is increasingly becoming important with the growing complexity of modern day international trade. Trade data analysis is helpful as it is used in the trade policy and decision making processes. It is used at all stages of trade policy making processes, that is, in the assessment of the likely effects a trade policy change and various strategies, during the stakeholders consultation stage and even during the implementation stage as well as the evaluation stage (UNCTAD

[106] You can access more information under this link (UN, 2017).

and WTO, 2012). Trade data analysis also enables the quantification of trade flows which enables trade policy analysts and policy makers to establish trends in trade flows, which are useful for description and comparing policies between sectors or countries or over time. Trade data analysis is also important for companies and organizations as it gives them insights to make better, more effective business decisions and strategic business moves. Thus, data analysis is crucial for the success of any trade policy and businesses involved in trade (Keyes, 2016).

The type of analysis one undertakes is often times dictated by the nature of data available and the objectives to be achieved. Data types can be qualitative or quantitative. Qualitative data is that data which is in either in a verbal or narrative format is qualitative data while quantitative data is data that is presented in numerical terms. This sub-chapter provides a brief overview of the forms of data analysis applied to quantitative data. Keyes (2016) has identified the main three main categories of analyses which include:

1. Descriptive analysis: This is using data to describe the situation, usually the past.
2. Predictive analysis: Using data to predict and understand the future.
3. Prescriptive analysis: Involves both descriptive and predictive. This type of analysis focuses what has happened and what will happen and then what you can do about it and the impact of your decision option.

Various methodologies can be used to analyse trade data. These may include descriptive statistics, modelling approaches, econometric estimation, and simulation, ex ante and ex post approaches, partial and general equilibrium (UNCTAD and WTO, 2012). Given such a wide range of methodologies it is incumbent upon the researcher to decide the on which methodology would best answer the research question. This sub-chapter will generally focus on descriptive analyses using STATA software.[107]

4.2 Descriptive analysis and major trade indices

Descriptive analyses are generally used to assess a country's trade performance. Generally, trade performance is assessed using various indices or indicators. These indices may fall under the following categories: trade openness indicators, trade composition, comparative advantage, analysing regional trade. These are discussed in turn.

[107] See section 5 and exercise 3 in annex 1 for more information on STATA as a tool for trade data analysis.

4.2.1 Overall openness indicators

This measures how an economy is integrated in the world economy. Indicators of openness include: the trade to GDP ratio, off-shoring and vertical integration among others. Table 23.9 below shows some trade openness indicators.

Table 23.9: Key trade openness indicators.

	Indicator	Formula
1	Trade Openness: Measured by the trade-to-GDP ratio	$\text{Trade Openness} = \frac{X_{it}+M_{it}}{GDP_{it}}\ X\ 100$ • Where *X* is the total value of exports for country i at time t, *M* is the total value of imports for country i at time t, and GDP is the Gross Domestic Product of country *i* at time *t*. • The higher the value of the trade openness index (getting closer to 100) the greater the openness
2	Off Shoring: is the ratio of imported intermediate inputs used by an industry to total (imported plus domestic) inputs	$OS_i = \sum_j \left[\frac{MI_{ij}}{TI_j}\right]$ • Where MI_{ij} is imported inputs i by industry j. TI_j is the total inputs of industry i.
3	Vertical Integration: defines vertical integration as the value of imported intermediate inputs embodied in exported good	$VI_j^i = \left(\frac{MI_j^i}{GO_j^i}\right) * X_j^i$ • Where VI_j^i is the vertical integration index for country i in sector j, MI_j^i is the imported inputs of country i in sector j, GO_j^i is the gross output of country i in sector j, X_j^i exports of country i in sector j. • If there are no imported inputs, the vertical specialisation index is zero.

Sources: Constructed from WB (2013); UNCTAD and WTO (2012)

4.2.2 Trade composition

Factor endowment of a particular country determines the trading partners of that country. This captures the issue of export diversification for a country. Examples of trade composition indicators include: Intra-industry trade, Export diversification, among others. Table 23.10 below shows some Trade Composition indicators.

Table 23.10: Key trade composition indicators

	Indicator	Formula
1	Intra-industry trade	$GL_k^{ij} = 1 - \frac{\left\|X_k^{ij} - M_k^{ij}\right\|}{X_k^{ij} + M_k^{ij}}$ • Where GL is Glubel – Lloyd Index of intra industry trade; X_k^{ij} is country i's export to country j for good k and M_k^{ij} is country i's import from country j for good k. • The decision rule is that if *GL* = 1, there is only intra-industry trade, no inter-industry trade. This means the country in consideration exports as much of good *k* as at it imports (XX). Similarly, if $GL_i = 0$, then there is no intra-industry trade, only inter-industry trade. This would mean that the country in consideration either only exports or only imports good k
2	Export Diversification	Herfindahl concentration index expressed as follows: $H_i = \sum_j (s_j^i)^2$ Where thes_j^i is the share of sector j in total exports of country; H_i is the export diversification index for country i and j is the sectors (the index ranges from $\frac{1}{K}$ to 1 – where K is the number of goods and services exported or imported)

Sources: Constructed from UNCTAD and WTO (2012)

4.2.3 Comparative advantage

This concept is based on the Ricardian trade theory, which posits that patterns of trade among countries are governed by their relative differences in productivity. We can use revealed comparative advantage, revealed factor intensity and revealed technology content metrics. Table 23.11 below shows some comparative advantage indicators.

Table 23.11: Key comparative advantage indicators

	Indicator	Formula
1	Revealed comparative advantage: measure a country's comparative advantage as portrayed by trade flows	It is calculated as follows: $RCA_{ij} = \frac{\frac{X_{ij}}{X_{iw}}}{\frac{X_j}{X_w}}$ • Where RCA_{ij}; is the revealed comparative advantage of product j exported from country i: from X_{ij} is country i's export of product j; X_{iw} is the sum of country i's exports to the rest of the world; X_j is the sum of world exports of product *j;* X_w *is* total world exports. • An RCA value of greater than 1 implies that the particular country has a comparative advantage for a given product, while a value of less than 1 implies comparative disadvantage.
2	Revealed technology content: PRODY index: measures the level of technological sophistication embodied in a country's export portfolio.	• PRODY is calculated as a weighted average of per capita GDP (Y) of countries producing that product, with weights derived from revealed comparative advantage (RCA). The formula for calculating the PRODY index is given below. • $PRODY_j = \sum RCA_{ij}\, Y_i$ • Where $PRODY_j$ is the technological sophistication index for product j; Y_i is the per capita GDP of country i; $RCA_{ij}$is the revealed comparative advantage of product j for country i. • The PRODY value ranges from 0 to positive infinite. The higher the value the more sophisticated the export portfolio.
3	Revealed factor intensity: based on the assumption that a richly endowed in physical capital is supposed to be capital intensive	$k_j = \sum_{I_j} \varphi_{ij}\, k_i$ • Where $k_i = \frac{K_i}{L_i}$ is country *i* 's stock of capital per worker; I_j is the set of countries exporting product *j;* φ_{ij} *is the* RCA indices adjusted to sum up to one (used as a weight).

Sources: Constructed from WB (2013); UNCTAD and WTO (2012)

4.2.4 Analysing regional trade

Analysing regional trade can determine the extent to which geographical location can affect trade. There are two generally used indices which include regional intensity of trade and trade complementarity indicators. Table 23.12 below shows some regional trade indicators.

Table 23.12: Regional trade indicators

	Indicator	Formula
1	Regional Intensity of Trade	$$R_{ijk} = \frac{X_{ijk}/X_{ij}}{X_{ik}/X_i}$$ • Where X_{ijk} is country i's exports of good j to country k; X_{ik} is the sum of country i's exports to country k; X_{ij} is the sum of country i's export of good j to the rest of the world; X_i is the country i's export to the world aggregated over all goods. • For Regional intensity, we replace "country" with "the particular region".
2	Trade complementarity	$$TCI = \left[1 - \left\lvert \frac{m_{jk}}{M_j} - \frac{x_{ik}}{X_i} \right\rvert\right] * 100$$ • Where *x* is the value of exports of product *k* from reporter country *i,* and *X* is country *i*'s total exports. Partner country *j*'s value of imports of product *k* is given by *m*, and its total imports value is denoted by *M*. • A value of 100 shows that the two countries are ideal trading partners and both countries gain from increased trade; 0 indicates that the two countries are perfect competitors.

Sources: Constructed from WB (2013); UNCTAD and WTO (2012)

5 STATA as a Tool for Trade Data Analysis

Stata is one of the software's that can be used to undertake data analyses. The software package is generally command-line driven and can handle various datasets such as panel data, cross-sectional data, time-series data, survival-time data, and cohort study data, as well as other data.

See exercise 3 in Annex 1 for guidance on how to use STATA as a tool for trade data analysis.

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Annex 1: Trade Data Retrieval, Analysis and Application

EXERCISE 1: ITC Data Retrieval and Analysis

Data retrieval and analysis are practical steps. Therefore, to make the practical steps feasible, we begin by providing a question/assignment which becomes the basis for guidance for data retrieval and analysis. See the case in point in the table below:

Table 23.1.1: An assignment example to actualize ITC trade data retrieval

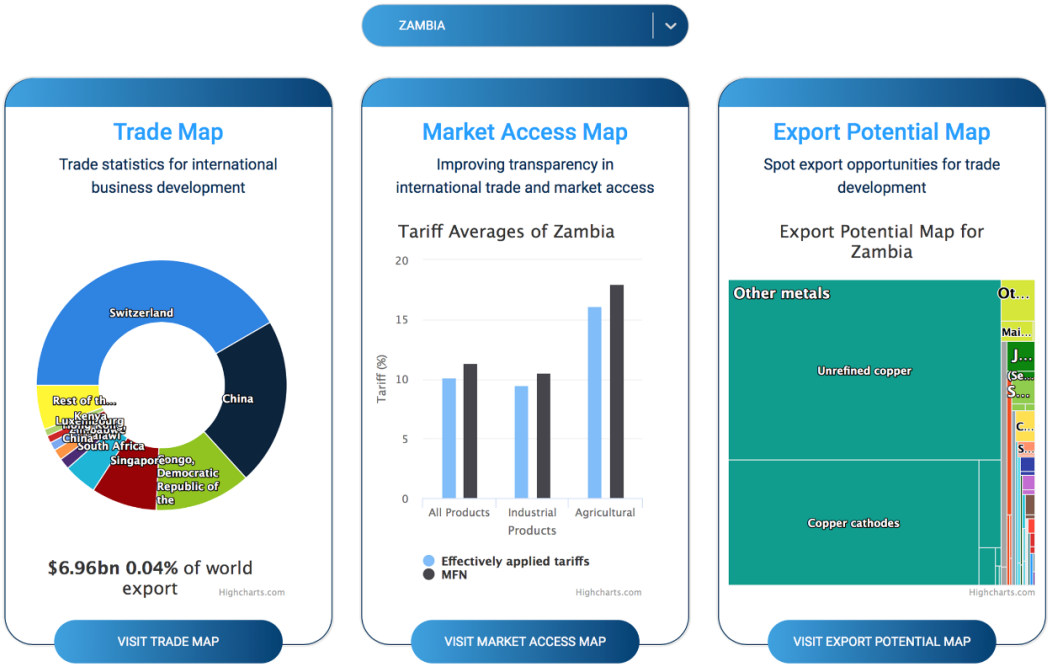
Assume you have just been appointed as the new Trade Attaché to the Zambian mission in a named country (which is your assigned/chosen country. Here, in class we usually assign students – working in small groups – countries from all over the world as trade partners for Zambia). You will be reporting to your boss (the Ambassador/High Commissioner) in the next one month. Before reporting, your boss has tasked you to prepare a thorough report to him/her generally about existing/potential bilateral trade between the said country and Zambia. To do this, it will require you to first understand/explain what that country's major imports and exports or general background.
Part A: General Analysis For parts B and C, make comments (up to half a page) how your focus country's trade situation compares to and/or differs from what you already know or have just established about Zambia.
Part B: From your focus country assigned to your group, retrieve (at 2 or 4 –digit level) data from ITC Market Analysis Tools (trade map) bilateral trade data between Zambia and your focus country, which you should use to compute/generate some appropriate graphs/tables to summarize the bilateral trade situation between the two. (Hint: use a Table/Graph to ease presentation – use partner "All"; increase "Time Period/number of columns" to the largest; and "Rows per page" to the maximum) Based on your data summaries and relevant authentic literature, analyze the presence (or lack thereof) of bilateral trade between Zambia and your focus country. Suggest ways in which trade in your identified goods and respective sector could be improved so that your boss the Ambassador/High Commissioner can emphasize to all Staff to focus on them.
Part C: Provide a very brief note on how each member played a role in ensuring the assignment is a success. Marks will be deducted from all members for covering up.
NOTE: Your assignment/paper write-up should ultimately not have Part A, B, C etc but it must be blended with the rest of the essay having suitable headings and sub-headings. Creativity in presentation is highly encouraged. Maximum of 15 pages of main report at font 12 & 1.15 spacing. Where necessary, enclose appendices/annexes after the reference list.

E1.1 Preliminary steps

To address the assignment above, start by accessing ITC website[108] (http://www.intracen.org/default.aspx), and look for "Tap into free trade intelligence – Market Analysis Tools" click → Market Analysis Tools. From here you can right away click on "Trade Map" and begin the retrieval. However, it is advisable to start by clicking the "sign up" and do the necessary steps through the "REGISTER" provision thereon. When prompted for a "profession", indicate student, and accordingly provide details of your respective university e.g. The University of Zambia. Please note that accessing ITC data is free of charge for developing and less developed countries.

When on the "Market Analysis Tools Portal" → select →country of choice e.g. Zambia from scroll down menu. Once you select the country, the three maps below – Trade Map; Market Access Map; and Trade Potential Map – will automatically be updated with graphs and statistics summarizing necessary data e.g. the Figure below:

Figure 23.1.2: Summary trade data on Zambia's trade with the world



Source: ITC (2020)

[108] Note that the guidelines are based on the website format as at January 2020. The guidelines change as the website gets updated and the Market Analysis Tools revised also. To simplify the text and guidance, we use arrows → as an instruction to go to something following.

The highlights of the figure above an example could be that Zambia currently contributes 0.05% to world exports; and Switzerland is the largest/most important trading partner as an export destination/market accounting for about 42% (most copper exports are to Switzerland even if the reality on the ground may be that the actual copper ends up in China instead[109]).

E1.2 Core steps

Once done with the above steps, →"VISIT TRADE MAP". While on trade map, ensure the settings are on "product" (not service) and "export" or "import" in the context of our assignment above. See Figure below:

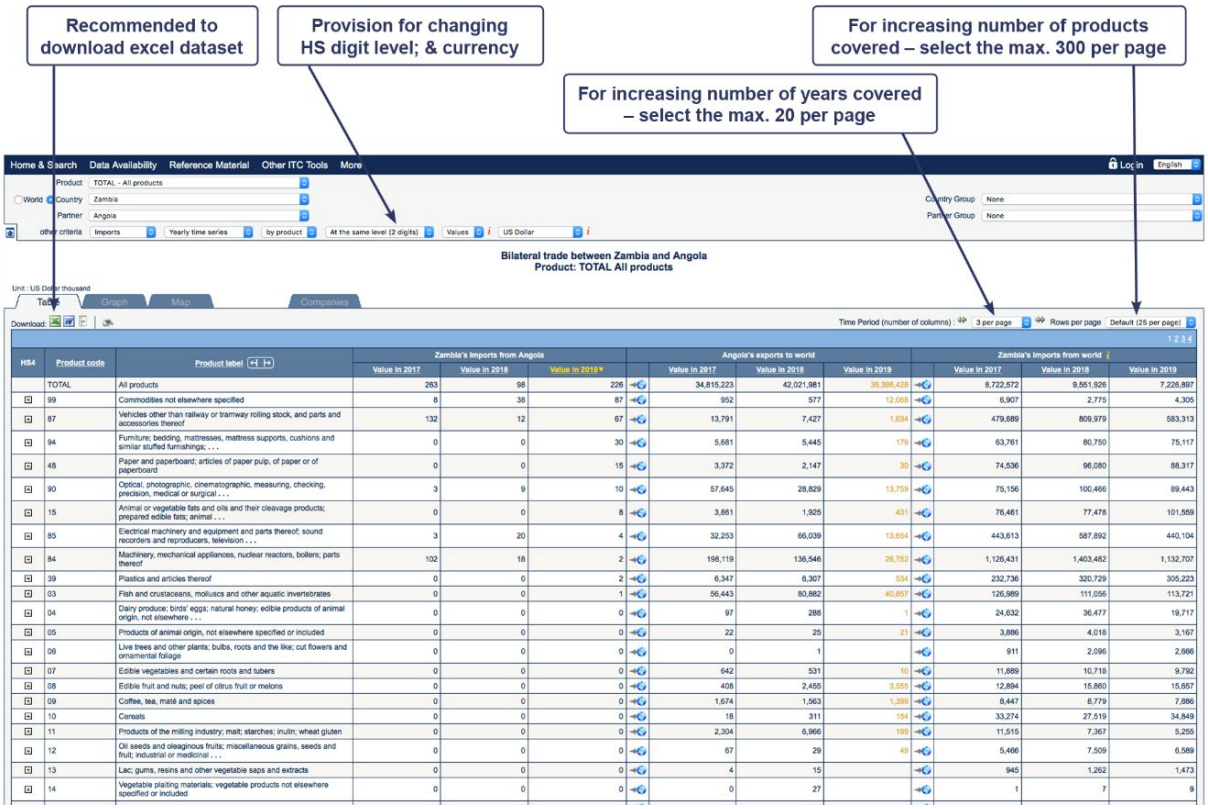
Figure 23.1.3: Commencing data retrieval in the ITCs trade map

Source: ITC (2020)

The default settings for product are at "single" (and not "group") as above. Therefore, → "TOTAL All products" from the first scroll down list; and "Zambia" from the second scroll down list (if Zambia does not appear, simply type it in and as you do, it will pop-up for your selection). Once you select the country (or region), a third scroll down list will be activated for your selection of a trading partner/region. We assume our country of choice is Angola. Once selected, → Yearly Time Series. A dataset will open as below:

[109] Such a debate could be found e.g. on http://www.zipar.org.zm/13-do-zambia-s-copper-exports-disappear-into-thin-air.

Figure 23.1.4: Display of data on Zambia's exports to Angola



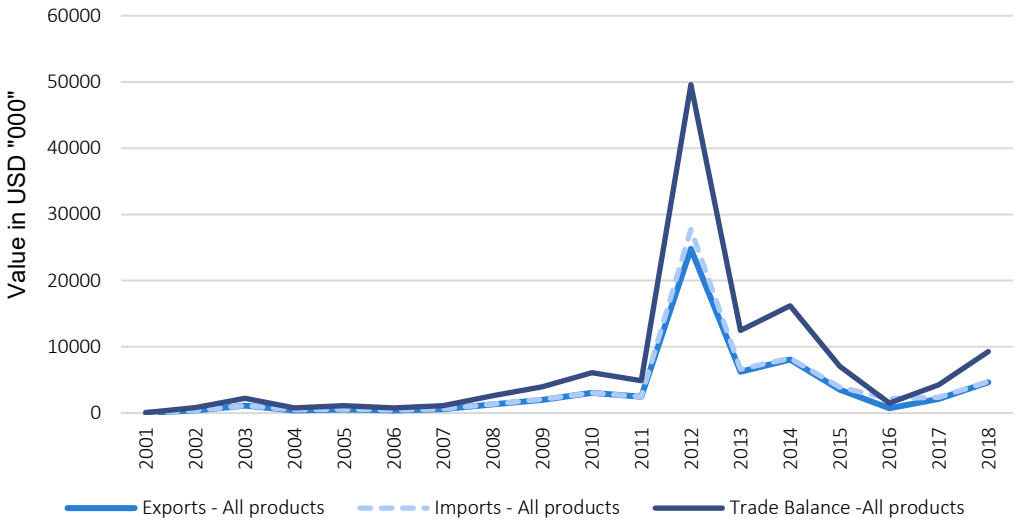
Source: ITC (2020)

Once the data is displayed, follow the instructions (if necessary) in the text boxes in the Figure above. i.e. increase the number of columns which gives you more years; and the number of rows which gives you more products; and finally click on the green download provision for an excel dataset to be downloaded. Just below the trading partner (Angola) on the data display window of the trade map, you could change the settings to download imports and trade balance data also. An excel version is advantageous as it enables one to compute a number of things and generate good graphs etc. We assume that the student has basic Microsoft Excel skills such as those for copying a dataset and pasting it in a new spreadsheet, adding, subtracting, multiplying, dividing, and generating graphs. If this is so, it is the possible to do the following once data is retrieved.

- Copy the dataset and paste it in a new spreadsheet. Doing so helps to keep the original one intact in case a mistake is made on the one being cleaned and manipulated to make sense out of it.
- Clean up the dataset e.g. the dataset will have, in the years row, "Value in 2001", you have to edit this to just "2001" to necessitate the generation of smart looking graphs.

- When you have three separate datasets – imports, exports, and trade balance – it is possible to have a new one where all three are on different spreadsheets of the same file for ease and efficiency. You may then open a new (fourth) spreadsheet where you copy and paste some data from the three which you may want to capture and display in the same graph such as the following:

Figure 23.1.5: Trends in trade between Zambia and Angola, 2001–2018



Source: Kaleng'a's computation of ITC data (2020).

From the graph above, it is possible to tell a story about bilateral trade between Zambia and Angola thus attempting to answer the question we have above. This story could be amplified with a literature review to for example explain why there was sharp increase in trade flows between 2011 and 2013, and why a decline afterwards etc.

Using the same datasets, it is possible to sort the data and "extract" for example the major export products (note the trends may vary yearly thus the need to sort by the year of interest – 2018 is used in the example below); the minimum, maximum and average trade values among others. The table below captures a number of these parameters. A similar table about imports from Angola can be generated, just like one about trade balance between the two. From all such tables and graphs, a good narrative augmented by the review of literature would result into a good report.

Table 23.1.6: Zambia's main export products to Angola, USD "000", in selected years

HS Code	All products	2001 33	2004 400	2007 569	2010 3037	2013 6242	2016 746	2017 2123	2018 4632
'10	Cereals	0	160	112	22	132	122	856	1849
'84	Machinery, mechanical appliances, nuclear reactors, boilers; parts thereof	4	3	0	1596	3841	126	400	797
'74	Copper and articles thereof	0	0	0	0	369	0	0	755
'85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television ...	0	0	2	18	3	68	0	576
'23	Residues and waste from the food industries; prepared animal fodder	0	0	0	0	0	1	190	169
'12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal ...	0	29	68	0	1199	62	24	149
'39	Plastics and articles thereof	2	4	9	11	0	0	379	94
'01	Live animals	0	3	39	52	55	120	120	60
'07	Edible vegetables and certain roots and tubers	0	84	0	42	157	63	86	30
	TOTAL	6	283	230	1741	5756	562	2055	4479
	BALANCE	27	117	339	1296	486	184	68	153
	AVERAGE	0,7	31,4	25,6	193,4	639,6	62,4	228,3	497,7
	MAXIMUM	4	160	112	1596	3841	126	856	1849
	MINIMUM	0	0	0	0	0	0	0	30

Source: Kaleng'a's computation of ITC data (2020)

If GDP figures are available, it is possible to compute other trade indicators such as Market Openness (formula: O = (X + M)/GDP). Market openness as an indicator is cardinal due to a number of reasons. According to the World Economic Forum, the reasons are as follows:

> *"Openness is an indispensable enabler of growth, job creation, and poverty reduction. Trade provides new market opportunities for domestic firms, stronger productivity, and innovation through competition. It contributes to poverty reduction, stronger wages, geopolitical benefits derived from deeper economic integration, and even on the personal level—increased individual choice and freedom. No country has developed successfully in modern times without harnessing economic openness—to international trade, investment, and the movement of people.[110] This is especially relevant for smaller countries as rarely has any country with less than 10 million people reached high income status with less than 50 percent of exports in GDP.[111]"*

In answering the question earlier presented, it could be helpful to establish the market openness between Zambia and Angola. This may be good for identifying areas in which the bilateral trade can be improved to the benefit of consumers in both countries. Furthermore, trade intensity, a trade measure discussed in the next section could be a possible inclusion in the report addressing the Ambassador's needs in the model question posed earlier.

110 https://openknowledge.worldbank.org/bitstream/handle/10986/6507/449860PUB0Box3101OFFICIAL0USE0ONLY1.pdf?sequence=1

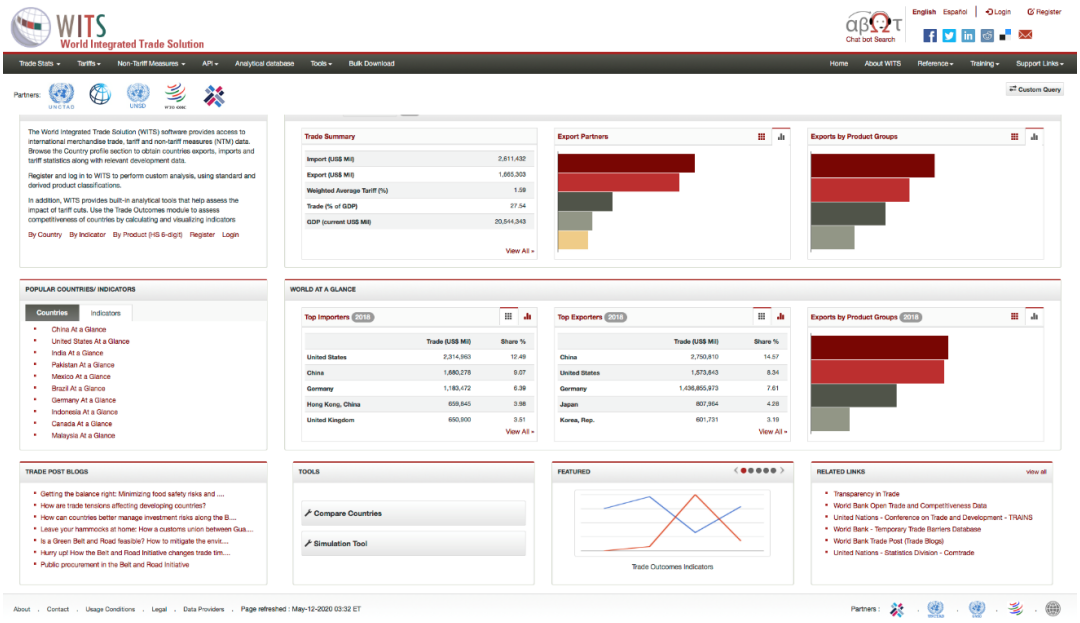
111 https://www.weforum.org/agenda/2015/11/why-openness-to-trade-is-important-for-global-growth/

EXERCISE 2: WITS Data Retrieval and Analysis

E2.1 Access and basic information

Start by accessing the WITS website (WB, 2020a), and as a first time user you are required to register. Look for the registration icon in the top right corner of the home webpage which looks like the below:

Figure 23.1.7: WITS home page



Source: WB (2020a)

It is key to know the following:

- There is no charge to use the WITS software.
- Access to UN Comtrade data is free for all users with a limit of 50,000 rows per download request.
- Access to UNCTAD TRAINS is free and accessible for all users.
- All users have free access to WTO IDB and CTS tariff data at the tariff-line level.
- WTO 6 digit (HS) data are generally available.

E2.2 Step by step WITS data retrieval guidelines

To meaningfully commence data retrieval, let us begin with a question/assignment to guide us:

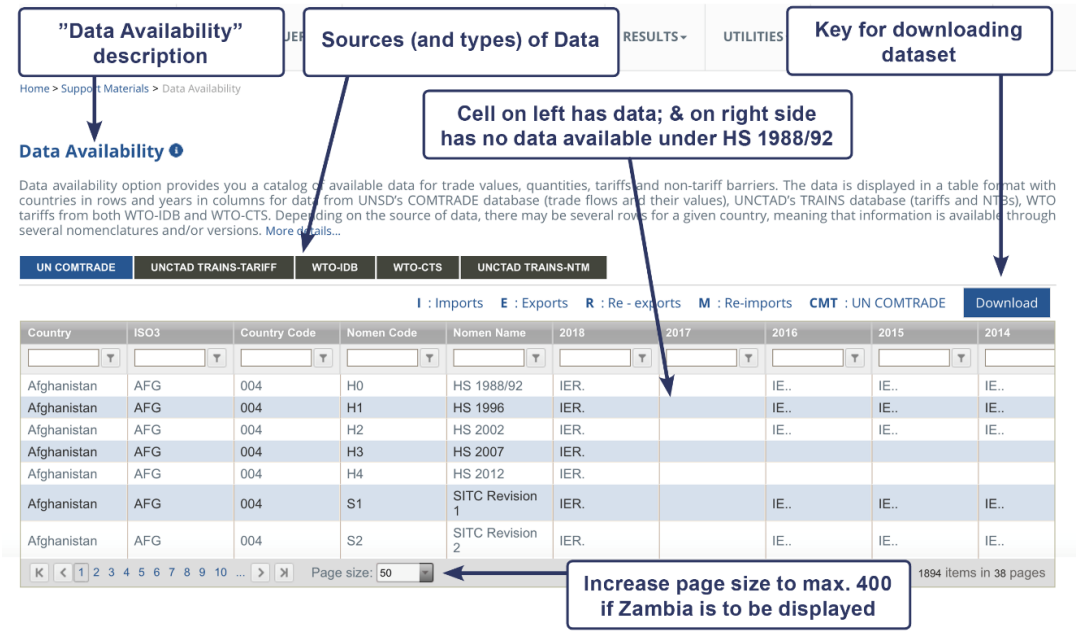
Table 23.1.8: Questions for guiding WITS data retrieval

Questions	
Part A: Look at trade data availability in the COMTRADE, TRAINS and IDB catalogues for your focus country: What are the available databases, nomenclatures and years? Summarize all this in a tabular form and only three sentences narrative after the Table.	
Part B: Main import and export products Using COMTRADE, HS 1988 nomenclature at 2 digits (Chapter level), World as partner: 1. Identify the main import products (apart from petroleum) for your focus country. 2. Identify the main export products for your focus country. **Hints:** • Use Comtrade by country/period • World as partner • Click column heading to rank values	**Part C: Main trading partners** Using COMTRADE and the HS 1988 nomenclature at 2 digits (Chapter level): 1. Identify your focus country's main suppliers? 2. Identify your focus country's main export markets? **Hints:** • Use Comtrade by product • Total all products as *product* • All partners as *partner* • Click column heading to rank values
Part D: General Analysis For parts B and C, make comments (up to half a page) how your focus country's trade situation compares to and/or differs from what you already know or have just established about Zambia. **NOTE:** Your assignment should not have Part C (or where possible the other parts also) but it must be blended with the rest of the essay having suitable headings and sub-headings. Creativity in presentation is highly encouraged.	
Part E: Provide a very brief note on how each member played a role in ensuring the assignment is a success; and clearly report freeriding – 5 marks shall be deducted from every group member for covering up freeriding.	

Once you have registered into WITS as guided earlier and activated your account, → SUPPORT MATERIAL which is the last icon on the top bar of the page. Under support material, you may click on "user manual" should you want to learn more on WITS. Our interest however in attempting to answer the question above is the "Data Availability". This provides you a catalogue of available data for trade values, quantities, tariffs and non-tariff barriers. Once you click on it, you will have access to:

- a full description of what “Data Availability” is all about
- Display of data (available and unavailable – mainly because the country involved never reported it, and maybe using “mirror sources” to construct the data was not possible). See the data display below:

Figure 23.1.9: WITS data availability display with author's instructions inserted

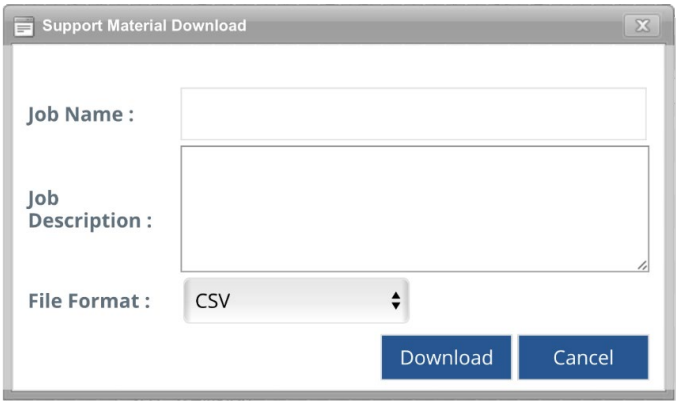


Source: WB (2020a)

In data availability, pay attention to the legend of the data available right on top of the years e.g. I = imports. Just above the legend, you can click on the icons to display the type of data of interest. For example, the Figure above is displaying Comtrade data. WITS displays data from the most recent year e.g. 2018 and in reverse order to the oldest data available e.g. 1962. It is key to note the nomenclatures for which data is (un)available. For example as displayed above, the nomenclatures through which data for Afghanistan is displayed start with HS 1988/92 through SITC revisions to HS 1996. If more data for more countries is to be displayed, you are required to increase the page size as guided in the Figure above, after which you can then click on the download icon.

The download click → a dialogue box as below:

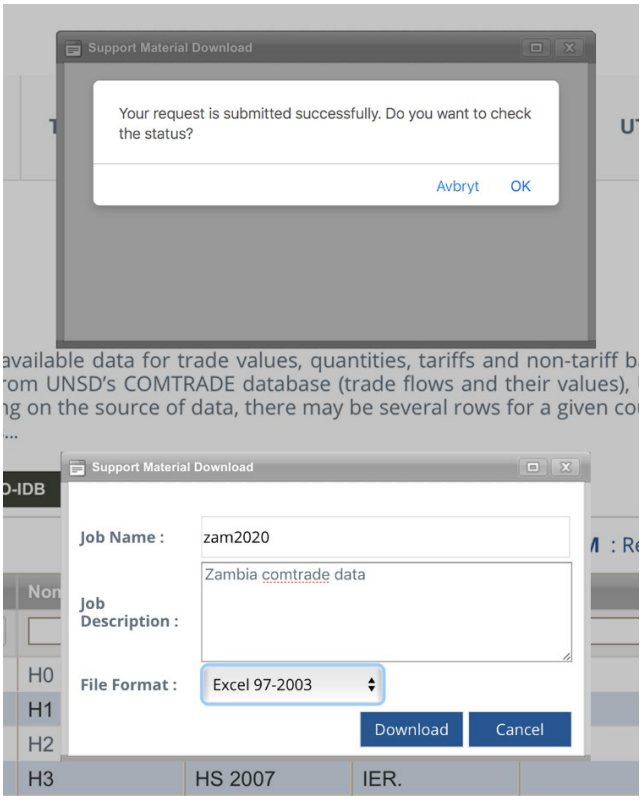
Figure 23.1.10: The WITS data download dialogue box



Source: WB (2020a)

In the job name, you are required to type a data file name (with no spaces) of your choice; the next requires you to briefly describe the data; the next requires you to select the format of the dataset (See the next Figure for an example). Once you have typed the details, click on download, and a small box on top will pop up to confirm your successful submission of a download command/request → "OK" to get to actual dataset.

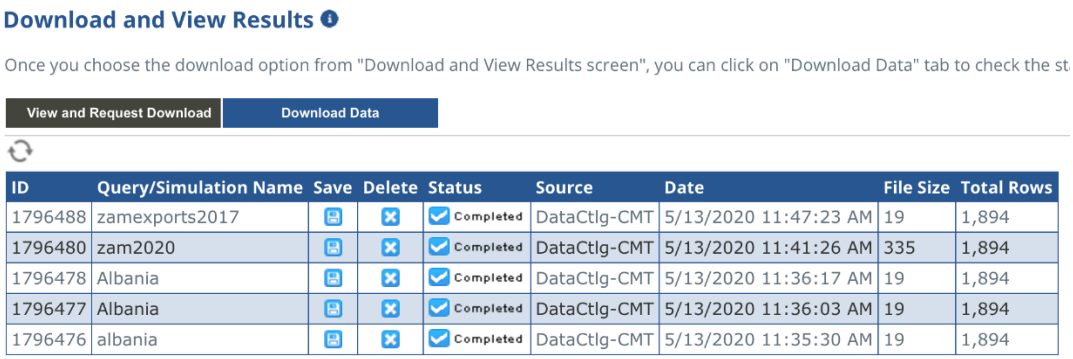
Figure 23.1.11: Data download commands display



Source: WB (2020a)

Once successfully clicked on OK, the next window as in the Figure below will pop up. Depending on how many times you have downloaded data in WITS and whether you have been deleting the datasets, the latest dataset will be placed on top of the others with the necessary dataset details. You are required to click on the "save" icon for your dataset of interest to complete the download. Such a dataset includes all the data for all the countries in WITS arranged alphabetically making it easier to locate your country of choice.

Figure 23.1.12: Completing data download in WITS



ID	Query/Simulation Name	Save	Delete	Status	Source	Date	File Size	Total Rows
1796488	zamexports2017			Completed	DataCtlg-CMT	5/13/2020 11:47:23 AM	19	1,894
1796480	zam2020			Completed	DataCtlg-CMT	5/13/2020 11:41:26 AM	335	1,894
1796478	Albania			Completed	DataCtlg-CMT	5/13/2020 11:36:17 AM	19	1,894
1796477	Albania			Completed	DataCtlg-CMT	5/13/2020 11:36:03 AM	19	1,894
1796476	albania			Completed	DataCtlg-CMT	5/13/2020 11:35:30 AM	19	1,894

Source: WB (2020a)

Assuming your countries of choice are Chad and Zambia, and you have downloaded data from Comtrade, TRAINS, and IDB, you could process and present your data as in the table below:

Table 23.1.13: Trade data availability in COMTRADE, TRAINS and IDB for Chad and Zambia

Country	Data source	Nomenclature	Years	Available data*
CHAD	**COMTRADE**	SITC Revision 1	1962-1975	IE
		HS 1988/92 SITC Revision 1 SITC Revision 2 SITC Revision 3	1995	I
	TRAINS	N/A	1995; 2001-2011 & 2013	T
		N/A	1997	T& NTB
	IDB	N/A	2002-2011 & 2013	T
ZAMBIA	**COMTRADE**	HS 1988/92	1995-2013	IE
		HS 1996	1997-2013	IE
		HS 2002	2002-2013	IE
		HS 2007	2008-2013	IE
		HS 2012	2012-2013	IE
		SITC Revision 1	1995-2013; 1993 1966 & 1967; 1970-79 1993	IE IER E
		SITC Revision 2	1976-1979 1993	IER E
		SITC Revision 3	1993 1995-2013	E IE
		SITC Revision 4	2008-2013	IE
	TRAINS	N/A	1993; 1997;2001-2013	T
	IDB	N/A	2000 2001-05; 2008,2010,2011 2006;2007;2012	I IT T

Source: authors' based on extracts from WB (2015). The Table is used as an example and not updated to current (2020) data availability thus it is only correct as at 2015.

*) Legend: I = Imports, E = Exports, IE = Imports & Exports, IER = Imports, Exports & Re-Export, NTB = Non-Tariff Barriers, T = Tariff

Based on the table above, you could write a few sentences to amplify what is necessary in answering part A of the question/assignment we presented earlier. To answer parts B and C, a similar retrieval process is required except instead of starting from "SUPPORT MATERIAL" followed by "DATA AVAILABILITY", you go to the first icon "QUICK SEARCH" on the top icon bar. Here, our interest is to focus on "UN COMTRADE By product" and "UN COMTRADE By Country Period". The results of such data downloads would be processed and presented in

ways such as the following, which is based on the author's trapca[112] 2015 assignment (thus differs a bit from the HS 1988 in the earlier presented assignment, and used basically as examples):

Question: Using COMTRADE, HS 1996 nomenclature at 2 digits (Chapter level), World as partner:

1. Identify the main import products for your focus country apart from petroleum.
2. Identify the main export products for your focus country.

Country of choice for imports: ETHIOPIA – chosen because its imported products met the HS 1996 nomenclature at 2 digits (Chapter level) criterion.

Table 23.1.14: Ethiopia's main products imported from around the world in 2012 (Gross Imports)

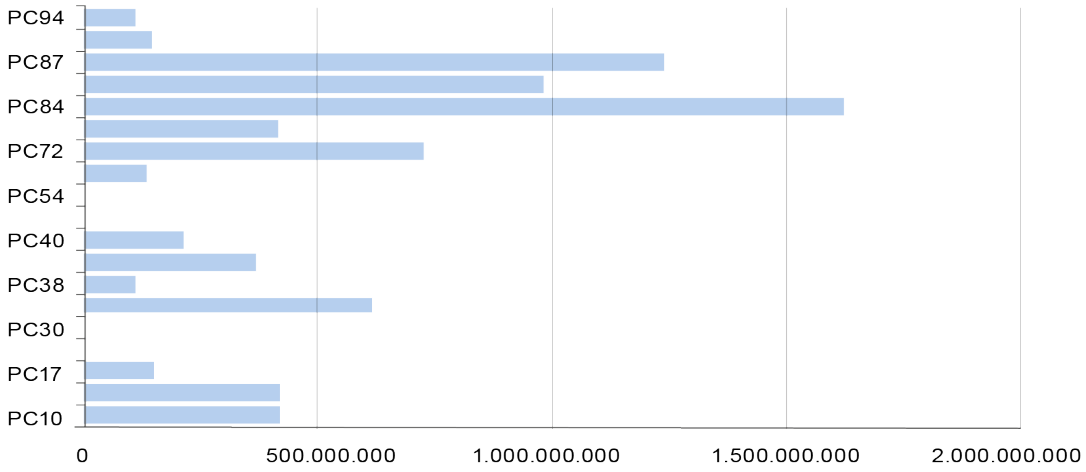
Product codes	Code Description	2012 in USD "000"
10	Cereals	416652.334
15	Animal or vegetable fats, oils & waxes	416999.201
17	Sugars & sugar confectionery	146047.421
27	Mineral fuels, oils, waxes & bituminous sub	2480489.95
30	Pharmaceutical products	174451.22
31	Fertilizers	613732.932
38	Miscellaneous chemical products	103689.974
39	Plastics & articles thereof	362781.534
40	Rubbers & articles thereof	211365.298
48	Paper & paperboard, articles of paper pulp	119458.33
54	Man-made filaments, inc. Yarns & woven etc	122652.83
62	Articles of apparel & clothing accessories-not knitted or crocheted	132019.806
72	Iron & steel	721987.417
73	Articles of iron or steel	412879.876
84	Nuclear reactors, boilers, machinery & mechanical appliances, computers	1622208.221
85	Electrical machinery & equip. & Parts, telecommunications equip., Sound recorders, television recorders	980741.844
87	Vehicles other than railway or tramway rolling stock	1238624.251
90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments & accessories	142910.073
94	Furniture, bedding, cushions, lamps & lighting fittings nesoi, illuminated signs, nameplates & the like, prefabricated buildings	110342.439

Source: Authors' based on extracts from WB (2015) and HS classification by section (2015)

[112] Trade Policy Training Centre in Africa (trapca) is a training centre in Tanzania.

The data in the table above could also be summarized as follows (you could choose one in your presentation to avoid repetitions):

Figure 23.1.15: Summary of Ethiopia's main imports from around the world in 2012 (Gross Imports in USD "000")



Source: Authors' based on table 23.1.14

In the Figure above, PC refers to "Product Code" which corresponds to the respective codes in table 23.26. There are 15 bars in the figure instead of the 19 product codes in table 23.26. This discrepancy arises mainly because the three other products had amounts far less than the rest even if they still were six-digit figures.

Country of choice for exports: Zambia – chosen because its Exported products met the HS 1996 nomenclature at 2 digits (Chapter level) criterion.

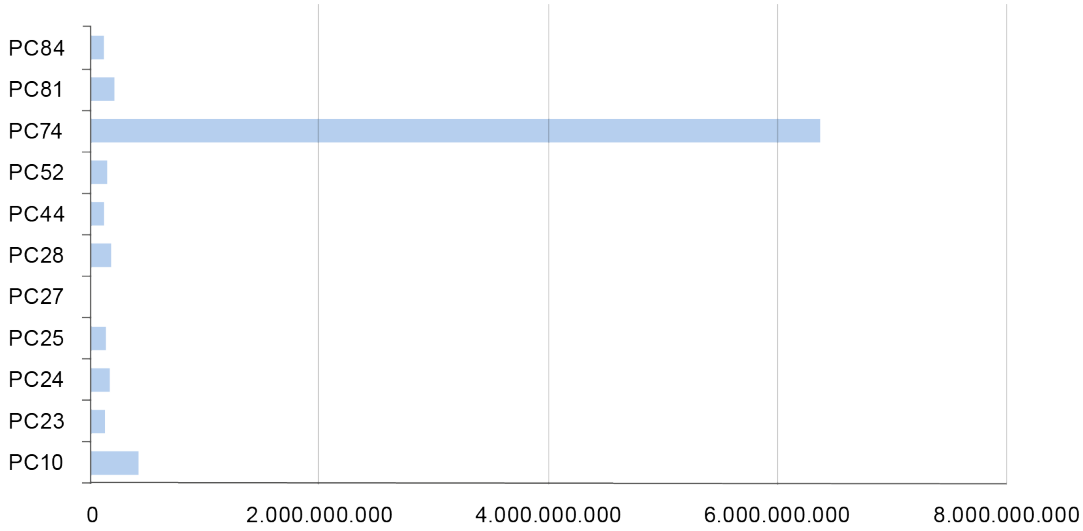
Table 23.1.16: Zambia's main products exported to the world in 2012 (gross exports)

Product codes	Code Description	2012 in 1000 USD
10	Cereals	414824.146
23	Residues from food industries, animal feed	131737.032
24	Tobacco & manuf. Tobacco substitutes	156797.152
25	Salt, sulphur, earth & stone, lime & cement	120978.746
27	Mineral fuels, oils, waxes & bituminous sub	120814.97
28	Inorganic chem, org/inorg compounds of precious metals, isotopes	164234.636
44	Wood & articles of wood, wood charcoal	101672.475
52	Cotton, inc. Yarns & woven fabrics thereof	132488.538
74	Copper & articles thereof	6372936.719
81	Base metals nesoi, cermets, articles etc	214480.858

Source: Authors' based on extracts from WB (2015) & HS classification by section (2015)

The figure below summarizes Zambia's main exports versus their monetary value in USD terms as in table 23.1.16.

Figure 23.1.17: Summary of Zambia's main products exported to the world in 2012 (Gross Exports in USD "000")



Source: Authors' based on table 23.1.16

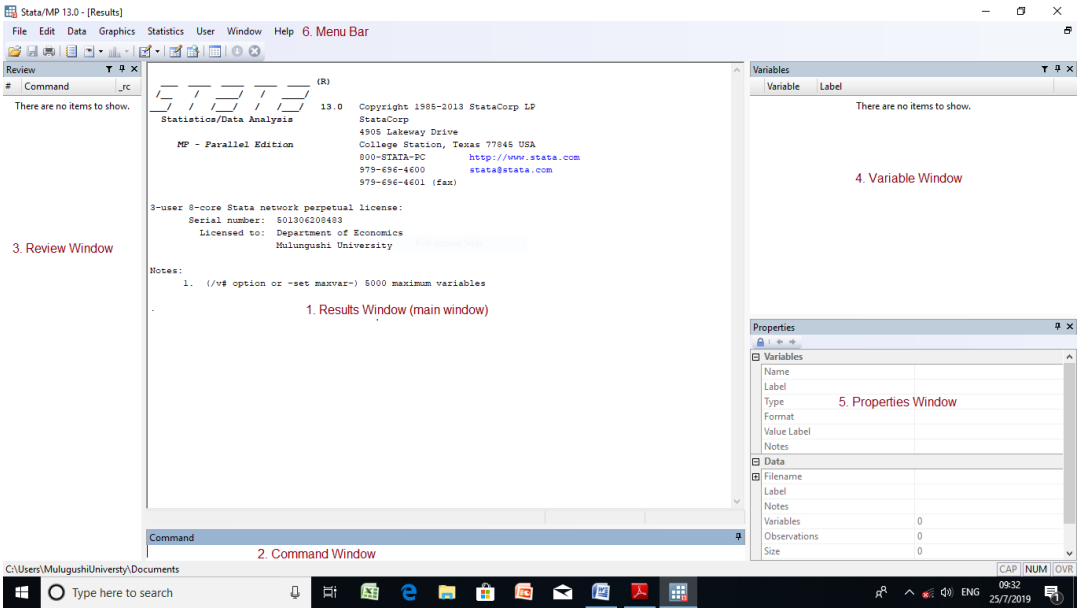
In the figure above, PC refers to "Product Code", which corresponds to the respective codes in the previous table.

EXERCISE 3: STATA as a Tool for Trade Data Analysis

E3.1. Description of the STATA data analysis software

Stata is one of the softwares one can use to undertake data analyses. The software package is generally command-line driven and can handle various datasets such as panel data, cross-sectional data, time-series data, survival-time data, and cohort study data, as well as other data. The procedure outlined below applies to the STATA software installed on a Microsoft Windows computer.

Figure 23.1.18: The STATA 13 interface



The Stata 13 interface is shown in the figure above. The interface has a menu bar (6) (drop down menu) on the top and 5 internal windows namely:

1. The results window (2): Shows the results or outputs of the analysis.
2. The Command window (5): This is where commands are typed and executed. Execution can be done using the ENTER button. Alternative to typing commands here, you can use the drop down menu system (6).
3. The Review window (1): This window displays the previously used commands. Clicking on them displays the respective commands in the command window.
4. The Variables window (3): This lists the variables in the current opened dataset (and their descriptions).
5. The Properties window (4) gives information about your dataset and your variables.

The menu bar

The menu bar is found at the top of the STATA main window. The Menu bar has the following menus:

1. *File:* Here we can open and save Stata data files. We can also save or prints as well as imports and exports files, exits Stata. The file menu also has a menu on *example datasets* you can use for your practice.
2. *Edit:* This menu has the copy and paste options which enable you to copy outputs to a Microsoft Word document or other applications.
3. *Data:* This menu has the options of describing the data, editing, generating or transforming variables, browsing through the data, summarizing, sorting the data, label datasets and variables.
4. *Graphics:* This menu contains all graphing tools for all types of datasets such as bar charts, pie charts, line graphs, scatter plots among others. It also enables you to manage your graphs.
5. *Statistics:* This is a very important menu as it contains all statistical analysis tools.
6. *User:* Allows you to store any user-generated commands.
7. *Window:* Window menu allows you to *c*ontrol the windows opened in Stata.
8. *Help:* This menu provides help to you on anything related to STATA.

E.3.2. Undertaking data analysis with STATA

Data analysis in STATA can be done in two ways, either through the drop-down (point and click) menu or through command (this can involve typing commands in the commands window or creating a do-file[113]). Data analyses demonstration in this book is done using the drop-down menus. In fact, through the drop-down menus the commands will be generated and these commands can then be copied and pasted on a .do file. Once a .do-file is created it can be used again without retyping the commands in the command window or using the drop down menu. This provides transparency, scalability and shareability for the statistical analysis carried out. Interested readers can explore the STATA resources from www.stata.com or ucla or indeed any other relevant resource, on how to undertake data analysis using the command based option (or do-file) as well as to undertake other types of analyses not covered in this text. Below we provide some procedure on how to import data into STATA and how to undertake some basic analyses.

[113] A *do file* is just a list of *Stata* commands

E3.3. Opening and closing, entering or importing data into STATA

Before you undertake any data analysis, there are certain things you need to do. Firstly you need TO understand the software and how it operates, thus you need to understand how to open and close the software among other things. Secondly, you have to enter the data into the software. Once data is entered into the software you need to clean it.

E3.3.1. Opening and closing STATA

STATA can be started in a number of ways:

1. If you have a STATA shortcut on your desktop just double click on the icon to open it. You can do the same for an existing data file saved with a .dat extension.
2. For Windows 10 and higher versions, click on the Windows icon and type "STATA" then click on the STATA icon.

STATA can be closed by clicking on File and then select Exit.

E3.3.2. Entering or importing data and saving.

Data needs to be entered into the software before it could be analysed. There are several ways to do this either data can be entered directly into the software or it can be imported or pasted from a spreadsheet such us Excel.

Entering data in STATA:

Data can be entered directly into STATA using the STATA data editor, which is similar to an Excel spreadsheet. Proceed as follows:

1. Open STATA
2. Click on data, then go to data editor, then select data editor (edit).
3. Once you click on data editor (edit), the data editor window opens and you can proceed with data entry.

Alternatively, data can be pasted from a spreadsheet like Excel onto STATA data editor as follows:

1. Start Excel.
2. Enter data in rows and columns or read in a previously saved file. Ensure that the first row has variable names.
3. Highlight the data of interest, and then select **Edit** and click **Copy**.

4. Open STATA, click on data, then go to data editor, then select data editor (edit).
5. Paste data into editor by selecting **Edit** and clicking **Paste**.

Importing data from a database
Importing data from Excel (although data can be imported from other format spreadsheets also). The steps are:

1. Open STATA
2. Go to file, then Import, and then select Excel spreadsheet (.xls, .xlsx)
3. Click on Browse and then find the file that contains your data. Click on it so that it appears in the File name section.
4. Click on the Open button. Select "import first row as variable name"
5. Click on OK.

Saving a data file
Saving is important to ensure that you do not redo the work in future. It is always important to know how to save the datafiles to ensure that the data is not lost. **Saving regularly is therefore crucial.** To save a new file, go to the **File** menu and choose **Save as**. Then a *.dta will appear under File Name. Rename * with your preferred name.

E3.3.3. Data declaration

For time series and panel datasets you need to declare the data type before undertaking any analysis. For time series data declaration proceeds as follows:

1. From the menu click on **statistics** then **time series** then setup and utilities then select **declare dataset to be time series data**.
2. Under **time variable** select the *time variable* and check the appropriate format (i.e. daily, weekly, monthly etc.).
3. Click on OK.

Once this is done STATA will recognize the dataset as time series data.

E3.3.4. Data screening and cleaning

Data cleaning should always be undertaken before data analysis can be done. This ensures that there are no errors in the data which might distort the analyses. Before undertaking the data cleaning exercise ensure that you save a copy of the original

raw data to ensure that you do not overwrite the original data. Cleaning can involve checking for wrongly inputted values, outliers, missing values, etc. In most cases data screening can be implemented using descriptive statistics such as frequencies, bar charts, line graphs etc.

E3.4. Descriptive analysis using STATA

Descriptive analysis is essential in data analysis as it helps describe the characteristics of the sample, check violations of assumptions underlying certain statistical techniques. These descriptive statistics include the mean, standard deviation, range of scores, skewness and kurtosis (Pallant, 2010). The descriptive analysis can be done on a univariate (single variable) or bivariate (two variables at the same time) or even multivariate (more than two variables). Descriptive statistics can be done for continuous and categorical variables. For continuous variables the possible descriptive can present the mean, median and standard deviation while for categorical variables the mean, median and standard deviation are not necessary.

E3.4.1 Descriptive statistics for continuous variables

Here we present how the various possible descriptive analyses for continuous variables can be handled. We look at how to create a line graph, scatter plot or histogram.

Procedure for creating a line graph.

1. From the menu click on **graphics** then click on **two-way graph (scatter, line, etc.),** click on **create**, select **line**.
2. Under Y-variable, input the variable you wish to appear on the Y-axis, and under X-variable, input the variable you wish to appear on the X-axis. Then click on **Accept**.

Procedure for creating a histogram.

1. Go to the ***Graphics*** menu and select ***Histogram***
2. ***In the main tab, under variable, enter (select) the variable of interest***
3. ***Press Ok***
4. ***You can play around with the graph colours, labels etc. using the option available.***

E3.4.2. Descriptive statistics for categorical variables

Here we present how the various possible descriptive analyses for categorical variables can be handled. We look at how to create a bar chart:

Procedure for obtaining a bar chart for categorical variables

1. From the menu go to **Graphics**, then click on **Bar Chart**, then under the **main** tab select the variable of interest.
2. Then under the **categories** tab, check **Group 1** (this will give you the options by which you wish to graph your variable of interest). Select the variable by which you wish to categorise your variable of interest. If you wish to further group you variable of interest, you can check **Group 2** and select the second group to categorise your variable of interest.
3. Click **OK.**

E.3.5. Regression analysis

Multiple regressions are not just one technique but a family of techniques that can be used to establish the relationship between a dependent variable and one or more independent variables or predictors.

1. From the menu click on Statistics then go to linear models and related, here Linear Regression
2. Under **Dependent variable** select your dependent variable, then under **Independent variables**, select the independent variables in your model. Incase you have a categorical variable among the independent variables, click on "**…**" and under **Variables** select the categorical variable you have added as an independent variable.
3. Click **Ok**

E3.5.1. Regression diagnostics

Ordinary Leased Squares Regression is based on a number of assumptions which the data and regression results should meet. If these assumptions are not met, the results are misleading. It is worth noting here that the assumption of normality is often relaxed when the sample is sufficiently large as the distribution of the error term approximates the normal distribution according to the Central Limit Theorem[114]. It should be noted also that the issues of heteroscedasticity and autocorrelation can be resolved easily using STATA. However, when dealing with small samples it is required to check for normality. The table below gives the

[114] The *Central Limit Theorem* states that the sampling distribution of the sample means approaches a normal distribution as the sample size gets larger.

important OLS regression assumptions and the corresponding STATA command for checking whether they are met or not.

Table 23.1.19: Regression diagnostics

	Assumption	Description	Command (Syntax)
1	Linearity	The relationships between the predictors and the outcome variable should be linear.	Using scatter plot option already explained.
2	Normality	Errors or residual should be normally distributed.	After we run a regression analysis, type **predict** to create residuals and then use commands such as **kdensity**, **qnorm** and **pnorm** to check the normality of the residuals.
3	Homogeneity of variance	the error variance should be constant	Run the White's test: Type **estat imtest**
4	Autocorrelation	The errors associated with one observation are not correlated with the errors of any other observation	For Durbin Watson: Type **estat dwatson** For Breusch Godfrey Test: Type **estat bgodfrey**
5	Specification errors	The model should be correctly specified	Run the regression specification error test (RESET): Type **ovtest** after the regression.
6	Collinearity	The case in which two or more explanatory variables in the regression model are highly correlated	Run the Variance Inflation Factor: Type **vif** after regression

Source: UCLA (2020).

In collaboration with