

# CHAPTER 3: The African Union (AU) strategy for regional integration

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## 3. THE AFRICAN TRADE LIBERALISATION FRAMEWORK

The aim of this Chapter is to provide a synopsis of the provisions found in the main AU and RECs constitutive documents that are of relevance to the establishment of a CMAP. The profiles of the agriculture sector in each REC are also examined bringing out the key elements and their status in line with overall regional integration scheme. In doing so, it is observed that some similarities in the provisions emerge, which can form the basis of the CMAP.

### 3.1 The African Union (AU)

#### 3.1.1 Background

The genesis of a concerted effort to integrate the African continent economically can be traced directly to the Lagos Plan of Action and to the OAU Charter<sup>27</sup>. This effort resulted in the adoption of the Treaty Establishing the African Economic Community (Abuja Treaty) in June 1991. The Treaty entered into force on 12 May 1994. The AEC was established as an integral part of the OAU with the primary aim of promoting the integration of African economies. It is important to remember that though the provisions of the Abuja Treaty state that the Parties establish among themselves an African Economic Community<sup>28</sup>, the Treaty can be more accurately described as a framework or interim agreement for the formation of an Economic Community. This is because some of the elements generally accepted as characterising an economic community such as the harmonisation of fiscal and other economic policies are not fully in place.

The integration strategy adopted by the Abuja Treaty is based on the use of Regional Economic Communities (RECs) as 'building blocks' for the eventual continental trade bloc. Though the Treaty provided for the creation of five RECs corresponding to the five regions recognised by the OAU<sup>29</sup>, there are currently eight RECs that have been recognised as AEC building blocks. Member States of the AU thus have the twin obligations of complying with the Abuja Treaty's provisions as well as those of the RECs to which they belong.

#### 3.1.2 Underpinning principles

The principles underpinning the AEC as set out in Article 3 include 'inter-State co-operation, harmonisation of policies and integration of programmes; and the promotion of harmonious development of economic activities among Member States<sup>30</sup>.' The

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<sup>27</sup> *Charter of the Organization of African Unity*, opened for signature 25 May 1963, 479 UNTS 39 (entered into force 13 September 1963)

<sup>28</sup> AEC Treaty, Article 2

<sup>29</sup> See the definition of "region" in Article 1(d) of the AEC Treaty

<sup>30</sup> AEC Treaty, Article 3(c) and (d)

objectives of the AEC as stated in Article 4 include, *inter alia*, the integration of African economies<sup>31</sup> and the co-ordination and harmonization of policies among existing and future economic communities in order to foster the gradual establishment of the Community<sup>32</sup>. Article 4 further states that among the steps to be taken to attain the objectives of the Community are the harmonisation of national policies in the field of agriculture and the establishment of appropriate organs for trade in agricultural products<sup>33</sup>. Member States also agree to grant 'special treatment to those Member States classified as least developed countries' and to adopt 'special measures in favour of land-locked, semi-land-locked and island countries<sup>34</sup>.' An additional provision that can be regarded as setting out an underlying principle of the AU is found in Article 88 which provides that 'The Community shall be established mainly through the co-ordination, harmonisation and progressive integration of the activities of the regional economic communities<sup>35</sup>.'

The establishment of a common market for agricultural products is therefore consistent with the underlying principles found in the Abuja Treaty. It is also consistent with the objectives of the African Union which include, *inter alia*, accelerating the political and socio-economic integration of the continent<sup>36</sup>, promoting sustainable development at the economic, social and cultural levels as well as the integration of African economies<sup>37</sup>, and coordinating and harmonizing the policies between the existing and future RECs for the gradual attainment of the objectives of the Union<sup>38</sup>.

### 3.1.3 Harmonisation of laws

Provisions obliging Members to co-operate in harmonising laws are to be found in a number of Abuja Treaty Articles. These include Articles 3(c) and (d), 4(1)(d), and 5(1). Article 5(1) is particularly relevant. It provides that

Member States undertake to create favourable conditions for the development of the Community and the attainment of its objectives, particularly by harmonising their strategies and policies. They shall refrain from any unilateral action that may hinder the attainment of the said objectives<sup>39</sup>.

Moreover, under Article 88, 'Member States undertake to promote the co-ordination and harmonisation of the integration activities of regional economic communities of which they are members with the activities of the Community...<sup>40</sup>' By virtue of these provisions, Members would therefore be under an obligation to implement any measures agreed on to establish a common market for agricultural products. However, in view of the language used, it is quite possible to interpret these provisions as being 'best endeavours' obligations that are subject to the capacity of the Members to implement them.

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<sup>31</sup> AEC Treaty, Article 4(1)(a)

<sup>32</sup> AEC Treaty, Article 4(1)(d)

<sup>33</sup> AEC Treaty, Article 4(2)(m)

<sup>34</sup> AEC Treaty, Article 3(2)(k)

<sup>35</sup> AEC Treaty, Article 88(1)

<sup>36</sup> AU Constitutive Act, Article 3(c)

<sup>37</sup> AU Constitutive Act, Article 3(j)

<sup>38</sup> AU Constitutive Act, Article 3(l)

<sup>39</sup> AEC Treaty, Article 5(1)

<sup>40</sup> AEC Treaty, Article 88(2)

**TABLE 5: Integration modalities of the African economic community, 1997-2027**

Stage	Years	Date	Phase	Process	Level
I	5	1994-98	Before Free Trade Area	RECs, strengthening of existing and creation of new ones	Intra-REC
II	8	1999-2006	Free Trade Area	Tariff barriers, stabilization and removal timetable	Intra-REC
			Free Trade Area	Non - Tariff barriers, stabilization and removal timetable	Intra-REC
			Customs Union	Common external tariff, removal timetable	Intra-REC
			Free Trade Area	Sector, strengthening integration	Intra-REC
III	10	2007-16	Free Trade Area, initial preparation	Activities, coordination and harmonization	Intra-REC
			Free Trade Area	Tariff barriers, gradual removal	Intra-REC
			Free Trade Area	Non - Tariff barriers, gradual removal	Intra-REC
IV	2	2017-18	Customs Union	Common external tariff, adoption	Intra-REC
			Free Trade Area / Customs Union	Tariff barriers, coordination and harmonization	Intra-REC
			Free Trade Area / Customs Union	Non - Tariff barriers, coordination and harmonization	Intra-REC
V	4	2019-22	Free Trade Area / Customs Union	Common external tariff, adoption	Intra-REC
			Common Market	Sector, common policy adoption	Intra-REC
			Common Market	Policy harmonization : monetary, fiscal and financial	Intra-REC
VI	5	2023-27	Common Market	Application : free movement, residence & establishment rights	Intra-REC
			Common Market, Africa	Structure, consolidation and strengthening	AEC
			Common Market	Sector integration : economic, political social and cultural	AEC
			Common Market, Single	Establishment, initial stage	AEC
			Economic and Monetary Union, Pan-Af.	Establishment, initial stage	AEC
			Pan-Af. Economic and Monetary Union	Establishment, initial phase	AEC
			African Monetary Union	Establishment, final stage	AEC
			Single African Central Bank	Establishment, final stage	AEC
			Single African Currency	Creation, final	AEC
			Pan African Parliament	Establishment and election, final stage	AEC
Regional Economic Communities	Harmonization and coordination, final stage	Inter-REC			
African Multinational Enterprises	Establishment of structures in all sectors, final stage	AEC			
AEC Executive Organs	Establishment of structures, final stage	AEC			
I-VI	34	1994-2027	FTA to Monetary and Economic Union	Minimum transition period without a six-year grace period	Intra-REC to AEC
I-VI	40	1994-2033	FTA to Monetary and Economic Union	Maximum transition period without a six-year grace period	Intra-REC to AEC

Source: Compiled from the Treaty Establishing the African Economic Community, Abuja, 1991.

### 3.1.4 Trade liberalisation programme

The Abuja Treaty's integration strategy sets out a programme that reflects what is commonly described as the market integration model<sup>41</sup>. This programme is to be effected over a lengthy transitional phase which, however, is not to exceed a cumulative period of 40 years<sup>42</sup>. The Abuja Treaty relies on the RECs to provide the foundation for the establishment of the Economic Community with the AEC playing a coordinating role.

The establishment of customs unions within the Community is based on the undertaking by each Member State to progressively establish customs unions within the individual RECs pursuant to the timeline set out in Article 6 of the Treaty<sup>43</sup>. This timeline is to lead in time to the establishment of a continental customs union, followed by a common market and eventually a monetary union. Table 5 set out the integration modalities, stages and responsibilities. Article 30 elaborates on the obligation of Members to reduce and ultimately eliminate customs duties at the level of the RECs in accordance with programmes to be set out by each individual REC. During this process, the Assembly is supposed to take the necessary measures to co-ordinate and harmonise the steps being taken by the RECs.

### 3.1.5 The elimination of non-tariff barriers

Non-tariff barriers are defined somewhat broadly in the Abuja Treaty as encompassing 'barriers which hamper trade and which are caused by obstacles other than fiscal obstacles'<sup>44</sup>. It can therefore be assumed that this sweeping definition covers measures such as quantitative restrictions and licences. Article 31 provides for the elimination of non-tariff barriers to intra-Community trade. This elimination is to take place at the level of each REC in the first instance and is to be concluded by the end of the third stage i.e. by 2017.

### 3.1.6 Most-favoured nation principle

The Abuja Treaty obliges Members to 'accord one another, in relation to intra-community trade, the most-favoured-nation treatment'<sup>45</sup>. Unlike, for instance, the COMESA Treaty, the Abuja Treaty does not define most-favoured-nation treatment. Whether intra-community here refers to trade within the individual RECs or the Community as a whole is unclear. An interpretation of 'community' based on Article 1 would support the wider application of the MFN obligation. However, this would render the whole trade liberalisation programme based on the RECs superfluous as any preferences extended within the RECs would have to be extended to all other AU countries. Given that this is not the case and that the programme set out in Article 6 is an integral part of the Treaty, it can be concluded that under the Abuja Treaty, MFN is to be interpreted restrictively.

### 3.1.7 Trade in agriculture

Chapter VIII of the Abuja Treaty sets out provisions regarding Food and Agriculture. Article 46 sets out various areas in which the Members agree to cooperate with regard to agricultural development and food production. Most of the provisions are concerned with increasing the productivity of the agricultural sector and the protection

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<sup>41</sup> The theory on which this model is based envisages a linear process of trade barrier elimination from free trade area to the deepest level, political union. See B. Balassa, *The Theory of Economic Integration* (1961)

<sup>42</sup> AEC Treaty, Article 6(5)

<sup>43</sup> AEC Treaty, Article 29

<sup>44</sup> AEC Treaty, Article 1

<sup>45</sup> AEC Treaty, Article 37

of prices of export commodities. However, Article 46(2)(e) provides that Members are to cooperate in the 'harmonisation of agricultural development strategies and policies at regional and Community levels, in particular, in so far as they relate to production, trade and marketing of major agricultural products and inputs'.

Article 47 then states that for the purposes of the Chapter, 'Member States shall cooperate in accordance with the provisions of the Protocol on Food and Agriculture.' In drafting a Protocol for a Common Market in Agricultural Products, one crucial issue that will need to be determined is the relationship between the CMAP Protocol and the Article 47 Protocol. Given that there is presently no Protocol on Food and Agriculture, there will be a need to ensure complementarity between it and the CMAP Protocol when the former is eventually negotiated and concluded. It should be noted that no mention is made of establishing a common agricultural policy in the Abuja Treaty. It may be that this is one of the purposes that the Article 47 Treaty is meant to serve.

On the institutional side, one of the specialised committees established by the Treaty is the Committee on Rural Economy and Agricultural Matters<sup>46</sup>. The functions of the various committees are set out in Article 26 and these include the preparation of projects and programmes of the Community, ensuring the supervision, follow-up and evaluation of decisions taken by organs of the Community and ensuring the co-ordination and harmonisation of projects and programmes of the Community. In order for the proposed Common Market to succeed, this Committee must be incorporated into the implementation of the protocol on liberalising trade in basic food products in order to avoid a situation where there is a duplication in roles. It will also be essential that the Committee on Trade, Customs and Immigration Matters be included in the implementation of the Protocol and that the two Committees work closely together. It will therefore be necessary to increase their capacity to a level where the two Committees will be capable of playing this role.

### **3.1.8 Trade facilitation**

Articles 39 and 40 of the Abuja Treaty set out the measures to be taken to facilitate intra-Community trade. Article 39 concerns customs co-operation and administration. It enjoins Members to harmonise and standardise their customs regulations and procedures to ensure the effective implementation of the Chapter's provisions and the facilitation of the movement of goods and services across their frontiers. Article 40 provides that Members shall simplify and harmonize their trade documents and procedures in accordance with the Protocol concerning Simplification and Harmonisation of Trade Documents and Procedures. However, under Article 32 of the Treaty, it is not until the fourth stage that 'the Council shall propose to the Assembly the adoption, at Community level, of a common customs and statistical nomenclature for all Member States<sup>47</sup>.' This implies that there is no obligation on the different RECs to harmonise their customs nomenclature for another 10 years. This has the potential to hinder the establishment of a common market for agricultural products and it is in the common interest for a common nomenclature to be adopted at the earliest opportunity.

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<sup>46</sup> AEC Treaty, Article 25(1)(a)

<sup>47</sup> AEC Treaty, Article 32(3)

### 3.1.9 Trade remedies

Article 36 of the Abuja Treaty defines and prohibits dumping but does not specify what measures are to be taken against a Member State that engages in dumping. Dumping is defined as meaning 'the transfer of goods originating from a Member State to another Member State for them to be sold:

- a) at a price lower than the usual price offered for similar goods in the Member State from which those goods originate, due account being taken of the differences in conditions of sale, taxation, transport expenses and any other factor affecting the comparison of prices;
- b) in conditions likely to prejudice the manufacture of similar goods in the Member State<sup>48</sup>.

In substance, this provision is similar to that found in Article VI of GATT 1994, though the language used in the Abuja Treaty refers to dumping being prejudicial to the manufacture of similar goods rather than the 'material injury to an established industry' or material retardation of an infant industry language used in GATT 1994. The Abuja Treaty is largely silent on the issue of subsidies, leaving them to be the subject of a Protocol concerning Non-Tariff Trade Barriers<sup>49</sup>.

### 3.1.10 Safeguard measures

The Abuja Treaty permits the imposition of safeguard measures in the form of quantitative or similar restrictions or prohibitions in three situations: Firstly, for the purpose of overcoming balance of payment difficulties<sup>50</sup>; Secondly, for the purpose of protecting an infant or strategic industry<sup>51</sup>; and Thirdly, where imports of a particular product are causing or likely to cause serious damage to the economy of the importing state<sup>52</sup>. However, in all these instances, it is the 'competent organ of the Community' which is to give the green light for the imposition of the measures and, in the case of balance of payment difficulties and protection of infant or strategic industries, the measures are only to be applied for a period specified by the competent organ.

### 3.1.11 Sanitary and phytosanitary measures

The Abuja Treaty provides for exceptions to the free movement of goods in Article 35 which provides, *inter alia*, that Member States 'may impose or continue to impose restrictions or prohibitions affecting ... [t]he protection of human, animal or plant health or life<sup>53</sup>'. Before imposing such restrictions, Members are to make their intention known to the Secretariat of the Community. The Treaty also provides that in no case are the restrictions to 'be used as a means of arbitrary discrimination or a disguised restriction on trade between Member States<sup>54</sup>'.

Further provisions relating to the issue of standards can be found in Article 67, where Member States agree to:

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<sup>48</sup> AEC Treaty, Article 36(2)

<sup>49</sup> See AEC Treaty, Article 31(3) which provides that the 'arrangements governing restrictions, prohibitions, quota restrictions, dumping subsidies and discriminatory practices shall be the subject of a Protocol concerning Non-Tariff Barriers'

<sup>50</sup> AEC Treaty, Article 35(3)

<sup>51</sup> AEC Treaty, Article 35(4)

<sup>52</sup> AEC Treaty, Article 35(5)

<sup>53</sup> AEC Treaty, Article 35(1)(c)

<sup>54</sup> AEC Treaty, Article 35(2)

- a) adopt a common policy on standardisation and quality assurance of goods and services among Member States;
- b) undertake such other related activities in standardisation and measurement systems that are likely to promote trade, economic development and integration within the Community; and
- c) strengthen African national, regional and continental organisations operating in this field.

Organisations such as the African Regional Organisation for Standardisation can play a critical role in this regard. Article 67 further provides that 'Member States agree to cooperate in accordance with the provisions of the Protocol concerning Standardisation, Quality Assurance and Measurement Systems<sup>55</sup>.' When this Protocol is eventually concluded, it will be necessary to ensure that it complements rather than contradicts the CMAP Protocol.

It is worth noting that under the auspices of the OAU, a Phytosanitary Convention for Africa was concluded in 1967. However, this Convention never entered into force and its main focus was on preventing the introduction of diseases, insect pests and other enemies of plants into the continent of Africa. It is therefore currently of little legal significance with regard to the establishment of a common market for agricultural products. However, it might be in the interests of Member States to revisit this Convention in order to review it and, having brought it up to date, secure the agreement of all Members to comply with it.

### 3.1.12 Rules of origin

Article 33 of the Abuja Treaty provides, *inter alia*, that:

The definition of the notion of products originating in Member States and the rules governing goods originating in a third States (sic) and which are in free circulation in Member States shall be governed by a Protocol concerning the Rules of Origin<sup>56</sup>.

Given that no such Protocol has yet been concluded, each REC currently relies on its own RoOs to determine which products are eligible for preferential treatment. This is one aspect where early harmonization of regulations is required in order for the CMAP to operate. For the purpose of implementing the CMAP it will be necessary to incorporate RoOs into the Protocol either by means of an Annex or as a substantive Article in the Protocol. If the rules can be kept brief and straight-forward the latter option would be preferable, whereas if the rules are fairly detailed, then it might be best to include them in an Annex.

### 3.1.13 Transport

The Abuja Treaty establishes a Committee on Transport, Communications and Tourism<sup>57</sup>. Member States are obliged to 'grant one another freedom of transit through their territories to goods proceeding to or coming from another Member State in accordance with the Protocol concerning Intra-Community Transit and Transit Facilities and in accordance with the provisions of any Intra-Community Agreements to be concluded<sup>58</sup>.'

<sup>55</sup> AEC Treaty, Article 67(2)

<sup>56</sup> AEC Treaty, Article 33(2)

<sup>57</sup> AEC Treaty, Article 25(1)(e)

<sup>58</sup> AEC Treaty, Article 38(2)



Compliance with this provision would go a long way towards easing some of the problems faced by traders in moving goods from one country to another.

### 3.1.14 Summary

The AEC Treaty contains a number of provisions that impact on trade in agricultural products. However, enforcing most of these provisions will be difficult because they are stated in broad language that is hard to implement. Moreover, a number of the obligations, especially those referring to Protocols that are yet to be concluded, fall into that category of 'soft' international law known as *pacta de contrahendo*, that is, provisions calling for further negotiations towards the conclusion of more detailed agreements. Where the parties are unable to reach agreement, such provisions cannot be enforced. This lack of clarity of obligations is likely to prove a barrier to the implementation of a CMAP.

The time lines given for the liberalisation of trade are very generous. This has both positive and negative consequences. On the positive side, Members are given sufficient time to comply with the Treaty obligations, however, on the negative side, the generous timelines mean that measures that are important for liberalising trade and expediting trade facilitation are not taken in a timely manner.

## 3.2 The Arab Maghreb Union (AMU)

### 3.2.1 Background

The AMU is a REC consisting of five countries: Algeria, Libya, Mauritania, Morocco and Tunisia. It was established in 1989 that is, two years before the adoption of the Abuja Treaty, following the signing of the Treaty of Marrakech. At the time of its creation it was seen as being the first step towards the eventual unity of all Arab states. The operations of the AMU have been at a virtual standstill since the last meeting of its highest organ, the Presidential Council, in 1994. In light of this development, the provisions of the Constitutive Treaty warrant no more than a passing mention. Due to the fact that Algeria belongs to no other REC (unlike its four other AMU partners) it will be necessary to devise a means of utilising it as a mechanism through which Algeria can participate in the CMAP, especially if the CMAP is to operate through the RECs in its early stages.

### 3.2.2 Treaty provisions

The Treaty of Marrakech is a very short instrument, comprising just 19 Articles, most of which are concerned with the establishment of the AMU's organs. The organisation's objectives, as set out in Article 2, include realising the progress and prosperity of the Member States and working progressively to realise the free movement of persons, services, goods and capital<sup>59</sup>. These objectives are further elaborated in Article 3 which provides that the aims of the organisation include the achievement of industrial, agricultural, commercial and social development of the Member States<sup>60</sup>. The programme to be followed in achieving these objectives was not set out implying that these were seen as details to be worked out at a later stage.

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<sup>59</sup> AMU Treaty, Article 2

<sup>60</sup> AMU Treaty, Article 3



### 3.2.3 Status of regional integration and food trade in the AMU

The five countries of the AMU make up an economic region with a population of about 80 million. Apart from Mauritania whose per capita GDP is less than 400 dollars, the four other countries levels of between US\$1500 to UD\$3200 dollars, far above the African average which is estimated at US\$646 dollars.

In July 1990, the AMU adopted a development strategy, accompanied by the following timetable: i) creation of an FTZ by 1992 involving the elimination of administrative barriers and the introduction of preferential tariffs; ii) establishment of a Customs Union with a common external tariff by December 1995; iii) setting up of a Maghreb common market by removing restrictions to the free movement of factors, at the latest by the year 2000; and iv) creation of an economic union by the harmonization of economic policies. Very little progress has been made in these directions. The AMU has adopted several agreements: key amongst them - the convention on trade in agricultural products, which entered into force in July 1993, with the intention of enhancing food security for the population of the Maghreb has not been implemented; and the trade and tariffs agreement (March 2001) which recommended free movement of originating products from the Maghreb and the application of a single compensatory rate of 17.5 percent on import, was only applied for a short period of time. Free movement of persons is effective between three countries - Libya, Morocco and Tunisia.

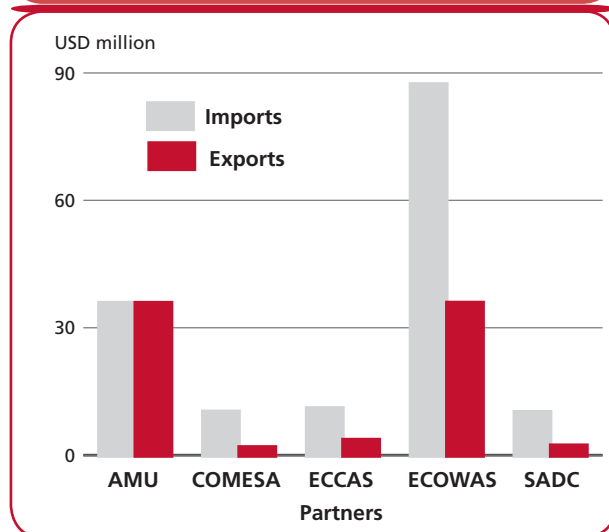
Consequently, at present, import tariffs on agricultural products are about the highest in Africa and vary widely. The average agricultural tariff for the region is 34.6 percent distributed as follows: Algeria – 23 percent, Libya – 22.4 percent, Mauritania – 12.4 percent, Morocco – 48.6 percent and Tunisia – 66.6 percent. Both Algeria and Libya are not WTO members.

Despite the impasse in following up with regional integration, the AMU concluded several trade agreements with the EU and its Middle Eastern neighbours. In addition, both Morocco and Tunisia had bilateral agreements with WAEMU countries but since the WAEMU became a customs union in 2000 negotiations are currently underway to conclude trade agreements with WAEMU and also under the auspices of CEN-SAD to which all the AMU countries are also members. Morocco currently grants non-reciprocal duty exemptions for originate products from several African countries provided the good are transported directly from the country of origin to Morocco without transit in any other country. For products to qualify under AMU rules of origin, the following conditions must apply: a) the inputs used are from domestic sources; b) the domestic inputs used is at least 40 percent of the (ex-factory) value of the product; c) valid certificate of origin; and d) other requirements of relevance to subsidies, safeguards, anti-dumping considerations and other unfair trade practices.

Non-tariff barriers amongst the AMU countries consist of: i) technical requirements regarding health and phytosanitary regulations; ii) very stringent customs procedures relating to rules of origin, import licenses, quotas, etc. Furthermore, the absence of proper road infrastructure and regular sea transport to/from the 38 trading ports in the Maghreb are also a hindrance to the growth of intra-Maghreb trade.

The AMU is a net importer of agricultural products and the region produces nine of the thirteen declared African strategic food products, namely vegetables, potatoes, tomatoes, onions, cattle, poultry and legumes. Fruits and wheat are also produced. However, most of these products are essentially supplied by Morocco: vegetables, wheat, onions, oranges, sugar, cattle and poultry. The agricultural profile of the

**Figure 3. Intra-african agricultural trade structure of AMU, 2006**



region and individual countries are presented in statistical Annex A while Figure 3 depicts the region's intra-African trade in agriculture during 2006.

The MFN applied tariffs for groups of agricultural products are lower in Mauritania than in the other AMU countries. Applied tariffs on fruits and vegetables range from a low of about 18 percent in Mauritania to a high of 112 percent in Tunisia. For cereals, spices and other food products group, the tariffs are less than 13.2 and 14.4 percent in Libya and Mauritania, respectively, and 128 percent in Tunisia. This

pattern is similar for other food groups. This high variation in average tariff rates would have a very significant implication for the common market, except as with ongoing initiatives within CEN-SAD, the member States are trying to dismantle tariffs amongst them. If this becomes a reality, then it would reduce tensions at the AU level as CEN-SAD has members amongst 4 of the 5 core RECs.

The AMU dietary energy needs are met essentially by wheat, rice, maize for the cereal groups, milk for the dairy products, and sugar which together provide about 85 percent of the normal calorie requirements. In terms of consumption, wheat is the main product with average annual per caput consumption of 205 kg/per person. Other important products consumed are milk (98.8 kg/person), tomatoes (55.4 kg/person), potatoes (37.3 kg/person), rice (11 kg/person), maize (36 kg/person), bovine meat (5.2 kg/person), sheep and goat (7.2 kg/person each). It is also worth mentioning that rice, cassava, sorghum, millet and groundnuts have been introduced into the market but remained weakly present in the food consumption basket. Food aid has also played a role in meeting the dietary energy requirement in the AMU, although limited compared to other parts of Africa. In this region food aid accounts for a small fraction of total imports of cereals but in the non-cereal food aid category, food aid in pulses has increased by about 38 percent since 2000. Annex 3 presents food aid deliveries by category since 2000.

The largest sources of supply of strategic food items in AMU are: Morocco (vegetables); Algeria (potatoes); Morocco, Tunisia and Algeria (tomatoes) and onions (Morocco and Algeria); cattle (Morocco, Mauritania and Algeria); poultry (Morocco, Algeria) with Morocco being the most dominant producer of strategic food products in the sub region.

Recent data indicate that agricultural products imported by the AMU include: maize, palm oil, potatoes, soybeans, wheat and wheat flour, sugar and cattle. Intra-AMU trade in these products is dominated by Algeria and Morocco. Trade with other African RECs is very low and sporadic. Most of the agricultural products are sourced from either Asia (China and India) and/or the EU. Australia and New Zealand are increasing their market share in dairy products trade. For rice and legumes, intra-trade is mostly with ECOWAS/WAEMU, COMESA. SADC also exports some dairy products to the AMU and ECOWAS exports some groundnut and palm oil.

### 3.2.4 Summary

The AMU Member States have undertaken no more than the most general and unenforceable obligations. No specific steps were spelt out regarding the strategy to be employed in liberalising intra-regional trade and, it cannot be considered as having taken any meaningful steps to liberalise intra-regional trade. Membership of the AMU should not, as a result, prevent its Members from active participation in the liberalisation programmes of any other blocs to which its Members may belong. This presents a problem with regard to the position of Algeria, which is not a Member of any other REC and, in the event that it does not join any other REC, it would need to decide how it would go about liberalising agricultural trade. However, the existence of several regional projects centred on the interconnection of road and rail networks gives hope to enhanced trade and integration within the AMU countries.

## 3.3 The Common Market for Eastern and Southern Africa (COMESA)

### 3.3.1 Background

COMESA is one of the regional economic communities recognised as a building bloc of the AEC under the Abuja Treaty. It was established with the signing of the Treaty Establishing the Common Market for Eastern and Southern Africa in 1993<sup>61</sup>, that is, two years after the adoption of the Abuja Treaty. It currently comprises 19 countries ranging from Egypt and Libya in the North to Swaziland in the South. With regard to EPA negotiations, 15 COMESA Member States are negotiating under the ESA – EU EPA configuration<sup>62</sup>. In light of the fact that five of these countries (Madagascar, Malawi, Mauritius, Zambia and Zimbabwe) are also Members of SADC and an additional five are Members of EAC (Burundi, Kenya, Rwanda, Tanzania and Uganda). This could pose a problem concerning future harmonisation of integration policies if the Agreements that result from the negotiations are not closely co-ordinated. The economic objectives of COMESA include the promotion of ‘a more balanced and harmonious development of its production and marketing structures’, the promotion of ‘the joint adoption of macro-economic policies and programmes’ and cooperation ‘in the creation of an enabling environment for foreign, cross border and domestic investment<sup>63</sup>.’

### 3.3.2 Underpinning principles

The underlying principles guiding the operation of the organisation are set out in Chapter Three of the COMESA Treaty. The relevant principles for the purposes of this study include contributing towards the establishment and realisation of the objectives of the African Economic Community<sup>64</sup>, enhancing food sufficiency and cooperating in the export of agricultural commodities<sup>65</sup> and adhering to the principle of inter-State cooperation, harmonisation of policies and integration of programmes among the Member States<sup>66</sup>.

### 3.3.3 Harmonisation of laws

In Article 4, one of the specific undertakings made by Member States in the field of economic and social development is to ‘harmonise or approximate their laws to the

<sup>61</sup> Treaty Establishing the Common Market for Eastern and Southern Africa, (1994) 33 ILM 1067 (entered into force 8 December 1994) (COMESA Treaty)

<sup>62</sup> Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe. The DRC started out as a Member of the ESA configuration but left to join the Central Africa group at the end of 2005

<sup>63</sup> COMESA Treaty, Article 3(a)–(c)

<sup>64</sup> COMESA Treaty, Article 3(f)

<sup>65</sup> COMESA Treaty, Article 4(5)(c-d)

<sup>66</sup> COMESA Treaty, Article 6(c)

extent required for the proper functioning of the Common Market<sup>67</sup>. More generally, Member States are to 'take steps to secure the enactment of and the continuation of such legislation to give effect to this Treaty and in particular...to confer upon the regulations of the Council the force of law and the necessary legal effect within its territory<sup>68</sup>.' This provision is a reference to the Council's power conferred upon it by Article 10 to make regulations which 'shall be binding on all the Member States in [their] entirety<sup>69</sup>.' Member States thus have an obligation to take the necessary steps to implement measures leading to the establishment of a common market. One of the areas where harmonisation of laws is critical is that of goods classification for customs purposes. In this regard, Article 64(2) of the Treaty provides that Members undertake to adopt a uniform, comprehensive and systematic tariff classification. Pursuant to this provision, COMESA Member States have adopted the Harmonized System (HS), 2002 version.

### 3.3.4 Trade liberalisation programme

The COMESA Treaty obliges Member States to eliminate customs duties and other charges of an equivalent effect on imports, in the course of progressively establishing a customs union<sup>70</sup>. In Article 46, a deadline of the year 2000 was set for the elimination of customs duties and other charges of an equivalent effect<sup>71</sup>. Pursuant to this provision, a COMESA 'free trade area' was established in 2000 and as of 31 May, 2007, 13 Members had joined the free trade area and were trading on a tariff free basis. The other Members continue to impose tariffs on imports from other Members which, in the case of Swaziland, are those determined by its status as a SACU Member. The expansion of the FTA is a major undertaking in the region as it prepares for the customs union (a delay of eight years) by 2008 and a Common Market by 2014.

### 3.3.5 Non-tariff barriers

Article 45 of the COMESA Treaty provides, *inter alia*, that in the process of establishing a COMESA customs union, '[n]on tariff barriers including quantitative or like restrictions or prohibitions and administrative obstacles to trade among the Member States shall' be removed. Accordingly, quantitative restrictions as a non-tariff barrier to trade should, theoretically, no longer be an issue with regard to trade within the COMESA bloc.

The requirement in the Treaty that Member States 'remove immediately upon the entry into force of [the] Treaty, all the then existing non-tariff barriers to the import' of goods originating in other Member States<sup>72</sup>, can be interpreted to include a ban on licensing requirements for such imports, which were to have been eliminated unless justified by some other provision such as the security and other restrictions found in Article 50.

### 3.3.6 Most-favoured nation principle

For COMESA purposes, MFN is defined as 'any advantage, favour, privilege or immunity granted by any Member State to any product originating in or destined for any third country and shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other Member States<sup>73</sup>.' Article 56(1)

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<sup>67</sup> COMESA Treaty, Article 4(6)(b)

<sup>68</sup> COMESA Treaty, Article 5(2)(b)

<sup>69</sup> COMESA Treaty, Article 10 (1) & (2)

<sup>70</sup> COMESA Treaty, Article 45

<sup>71</sup> COMESA Treaty, Article 46(1)

<sup>72</sup> COMESA Treaty, Article 49(1)

<sup>73</sup> COMESA Treaty, Article 2

obliges Members to 'accord to one another the most favoured nation treatment.' However, this obligation is qualified in two respects: firstly, Members are permitted to maintain or enter into new preferential agreements with third countries so long as those agreements do not frustrate the Treaty's objectives and the advantages, concessions, privileges granted to third countries are extended to Members on a reciprocal basis<sup>74</sup>; secondly, Members are permitted into new preferential agreements among themselves, provided the agreements aim at achieving the Treaty's objectives<sup>75</sup>. This latter provision is meant to cater for 'fast-track' liberalisation.

### 3.3.7 Trade in agriculture

The COMESA trade bloc, as a REC, has made good progress in identifying issues that have constrained trade in agriculture and proposing measures that can be taken to enhance trade in agriculture. These are set out in a 'Report on the Harmonisation of Agricultural Policy for COMESA countries'<sup>76</sup>. The Report states that in 'the medium to long term, the emphasis in agriculture will be on the adoption and implementation of the COMESA common agricultural policy and strategy'<sup>77</sup>. It states that the objectives of the CAP should be:

- a) to increase overall agricultural productivity;
- b) to ensure regional food security;
- c) to increase intra and extra COMESA agricultural trade;
- d) to increase value addition to exportable commodities;
- e) to eradicate and control major diseases and pests of livestock and crops; and
- f) to develop the irrigation potential of the region so as to mitigate drought effects<sup>78</sup>.

One important point made by the Report is the need to ensure 'that there continue to be marked differences in national agricultural policies between member states' and that harmonisation be restricted to areas where it is necessary to exploit the potential of the free trade area. This is because a complete harmonisation 'would result in national policies that [were] unsuited to national conditions'<sup>79</sup>. The COMESA Treaty itself provides that in the field of agriculture, Members are to:

- a) co-operate in the agricultural development (sic);
- b) adopt a common agricultural policy;
- c) enhance regional food sufficiency;
- d) co-operate in the export of agricultural commodities;
- e) co-ordinate their policies regarding the establishment of agro-industries;
- f) co-operate in agricultural research and extension; and
- g) enhance rural development<sup>80</sup>.

These undertakings are amplified in Chapter 18 of the COMESA Treaty which sets out a number of areas in which Members agree to cooperate and the specific measures that they are to undertake. Thus, in Article 131, Member States undertake to, *inter alia*, 'ensure the adequate supply and availability of food by the promotion of agricultural development that would lead to the production of surpluses in food, the

<sup>74</sup> COMESA Treaty, Article 56(2)

<sup>75</sup> COMESA Treaty, Article 56(3)

<sup>76</sup> The Report is available at <http://www.comesa.int/agri/brief/> (visited 8 August 2007)

<sup>77</sup> COMESA, Report on Harmonization, para. 11

<sup>78</sup> COMESA, Report on Harmonization, para. 14

<sup>79</sup> COMESA, Report on Harmonization, para. 40

<sup>80</sup> COMESA Treaty, Article 4(5)

establishment of adequate storage facilities and strategic grain reserves<sup>81</sup>.’ Article 32 obliges Members to coordinate and harmonise their policies regarding the export of crops, livestock, livestock products, fish and fish products and forest products. The main shortcoming with these obligations, however, is that it is difficult to measure progress towards full compliance. By their very nature, these are obligations that cannot be achieved overnight but there needs to be some mechanism whereby a determination can be made as to the amount of progress being made towards meeting these noble goals.

### 3.3.8 Rules of origin

Under the COMESA Treaty, goods are accepted as eligible for Common Market tariff treatment if they originate in the Member States<sup>82</sup>. The definition of products originating in the Common Market is set out in a Protocol on the Rules of Origin for Products to be traded between COMESA States<sup>83</sup>. Under these Rules, there are five criteria under which products can qualify to be considered as originating within the region<sup>84</sup>. The first of these is where goods have been wholly produced in a Member State. The second is goods produced wholly or partially from imported materials that have undergone a production process that results in a transformation such that the CIF value of those materials does not exceed 60 percent of the total cost of materials used, or thirdly, the value added during production accounts for at least 35 percent of the ex-factory cost, or fourthly, there is a change of tariff heading<sup>85</sup>. The fifth criterion is for products included on a list approved by the Council as being of particular importance and containing not less than 25 percent value added<sup>86</sup>.

### 3.3.9 Trade facilitation

The COMESA Treaty defines trade facilitation as meaning ‘the co-ordination and rationalization of trade procedures and documents relating to the movement of goods from their place of origin to their destination’<sup>87</sup>. Chapter 9 of the Treaty sets out the rules regarding the simplification and harmonisation of trade documents and procedures. Under Article 69, Members agree to simplify and harmonise their trade documents and procedures by taking three steps: reducing to a minimum the number of trade documents and copies; reducing the number of national bodies required to handle the documents and harmonising the nature of the information to be contained in the documents.

In Article 70 they undertake to initiate programs aimed, *inter alia*, at reducing the cost of documents and volume of paper work required in respect of trade, adopting common standards of trade procedures within the Common Market and ensuring adequate co-ordination between trade and transport facilitation. Lastly, under Article 71, they undertake, where appropriate, to design and standardise their trade documents and information required to be contained therein in accordance with internationally accepted standards. In doing so, use is to be made of ASYCUDA<sup>88</sup>.

With regard to trade facilitation, one of the success stories of the COMESA region that can be expanded to cover a wider area is the implementation of the Third Party

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<sup>81</sup> COMESA Treaty, Article 131(1)(a)

<sup>82</sup> COMESA Treaty, Article 48(1)

<sup>83</sup> COMESA Treaty, annex IV

<sup>84</sup> COMESA Treaty, annex IV, rule 2

<sup>85</sup> COMESA Treaty, annex IV, rule 2(1)(b)

<sup>86</sup> COMESA Treaty, annex IV, rule 2(1)(c)

<sup>87</sup> COMESA Treaty, Article 2

<sup>88</sup> COMESA Treaty, Article 71(2)



Motor Vehicle Insurance Scheme, popularly known as the Yellow Card, under which motor vehicles are able to travel within participating countries using a single insurance policy.

### 3.3.10 Sanitary and phytosanitary measures

Under Article 50 of the COMESA Treaty, Members are permitted to introduce or continue measures relating to 'the protection of human, animal or plant health or life, or the protection of public morality.' However, before they do so, they are obliged to give notice to the Secretary General. Chapter 15 of the COMESA Treaty contains provisions regarding Standardization and Quality assurance. Among the obligations taken on by Member States are the evolution and application of a common policy regarding standardisation and quality assurance, the application of appropriate standards for goods traded and produced within the Common Market and the recognition of ARSO as a leading cooperating partner<sup>89</sup>. Moreover, under Article 113, Member States undertake to, *inter alia*, 'adopt African regional standards and where these are unavailable, adopt suitable international standards for products traded in the Common Market.'

### 3.3.11 Safeguard provisions

The taking of safeguard measures in 'the event of serious disturbances occurring in the economy of a Member State following the application of the provisions' of the Treaty is permitted under Article 61 provided the Member State first informs the Secretary-General and the other Member States. This provision is similar to that found in the Abuja Treaty referred to above.

Any Member State can impose quantitative or like restrictions or prohibitions for the purposes of protecting infant industries, provided the measures are applied on a non-discriminatory basis<sup>90</sup>.

### 3.3.12 Trade remedies

Dumping, defined as the introduction of products of a Member State into the commerce of another Member State at less than the normal value of the products, is prohibited 'if it causes or threatens material injury to an established industry in the territory of the other Member State or materially retards the establishment of a domestic industry<sup>91</sup>.' Article 51(3) permits the levying on any dumped product of 'an anti-dumping duty not greater in amount than the margin of dumping in respect of such product.'

Article 52 provides that subsidies which distort or threaten to distort competition by favouring certain undertakings or the production of certain goods are incompatible with the Common Market. It then permits Member States, subject to certain specified conditions to levy countervailing duties for the purposes of offsetting the effects of subsidies<sup>92</sup>.

In the imposition of Safeguard, Countervailing or Anti-dumping Measure, the concerned Member State must decide whether or not it should undertake a trade remedy measure. If it decides to do so, it must hold consultations with Member States having substantial export interests, or with subsidising or dumping Members States, as

<sup>89</sup> COMESA Treaty, Article 112. ARSO is defined in Article 2 as meaning the African Regional Organization for Standardisation

<sup>90</sup> COMESA Treaty, Article 49(2)

<sup>91</sup> COMESA Treaty, Article 51(1)

<sup>92</sup> COMESA Treaty, Article 52(2)



relevant. Thereafter, measures can be taken in any of the following forms: i) increased tariffs or additional similar charges; ii) quantitative restrictions; iii) anti-dumping duties; or iv) countervailing duties. The Member State may undertake the measure only to extent necessary to prevent or remedy serious injury; and/or to facilitate adjustment.

### 3.3.13 Transport

For transport and communications, Members are to:

- a) foster such co-operation among themselves as would facilitate the production of goods and facilitate trade in goods and services and the movement of persons;
- b) make regulations for facilitating transit trade within the Common Market; and
- c) adopt a Third Party Motor Vehicle Insurance Scheme<sup>93</sup>.

With regard to the transit trade, the regulations referred to in Article (4)(2)(b), are set out in Annex I to the Treaty, which provides, *inter alia*, that Members are to grant all transitors freedom to traverse their territories by any means of transport<sup>94</sup>. Moreover, Members are not to levy any import or export duties on transit traffic<sup>95</sup>.

As mentioned above, the Motor Vehicle Insurance Scheme, which was introduced in 1987 has been a great success in facilitating cross-border motor vehicle movement.

### 3.3.14 Intellectual property rights

No specific provision refers to cooperation in the area of intellectual property rights and this can therefore be taken as one of the fields covered by article 165 regarding general cooperation.

### 3.3.15 Status of regional integration and food trade in COMESA

Amongst the core RECs in Africa, COMESA is one that has taken significant strides in enhancing its regional integration efforts in response to the many challenges ranging from acute poverty and food insecurity levels to poor rural infrastructure, droughts, disease and conflicts.

The impetus for regional integration in COMESA began in December 1994 when it was created to replace the former Preferential Trade Area (PTA). Though COMESA replaced the PTA in 1994, the PTA framework for tariff liberalization operated until December 2000. Under this framework, preferential treatment in the form of reduced tariffs on intra-regional trade of regionally originating goods applied to a group of selected commodities common to all Members. The common list of products eligible for preferential treatment was classified into six groups. Agricultural products were amongst the first three groups: *food* (group I: 30 percent tariff reduction), *raw materials* (group II: 50 percent) and *other agriculture* (group IIIa: 60 percent tariff reduction). It was envisaged that full market liberalization would take place by the year 2000.

At the same time the tariff liberalization scheme was in place, a programme for the relaxation and eventual elimination of non-tariff barriers (NTBs) to intra-regional trade was implemented. This applied to eight groups of NTBs, namely: quantitative restrictions; export and import licensing; foreign exchange licensing; stipulation of import sources; prohibition of imports; advance import deposits, conditional permission for imports;

<sup>93</sup> COMESA Treaty, Article 4(2)

<sup>94</sup> COMESA Treaty, Annex I, Article 2(1)

<sup>95</sup> COMESA Treaty, Annex I, Article 2(3). They are, however, permitted to levy service or administrative charges

and special charges for acquiring foreign exchange. To relax and eliminate these NTBs, advance import deposits and taxes on foreign exchange were abolished. Moreover, member States operating systems of foreign exchange budgeting were required to earmark a proportion of their foreign exchange reserves for financing intra-regional imports. In addition, prohibitions on intra-regional trade not covered by conditions specified in the PTA Treaty were eliminated and Member States operating restrictive licensing, other than where specified in the Treaty were required to give preferential treatment to PTA Members.

In 1994, when COMESA replaced the PTA, many of its ongoing trade facilitation programmes and activities were continued. However, given the slow pace in achieving a customs union, COMESA launched an FTA in 2000 with just 9 Members. To date, 13 of its Member States are part of the FTA and this has expanded trade in the region and created significant opportunities in all sectors. Examples include cotton yarn exports from Zambia to Mauritius, replacing imports from Asia and the Far East; tea exports from Kenya to Egypt, replacing imports from India and Sri Lanka; edible oil exports from Kenya to Zambia; and sugar imports into Kenya from Malawi, Zambia, Sudan, Egypt, Madagascar and Swaziland, displacing Brazilian and Argentinean sugar.

There has also been an increase in trade between COMESA FTA and its non-FTA Members. Examples include exports of sugar and beverages from Swaziland (a non-Member) to Kenya. The non-FTA countries are all expected to join the FTA prior to the creation of the customs union in December 2008. Currently, they are trading on preferential terms: Comoros, Eritrea and Uganda all give an 80 percent reduction on their general tariff rates on COMESA originating goods; the Democratic Republic of Congo gives a 70 percent tariff reduction; Seychelles, Swaziland, Angola and Ethiopia are all trading on a reciprocal basis with other Members.

In its bid to create a customs union in 2008, COMESA has undertaken significant amount of activities: a Common Tariff Nomenclature (CTN), based on the Harmonized System 2002, has been developed and adopted and some member States have already aligned their national nomenclatures to the CTN; 15 Member States have adopted the WTO Valuation Agreement as their customs valuation system, whilst an additional four are making preparations to implement the system; a COMESA Customs Management Act that sets the customs rules and procedures for customs administrations and has been adopted; and a programme for the gradual elimination of non-tariff barriers and other obstacles to intra-COMESA trade are already in place.

The CET will be applied to imports from third countries subject to the Most Favoured Nation (MFN) principle. Initial work on the CET started in 1997 and a whole range of structures have been analyzed in terms of their implications for government revenue and competitiveness. The proposed rates will apply to four main categories of goods, as follows: raw materials and capital goods 0-5 percent duty; intermediate good 10-15 and final goods 25-40 percent tariff duty. Although there has been agreement on the first two categories (raw materials and capital goods), there is no agreement yet on the duty rates for the intermediate and finished goods category. In regards to tariff revenue sharing, COMESA Members have agreed that each individual Member State will collect the tax revenues at their national border and should not share it with other Members. This is likely to create problems particularly when extra-COMESA goods are re-exported from one State to the other.

As the result of the overlapping Membership between COMESA and other RECs, it faces a significant hurdle: i.e. once the COMESA CU is in place, a country that is

a member of the COMESA CU cannot be a member of another CU unless the two customs unions have the same CET and customs procedures. All members of a CU need to apply the same tariffs on goods coming into the region from countries which are not a part of the union.

In the case of the East African Community (EAC) which has already launched its CU, comprising Kenya and Uganda (COMESA Members) and Tanzania (a SADC Member), both the COMESA and EAC Secretariats are working together to ensure that the CET and the customs procedures of the two CUs will be in harmony<sup>96</sup>. In the case of SADC which plans to have an FTA in place by 2008, if a country is in the COMESA CU and is also part of the SADC FTA, it will face a dilemma. This is because by being a part of the COMESA CU it will need to apply the CET on all other countries outside the CU, even those countries which are in the SADC FTA but out of the COMESA CU. However, by being part of the SADC FTA it is supposed to allow duty-free entry into the country for goods that conform to the SADC Rules of Origin.

The creation of the COMESA CU will, therefore, bring the issue of overlapping membership to the fore and it is essential that the RECs, the AU along with member States, resolve this issue to avoid the weakening of the regional integration endeavour. Both the COMESA and SADC secretariats have agreed to work together to resolve this issue. Essentially, the optimum way of resolving this issue rests on the degree of policy harmonization between the two RECs: The fact that 13 Members of the COMESA FTA are already trading at zero tariffs might help to reduce some of the tension. This is a step in the right direction.

Although the region has made significant progress in overcoming some of its supply-side constraints, much still has to be done. The Region is working towards adopting a Common Agricultural Policy with programmes that are in line with the CAADP framework which stresses the importance of cooperation and coordination of intra-Africa regional agricultural policies, food security responses, marketing, research, training, plant and animal disease and pest control, water management, etc. Under the CAADP process, about six countries in the region have launched their national CAADP schemes and the whole region is expected to complete the process by the first quarter of 2008.

In parallel to the CAADP, COMESA has adopted a strategy based on targeted commodity specific approaches. The strategy focuses on developing commodity specific regional trade initiatives through innovative public/ private sector alliances and partnerships. The programme works primarily through regional trade flow leaders such as regional trade associations, national-level trade associations, private companies and individual entrepreneurs as well as public sector policy makers through COMESA's decision-making structures. Another COMESA programme, which will be developed and implemented over the next four years, is the Agriculture Marketing Promotion and Regional Integration Programme (AMPRIP), (see Box 4). Among the envisaged outputs of this programme is a COMESA Protocol on Sanitary and Phytosanitary Standards.

More specifically, Under Pillar 1 of the CAADP (Land and Water Management), the region has set up a Regional Irrigation Fund (RIF), prepared a joint COMESA/SADC strategic framework for fertilizers and seed with projects to promote sustainable agricultural production which is expected to enhance rural incomes the Member States.

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<sup>96</sup> Burundi and Rwanda have recently joined EAC. They are also Members of ECCAS

Under Pillar 2, plans are underway to implement the Regional Food Security and Risk Management for Eastern and Southern African (REFORM) with strengthened focus on Cross Border Trade Associations. Under Pillar 3, the region has launched a Regional Enhanced Livelihoods Programme for communities in pastoral areas which will assist with cross border movement and trade of animals, early warning emergency response mechanisms, and with SPS issues. Also under this pillar, the Region is working with the AU to implement a programme for the eradication of tsetse fly and trypanosomiasis. Under Pillar 4 (Research and Technology), a value chain approach has been adopted to promote expansion of sectors that show promise for significant rural income increase such as the organic leather and cassava sub-sectors. A major constraint rests on the Region's ability to mobilize the necessary financial resources.

With regards to women, COMESA is facilitating a programme for the promotion of female farmers in agro-processing and marketing developing along with training on the COMESA trade regime. Most seriously, the region has a very high rate of HIV/AIDS with estimated income lost of about 2.6 percent of the GDP annually to the disease. The agricultural sector has been the hardest hit from the disease resulting in labour and the diversion of resources away from agriculture to meet the regions health needs. The high mobility in agricultural trade particularly along the region's transport corridors has accelerated the spread of the disease and this has negatively affected cross border trading activities resulting in major trade losses. In response to this epidemic COMESA and its development partners plan to initiate a programme dubbed *Building Corridors of Hope* aimed at behavioural change communication activities.

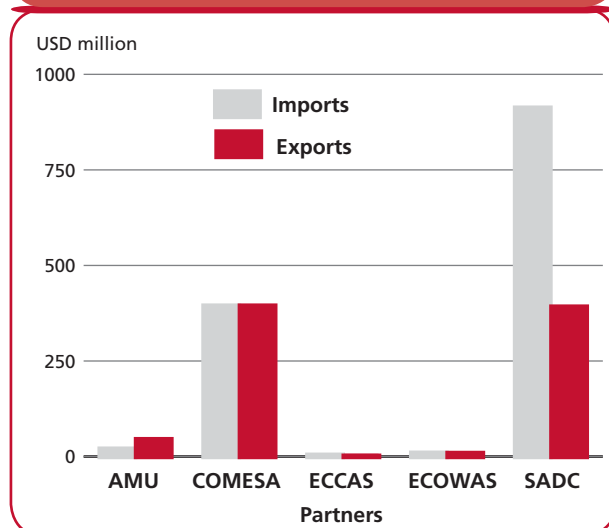
Like other regions in Africa, COMESA is a food deficit region. The region produces most of the designated strategic products and Egypt, Kenya and until recently Zimbabwe are the dominate players in this regard. In terms of key products, an example of the regional production profile is as follows: Egypt (sugar, maize, rice, wheat, legumes, poultry); Uganda (cassava); Ethiopia and Sudan (beef, sorghum); etc. The agricultural profile of COMESA is presented in Statistical Annex B. The region's food production index which was 90 in 1990 has increase very slowly to 109 in 2004. In terms of consumption, sugar, wheat, maize, dairy, oils and rice are important in the region's consumption bundle. Total cereal food aid supplies in this region increased by about 42 percent during 2000-02 and 2003-05 period the increase comprising largely of wheat. For maize, food aid supplies declined slightly to 544 000 mt in 2003-05. Food aid in rice is on the low side at 33 000 mt representing an increase of about 4 percent since 2000-02. Non cereal food aid is also important, with food aid in pulses and vegetable oils increasing by over 90 and 37 percent respectively within the last 3 year (see Annex 3).

The average MFN applied tariffs for agricultural products stood at 20 percent with tobacco having the highest at 42 percent and cereals with the lowest at 10 percent. The low rates for cereals underscores the importance in the region which is plagued by conflict and recurrent droughts, which have led several Members to impose import/export bans and waiving of duty depending on the situation. Given the way the four proposed CET bands are phased (see above) it is not clear in which of the band food products will be placed. Some countries have very high tariff peaks with about 10 countries having non-ad valorem rates in their agricultural tariff schedules. In this regard, it might be useful for COMESA to review the issue and harmonize its tariff structure in line with other RECs as tariff simplification will enhance the benefits of it proposed CU.

COMESA has made significant progress in agriculture and food trade. Total agricultural exports from the region have increased by 25 percent over the last 4 years: from US\$4.8

billion in 2002 to US\$6.5 billion in 2006. Trade with other African regions accounts for over 80 percent of exports and although the level is still low compared to its exports elsewhere, intra-COMESA exports of agricultural products have exhibited very strong growth (45 percent since 2002). A number of countries have emerged as strong players in intra-COMESA agricultural trade: Kenya (26 percent), Zambia (21 percent), Uganda (14 percent), Malawi (10 percent) and Egypt (6 percent) with some gains in other Members like Comoros, Burundi, Sudan, Ethiopia and Eritrea. Table 3 of Annex 4 shows the direction of COMESA's exports of some of the key strategic products. The table reveals that although (with the exception of SADC) the level and value of COMESA's trade with the rest of Africa is low there is scope for enhancing trade. In recent years, COMESA has seen its trade with the AMU decline sharply for most of the strategic products, e.g. cotton, legumes, groundnuts, sugar and tobacco. However, there have been some gains in other regions like ECOWAS where COMESA's trade records some upward movement for commodities like tobacco, sugar, dairy, cotton and rice flour. Figure 4 presents an overview of intra-regional agriculture trade for COMESA during 2006.

**Figure 4. Intra-regional agricultural trade structure of COMESA, 2006**



Globally, the region's agricultural imports in 2006 amounted to US\$8.6 billion consisting mainly of cereals (wheat and maize mainly), beef, sugar, dairy and cotton. A large share of these commodities was sourced from outside of Africa. The often recurrent adverse weather conditions in the region along with some of the other structural supply-side constraints are responsible for this increase in the region's food import bill. Intra-Africa trade for example for wheat flour from the AMU was about US\$39 million in 2002, but this was negligible in 2006. Oil palm imports from ECOWAS expanded over the 4

year period with overall agricultural trade between the two RECs showing some significant improvements.

### 3.3.16 Summary

COMESA has made fairly good progress towards liberalising trade within its borders but difficulties remain. Detailed rules have been drawn up covering most of the areas relevant to establishing a common market in agricultural products and the plans for a common agricultural policy indicate an awareness of the importance of the sector to the region's economies. One issue that the COMESA process highlights is that of the differing capacities possessed by States to undertake liberalisation and reform. The asymmetrical approach adopted in COMESA provides flexibility to those countries with limited capacity but undermines the normative nature of treaty obligations.

## 3.4 The Economic Community of Central African States (ECCAS)

### 3.4.1 Background

The Economic Community of Central African States is another of the RECs recognised by the African Union as a building bloc of the AEC. The organisation was established

following the adoption of the Treaty Establishing the Economic Community of Central African States in 1983. The underlying goal behind the organisation's creation was the expansion of UDEAC to incorporate more Central African States. ECCAS is composed of eleven countries: Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, DR Congo, Gabon, Equatorial Guinea, Rwanda and Sao Tomé and Príncipe. Of these eleven countries, six (Cameroon, Central African Republic, Chad, Congo, Gabon, and Guinea Equatoriale) are members of CEMAC (formerly UDEAC). Recent reports indicate that Rwanda has decided to pull out of ECCAS, presumably to focus its energies on COMESA and its accession to the EAC<sup>97</sup>.

For a number of years following its formation, ECCAS was dormant due to financial difficulties and conflict in the Great Lakes region. With regard to EPA negotiations, the six CEMAC countries together with Sao Tomé and Príncipe and (since 2005), the DRC have joined to negotiate together under the CEMAC – EU EPA configuration.

### 3.4.2 Underpinning principles

The preamble to the ECCAS Treaty indicates that Member States are, *inter alia*, convinced that cooperation fosters accelerated and harmonious economic development and that they recognise that efforts at sub-regional cooperation should not conflict with similar efforts being made at a wider level.

The aims of ECCAS as set out in Article 4 include promoting and strengthening harmonious cooperation in fields including transport and communications, trade and customs. These aims are further specified as:

- a) the elimination between Member States of customs duties and any other charges having an equivalent effect levied on imports and exports;
- b) the abolition between Member States of quantitative restrictions and other trade barriers;
- c) the establishment and maintenance of an external common customs tariff;
- d) the establishment of a trade policy vis-à-vis third States;
- e) the progressive elimination between Member States of obstacles to the free movement of persons, goods, services and capital and to the right of establishment;
- f) the harmonization of national policies in order to promote Community activities, particularly in industry, transport and communications, energy, agriculture, natural resources, trade, currency and finance, human resources, tourism, education, culture, science and technology<sup>98</sup>.

These aims are therefore compatible with the establishment of an African Common Market for Agricultural Products.

### 3.4.3 Harmonisation of laws

Article 5 of the ECCAS Treaty obliges Members to 'direct their endeavours with a view to creating favourable conditions for the development of the Community' and to refrain from any unilateral actions likely to hinder such achievement. On the issue of customs administration, the Council is to propose to the Conference 'the adoption of a common customs and statistical nomenclature for all Member States, while Article 37

<sup>97</sup> Tralac, 'Southern Africa: Country pulls out of ECCAS' available at <http://www.tralac.org/scripts/content.php?id=6539> (visited 26 July 2007)

<sup>98</sup> ECCAS Treaty, Article 4(2)



obliges Members to ‘take all necessary measures to harmonize and standardize their customs regulations and procedures’ in accordance with Annex V. With regard to transport, Article 47(1)(c) obliges Members to progressively harmonize their transport and communications laws and regulations.

#### 3.4.4 Trade liberalisation programme

The trade liberalisation programme adopted by ECCAS is similar to that adopted by the AEC in that a schedule is laid out for the achievement of the Economic Community. The main difference is that in the case of ECCAS, Article 6 provides that the Community was to be achieved over a period of 12 years, divided into three four-year stages, from the Treaty’s entry into force<sup>99</sup>. Further to this provision, Article 27 of the Treaty sets out the agreement to progressively establish a customs union involving the elimination of customs duties as well as quotas and other restrictions, prohibitions and administrative trade barriers. The timetable adopted by the Members was to the effect that in the first stage, Members were to refrain from establishing any new customs duties on trade between themselves and from increasing the already existing duties<sup>100</sup>. The next step was to create a free trade area through the progressive reduction and ultimate elimination of customs duties between them<sup>101</sup>. As part of the process of establishing a customs union, a CET was to be established through the elimination of differences between their respective tariffs and the adoption of a common customs and statistical nomenclatures<sup>102</sup>. This would then result in the establishment of a customs union by the end of the third stage<sup>103</sup>.

#### 3.4.5 Non-tariff barriers

Article 27 of the ECCAS Treaty obliges Members to eliminate quotas as part of the customs union. This requirement is reiterated in Article 33, which obliges Member States to relax and ultimately remove quota restrictions as a non-tariff barrier to intra-Community trade.

Though the Treaty does not specifically provide for obligations with regard to licensing requirements, Article 33 requires the relaxation and ultimate removal of ‘other restrictions and prohibitions in force’ on goods being transferred from one Member State to another. This provision would therefore appear to encompass the elimination of any licensing requirements for engaging in trade.

#### 3.4.6 Most-favoured-nation principle

Article 35 of the ECCAS Treaty provides, *inter alia*, that:

Member States shall accord to one another in relation to intra-Community trade the most-favoured-nation treatment. In no case shall tariff concessions granted to a third country in pursuance of an agreement with a Member State be more favourable than those applicable in pursuance of this Treaty.

The Article further provides that ‘No Member State may conclude with any third country an agreement whereby the latter would grant such Member State tariff concessions not granted to the other Member States<sup>104</sup>.’ This would appear to prohibit

<sup>99</sup> ECCAS Treaty, Article 6(1)

<sup>100</sup> ECCAS Treaty, Articles 6(2)(a) and 28(1)

<sup>101</sup> ECCAS Treaty, Articles 6(2)(b) and 28(2)

<sup>102</sup> ECCAS Treaty, Article 29

<sup>103</sup> ECCAS Treaty, Article 6(2)(c)

<sup>104</sup> ECCAS Treaty, Article 35(4)



any Member State being a Member of any other REC in which the others were not participating. However, it is clear that this provision was never operationalized in view of the fact that it would have required countries such as Burundi and Rwanda not to continue with their memberships of COMESA when it was born out of the Preferential Trade Area, which they did not do.

### 3.4.7 Trade in agriculture

The language used in the ECCAS Treaty regarding trade in agriculture is phrased for the most part in non-binding language. Thus, Article 43 contains an 'obligation' on the part of Member States to 'cooperate in agriculture, forestry, stock farming and fishing.' One aim of such cooperation is to satisfy the food requirements of the population and enhance food security<sup>105</sup>. In doing so, Members agree to 'take concerted action to harmonize their agricultural policies.' The creation of an African Common Market in basic foodstuffs and harmonisation of agricultural policies would therefore be consistent with the aims of ECCAS.

### 3.4.8 Rules of origin

Article 30 of the ECCAS Treaty provides that the 'definition of the concept of products originating in Member States and the rules governing the application of [the] article appear in the' annexed protocol. Rules of origin were to be as specified in Annex I to the Treaty<sup>106</sup>. Recent reports indicate that following years in which CEMAC and ECCAS applied different rules of origin; agreement has now been reached among experts that for goods to be considered as originating from CEMAC and ECCAS, the level of processing should reflect 40 percent local raw materials or 35 percent value-added transformation<sup>107</sup>.

### 3.4.9 Sanitary and phytosanitary measures

ECCAS Member States are allowed to derogate from the provisions relating to the free movement of goods in order to protect human, animal or plant health or life<sup>108</sup>. Article 43 on cooperation in agriculture and food makes a passing mention of the quality of foodstuffs where it provides that one of the aims of cooperation is to satisfy the food requirements of populations and enhance food security '*inter alia*, by the quantitative and qualitative improvement of foodstuffs ...'

### 3.4.10 Safeguard provisions

The ECCAS Treaty addresses the issue of safeguards using the terminology of 'trade imbalance' which is defined as a situation where the 'imports of any particular product by a Member State from another Member State increase significantly' and 'this increase in imports causes or would cause serious damage to production which is carried on in the territory of the importing Member State<sup>109</sup>.' In such instances, the Member State suffering the imbalance is to submit a report thereon to the Secretary-General, who is to refer the matter to the Council. The Council is to then propose to the Conference measures to be taken<sup>110</sup>. The aggrieved Member State would therefore appear not to have any option of taking unilateral action. Members are also allowed to impose restrictions for the purpose of overcoming balance-of-payment difficulties<sup>111</sup>, and for the purpose of protecting infant or strategic industry<sup>112</sup>.

<sup>105</sup> ECCAS Treaty, Article 43(1)(b)

<sup>106</sup> ECCAS Treaty, Article 30. Note that the author has been unable to locate a copy of the said Annex

<sup>107</sup> See <http://www.uneca.org/integration/numero1/highlights02.asp> (visited 27 July 2007)

<sup>108</sup> ECCAS Treaty, Article 34(1)(c)

<sup>109</sup> ECCAS Treaty, Article 31(1)

<sup>110</sup> ECCAS Treaty, Article 31(2)

<sup>111</sup> ECCAS Treaty, Article 34(3)

<sup>112</sup> ECCAS Treaty, Article 34(4)

### 3.4.11 Trade remedies

With regard to trade remedies, the ECCAS Treaty simply provides that 'The special provisions on restrictions, prohibitions, quota restrictions, dumping, subsidies and discriminatory practices shall be the subject of a protocol on non-tariff trade barriers attached' to the Treaty as Annex II<sup>113</sup>.

### 3.4.12 Trade facilitation

Under Article 37 of the ECCAS Treaty, Member States are to 'take all necessary measures to harmonize and standardize their customs regulations and procedures to ensure the effective application of [the] Chapter and to facilitate the movement of goods and services across their frontiers'<sup>114</sup>. This provision is supplemented by the provisions of Article 67 which obliges Members States to 'simplify and harmonize their trade documents and procedures in accordance with the Protocol on the Simplification and Harmonization of Trade Documents and Procedures ... so as to facilitate intra-Community trade in goods and services'<sup>115</sup>.

### 3.4.13 Transport

Article 36 of the ECCAS Treaty provides that Members are to grant freedom of transit through their territories to goods proceeding to or coming from another Member State.

Article 47 then sets out the measures to be taken in order 'to achieve a harmonious and integrated development of the sub-regional transport and communications network'. These include:

- a) [promoting] the integration of transport and communications infrastructures;
- b) [coordinating] the various modes of transport in order to increase their efficiency;
- c) progressively [harmonizing] their transport and communications laws and regulations<sup>116</sup>.

### 3.4.14 Status of regional integration and food trade in ECCAS

After a long period of inactivity, the ECCAS is now regarded as one of the pillars of the African Union's AEC having signed the protocol on relations between the AEC and the RECs in October 1999. The ECCAS Member have adopted a scheme for phasing out tariffs on intra-community trade, known as the ECCAS Preferential Tariff, together with rules of origin and approval procedures at the community level, which were supposed to enter into force on 1 July 2004. The tariff reduction timetable envisaged is as follows: for traditional handicraft and local products (other than mining products) a 100 percent reduction from 1 July 2004; in the case of mining products and manufactured products with originating status, 50 percent from 1 July 2004, 70 percent as of January 2005, 90 percent as of January 2006, and 100 percent as of January 2007. The free trade area is due to be established no later than 31 December 2007, in accordance with the timetable of the EPA with the EU. However, by July 2007, the tariff reduction process leading to the establishment of a free trade area had not yet begun.

Within the ECCAS region, the CEMAC (Cameroon, Central African Republic, Chad, Congo, Rep., Equatorial Guinea and Gabon) has made very significant progress in its trade liberalization and integration framework having achieved a customs and monetary union since 1993. Unlike ECCAS, the Generalized Preferential Tariff (GPT) arrangement,

<sup>113</sup> ECCAS Treaty, Article 33(3). Note that the author has been unable to locate the text of this Annex

<sup>114</sup> ECCAS Treaty, Article 37

<sup>115</sup> ECCAS Treaty, Article 67

<sup>116</sup> ECCAS Treaty, Article 47

introduced in 1993, is the centerpiece of the CEMAC trade liberalization programme on internal tariffs for FTA and CET for its CU. In addition to the establishment of an FTA and CU, the objective of the preferential trade regime is the encouragement of vertical and horizontal industrial integration and the productive employment of human and natural resources. For purposes of internal tariffs on intra-community trade, products of regional origin are classified into two groups: primary commodities and manufactured goods. Internal tariffs have been eliminated on both categories of goods.

Under the CEMAC structure of common external tariff, goods imported from outside the community are classified into four groups: basic necessities (0 percent), primary raw materials and capital equipment (10 percent), intermediate or semi-processed goods (20 percent), and final consumer goods (30 percent). The tariff on final consumers' goods decreased from a high of 50 percent since in 1993 to the current rate of 30 percent (ECA, 2002).

ECCAS has formulated several protocols covering trade liberalization, trade facilitation, and sector cooperation - transit and transit facilities; customs cooperation; compensation fund for revenue loss; freedom of movement and rights of establishment of community citizens; clearing house; sector development cooperation in agriculture, industry, transport and communication, science and technology, energy, and natural and human resources—the status of implementation of most of them remains doubtful due to the prevalence of conflict in the region.

With regards to CEMAC, initiatives concerning trade facilitation include the simplification of transit and customs procedures; the implementation of the international standard Inter-State Transit of Central African States designed to increase productivity and reduce the cost of transit services, the harmonization customs and statistical nomenclature and classification according to the system of the World Customs Organization (WCO) and the installation of ASYCUDA to monitor trade flows.

Beyond the formation of a free trade area and a customs union by 1998, CEMAC has taken some initiatives concerning the next phase formation of a common market—notably, the free movement of persons, the free movement of capital, and the harmonization and coordination of macroeconomic and sector policies. As an instrument of the free movement of people within the community, the CEMAC Passport and the Red Card for motor vehicle were adopted in 2000. The responsibility for issuing and administering CEMAC Passports rests with individual member states. The Red Card motor vehicle insurance was adopted in compliance with the 1996 agreement of introducing an international insurance card for protection against civil liabilities within CEMAC.

With a view to the negotiation of an EPA between the EU and Central Africa (the CEMAC countries, along with Sao Tomé and Príncipe and the Democratic Republic of the Congo), the CEMAC is in the process of negotiating a free trade agreement with Sao Tomé and Príncipe, and expects to do the same with the Democratic Republic of the Congo.

Whereas for most RECs, common policies, common institutions, and common currency are distant aspirations, CEMAC is already functioning within that framework, particularly in the context of monetary issues. All members of CEMAC come from the same CFA free monetary zone—pegged at a fixed exchange rate to the French Franc previously and to the Euro subsequently. In addition to a currency, CEMAC Members have a common central bank acting as the regional common authority, *le Banque des*

*Etats de l'Afrique Centrale (BEAC)*, and a common regulatory body of the banking sector, *le Commission Bancaire de l'Afrique Centrale (COBAC)*

The ECCAS region produces a variety of strategic products and key amongst these include: cassava, maize, oil palm, vegetables, sorghum, groundnuts, cattle and poultry. Other important products include sugar, plantains, bananas, taro and yams. Much of these products are supplied by Cameroon, with the largest share of production in the region. Other countries specializing in key products include: Burundi - bananas; Rwanda - potatoes; Chad – groundnuts and cattle; Congo (DR) - sugar and maize. Statistical Annex C presents the profile for the agricultural sector.

In terms of cereal production, self-sufficiency in maize was attained in 2003, but in the case rice the region's self-sufficiency ratio is at 47 percent, implying that huge amounts of rice is imported to meet dietary needs. Cassava features highest in terms of consumption with the per capita consumption of about 170 kg/person. Other important products in the region's consumption bundle include: maize (24 kg/person), sorghum (14 kg/person), milk (17 kg/person), potatoes (17 kg/person), and bovine meat (5 kg/person). The low level of bovine consumption in this region is not a true reflection of its meat consumption rate as bush meat is more preferred to beef in this region. Food aid supplies are on decline with commercial purchases rising mainly due to the windfall gains by some members from higher petroleum prices. Total cereal food aid has declined by about 17 percent in the last five years to 2005 while commercial imports have increased by 32 percent. In this region, food aid accounts for over 30 percent of the [commercial] imports of maize. Non-cereal food aid has also declined between the two period by about 8 percent (see Annex 3).

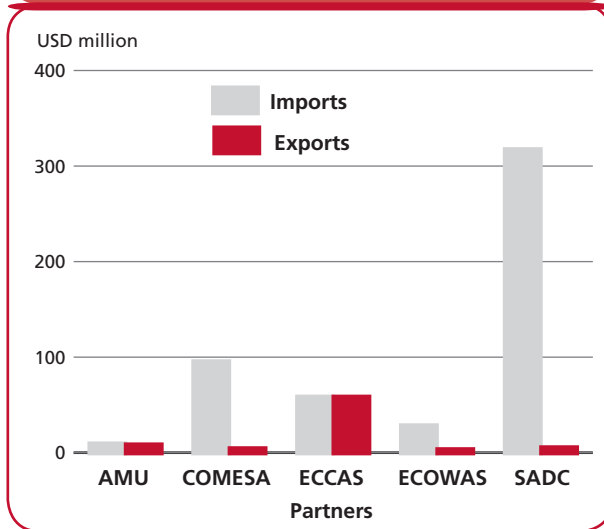
The average MFN applied agricultural tariff for the whole ECCAS region is 20. This is largely influenced by the four CEMAC Members (Cameroon, Central African Republic, Chad and Gabon) whose average is 22. Angola has the lowest at 9.4 with Burundi the highest at 33. The average applied rates for Congo, DR and Rwanda are 13 and 13.5, respectively. Importantly, it is not clear at this time what is the status of Burundi and Rwanda in ECCAS as they have opted to become Members of the EAC which had already established a CU with duty rates ranging from 0 to 25

Despite implementation of the GPT, intra-community trade have barely exceeds 3 percent of the total value of CEMAC trade – a situation that is explained mainly by the fact that the Community's exports consist essentially of raw materials that are not traditionally traded among member countries. Other reasons include: misapplication of the tax and customs codes and regulations, tariff and non-tariff barriers to intra-regional trade, poor compliance with Community rules of origin and provisions on the regulation of competition and the absence of a single entry point system for the movement of goods.

In 2006, ECCAS exported about US\$1 billion worth of agricultural products globally. This represents an increase of about 40 percent from 2002. Intra-African exports are highly concentrated within the ECCAS region itself, comprising largely of palm oil, sugar, tobacco and beef, maize, cotton and legumes and groundnuts. The region exports cotton to almost all the other RECs. Although its exports are very low in terms of value, the region is experiencing a three-fold increase in its intra-African exports. In 2006, the AMU ranks top as the destination for intra-African agricultural exports from ECCAS. Figure 5 maps out the structure of both imports and exports in 2006.

Intra-African imports show a significant increase from all the other RECs to ECCAS. Amongst the key strategic products imported where: sugar, cotton, maize, rice, poultry

**Figure 5. Intra-African agricultural trade structure of ECCAS, 2006**



and beef are imported in varying degrees from COMESA/SADC with cotton and oil palm from ECOWAS. The region has a global deficit in its total agricultural trade of about US\$1 billion between 2002 and 2006. During this period, ECCAS imported several categories of food items from outside Africa, which competed with the existing and potentially declared strategic food products. The complete agricultural profile is presented in statistical Annex C.

In 2006, CEMAC adopted a Common Market Organization

(CMO) for sugar<sup>117</sup>, its first CMO, whose main aim is to reach sub-regional self-sufficiency by meeting the sugar deficits of some Members by first using the surplus production of other members (such as Gabon). This CMO has been implemented by Gabon by means of several trade policy measures, in particular a prohibition on sugar imports of non-CEMAC origin.

### 3.4.15 Summary

One unusual feature of ECCAS is the provision in the MFN Article that Member States are not to enter into any agreements with third parties if those third parties do not extend the preferences to the other ECCAS Members. Though admirable in intent, in the sense that its aim was to ensure that the REC functioned as one unit, the level of compliance with the provision has been low and this has partly led to the current situation of overlapping RECs. The strength of the REC lies in its incorporation of the CEMAC countries who are able to form a core around which liberalisation measures can proceed.

## 3.5 The Economic Community of West African States (ECOWAS)

### 3.5.1 Background

ECOWAS is a REC composed of 16 West African countries<sup>118</sup>. Of these 16, eight francophone countries are Member States of UEMOA<sup>119</sup>, while the other eight, who are predominantly Anglophone, are not. This configuration means that within ECOWAS, there already exists a core group of countries that has engaged in accelerated economic integration to the extent of forming a monetary union. ECOWAS was originally established in 1975 in order to promote cooperation and integration in West Africa. On 24 July 1993, its establishment Treaty was revised in order to take into account the provisions of the Abuja Treaty and the changed economic landscape globally<sup>120</sup>. With regard to EPA negotiations, the West Africa – EU EPA configuration is made up of all 16 ECOWAS countries. This is likely to expedite the negotiations and

<sup>117</sup> Regulation No. 10/06-UEAC-166-CM-14

<sup>118</sup> Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo

<sup>119</sup> Benin, Burkina Faso, Côte d'Ivoire, Guinea Bissau, Mali, Niger, Senegal, and Togo

<sup>120</sup> Treaty of ECOWAS, 24 July 1993

ensure a coherent outcome because, unlike in COMESA, ECCAS and SADC, the issue of a country negotiating under one configuration while being a member of another REC does not arise.

### **3.5.2 Underpinning principles**

Among the aims and objectives of the Member States of ECOWAS are promoting co-operation and integration, and maintaining and enhancing economic stability<sup>121</sup>. In pursuing these objectives, Members affirm their adherence to a number of principles including inter-state co-operation, harmonisation of policies, integration of programmes and recognition and observance of the rules and principles of the Community<sup>122</sup>. Regarding the wider continental integration scheme, Members undertake to facilitate the co-ordination and harmonisation of the policies and programmes of the Community with those of the AEC<sup>123</sup>. The ECOWAS Treaty also permits the Community to enter into co-operation agreements with other regional Communities in the context of achieving its regional objectives<sup>124</sup>.

### **3.5.3 Harmonisation of laws**

Provisions regarding the harmonisation of laws and policies are spread over a number of sections in the ECOWAS Treaty. These include Articles 3 and 4 which set out the Aims and Objectives and Fundamental Principles of the Member States, respectively. Article 5 wherein Member States undertake to create favourable conditions for the attainment of the objectives of the Community and to take all necessary measures to ensure the required enactment of legislation for the implementation of Treaty provisions is also relevant.

With regard to agriculture, Article 25 specifically provides that Member States shall co-operate in the harmonisation of food security policies paying particular attention to the conclusion of agreements on food security at the regional level<sup>125</sup>.

### **3.5.4 Trade liberalisation programme**

In order to achieve the aim of establishing a Common Market, Article 3(2) of the ECOWAS Treaty provides that Members are to abolish, by stages, customs duties levied on imports and exports among Members. This obligation is further elaborated in Article 35 of the Treaty, which contains an obligation on the part of the Members to progressively establish in the course of 10 years from 1 January, 1990, a customs union among the Members. Article 36 then provides for the reduction and ultimate elimination of customs duties and other charges of equivalent effect on goods eligible for Community tariff treatment.

With regard to external trade, Article 37 provides for the gradual establishment of a common external tariff on all goods imported into the Community from third countries.

### **3.5.5 Non-tariff barriers**

Article 35 of the ECOWAS Treaty obliges Members to remove quotas, quantitative or like restrictions or prohibitions and administrative obstacles to trade among Members. Article

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<sup>121</sup> ECOWAS Treaty, Article 3

<sup>122</sup> ECOWAS Treaty, Article 4

<sup>123</sup> ECOWAS Treaty, Article 78

<sup>124</sup> ECOWAS Treaty, Article 79

<sup>125</sup> ECOWAS Treaty, Article 25(2)(f)



41 reiterates this point by providing that Member States are to gradually relax and remove all existing quota, quantitative or like restrictions or prohibitions applying to the import into that State of goods originating in other Members. Article 35 provides, *inter alia*, for the removal of administrative obstacles in the course of establishing a Customs Union among the Members. Article 44 which provides that 'Member States undertake not to enact legislation and/or make regulations which directly or indirectly discriminate against the same or like products of another Member State' can also be interpreted as requiring Members not to impose onerous licensing requirements on traders of products.

### 3.5.6 Most-favoured-nation principle

The MFN principle is incorporated into the Community's legal framework by Article 43 of the ECOWAS Treaty which provides, *inter alia*, that 'Member States shall accord to one another in relation to trade between them the most favoured nation treatment. In no case shall tariffs granted to a third country by a Member State be more favourable than that applicable under [the] Treaty<sup>126</sup>.'

### 3.5.7 Trade in agriculture

Chapter IV of the ECOWAS Treaty addresses the issue of cooperation in food and agriculture.

As mentioned above, Article 25(2)(f) provides that Members are to co-operate in harmonising food security policies paying particular attention to the conclusion of agreements at a regional level on food security. Article 25 further elaborates on measures that Members are to take in developing agriculture, forestry, livestock and fishery. Sub-article 1 sets out the aims of cooperation in these areas, whereas in sub-article 2, the specific fields within which cooperation is to occur are enumerated. One of these fields is 'the adoption of a common agricultural policy'. Though phrased using mandatory language – 'shall' – it should be noted that the obligation in the Article is only to co-operate, a word capable of elastic interpretation.

### 3.5.8 Rules of origin

With regard to the goods that are eligible for preferential treatment, Article 38 provides, *inter alia*, that 'goods shall be accepted as eligible for Community tariff treatment if they have been consigned to the territory of the importing Member States from the territory of another Member State and originate from the Community.' The Article goes on to provide that the rules governing products originating from the Community shall be contained in the relevant Protocols and Decisions of the Community<sup>127</sup>. Pursuant to this provision, the 'Protocol Relating to the Definition of the Concept of Products Originating from Member States of the Economic Community of West African States' was adopted in May 2002. According to the Protocol, goods are accepted as originating in Member States if they have been wholly produced in the Community<sup>128</sup>, or have been produced in a manner such that material of foreign origin does not exceed 60 percent of the total cost (CIF) of material used, or 60 percent of the whole raw material used in the production of the goods is of Community origin<sup>129</sup>, or the goods have received in the process of production a value added of at least 35 percent of the ex-factory price before tax of the finished product<sup>130</sup>.

<sup>126</sup> ECOWAS Treaty, Article 43(1)

<sup>127</sup> ECOWAS Treaty, Article 38(2)

<sup>128</sup> ECOWAS Protocol on Rules of Origin, Article II(a)

<sup>129</sup> ECOWAS Protocol on Rules of Origin, Article II(b)

<sup>130</sup> ECOWAS Protocol on Rules of Origin, Article II(c)



### 3.5.9 Trade facilitation

In Article 46 of the ECOWAS Treaty, Members agree to 'take appropriate measures to harmonise and standardise their Customs regulations and procedures to ensure the effective application of the provisions of [the] Chapter and to facilitate the movement of goods and services across their frontiers.' However, unlike the case with COMESA and ECCAS, the ECOWAS Treaty does not contain a specific provision requiring the harmonisation and simplification of trade documents. It can therefore be concluded that this is one of the areas to be addressed under Article 67 which refers to the Members undertaking to consult one another for the purpose of harmonising policies in fields not specifically covered by the Treaty.

### 3.5.10 Sanitary and phytosanitary measures

Article 41(3)(c) of the ECOWAS Treaty permits a Member State 'after having given notice to the Executive Secretary and the other Member States of its intention to do so' to introduce restrictions affecting the protection of human, animal or plant health or life. This right is not to be exercised in such a manner that the restrictions stultify the free movement of goods.

### 3.5.11 Safeguard provisions

'In the event of serious disturbances occurring in the economy of a Member State following the application of the provisions of [the] Chapter, the Member State concerned' is permitted by the ECOWAS Treaty to 'take the necessary safeguard measures' AFTER informing the Executive Secretary and the other Member States<sup>131</sup>. (emphasis added) Such measures are to remain in force for a maximum period of one year, though this period may be extended with the approval of the Council. As is the case with COMESA, this provision mirrors that found in the Abuja Treaty.

### 3.5.12 Trade remedies

Article 42 of the ECOWAS Treaty defines and prohibits the practice of dumping within the Community. It defines dumping as meaning 'the transfer of goods originating in a Member State to another Member State for sale:

- a) at a price lower than the comparable price charged for similar goods in the Member States where such goods originate (due allowance being made for the differences in the conditions of sale or in taxation or for any other factors affecting the comparability of prices); and
- b) under circumstances likely to prejudice the production of similar goods in that Member State<sup>132</sup>.'

Members, however, are not permitted to apply anti-dumping duties on their own initiative in the event of alleged dumping but are to appeal to the Council 'to resolve the matter'<sup>133</sup> and it is the Council which shall 'take appropriate measures to determine the cause of the dumping'<sup>134</sup>. The Article does not state what measures the Council is to take once it has determined what the causes of the dumping are. This indicates reluctance among Members to risk adverse measures being taken against them in the event that they engage in the practice of dumping. It is worth noting that the Treaty does not contain any provision relating to the issue of subsidies and the application of countervailing duties to offset them.

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<sup>131</sup> ECOWAS Treaty, Article 49(1)

<sup>132</sup> ECOWAS Treaty, Article 42(2)

<sup>133</sup> ECOWAS Treaty, Article 42(3)

<sup>134</sup> ECOWAS Treaty, Article 42(4)

### 3.5.13 Transport

Member States have an overarching obligation to ensure the removal of obstacles to the free movement of persons, goods, services and capital<sup>135</sup>. This obligation, with regard to transport and infrastructure in general is elaborated in Article 32 of the ECOWAS Treaty. This Article provides, *inter alia*, that Member States undertake to 'develop an extensive network of all-weather highways within the Community, priority being given to the inter-State highways', 'formulate plans for the improvement and integration of railway and road networks in the region' and 'endeavour to standardise equipment used in transport and communications and establish common facilities for production, maintenance and repair<sup>136</sup>.' With regard to transit traffic, Article 45(2) provides that each Member State is to grant full and unrestricted freedom of transit through its territory for goods proceeding to or from a third country in accordance with international regulations and the ECOWAS Convention relating to Inter-State Road Transit of Goods.

### 3.5.14 Intellectual property rights

The issue of intellectual property rights is not directly addressed in the ECOWAS Treaty. However, action in this area could be undertaken pursuant to the provisions of Article 67 where Member States undertake to cooperate with each other in harmonising policies in areas not specifically mentioned in the Treaty 'for the efficient functioning and development of the Community'.

### 3.5.15 Status of regional integration and food trade in ECOWAS

Within the ECOWAS, two groups of countries could be distinguished in terms of their regional integration and trade liberalization efforts. The first group is the French speaking countries making up the WAEMU<sup>137</sup> and the other is the predominantly English speaking non-WAEMU countries<sup>138</sup>. Unlike the non-WAEMU countries, the eight Members of WAEMU belong to the common Franc CFA monetary zone with a very high degree of convergence of integration programmes with CEMAC in Central Africa (ECCAS). The level of convergence between these two RECs (WAEMU and CEMAC) can be attributed to the establishment of a common monetary zone preceding earlier levels of economic integration: free trade area, customs union and common market. The WAEMU adopted a CET in 1998 and revised it 2000.

The WAEMU CET comprises three elements: 1) the customs tariff in four categories as follows: (a) basic social goods based on a restricted list - 0 duty, (b) basic goods, raw materials, capital goods and specific inputs - 5 percent duty, (c) inputs and intermediate products - 10 percent duty, and (d) finished consumer goods ready for consumption - 20 percent duty; 2) a statistical tax of 1 percent; and 3) the WAEMU Community Solidarity Levy also of 1 percent. The levy is a counter-measure to offset the potential loss of customs revenue arising from the reduction of tariffs on intra-community trade. To be exempt from customs duties and levies, imported products must be accompanied by a certificate of origin, with the exception of agricultural and livestock products as well as handicrafts. The origin of a product is determined: by the Member states in the case of wholly-produced products and products for which there has been a change in tariff classification, or have been produced with foreign materials comprising at most 60 percent the cost of the product; by the WAEMU Commission in the case of products

<sup>135</sup> ECOWAS Treaty, Article 3(2)(d)(iii)

<sup>136</sup> ECOWAS Treaty, Article 32(1)(i)

<sup>137</sup> Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, Togo

<sup>138</sup> The non-WAEMU ECOWAS countries are Cape Verde, The Gambia, Ghana, Guinea, Liberia, Nigeria and Sierra Leone

that have been produced using raw materials with received a value-added of at least 30 percent<sup>139</sup>.

For the non-WAEMU countries, trade liberalization is grounded in the ECOWAS Trade Liberalization Scheme (TLS), which came into effect in 1990. The TLS calls for the formation of a free trade zone within ten years involving the complete elimination of tariff and non-tariff barriers by the end of the 1999. Under the scheme goods eligible for duty free status consist of raw materials, traditional handcrafts and industrial goods identified in the TLS agreement. Within the TLS framework, the establishment an ECOWAS free trade area was supposed to be followed by the formation of an ECOWAS customs union within two years, by 2002. However, the introduction of the CET did not proceed as anticipated and was deferred to 2005 so that the common external tariffs of ECOWAS and WAEMU could be harmonized.

In January 2006, a decision was taken to implement the ECOWAS CET in line the regime already in operation in WAEMU. The decision calls for the period January 2006 to December 2007 to serve as a transitional period for the implementation of the ECOWAS CET, leading to its coming into full effect from 1<sup>st</sup> January 2008. During the transition period, harmonization with the WAEMU CET was to take place on the exceptions signaled by ECOWAS Members. There are two types of exceptions: Type A exceptions concern products whose duty rates differ from the CET rates but for which Member States have decided to align with the CET rates by the end of the transitional period; and Type B exceptions which concern products whose rates differ from the CET rates and for which Member States have decided to go into negotiations to change the CET rate. Both the WAEMU and ECOWAS have decided not to initiate new compensation mechanisms for revenue loss, rather they will each use the current mechanisms independently until funds are depleted. Further, the application of the Decreasing Protection Tax will resolve the issue of compensation (see below).

A key feature of the WAEMU and ECOWAS customs union regime are the every clear and specific safeguards and trade remedy measures, some of which are based on those used earlier by WAEMU. These measures which are still not finalised will be made WTO compatible and will form part of the ECOWAS customs union notification to the WTO. These measures are:

**The Decreasing Protection Tax (DPT):** this is a temporary safeguard measure to be applied to products where application of the moderate level of protection available under the ECOWAS CET may lead to imports causing serious injury or threatening serious injury to local production. It is applied to the c.i.f. price of the imported product alongside the customs duty and other duties and charges.

The DPT will be assessed on a country-by-country basis. Member States will submit their requests for the DPT to the ECOWAS CET Management Committee, which will make a final determination if the DPT is to be applied. The DPT will be dismantled over a period of ten years, beginning January 2008, with the establishment of the ECOWAS CET, and ending December 2017, when the rate of the DPT will be zero. The specific rates for the DPT will be negotiated. The maximum starting rate for the ECOWAS DPT should be no more than the reduction of the customs duty resulting from implementation of the CET. The DPT will be progressively reduced to equal zero

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<sup>139</sup> The ECOWAS is using a value-added of 35 percent ex-factory price as the threshold. At this time, it is not clear which one would be used for the ECOWAS customs union

at the beginning of 2018 if it is not yet zero by that time. It will only apply to imports from non-ECOWAS sources.

**The Import Safeguard Tax (IST):** it is also a temporary additional tax on imports originating from outside ECOWAS designed to protect local production from world price volatility and import surges. The IST will involve price and volume triggers for its application.

The price trigger will be invoked if there is a decrease in the c.i.f. unit value of imports of a given product in a given six-month period by more than 20 percent of the average c.i.f. unit value for the corresponding six-month period one year earlier.

The volume trigger will be invoked if an increase in the volume of imports of a given product in a given six-month period is more than 50 percent of the average volume for the corresponding six-month period one year earlier.

The rate of additional duty under the IST will be either 100 percent of the amount of price reduction on imports, or 50 percent of the percentage surge in import volume, whichever is higher. This additional duty will be assessed as a percentage of the c.i.f. unit value of the imported product, alongside the relevant customs duty and charges. Each ECOWAS Member State reserves the right to invoke the IST provisionally pending this determination.

The IST will be applied to imports from all non-ECOWAS trading partners for a period of no longer than 180 days, unless the price and/or volume triggers continue to be met in each subsequent six-month period.

**The ECOWAS Countervailing Duty (CVD):** is a mechanism for addressing the harmful effects of high levels of tariffs and quotas, domestic support and export subsidies by its WTO partners on world market prices. The Countervailing Duty will be imposed if a finding is made that a measure used by its trading partner constitutes an "unfair" practice.

In determining unfair practice, a possible indicator which might be used is the Producer Support Estimate (PSE), calculated by the OECD for advanced countries. If, after considering the information on foreign trade practices, the ECOWAS CET Management Committee determines that commodity prices are adversely affected, then the decision can be taken to apply the CVD in that particular product area. The CVD will be applied to all non-ECOWAS trading partners. It will be reviewed on an annual basis by the ECOWAS CET Management Committee.

The CVD will be applied as follows: 10 percent additional duty if average PSE is 15 percent or higher; 20 percent, if the average PSE is 30 percent or more; and 30 percent if average PSE is 45 percent or greater. The duty will be added to the c.i.f. price of the imported product, alongside the customs duty and other applicable fees and taxes.

The ECOWAS has made tremendous progress in its regional integration efforts. The region has adopted a Protocol on Inter-State Road Transit (ISRT) and the transit guarantee bond, introduced a common certificate of origin and a uniform customs declaration form and a common statistical nomenclature modelled after the WCO harmonized system. The harmonized customs document was jointly developed with UEMOA as a replacement for different forms used by their respective Member States. The ECOWAS third-party Brown Card motorcar insurance was introduced as a complementary measure to the free movement of goods and persons. Twelve member

states of ECOWAS use the Brown Card and their counterparts from the UEMOA subgroup utilize second motorcar insurance, known as *le Conference Interafricaine des Marchés d'Assurance* (CIMA).

In addition to the introduction of a common passport, as prelude to the establishment of a West African Monetary Zone (WAMZ), under a common currency and a common central bank, ECOWAS reached a decision of easing monetary barrier by enabling community travelers the use of local currencies for limited items. Against the background of WAEMU States belonging to the CFA monetary zone, ECOWAS took the first step of creating the West African Monetary Zone (WAMZ) by 2003, as a second monetary zone embracing the six non-WAEMU Members (Gambia, Ghana, Guinea, Liberia, Nigeria and Sierra Leone). The two monetary zones will merge by the end of 2009 into one monetary union under a common currency and a common central bank.

Furthermore, the ECOWAS region has already launched its Common Agricultural Policy (ECOWAP) with programmes that are in conformity with the WAEMU's agricultural policy (PAU) and the CAADP framework. The ECOWAP centres around three axes: improvements in productivity and competitiveness of smallholder agriculture; implementation of a common regional market and adaptation of the external trade regime.

Under the CAADP process, the priority investment programmes concern of the ECOWAS region include water management, integrated soil fertility management, capacity building of regional farmer support services, management of shared resources (water, transhumance, forest, fisheries), service provision to farmers, strengthening of agro-food chains, prevention and management of food crises and other natural disasters, and strengthening of institutional capacities.

In order to implement and substantially move the individual Pillars of CAADP within the ECOWAS region forward, about 7 countries are currently preparing CAADP compacts or agreements. Specifically, under Pillar 1, the ECOWAS region is developing small-scale irrigation, including the management of wet lowlands for the dissemination of 3000 units of African Market Garden in West African countries in order to increase market gardening and fruit production, diversify food crop production and increase incomes of vulnerable groups. The ECOWAS region is also increasingly involved in revitalizing large-scale irrigation projects via the rehabilitation of the major irrigation schemes within the region and the creation of new ones.

With regards to Pillar 2, the ECOWAS region is developing food crop production, agro-forest products and livestock value chains with the ultimate objectives of diversifying sources of incomes for the rural populations and creating favourable conditions for better supply of diversified agricultural products in both local and regional markets.

As far as Pillar 3 is concerned, one of the on-going intervention programmes of the ECOWAS is the promotion of initiatives on NERICA rice, cassava and maize in order to reduce hunger and malnutrition, improve food crop production and increase trade. Under the same Pillar, the ECOWAS is supporting the development of programmes for the rehabilitation of agricultural zones in post-conflict areas in order to restore and revive the productive capacities and infrastructures in the areas concerned.

Under Pillar 4, the ECOWAS has set up an expert reference group and an Agricultural and Rural Council in order to promote access to innovations and build a network of national institutions of agricultural council, which are expected to support action

research initiatives and enhance better exchange of disseminated technologies for improved agricultural productivity.

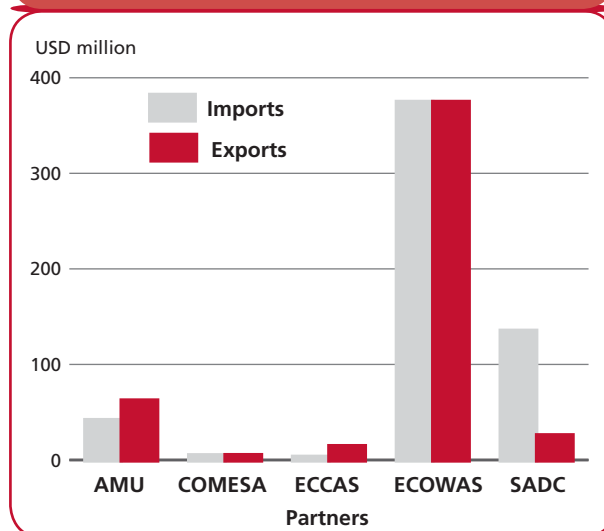
The ECOWAS region produces most of the strategic commodities with Nigeria the most important producer followed by Ghana and Côte d'Ivoire. Other countries producing significant amounts are: Senegal, Benin, Mali, Burkina Faso and Niger for groundnuts, cotton, maize and sorghum. Significant amounts of cattle and poultry are also produced by the WAEMU countries. Rice, maize, cassava and yam and the major staples consumed with sorghum and millet to a much lesser extent.

Despite its strong potential to produce various food products, the region is a net food importer. In the case of rice, for example, about 40 percent of domestic requirements are imported. Food aid also make up for some of the food shortages. During the 2003-05 period, the region received about 144 000 metric tons of food aid rice representing an increase of about 23 percent over the 2000-02 period accounting for about 2.5 percent of total rice imports. Food aid supplies of maize are low in terms of volume but account for 12.5 percent of total maize import during 2003-05. For wheat, food aid has declined by about 12 percent to 56 000 mt accounting for just 1.4 percent of total commercial imports. In all, cereal food aid in the region during the 2003-05 period averaged about 358 000 metric tons representing an increase of about 24 percent. Total Non-cereal food aid has also increased by 17 percent, although there has been a sharp decline in milk powder supplies but food aid supplies of pulses (legumes) and vegetable oils have increased by 13 and 18 percent respectively, during 2000 to 2005. (see Annex 3). This situation is expected to be manageable once the NERICA rice project bears fruit.

The region is a net exporter of agricultural products. Globally, the value of its export has increased by 26 percent reaching US\$5.8 billion between 2002 and 2006. In terms of the exports of the strategic products, exports of cotton and vegetables increased by over 40 percent. Other products exhibiting growth are sugar, dairy, rice, cassava, beef and poultry (Annex 4, Table 7).

Like the other RECs, Intra-African agricultural trade is mostly dominated by ECOWAS itself and this performance is expected to improve once the CU is created by 2008. Figure 6 presents the intra-African trade structure. The value of intra-ECOWAS trade has

**Figure 6. Intra-African agricultural trade structure of ECOWAS, 2006**



grown by almost 75 percent since 2002. A clear reason for this is the tariff dismantling process and the income growth experienced by the oil producing States in the region. The average applied MFN agricultural tariffs are expected to approach 14 as the region realigns its tariffs with that of WAEMU next year. Figure 6 displays the region's intra-African agricultural trade profile.

In term of imports, strategic commodities like beef, rice, dairy, wheat and sugar have increased significantly since 2002. Importantly also is the more than three-fold increase in the importation of palm



oil as the region is a major producer of palm oil. This situation has resulted in the proposal by WAEMU to impose specific duties on palm oil importation. However, this might not solve the issue as the huge increase in palm oil imports is the result of donations given to the region's governments in the form of budgetary support.

In 2006, ECOWAS imported dairy products, sugar and wheat flour from the AMU, palm oil and tobacco from ECCAS, tobacco and oil palm from COMESA. In addition, the region imported a wide variety of strategic products from the SADC region which has the largest share of intra-African trade in ECOWAS (Annex 4, Table 8).

Finally, the WAEMU Members are considering establishing a specific duty for poultry products (chicken legs and thighs) and on palm oil imports from Asia. In both areas, WAEMU considers that even the maximum duty of 20 percent has been insufficient to prevent surges in imports which have had a damaging effect to local industries. This will eventually form part of the ECOWAS trade regime.

### 3.5.16 Summary

Under Article 54 of the ECOWAS Treaty, Members committed themselves to achieve the status of an economic union within a period of 15 years from the commencement of the regional trade liberalisation scheme. Article 55 provides that economic and monetary union was to be completed within five years following the creation of the customs union.

ECOWAS Members have made good progress in their efforts to integrate their economies and there is an awareness of the measures that need to be undertaken to ensure the success of the REC.

## 3.6 The Southern African Development Community (SADC)

### 3.6.1 Background

SADC's origins date back to April 1980 when the Southern African Development Coordination Conference (SADCC) was established following the adoption of the Lusaka Declaration. The primary aim of the organisation was not to create an integration arrangement but rather to reduce dependence on South Africa. Cooperation, rather than the taking on of binding commitments, was the strategy adopted by the new organization. In 1992, one year after the adoption of the Abuja Treaty, SADCC was transformed into the Southern African Development Community following the adoption of the Declaration and Treaty of SADC at Windhoek, Namibia<sup>140</sup>. This Treaty was later amended in August 2001. The SADC trade agenda is set out in the Protocol on Trade, which was concluded in August 1996 and entered into force on 25 January 2000. Pursuant to the Protocol, SADC's aim is to establish a free trade area within eight years of the Protocol's entry into force, that is to say, by 2008<sup>141</sup>.

The SADC Trade Protocol was notified to the WTO under Article XXIV in 2004<sup>142</sup>, and is currently being examined pursuant to the newly established transparency mechanism<sup>143</sup>. SADC Member States are also currently engaged in EPA negotiations

<sup>140</sup> The SADC Treaty entered into force on 30 September 1993

<sup>141</sup> SADC Protocol on Trade, Article 3

<sup>142</sup> WTO, SADC Free Trade Area; Notification by Tanzania, WTO Doc. WT/REG/176/N/1 (2004)

<sup>143</sup> See, e.g., WTO, Protocol on Trade in the Southern African Development Community: Terms of Reference of the Examination, WTO Doc. WT/REG176/3 (2004); WTO, Factual Presentation: Protocol on Trade in SADC Report by the Secretariat, WTO Doc. WT/REG176/4 (2007)



with the European Union under two configurations: the ESA – EU EPA configuration and the Southern Africa – EU EPA configuration. South Africa recently joined the Southern Africa negotiations after having been an observer in the early stages<sup>144</sup>.

### 3.6.2 Underpinning principles

The legal principles underlying SADC that are of relevance to this study are to be found in both the Treaty itself and the Protocol on Trade. The SADC Treaty provides, *inter alia*, that in order to achieve its objectives, SADC will ‘harmonise political and socio-economic policies and plans of Member States<sup>145</sup>’ and ‘develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the Region generally, among Member States<sup>146</sup>’. Among the objectives of SADC under the Protocol on Trade are the liberalisation of intra-regional trade in goods and services on the basis of fair, mutual, equitable and beneficial trade arrangements and the establishment of a free trade area in the SADC region<sup>147</sup>.

### 3.6.3 Harmonisation of laws

One of the objectives set out in the SADC Treaty is the harmonisation of political and socio-economic policies and plans of Member States<sup>148</sup>. ‘Member States undertake to take all necessary steps to ensure the uniform application of the Treaty’<sup>149</sup>.

The Protocol on Trade provides for the harmonisation of customs tariff nomenclatures and statistical nomenclatures in conformity with the Harmonised System<sup>150</sup>, the harmonisation of valuation laws and practice<sup>151</sup>, as well as the simplification and harmonisation of customs procedures<sup>152</sup>. In simplifying their customs procedures, Members are to act in accordance with internationally accepted standards, recommendations and guidelines.

### 3.6.4 Trade liberalisation programme

The SADC tariff reduction programme is set out in the SADC Trade Protocol which, though signed in 1996, only entered into force in 2000. This provides that the reduction of tariffs and elimination of other barriers to trade is to be accomplished on a principle of asymmetry within a period of eight years from the Protocol’s entry into force<sup>153</sup>. The programme provides for the five SACU countries to liberalise trade at a faster rate than the other SADC Members. The programme also provides for the categorisation of the goods to be traded on a tariff free basis, with category A goods to be liberalised immediately, category B goods to be subject to gradual liberalisation and category C consisting of sensitive goods to be liberalised last. Thus by 2008, SADC is due to have established a free trade area.

### 3.6.5 Non-tariff barriers

Quantitative restrictions are defined in Article 1 of the SADC Trade Protocol as any ‘prohibitions or restrictions on imports into, or exports from a Member State whether

<sup>144</sup> The other Members of the SADC configuration are Angola, Botswana, Lesotho, Namibia, Mozambique, Swaziland and Tanzania

<sup>145</sup> SADC Treaty, Article 5(2)(a)

<sup>146</sup> SADC Treaty, Article 5(2)(d)

<sup>147</sup> SADC Protocol on Trade, Article 2

<sup>148</sup> SADC Treaty, Article 5

<sup>149</sup> SADC Treaty, Article 6

<sup>150</sup> Protocol on Trade, annex II, art. 3

<sup>151</sup> Protocol on Trade, annex II, art. 4

<sup>152</sup> Protocol on Trade, annex II, art. 5

<sup>153</sup> Protocol on Trade, Article 3(1)

made through quotas, import licences, foreign exchange allocation practices or other measures restricting imports or exports'. Articles 7 and 8 of the Protocol deal with quantitative import and export restrictions respectively. Under Article 7, Members are not to apply any new quotas and are to phase out any existing restrictions on imports of goods originating within the Community. Article 8 on the other hand forbids the application of 'any quantitative restrictions on exports to any other Member State, except where otherwise provided for in [the] Protocol.'

Persons intending to engage in the operations of transit traffic must be licensed for that purpose by the competent authorities of the member state in whose territory he is normally resident or established. The competent authority is to then inform all other Member States of all persons licensed.

### 3.6.6 Trade in agriculture

The SADC Treaty provides that Members 'shall cooperate in all areas necessary to foster regional development and integration'<sup>154</sup>. Food security, land and agriculture are some of the areas of cooperation specified in the Treaty<sup>155</sup>. In order to operationalize and implement cooperation in these areas, Members are to conclude Protocols setting out the objectives and scope of, as well as the institutional mechanisms for, co-operation and integration<sup>156</sup>. However, it should be noted that the Protocol on Trade caters for trade in goods and services in general.

### 3.6.7 Most-favoured nation principle

The SADC Protocol on Trade contains an MFN clause that obliges Member States to accord MFN Treatment to one another<sup>157</sup>. However, Members are permitted to grant or maintain preferential trade arrangements with third countries, provided such arrangements do not impede the objectives of the Protocol and any advantages granted to third countries are extended to other Member States<sup>158</sup>.

### 3.6.8 Rules of origin

SADC originating goods eligible for preferential treatment are to be determined by reference to the Annex concerning the Rules of Origin<sup>159</sup>. According to these Rules, the general requirement for goods to be accepted as originating is that they must have been consigned directly from a Member State to a consignee in another Member State and have been wholly produced in any Member State or have been obtained in any Member State incorporating materials not wholly produced there 'provided that such materials have undergone sufficient working or processing in any Member State'<sup>160</sup>.

### 3.6.9 Trade facilitation

Article 13 obliges Members to 'take appropriate measures, including arrangements regarding Customs administration co-operation, to ensure that the provisions of [the] Protocol are effectively and harmoniously applied' as provided in Annex II of the Protocol. Article 14 of the Protocol obliges members to take such measures as are necessary to facilitate the simplification and harmonisation of trade documentation. This obligation is further elaborated in Annex III to the Protocol which concerns

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<sup>154</sup> SADC Treaty, Article 21(1)

<sup>155</sup> SADC Treaty, Article 21(3)(a)

<sup>156</sup> SADC Treaty, Article 22(1)

<sup>157</sup> Protocol on Trade, Article 28(1)

<sup>158</sup> Protocol on Trade, Article 28(2)

<sup>159</sup> Protocol on Trade, Article 12

<sup>160</sup> Annex on Rules of Origin, rule 2(1)

Simplification and Harmonization of Trade Documentation and Procedures. Article I of the Annex defines trade facilitation as ‘the coordination and rationalisation of trade procedures and documents relating to the movement of goods in international trade from the place of consignment to the destination.’

The Annex obliges members to, *inter alia*, align trade documentation with the United Nations Layout Key, reduce to a minimum the number of documents and copies required and harmonise the nature of information to be contained in the documents<sup>161</sup>. A sub-committee on trade facilitation responsible for the implementation of matters concerning simplification and harmonisation of trade documentation and procedures is to be appointed<sup>162</sup>.

### 3.6.10 Sanitary and phytosanitary measures

Under Article 9 of the SADC Trade Protocol, Member States are permitted to adopt or enforce any measures ‘necessary to protect human, animal or plant life or health’<sup>163</sup> provided that such measures are not applied in a manner constituting a means of arbitrary or unjustifiable discrimination between Members or a disguised restriction on trade.

Article 16 of the SADC Protocol on Trade provides that:

Member States are to base their sanitary and phytosanitary measures on international standards, guidelines and recommendations, in order to harmonise sanitary and phytosanitary measures for agricultural and livestock production.

It further provides that:

Member States are to enter, upon request, into consultation with the aim of achieving agreements on the recognition of the equivalence of specific sanitary and phytosanitary measures, in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

### 3.6.11 Safeguard provisions

Article 20 of the Protocol on Trade contains provisions regarding the application of safeguard measures. It provides, *inter alia*, that safeguard measures can only be applied to a product if it is determined that the product is being imported into the territory in such quantities as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. The maximum period for applying safeguards measures is determined by reference to the WTO Agreement on Safeguards, that is to say, a period of four years with a total period of application not exceeding eight years. Under Article 21 of the Protocol on Trade, Members may suspend certain of their obligations under the Protocol in respect of like goods imported from other Members in order to promote infant industries. However, this step can only be taken following an application to the CMT, which may impose terms and conditions for granting its authorisation.

<sup>161</sup> SADC Protocol on Trade, Annex III, Article 3

<sup>162</sup> SADC Protocol on Trade, Annex III, Article 6

<sup>163</sup> SADC Trade Protocol, Article 9(b)

### 3.6.12 Trade remedies

The Protocol on Trade defines dumping as meaning ‘in accordance with the provisions of Article VI of GATT (1994), the introduction of a product into the commerce of another country at less than its normal value, if the price of the product exported from one country to another is less than the comparable price in the ordinary course of trade, for the like product when destined for consumption in the exporting country’<sup>164</sup>. Article 18 of the Protocol on Trade permits Member States to apply anti-dumping measures provided that they are in conformity with WTO provisions. The relevant WTO provisions are those found in the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Article 19 of the Protocol on Trade is the relevant article concerning subsidies and countervailing measures. It prohibits Member States from granting subsidies which distort or threaten to distort competition in the region. A Member State can levy countervailing duties on the product of another state for the purposes of offsetting the effects of subsidies provided that these are in conformity with WTO provisions.

### 3.6.13 Transport

Provisions regarding transportation and transit trade in particular are to be found in Article 15 of the SADC Protocol on Trade which provides that ‘Products imported into, or exported from, member states are to enjoy freedom of transit within the Community and shall only be subject to the payment of the normal rates for services rendered.’ Annex IV to the Protocol expounds on these provisions. The SADC transit document has been created for use in transit operations<sup>165</sup>.

### 3.6.14 Intellectual property rights

Article 24 of the Protocol on Trade provides that ‘Member States are to adopt their policies and implement measures within the Community for the protection of Intellectual Property Rights, in accordance with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.’ There are therefore no special intra-bloc rules regarding IP and Member States have undertaken to comply with, and harmonise to, multilateral standards.

### 3.6.15 Status of regional integration and food trade in SADC

Unlike other RECs, whose RIAs are based on the classic Vinerian approach, with primary focus being the benefits of regional integration to derive almost exclusively from a trade angle, SADC, in contrast, stemming from the economic independence desires and political security needs of the Front Line States, has had a development approach to regional integration. For it, the strongest argument for regionalization has been hinging on wider issues, with structural weaknesses being regarded as the critical constraint to intra-regional trade. Thus, it has followed largely a sectoral cooperation approach to regional integration. The SADC Trade Protocol was signed in August 1996 but only came into effect on September 1, 2000. The SADC Regional Indicative Strategic Development Plan (RISDP) and the Strategic Indicative Plan for the Organ (SIPO) provide the vehicle for the SADC Regional Integration Strategy and Programme. The RISDP specifically calls for the establishment of the SADC Free Trade Area (FTA) by 2008; a SADC Customs Union by 2010; a SADC Common Market by 2015; a SADC Monetary Union by 2016; and a Single Currency by 2018.

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<sup>164</sup> Protocol on Trade, Article 1

<sup>165</sup> Protocol on Trade, Annex IV, Article 7

The overall objective of the SADC Trade Protocol is to have 85 percent of all intra-SADC trade at zero tariffs by 2008 and the remaining 15 percent to be liberalized by 2012, effectively establishing a free trade area (FTA). The main instrument of trade liberalization is therefore the elimination of customs tariffs and non-tariff measures on substantial intra-SADC goods trade. The tariff reduction scheme is being carried out in four categories. Category A includes commodities that already attracted low or zero tariffs which should immediately be reduced to zero duty at the start of the implementation period, i.e. by 2000. The second category B relates to goods that constitute significant sources of customs revenue for Member States and whose tariffs are to be removed over 8 years, by 2008. Categories A and B should account for 85 percent of intra-SADC trade so that by 2008<sup>166</sup>. This required that should be duty free. Category C deals with sensitive products (imports sensitive to domestic industrial and agricultural activities) whose tariffs are to be eliminated between 2008 and 2012. Category C should be limited to a maximum of 15 percent of each Member's intra-SADC merchandise trade. Category E are goods that are to be exempted from preferential treatment such as firearms and munitions.

It is also worth pointing out here that with SADC, the South African Customs Union (SACU) has been in existence since 1910<sup>167</sup>. Under SACU, all Members implement the import duty rates and related measures determined by South Africa. In practice, applied customs tariffs, excise duties, valuation methods, origin rules, and contingency trade remedies are, so far, the only trade policy measures harmonized throughout SACU. As regards other duties and related measures, differences exist among SACU members in customs clearance procedures, import levies other than customs tariffs and excise duties, and duty and tax concessions. The tariff structure of each individual Member comprises varying degrees of specific, mixed, compound, and formula duties based on reference prices. The performance of SACU has been helped largely, by the existence of a quasi-monetary union with the Rand serving as a virtual common currency under the Common Monetary Area, replacing the Rand Monetary Area. Trade within SACU is facilitated by the easy convertibility of the currencies. In addition, all customs and excise duties on trade are pooled into the Southern African National Revenue Fund and shared by the members according to an agreed formula.

Under the SADC Trade Protocol, there are two special agreements on trade in sugar and clothing and textiles, regarded as sensitive products. In the case of sugar, SADC sugar producers are granted a non-reciprocal access to the SACU market. A market growth share has been agreed upon ensuring a steady increase of sugar exports into the SACU market until 2012. This access is based on a country's share of trade in the global *free* sugar market as opposed to trade in preferential markets like the EU. This arrangement will be reviewed after 2012. The other special agreement relates to trade in textiles and clothing and is based on a two-stage substantial transformation in the SADC rules of origin. Under this second arrangement, Malawi, Mozambique, Tanzania and Zambia are allowed access to the SACU market under a one-stage transformation rule, but subject to quotas. The quotas are based on current production capacity. This special treatment has been put in place for a period of five years during which the beneficiary countries are expected to graduate to the two-stage transformation rule of origin where there are no limits on market access.

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<sup>166</sup> SADC considers that this threshold is in compliance with the "substantially all trade" provision of GATT Article XXIV of the GATT

<sup>167</sup> The Members of SACU are: Botswana, Lesotho, Namibia, South Africa and Swaziland

Under the SADC liberalization scheme each Member State should submit two offers – one for South Africa and a ‘differentiated offer’ to the rest of the other SADC Members. However, Members of the SACU (which includes South Africa) are to make a single offer to the other SADC members by virtue of having a CET. SACU Members made a single offer to the other SADC members for immediate tariff reductions to achieve zero tariffs after five years, except for sensitive products. Zimbabwe and Mauritius (as developing economies) also agreed to start their tariff reductions earlier than other non-SACU members (the LDCs).

One area of very serious contentions between SADC members relates to the rules of origin. Initially, the Trade Protocol provided for simple and less restrictive rules of origin in harmony with that of COMESA: products could qualify for SADC tariff preferences if they underwent a single change of tariff heading or if they contained a minimum of 35 percent regional value-added or if they included at most 60 percent of non-SADC imported materials of the value of total inputs used. Agricultural and primary products were to be wholly produced or obtained in the region. Citing weaknesses in some Members’ customs administration and need to protect local industries, the rules were tightened on some sensitive goods such that each HS Chapter has a specific rule similar to that of the EU. For agricultural products, the rules are regarded as being particularly strict with respect to wheat flour (HS Chapter 11) and products such as pasta and biscuit (HS Chapter 19). This is an area that is worth examining for effective implementation of the common market.

In the area of NTBs, in November 1999, the SADC Committee of Ministers responsible for Trade Matters (CMT) called for the immediate elimination the following core NTBs: cumbersome customs procedures and documentation; cumbersome import licensing/permits, cumbersome export licensing/permits; import and export quotas; and unnecessary import bans/prohibitions. The following NTBs were also to be gradually eliminated: restrictive charges not within the definition of import or export duties; restrictive single channel marketing; prohibitive transit charges, cumbersome visa requirements; and restrictive technical regulations. However, despite progress in some areas, many countries continue to introduce new NTBs such as periodic import bans or restrictions on certain goods justified under food security concerns, temporary surcharges and additional levies, etc. This is often done in an arbitrary and non-transparent manner.

In the area of TBT and SPS measures, some progress continues to be made on regional cooperation in these issues. Draft Annexes to the Trade Protocol have been developed to deal with these issues more effectively. There are regional cooperation initiatives through the SADC Institutions for Standardization, Quality Assurance, Accreditation and Metrology (SQAM).

As mentioned above, the RISDP is the overall programme guiding the regional integration efforts of SADC. The programme also includes the framework for SADC in light of the CAADP. In this regard, agriculture and sustainable food security is one of the key areas mapped under the CAADP Pillars. In order to implement the CAADP Pillars, SADC has set concrete targets such as doubling the cropland under irrigation and increasing cereal yield per hectare. These targets, which are time-bound, are also aligned to the MDGs. To realise these targets, SADC has approved a short-term and a long-term Plan of Action. The implementation of activities in the short-term Plan is expected to result in a quick relief from prevalent food insecurity in the region.

Specifically, under Pillar 1 of the CAADP, SADC Member States are promoting water management and crop irrigation in order to reduce dependence on rain-fed



agriculture. The SADC Secretariat is developing agricultural water management for its food security programme. The programme is divided into three discrete river basin components: the Upper Okavango sub-basin (Angola and Namibia); the Mid-Zambezi sub-basin (Botswana, Zambia and Zimbabwe); and the Lower Zambezi/Shire sub-basin (Malawi, Mozambique and Tanzania).

Under Pillar 2, SADC has invested heavily in the development and maintenance of good infrastructure in the region (roads, railways, port facilities, rail wagons, etc) in order to reduce the transportation cost of agricultural commodities. SADC has also established of a market information system that will provide accurate and up-to-date market information to facilitate trade within the region by removing non-tariff trade barriers and facilitate unhindered, efficient movement of agricultural commodities across borders.

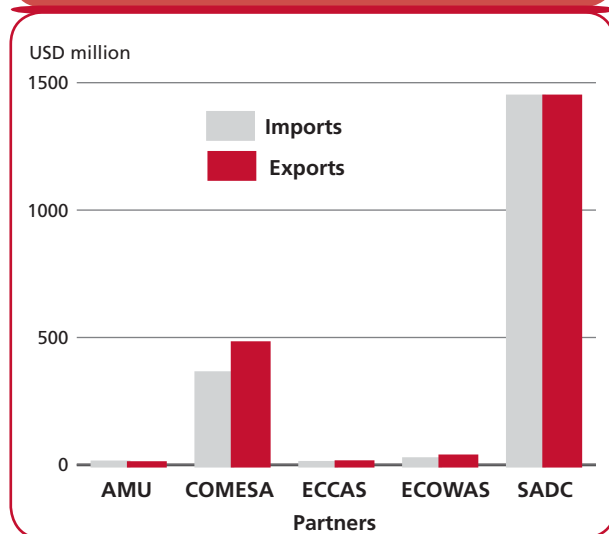
As far as Pillar 3, SADC has collaborated with COMESA to develop a joint Regional Fertilizer Strategy with the overall objective of increasing agricultural productivity and regional food security through efficient use of both mineral and organic fertilizers in the region, including harmonization of related regulatory and policy frameworks. Furthermore, the region is promoting regional integration and trade by reviewing and updating its trade regulatory frameworks and harmonizing quality standards for food and agricultural commodities through the development of a Maximum Residue Levels Project (MRL). The is aimed at building capacity for testing MRL levels, raising awareness at all levels, promoting public-private partnerships, provide training and develop standards for food quality in the SADC Member States.

With regards to Pillar 4, SADC has developed a concept note and launched the Multi-Country Agricultural Productivity Programme (MAPP) for Southern Africa in collaboration with Forum for Agricultural Research in Africa (FARA).

The SADC region produces all the strategic products and like the COMESA with which it overlaps, maize is the most important food crop as it is the key staple for the bulk of the SADC population. Agricultural and food production are mainly driven by South Africa, Zimbabwe, Tanzania, Madagascar, Congo, DR (sugar, cassava, maize, vegetables, sweet potatoes, sorghum, rice, cattle); Mozambique (cassava, sorghum, rice); and Angola (cassava, sweet potatoes). Mauritius which is outside the mainland is entirely dominated by sugar production. Average levels of food dependency for maize, rice and wheat for this region is over 60 percent. Commercial imports of cereals were around 7 million mt during 2003-05, with food aid accounting for about 12 percent of its total cereal imports. In this region, food aid in maize, rice and wheat all show a slight decline. Non-cereal food aid is has also declined and this is due largely by the decline in food aid of milk and vegetable oils. During 2003-05, food aid in pulses/legumes account for 10 percent of total pulses imports (Annex 3).

In 2006, SADC exported around US\$7.3 billion worth of agricultural products to the rest of the world, with sugar along accounting for US\$1 billion. Other important agricultural exports include tobacco, cotton, vegetables/legumes, beef, maize dairy and wheat. Like the other RECs, Intra-African trade is highly concentrated in the SADC region itself accounting for about 20 percent of total exports in 2006. Beef, maize, cotton, wheat flour, dairy, sugar and tobacco were traded were highly traded amongst SADC countries. SADC exported beef, maize, sugar, dairy and tobacco to the ECOWAS; legumes, cotton, and tobacco to the AMU. Intra-trade with COMESA is even more significant but the two regions overlap so one cannot say for sure how much trade was net of SADC. Figure 7 presents the intra-African trade structure for 2006.

**Figure 7. Intra-African agricultural trade structure of SADC, 2006**



The average applied MFN tariffs for agricultural products is 13.4, but however, the tariff structure could be classified broadly into 3 groups: the first group consist of those with average applied tariffs of between 5-10 percent – Madagascar (5.7 percent) and the SACU Members (9.1 percent); the second group are those countries with applied tariffs from 11-20 percent – Congo DR (13 percent), Malawi (15.1), Mozambique (16.6), Tanzania (18.1), Zambia (18.7) and Mauritius (19.4); the last group consist of Zimbabwe with average applied tariff of 25.7.

SADC imported about US\$5.7 billion of agricultural products in 2006, representing an increase of about 42 percent since 2002. This increase is entirely due to food imports of which wheat, maize, rice, dairy and sugar feature prominently. Significant amounts of cotton, vegetables and palm oil where also imported. These products where mostly imported from outside Africa as intra-trade comprises a miniscule portion of total imports. For example, of the US\$174 million worth of oil imports in 2006, US\$27 million was intra-SADC and only US\$2.5 from ECOWAS. This pattern seems to be consistent across all the RECs and for most products. This situation will continue until a solution is found to address the impediments to intra-African trade.

### 3.6.16 Summary

The SADC trade regime is designed to conform to WTO requirements and its notification to the WTO under Article XXIV is an indication that its Members are ready to undergo close scrutiny as to their trade liberalisation plans. One of the main outstanding issues to be resolved regarding SADC is that of overlapping membership with COMESA and the EAC. Though COMESA and SADC established a joint Task Force in 2001 to coordinate the programmes and activities of the two organisations, there is a very real danger that if the two blocs do not rationalise their membership then states belong to both blocs could be faced with conflicting obligations.

## 3.7 The Community of Sahel-Saharan States (CEN-SAD)

CEN-SAD is the youngest of the RECs, having been established in February 1998 with the adoption of the Treaty establishing the Community of Sahel-Saharan States<sup>168</sup>. It was subsequently recognised as a REC at the 36<sup>th</sup> summit of the OAU held in Lomé in July 2000. Unlike the other RECs, its geographical spread does not correspond with any of the five geographical regions specified in the Abuja Treaty<sup>169</sup>. As a result, CEN-SAD's membership consists of countries that are already members of other RECs.

The founding Members of CEN-SAD were Burkina Faso, Chad, Libya, Mali, Niger and Sudan. One year later, the Central African Republic and Eritrea joined the organisation

<sup>168</sup> Treaty Establishing the Community of Sahel-Saharan States, 4 February 1998

<sup>169</sup> See AEC Treaty, Article 1(d)

and in 2000, Djibouti, Gambia and Senegal also acceded to the Treaty. Since then, Benin, Cote d'Ivoire, Egypt, Ghana, Guinea Bissau, Liberia, Morocco, Nigeria, Sierra Leone, Somalia, Togo and Tunisia have joined the bloc, bringing the total membership to 23 States. Though this rapid expansion has the effect of enlarging the market covered by CEN-SAD, it also raises serious issues regarding coherence of its policies with those of the RECs with which it overlaps.

Among CEN-SAD's objectives are the elimination of obstacles to the free movement of goods, merchandise and services and the improvement of land, air and sea transportation. As a matter of principle, the aims of CEN-SAD are therefore compatible with the creation of a common market in agricultural products. However, the greatest challenge facing CEN-SAD is harmonising and coordinating its own trade liberalisation programme and policies with those that are already being implemented by the various RECS to which its Members are party. For the purposes of this study, the nascent CEN-SAD trade liberalisation programme will be discounted in favour of analysing those of the other RECs to which its Members are party and which have already been in operation for a longer period of time.