



# **Review of SADC's market integration agenda: opportunities and challenges for regional industrial development**

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# Contextual background

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- Industrial development now a priority focus for Africa
- Prompted by developments in commodity sectors & recognition that traditional approach to integration not addressing lack of industrial capacity and diversity
- Focus on policy mix that will enhance capacity to produce tradeables competitively

# Contextual background cont...

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- RECs are also addressing specific industrial development concerns
- 21<sup>st</sup> century context: GVCs, fragmentation and servicification of production
- Outsourcing and offshoring evident in manufacturing and services e.g. finance & telecomms
- Focus on the role of SADC's market integration agenda in supporting regional industrial development

# Outline

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- Contextual background
- Industrial development in Africa
- Industrial development in the T-FTA
- Industrial development in SADC
  - Map of policy and legal framework
  - Market integration and industrial development
- Conclusion

# Industrial development in Africa

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- Accelerated Industrial Development of Africa (AIDA)
- Continental Free Trade Area (CFTA) and Boosting Intra-African Trade (BIAT) initiative
- Programme for Infrastructure Development in Africa (PIDA) – energy, transport, water, ICT

# Industrial development in the T-FTA

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- T-FTA between member states of COMESA, EAC, and SADC
- T-FTA Agreement signed by 16 out of 26 members albeit with negotiations on MA and related aspects not concluded
- Negotiations on industrial and infrastructural development are [also] set to commence

# Industrial development in SADC

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- Revised Regional Indicative Strategic Development Plan (RISDP) adopted April 2015
  - Priority A – Industrial development and market integration [from trade/economic liberalisation and development]
  - Priority B – Infrastructure >> RIDMP
  - Priority C - Peace and security cooperation
  - Priority D – Special programmes

# Industrial development in SADC cont...

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- Renewed focus in Priority A is pertinent – shift from linear path of integration
- Focus now on consolidating FTA [and synchronising with T-FTA and CFTA]
- Also role of market integration in industrial development especially through RVCs



# Architecture of industrial development framework in SADC

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- Policy framework
  - Industrial Upgrading and Modernization Programme (IUMP) adopted in 2009
  - Industrial Development Policy Framework (IDPF) adopted in 2013
  - SADC Industrialisation Strategy adopted in April 2015

# Architecture of industrial development framework in SADC cont...

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- Legal framework
  - SADC Treaty
  - SADC Protocols for policy convergence or harmonisation of national policies in respective sectors

# Architecture of industrial development framework in SADC cont...

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- Protocol on Trade (1996)
  - Trade in goods
  - Customs procedures
  - Trade laws
  - Trade-related investment matters
  - Other trade-related issues
  - Dispute settlement

# Architecture of industrial development framework in SADC cont...

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- Directly related
  - Protocol on Finance and Investment
  - Protocol on Trade in Services
  - (New) Protocol on the Tribunal
- Other enablers of industrial development
  - Education and training
  - Employment and labour
  - Energy

# Architecture of industrial development framework in SADC cont...

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- Environmental management and sustainable development
- (Draft) Protocol on facilitation of movement of persons
- Transport, communications and meteorology
- Science, technology and innovation
- Sectoral Protocols
  - Fisheries
  - Forestry

# Architecture of industrial development framework in SADC cont...

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- Mining
- Shared watercourses
- Tourism and wildlife conservation
- Vast legal and policy framework that requires coherent implementation

# Market integration and industrial development in SADC

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- SADC Protocol on Trade (1996)
- Objectives include:
  - Diversification and industrialization of the region

# I. Trade in goods

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## 1. Tariff liberalisation

- Art 4 (1) – “there shall be phased reduction and eventual elimination of import duties”
- Supposed to have been completed in 2012
- 12 out of 15 participating in SADC FTA
- Not Angola, DRC, Seychelles (offer approved)
- Most have completed phase downs or expected to by 2015



# I. Trade in goods cont...

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## 2. Non-tariff barriers have replaced tariffs

- Art 6 (1) – “shall ... eliminate all existing ... (NTBs) and refrain from imposing any new NTBs”
- According to the World Bank (2011) NTBs affect \$3.3 billion or 1/5 of SADC trade
- Also high number of complaints on Tri-partite Online Reporting Mechanism
  - Trade facilitation esp delays at border

# I. Trade in goods cont...

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- SPS and TBT
- Restrictions and prohibitions mostly affecting agriculture
- Due mostly to lack of regulatory reform at national level in pursuit of industrial development objectives

# Trade in goods cont...

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## 3. Import and export restrictions

- Art 7 (1) – “shall not apply any new quantitative restrictions and shall ... phase out the existing restrictions on the import of goods ... except where otherwise provided for in [the] Protocol
- Art 8 (1) – similar for exports
- Art 9 – general exceptions >> protection of human, animal or plant life or health; protection of public morals; relieve critical shortages of foodstuffs etc

# Trade in goods cont...

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- Dependence on agricultural sector has seen widespread restrictions in different sectors e.g.
  - Botswana ban on pork; poultry M restrictions; beef X under state-monopoly; restrictions on imports of maize, wheat, sorghum, pulses, major fruits and veg to protect infant horticultural industry
  - Namibia M levies on fresh fruit; restrictions on maize and wheat

# Trade in goods cont...

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- Zimbabwe GMB controlled commodity buyer and seller of maize, wheat; permits for fertilisers, farm feeds; levies and taxes on tobacco and tobacco products
- Not all measures can be seen to fall under exceptions allowed under Art 9 so example of national industrial dev motives clashing with market integration commitments
- Undermines regional value chains in agro-processing

## II. Customs procedures

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### 1. Rules of Origin

- Art 12 and Annex I to Protocol
- Ostensibly designed to encourage industrialisation through forward and backward linkages
- But product-specific, multiple transformation rules and/or detailed descriptions required for production process = restrictive RoO
  - Double stage transformation in textile and clothing

# Customs procedures cont...

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- No rule on wheat flour
- Restrictive local content requirements on blended teas, coffee, mixed spices
- Out of tune with realities of 21<sup>st</sup> century production and trade
- More flexible rules with lower thresholds of regional value addition would enable more effective development of regional value chains

# Customs procedures cont...

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## 2. Trade facilitation

- Art 14 and Annex III
- Trade Facilitation Agreement
- Need for cooperation in implementation of TFA within context of SADC Trade Protocol
- Notifications on similar matters?
- RIDMP – hard infrastructure to underpin soft infrastructure



# III. Trade laws

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- Art 16 – SPS
- Art 17 – Standards and technical regulations
- Art 18 – Anti-dumping measures
- Art 19 – Subsidies and countervailing measures
- Art 20 – Safeguard measures
- Art 21 – Protection of infant industries

# Trade laws cont...

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## 1. Zambia honey

- Restrictions on importation of organic honey into RSA due to AFB disease
- Zambia has requested exemption from rule based on tests by SA Dept of Agriculture
- Issue unresolved since being lodged on TFTA online mechanism in 2011
- Highlights limitation in mechanism ability to enforce removal of such NTBs
- Implications for DSM of SADC esp in assisting traders – Tribunal (x); WTO (?); Annex VI Panel

## IV. Trade related investment matters

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- Dynamic gain of regional integration and pivotal in industrial dev
- Governance framework critical
- Art 22 and FIP – expropriation, FET, MFN
- International arbitration by Tribunal, ICSID, UNCITRAL
- Investors – ICSID and UNCITRAL
- Gap in ability to protect rights of individual citizens

# Trade related investment matters cont...

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- Particularly given prominence of beneficiation and value addition in industrial dev agenda

FDI --- health and environment

- FIP Art 14 – Govts right to regulate in public interest
- Govt – national courts
- Individual citizens – also national courts

# V. Other trade related issues

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## 1. Trade in services

- Increasingly recognised as facilitator of trade in goods and development sectors in own right
- Art 23 and Protocol on Trade in Services
  - Communications
  - Construction and related engineering
  - Energy related
  - Financial
  - Tourism and travel related
  - Transport services

# Other trade related issues cont...

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- Progress in all but energy and construction now advanced to negotiations on pro-competitive regulation
- Positive move from strict GATS approach to services liberalisation

# Other trade related issues cont...

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## 2. Competition policy

- Art 25 – shall implement measures to prohibit unfair business practices and promote competition
- Most SADC members have national policies, laws and functioning authorities
- Not much regional coordination apart from 2008 Declaration to cooperate in enforcement of competition law

# Other trade related issues cont...

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- Note: COMESA has regional policy, law and authority with oversight on cross-border competition matters
- Pertinent due to overlapping membership of most SADC members in COMESA



## VI. Institutional arrangements and Dispute Settlement Procedures

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- Failure by member states to uphold commitments has potential of undermining industrial development process
- Enforcement is crucial
- Art 16 of SADC Treaty and (new) Protocol on the Tribunal
- Limit of jurisdiction makes Tribunal less effective esp in protection of rights of private parties

# Conclusion

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- Market integration agenda has evolved from linear approach to RVCs and hence industrial dev
- Policy and legal architecture is vast but Protocol on Trade plays central role
- A number of important issues:
  1. Provisions placing firm obligations on Member States
  2. Provisions with instruments that undermine RVCs

# Conclusion cont...

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3. Important governance issues in trade-related aspects
4. DSM has important role to play in enforcement
  - All in all, industrial dev can be attained through effective implementation of market integration agenda

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Thank you for your attention