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Promoting market access for South African agriculture

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The *TradeProbe* is a joint initiative by the NAMC and the Department of Agriculture, Forestry and Fisheries, Directorate International Trade. The aim of this initiative is to create knowledge of trade-related topics by discussing and reporting on trade statistics, to invite perspectives from people working in related sectors, to report on trade-related research and to stimulate debate.

This issue of *TradeProbe* covers the following topics:

- Trade Profile – Rice (HS 1007)
- Trade Profile – Trade in Africa
- Market Profile – Mushroom & Truffles
- Cranberries, Blueberries and other fruits of the Genus *Vaccinium*, fresh (HS 081040)
- Trade Profile – Pork Meat (HS 0203) Trade Profile – Frozen Hake (HS 030378)
- Trade Profile – South Africa’s Tobacco (HS 24) including Unmanufactured Tobacco, Cigars, Cigarettes and other tobacco products)
- Invited article: Water Rights in South Africa: An Agricultural Perspective

1. TRADE PROFILE – RICE (HS 1007)¹

After maize, rice is the second most widely produced cereal crop in the world. Rice is said to be a staple food to more than 50 % of the world’s population. Rice is cultivated in water and it consumes over 50 % of all fresh water resources.² According to Devi and Ponnarasi (2009), rice requires twice the amount of water compared to crops of the same planting duration.

On average globally there are 4.4 million hectares under rice production. About 90 % of the world’s rice is produced in Asia, with China and India ranked as leading producers (producing 143 and 101 metric ton per hectare in 2013).

There is no record of rice production in South Africa; however, between 2002 and 2012, South Africa consumed an average of 778.5 metric tons of rice annually with the most and least amount of rice consumed in 2006 and 2002 respectively over the ten-year period.

Table 1 presents the world’s leading exporters of rice. In 2012, Thailand was ranked as the largest exporter of rice, constituting about 30 % share of global exports. According to the USDA (2013), Thailand produced 20.3 metric tons per hectare on 2.82 million hectares in April 2013. Brazil has shown significant growth in rice exports and its global export share is anticipated to increase significantly in the near future.

Vietnam, the United States of America (USA) and Pakistan had a negative growth rate in the period under review, with Vietnam registering a high drop of 25 % in rice exports in 2011 as compared to 2010.

Table 1: World’s leading exporters of rice

Rank	Country	Value in billion Rand		% growth	% Global share
		2010	2011	2010–2011	2011
World		147.6	159.6	8.1	100
1	Thailand	38.9	46.8	20.2	29.3
2	India	16.7	29.3	75.1	18.4
3	Vietnam	23.7	17.4	-26.6	10.9
4	USA	17.2	15.0	-12.5	9.4
5	Pakistan	16.6	14.8	-10.7	9.2
6	Italy	4.7	4.9	4.4	3.1
7	Brazil	1.1	4.4	283.6	2.8
8	Uruguay	2.9	3.4	19.9	2.2
9	China	3.0	3.1	1.2	1.9
35	SA	0.1	0.2	27.7	0.1

Source: ITC, Trade Map, 2013

On the import side, **Table 2** highlights the leading importers of rice in 2010 and 2011. It is interesting to note that the USA was ranked 4th and 6th as a top exporter and importer of rice respectively in 2011; this implies that the USA is a net exporter of rice (having a trade balance of R10 million in 2011). Indonesia has more than tripled its rice imports, with Saudi Arabia and Iran having decreased their imports by R2 million and R700 thousand respectively between 2010 and 2011.

Nigerian rice imports have increased by 130 % even though it is among the leading African countries that produce rice. South Africa was ranked the 12th as an importer of rice in 2011, with imports having grown by one fifth (20 %) between 2010 and 2011.

Table 2: World’s leading importers of Rice

Rank	Country	Value in million Rand		% growth
		2010	2011	2010-2011
World				
1	Indonesia	2.6	10.9	313.8
2	UAE	7.6	8.4	10.7
3	Nigeria	3.6	8.3	130.5
4	Saudi Arabia	9.6	7.4	-22.5
5	Iran	6.9	6.1	-10.7
6	USA	4.6	4.9	7.7
7	Malaysia	3.7	4.4	19.3
8	Japan	3.8	4.2	11.5
9	UK	3.9	4.1	6.5
12	SA	3.0	3.6	20.8

Source: ITC, Trade Map, 2013

Now that the global picture has been outlined, the domestic situation of rice will be looked at. **Figure 1** shows that of South Africa’s imported cereal crops, rice had a leading share from 2009 to 2012, with the exception of 2011 where the rice to cereal crop import ratio decreased (the same applies to 2007 and 2008). Between 2007 and 2012, rice was on average below 10 % of South Africa’s exported cereal crops, with the highest record of exported rice in 2007. Rice imports increased significantly from 2007 until 2012, with an import value of R5.6 billion in 2012.

¹This article was compiled by Ms Masego Moobi from the NAMC.
²Devi, K.S. and Pannarosi, T. 2009. An economic analysis: A Modern Rice Production Technology and Its Adoption Behaviour in Tamil and Nadu. *Agricultural Economics Research Review* 22: 341-347.

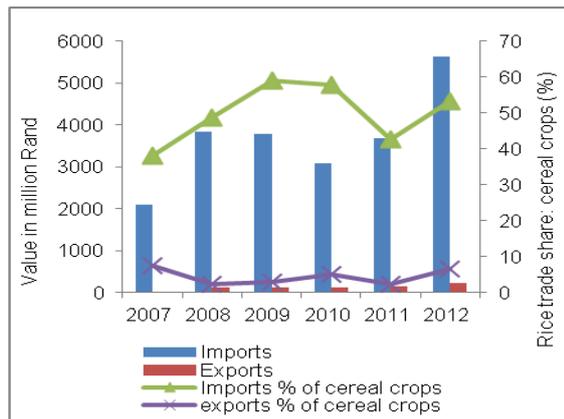


Figure 1: South African cereal: rice crop trade: 2007–2012
Source: ITC, Trade Map, 2013

Thailand was a leading exporter of rice to South Africa, constituting a third of the South African rice import market and surpassing China by just 2 percentage points in 2012 (see Figure 2).

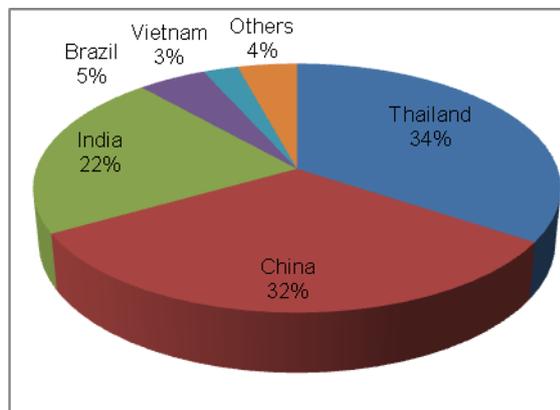


Figure 2: Markets exporting rice to South Africa
Source: ITC, Trade Map, 2013

2. AFRICAN AGRICULTURAL TRADE³

Most African countries' economic growth is heavily dependent on agriculture. However, Figure 3 shows that Africa is a net importer of food. Exports have grown at a faster rate than imports even though values of imports were still higher than exports between 2008 and 2011. This is worrisome as the trend gives an impression that the trade balance will continue to decline.

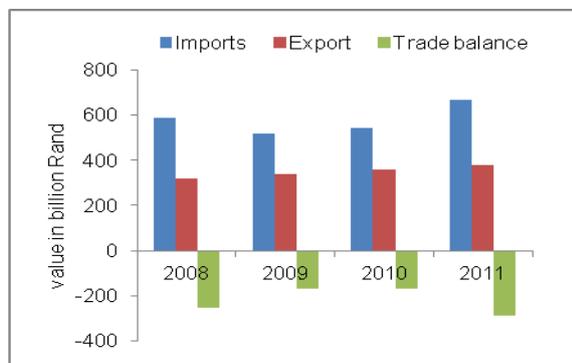


Figure 3: African agricultural trade: 2008–2011
Source: ITC, Trade Map, 2013

³This article was compiled by Ms Masego Moobi of the NAMC.

The ITC Trade Map (2013) shows that Africa imports most of its agricultural products from Brazil, and that agricultural imports from Brazil increased by 86 % between 2008 and 2012. The agricultural products most imported by Africa from Brazil are cane and beet sugar, poultry meat & edible offal and maize. Brazil exported 63.5 % of its cane sugar to Africa, having a market share of 26 %.

Of the cane sugar exported by Brazil in 2011, 20 %, 17 % and 13 % went to Egypt, Algeria and Nigeria respectively. Brazil also exported 13% and 9 % of its poultry and edible offal to Egypt and South Africa, having a market share in Africa of 36 % for these products. After Brazil, France (10.5 %), the USA (8.9 %), China (8.6) and Thailand (4.7 %) have leading shares in the African import market.

In 2011, Africa had a global agricultural export share of 2.6 %. The two African countries whose agricultural exports grew the fastest between 2008 and 2011 were Ghana (153.3 %) and Zambia (104 %). South Africa was also a leading exporter of agricultural products with a record of 10 % growth between 2008 until 2011.

Table 3: Leading destination markets for African agricultural exports.

Description	Value in billion Rand		% growth	% African market share
	2008	2012	2008–2012	2012
Netherlands	35.5	40.3	14	12.8
France	28.6	25.4	-11	8.1
China	8.7	24.6	184.5	7.8
USA	20.7	23.9	15.8	7.6
UK	26.3	22.1	-16	7.0

Source: ITC, Trade Map, 2013

The Netherlands is a leading export destination for Africa's agricultural products. Africa exported 12.8 % of its agricultural products to the Netherlands between 2008 and 2012, and this market grew by 14 % over that period (see Table 3). Both France and the UK are declining markets for Africa's agricultural goods, with more of its exports going to China. Africa's exports to China almost doubled from 2008 to 2012. The agricultural product most exported by Africa is cocoa beans (HS 1801). The continent exported R50 billion worth of cocoa beans to the world in 2011, with Côte d'Ivoire, Ghana and Nigerian being the leading exporters. The second most exported product by Africa is oranges, with South Africa and Egypt being the leading exporters. In 2011, South Africa had an agricultural trade balance of -R36 billion. This implies that South Africa imports more secondary goods while exporting raw agricultural goods. The same may be true for other African countries.

The emphasis of this article is to highlight that Africa is highly dependent on other continents to feed itself. Intra-continental trade has the ability to:

- Lessen reliance on other continents for food
- Enable producers and exporters to work on their products and competitiveness
- Enable African countries to acquire skills and the necessary technology.

3. MARKET PROFILE OF MUSHROOMS & TRUFFLES⁴

In South Africa, mushrooms are regarded as a luxury food item when consumed as a fresh product. However, mushrooms are often processed and used as vegetables for soups and flavouring. In most cases, they are consumed in a cooked state, either steamed or fried. They are also canned for convenient usage. Mushrooms are a good source of proteins, vitamins, calcium, phosphorus, potassium and small quantities of iron.

There are several types of mushrooms produced in South Africa, such as white mushrooms (*Agaricus bisporus*), baby white, brown mushrooms (*Agaricus bisporus syn. A. Brunnescens*), brown button (*Portabellini*), large brown (*portabella*) and oyster mushrooms (*pleurotus*). According to the South African Mushrooms Farmers' Association (SAMFA), white mushrooms account for the bulk of mushroom sales locally as well as internationally.

Figure 4 shows the production trend for South African mushrooms and truffles from 2000 to 2011. Over the years, production of mushrooms has been gradually increasing, and this growth can be attributed to several factors:

- changes in consumer eating habits and patterns,
- changes in consumer tastes and preferences
- the nutritional benefits of consuming mushrooms.

In 2009 consumption of mushrooms was recorded to be going up at the rate of around 10 % p.a. on international markets.

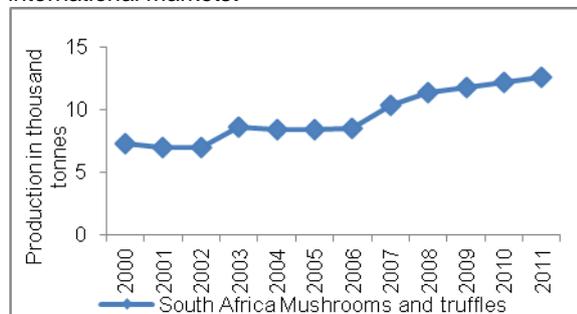


Figure 4: Production of SA mushrooms & truffles in tonnes. Source: FAO, 2013

Mushrooms are a highly perishable commodity because of their high moisture content (90.92 %). Their shelf life can be enhanced for longer periods by various processing methods. Generally mushrooms are processed – frozen, dried and canned. However, the *Agaricus bisporus* (white button) type of mushroom is suitable and preferred for commercial canning. Figure 5 shows that the main preserved mushroom product exported by South Africa is in the form of mushrooms prepared or preserved other than by vinegar or acetic acid (HS 200310), followed by dried mushrooms and truffles whole, cut, sliced, broken or in powder (HS 071239).

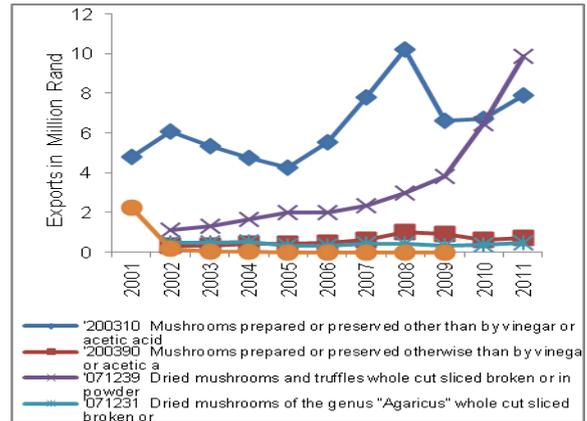


Figure 5: List of mushroom & truffle products exported by South Africa. Source: ITC Trade Map, 2013

Figure 6 shows that the most imported products are mushrooms prepared or preserved other than by vinegar or acetic acid (HS 200310), followed by dried mushrooms and truffles whole, cut, sliced, broken or in powder (HS 071239). Figure 6 shows that mushroom products most exported are similar to the most imported products traded (Figure 5).

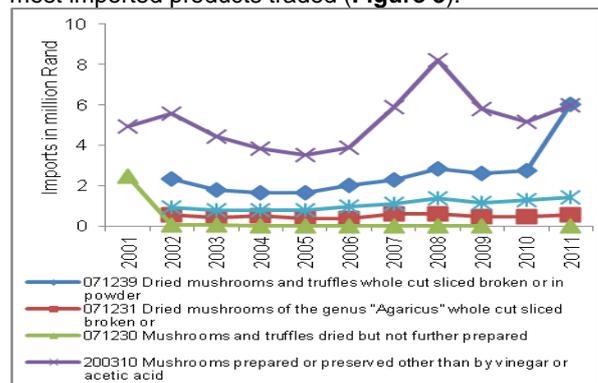
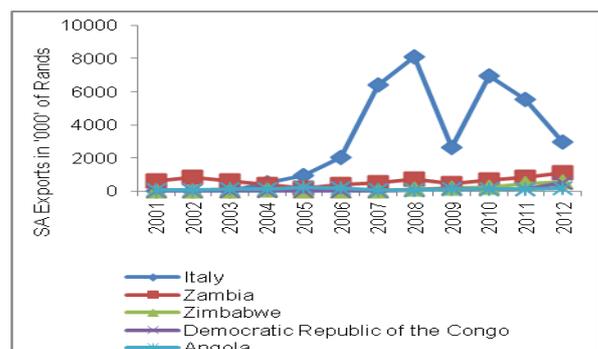


Figure 6: List of mushroom & truffle products imported by South Africa. Source: ITC Trade Map, 2013

Figure 7 presents the top five importing markets for mushrooms & truffles, prepared or preserved (HS-2003) exported by SA. For past 12 years, Italy has been the main destination for South African preserved mushrooms, followed by Zambia and Zimbabwe. Years 2009 and 2012 experienced sharp declines in exports. In 2012, SA exported 61 % of its preserved mushrooms to Italy, 10 % to Zambia and 8% to DRC.



⁴This article was compiled by Ms Heidi Phahlane of the NAMC.

Figure 7: List of importing markets for mushrooms & truffles, prepared or preserved (HS 2003) exported by SA. **Source:** ITC Trade Map, 2013

Figure 8 presents the top five supplying markets for mushrooms & truffles, prepared or preserved (HS 2003) imported by SA. For the past 12 years, China has been the main supplier of South African preserved mushrooms, followed by Italy and Hong Kong, China. In 2012, China supplied 91 % of the total imports of preserved mushrooms, while Italy and Hong Kong supplied 3 % and 2 % respectively.

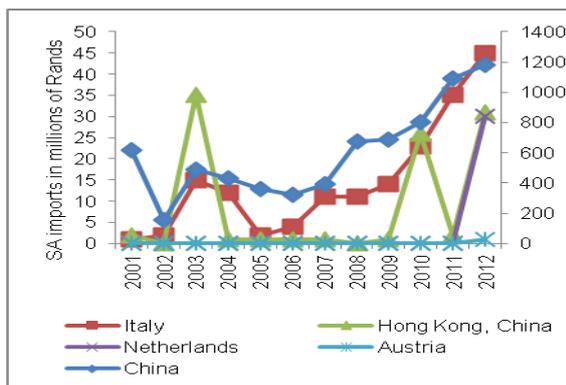


Figure 8: List of markets supplying mushrooms & truffles, prepared or preserved (HS 2003) imported by SA. **Source:** ITC Trade Map, 2013 **Note:** China's values are on the second axis.

Figure 9 presents the unit value/price of the main supplying markets for products imported by South Africa. Unit value is calculated as export value per export quantity. China's unit value has remained stable over the years in comparison to Italy's; it has maintained the growing market share in preserved mushrooms. This could be due to the fact that China is the main producer of mushrooms worldwide and the competitiveness of the product is therefore greater than that of Italy.

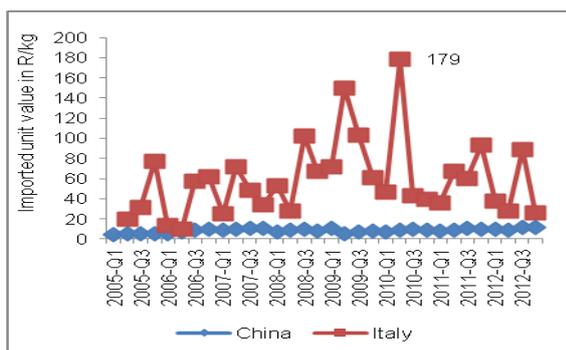


Figure 9: Comparison of the unit value of mushrooms & truffles, prepared or preserved (HS 2003) imported by South Africa. **Source:** ITC Trade Map, 2013

It should be noted that the criterion for distinguishing growing and declining products in this chart is the annual average nominal growth rate of total world imports from 2006 to 2010, which was 3 % (red horizontal reference line) (see Table 4 in Appendix A). Products whose world imports have grown below this rate (i.e. 3 % annually), are classified as declining products, as their shares in world trade are

declining, while products located in the upper quadrants are growing products, as they are growing faster than the world market. Moreover, the vertical line indicates the 0 % growth of South Africa's world market share (red vertical reference line) (see Table 4 in Appendix A).

It should be noted that the criterion for distinguishing growing and declining products in this chart is the annual average nominal growth rate of total world imports from 2007 to 2011, which was 5 % (red horizontal reference line) (see Table 4 in Appendix A). Products, whose world imports have grown below this rate (i.e. 5 % annually), are classified as declining products, as their shares in world trade are declining, while products located in the upper quadrants are growing products, as they are growing faster than the world market. Moreover, the vertical line indicates the 0 % growth of South Africa's world market share (red vertical reference line) (see Table 4 in Appendix A).

Figure 10 (See Appendix B) presents South African exports of mushroom and truffle products between 2007 and 2011. The chart shows the export value of each product (size of the bubbles), and compares South Africa's annual increase in world import market share between 2006 and 2010 (horizontal axis) with the annual growth of international demand between 2006 and 2010 (vertical axis).

Even though the other products were considered in the export performance bubble graph, the focus is on mushrooms and truffles, prepared or preserved (HS 2003), which is a product that has proved to be among the most traded products. Therefore, according to the bubble graph the product is located in the quadrant winners in declining sectors (see Appendix B).

South Africa is a net importer of preserved mushrooms and truffles. This is because SA has an annual increase in world markets share of positive 4.17 % and its annual growth in world imports is a negative 4 %, which is evidence that this product is a winner in a declining sector. On the other hand, dried mushrooms and truffles, whole cut, sliced, broken or in powder (HS 071239) and mushrooms prepared or preserved otherwise than by vinegar or acetic acid (HS 200390) are in the quadrant losers in a growing sector.

These are products in which South Africa has lost world sector share while the world market has grown. Therefore South Africa needs to determine how resources might be invested to profit from growing international demand for such products.

4. CRANBERRIES, BLUEBERRIES AND OTHER FRUITS OF THE GENUS VACCINIUM, FRESH (HS 081040)⁵

Berries such as cranberries and blueberries have very high antioxidant activity (that is vitamins, minerals and other substances that help to neutralise potentially damaging charged particles), and are rich in vitamin C. Other health benefits include reduced belly fat, improved blood sugar control, increased body mass, prevention of heart disease, cancer and other chronic diseases, reduced blood cholesterol, reduced inflammation, improved memory, balance, improved eyesight and prevention of urinary tract infections (Basu *et al.*, 2010⁶; Becker, 2001⁷ and Krikorian *et al.*, 2010⁸). As a result of changing global consumption patterns, improving technology, and expanding production, cranberries and blueberries are fast becoming popular in the global markets.

Table 5 shows the top ten global exporters of cranberries and blueberries in 2012, expressed in value terms and measured in million Rands. The world value of exports was at R257 million and the leading (top ten) exporters accounted for 96.2 % of the market share of world exports of cranberries and blueberries, with Canada commanding the largest market share of 60.7 %. Other countries making the list of top ten world exporters were Norway (R155 905 264 million), Japan (R15 965 937 million) and the United Kingdom (R12 132 587 million).

Table 5: World's leading exporters of cranberries and blueberries in 2012.

Exporters	Value exported in 2012, in million Rands	Share in world exports, %
World	257 033 808	100
Canada	155 905 264	60.7
Norway	25 985 859	10.1
Japan	15 965 937	6.2
United Kingdom	12 132 587	4.7
Switzerland	10 951 333	4.3
Russia	9 217 326	3.6
Hong Kong	7 147 202	2.8
China	3 974 456	1.5
Korea South	3 673 966	1.4
Netherlands	2 521 271	0.9

Source: Global Trade Atlas, 2013

Table 6 presents the list of top ten leading importers of cranberries and blueberries in 2012, expressed in value terms. The world value of imports mounted to R570 million. Leading the list was Chile, Canada and Argentine, accounting respectively, for 43.2 %, 26.9 % and 17.0 % of world's market share. Notably, there was no Asian country on the list of the top ten world importers of cranberries and blueberries.

Table 6: World's leading importers of cranberries and blueberries in 2012.

Importers	Value imported in 2012, in Million Rands	Share in world imports, %
World	570 494 008	100
Chile	246 168 493	43.20
Canada	153 368 189	26.90
Argentina	97 019 117	17.00
Mexico	23 694 329	4.20
Morocco	16 019 302	2.80
Uruguay	13 015 254	2.30
South Africa	8 739 739	1.50
USA	5 661 601	0.99
Ukraine	1 873 164	0.33
Belarus	553 927	0.10

Source: Global Trade Atlas, 2013

Table 7 lists the top ten leading export destinations for South African cranberries and blueberries in 2010, expressed in value terms. The first observation is that only one country from the Americas makes the top ten list of cranberries and blueberries export destination markets for South Africa. The United Kingdom (at R8.6 million) topped the list followed by Hong Kong (1.6 million) and Singapore (R1.5 million) presenting a market share of 9.4 %, 1.6 % and 1.6 % of South African exports, respectively.

Table 7: Top ten export markets for South African cranberries and blueberries in 2012

Exporters	Imported value (in Rand million)	Share in SA's imports, %
World	91 920 375	100
United Kingdom	8 634 135	9.40
Hong Kong	1 687 042	1.60
Singapore	1 533 201	1.60
Ireland	1 208 537	1.30
Netherlands	77 022	0.10
Mozambique	20 486	0.02
Indonesia	6 849	0.01
Malaysia	4 709	0.01
Canada	3 014	0.00
Kenya	1 239	0.00

Source: Global Trade Atlas, 2013

Table 8: presents the markets for South Africa's imports of cranberries and blueberries. The first observation is that South Africa does not import a lot of cranberries and blueberries. This can be attributed to a wide range of factors such as the newness of the fruit in the value chain, and lack of consumer awareness about cranberries and blueberries. Poland commanded the largest market share of 79.0 %. Other countries making the list of top ten markets for South African imports of cranberries and blueberries were Peru (R371 112 thousand) and Zimbabwe (at R2 122 thousand)

Table 8: Top three markets for South African imports of cranberries and blueberries in 2012.

	Exported value (in Rand' million)	Share in SA's exports, %
World	1 779 659	100
Poland	1 406 435	79
Peru	371 112	20.9
Zimbabwe	2 112	0.1

Source: World Trade Atlas, 2010

⁵This article was compiled by Mr Lindikaya Myeki of the NAMC.
⁶Basu A., Rhone M., Lyons T.J. (2010). Berries: emerging impact on cardiovascular health. *Nutr Rev.* 68(3): 168-77.
⁷Becker, H. (2001). Berries may protect against cancer and heart disease. *United States Department of Agriculture Agricultural Research Service.* Last modified 03 Jan 2002.
⁸Krikorian R, Shidler MD, Nash TA, Kalt W, Vinqvist-Tymchuk MR, Shukitt-Hale B, Joseph JA. (2010). Blueberry supplementation improves memory in older adults. *J Agric Food Chem.*; 58(7):3996-4000.

5. TRADE PROFILE FOR PORK (HS 0203) IN SOUTH AFRICA⁹

Background

Pork is meat that is produced from domestic pigs and it is consumed in many countries in the world. Pork is consumed in several forms, either cooked or uncooked. It can be processed into ham, bacon, and sausages. South Africa's pork industry contributes 2.15 % in terms of quantity output to the primary agricultural sector.

The South African pork industry has evolved from a highly regulated environment to one that is totally deregulated today. Various policies, such as the distinction between controlled and uncontrolled areas, statutory levies payable by producers, restrictions on the establishment of abattoirs, the compulsory auctioning of carcasses according to grade and mass in controlled areas, the supply control via permits and quotas, the setting of floor prices, removal schemes, etc., characterised the pork industry before deregulation commenced in the early 1990s. Since the deregulation of the agricultural marketing dispensation in 1996, prices in the meat industry are determined by demand and supply forces.

Production of pork in South Africa

Pork is produced throughout South Africa with Gauteng, Limpopo, North West and Mpumalanga commercial producers collectively accounting for 53.75 % of total production. KwaZulu-Natal is the second largest producer of pork and accounted for 16.6 %, followed by the Western Cape, Northern Cape, Free State and Eastern Cape, which collectively accounted for 29.65 % in 2010¹⁰.

Figure 11 highlights South African pork production and consumption between 1996 and 2012. The consumption and production of pork showed a decrease in 2008, which was caused by an increase in food prices, the cost of feed and also a disease outbreak. Figure 11 shows that when pork production increases, consumption also increases. In 2012, production of pork increased by 1.47 %, which can be attributed to stability in the prices of feed. The 1.47 % increase in production resulted in 2.43 % increase in consumption of pork meat in South Africa.

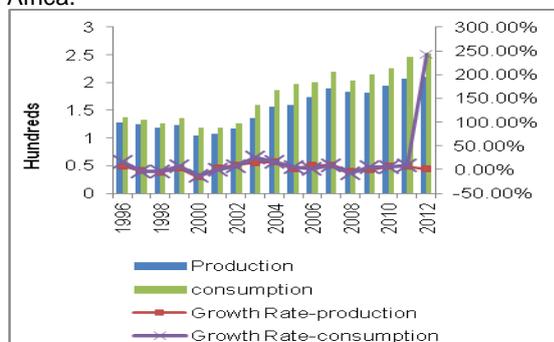


Figure 11: Pork production and consumption.

Source: USDA, 2013

⁹This article was compiled by Ms Yolanda Potelwa of the NAMC.

¹⁰www.eskort.co.za

World trade of pork

Table 9 lists the leading top exporters of pork in the world. Germany was the leading exporter in 2012 and accounted for 16.5 % of the world's exports. Noteworthy was that the supply of exports from Germany and USA grew by 14 % and 18 % respectively in 2012 compared to 2011. Poland had the largest growth rate, increasing exports from R5.8 million to R8 million between 2011 and 2012. South Africa had positive growth rate of 50 % between 2011 and 2012 but from a low base.

Table 9: World leading exporters of pork

Rank	Exporters	Values in Rand (millions) 2011	Values in Rand (millions) 2012	Growth value 2011-2012
World exports				
		216	242	11
1	Germany	35	40	14
2	US	34	39.6	18
3	Denmark	26	27	5
4	Spain	21	25	17
5	Canada	19	21	12
6	Netherlands	16	15	-8
7	Belgium	12	14	16
8	Brazil	9	11	19
9	France	9	9	11
10	Poland	6	8	39

Source: ITC Trademap, 2013

Table 10 outlines the leading world importers of pork in 2012. From a global perspective, pork imports grew by 10 %, amounting to R234 million in 2012. Japan was the leading importer of pork and accounted 17.9 % of global imports. The Russian Federation was the second largest importer and amounted to R20 million, followed by Italy with an amount of R19 million in 2012. South Africa was ranked as number 40 among importers of pork.

Table 10: World leading importers of pork.

Rank	Importers	Values in Rand (millions) 2011	Values in Rand (millions) 2012	Growth value 2011-2012
World imports				
		213	234	10
1	Japan	38	42	11
2	Russia	15	20	33
3	Italy	19	20	5
4	Germany	17	19	12
5	Poland	11	13	18
6	France	8	9	13
7	Rep of Korea	10	9	-10
8	UK	8	8	0
9	USA	7	8	14
10	Mexico	7	8	14

Source: ITC Trademap, 2013

South African trade in pork

Figure 12 shows South Africa's pork trade over the period of six years. It is clear that South Africa is a net importer of pork meat. Pork imports and exports increased by 21 % and 50 % respectively in 2012. The exports for pork had no stability between 2007 and 2012. They showed an increase of 33 % in 2009 and a decrease of 51.2 % in 2011.

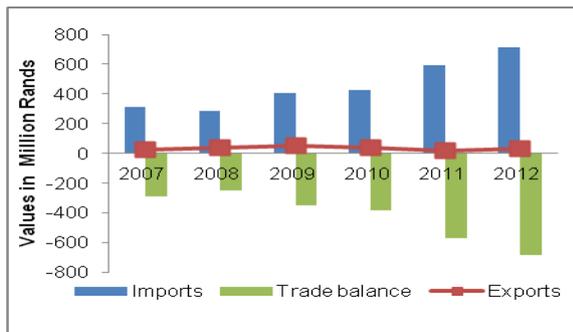


Figure 12: Pork trade for South Africa
Source: Global Trade Atlas, 2013

Figure 13 illustrates the main markets that South Africa supplies pork to. It is clear that most pork was exported to African countries, which include Zimbabwe, Mozambique, Angola and the DRC. These countries are located in the SADC region and have regional trade agreements with South Africa which include lowered tariffs and less strict non-tariff measures. The above countries collectively accounted for 91% of South African pork exports in 2012 (see Figure 13).

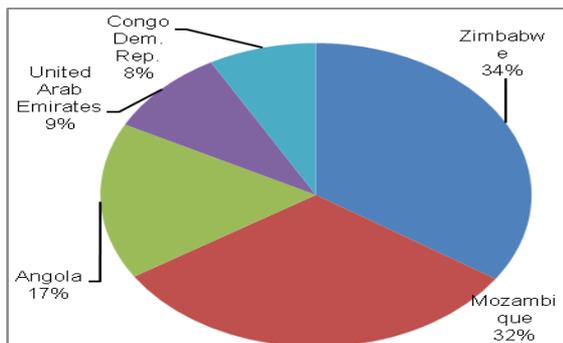


Figure 13: Main markets for South African pork exports
Source: Global Trade Atlas, 2013

Figure 14 illustrates the main markets that supply pork imports into South Africa and it is clear that South Africa is sourcing these imports from the Euro zone. This can be attributed to preferential trade agreements under trade, development cooperation agreements (TDCA) with the EU market, which include lowered tariffs and less stringent Non Tariff Measures with South Africa. The European countries collectively accounted for 75 %, followed by Canada with a market share of 25 % in 2012.

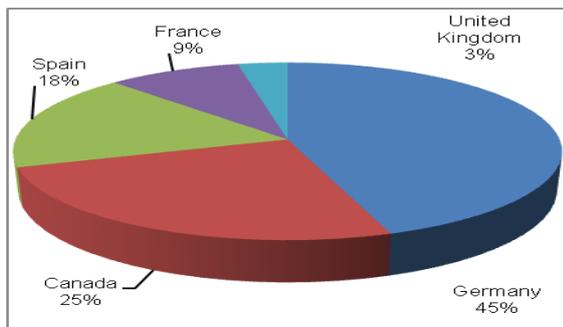


Figure 14: Main markets for South African pork imports
Source: Global Trade Atlas, 2013

Conclusion

South Africa is a net importer of pork and the bulk of its imports originate from the European Union whereas exports are to the SADC region. Preferential market access conditions for South Africa make it an attractive market for the EU. On the other hand, South African pork exports to the SADC have been growing, triggered by conducive trade conditions under the SADC treaty.

6. TRADE PROFILE OF FROZEN HAKE (HS 030378)¹¹

Definition and description of hake fish

Trawl fisheries targeting hake provide over half of the value of all fisheries in South Africa. The main export markets are Europe, Australia and the USA. Hake can grow up to 1 metre in length and their lifespan can be around 14 years. Hake species stay in deep-sea water during the day and come to the middle depths during the night.

They are undiscerning predators that feed on species found near or on the bottom of the sea. The male and female hake fish look almost the same and are not easily differentiated. Hake products have been primarily divided into three principal levels which are fresh hake, frozen hake and frozen hake fillets.

In South Africa, there are three hake species fished and exported to international markets. These are:

- Benguela hake (*Merluccius polii*)
- Shallow-water hake (*Merluccius capensis*)
- Deep-water hake (*Merluccius paradoxus*).

World production

Figure 15 shows the world's leading export countries and their global share in hake exports. The largest producers of frozen hake are the United States of America, Spain, Argentina, Canada, Chile and South Africa.

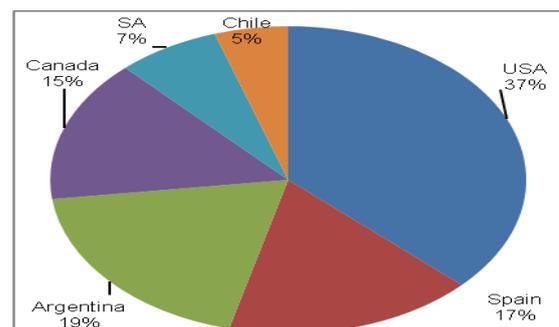


Figure 15: World leading exporters of hake.
Source: Trade Map, 2012

Table 11 (See Appendix A) presents the top ten world leading exporters and importers of frozen hake in 2011. The United States of America had the biggest share in the world with 24.9 %, followed by Spain with 19.5 % and then Argentina with 14.1 %. South Africa was ranked 6th of the world exporters of

¹¹This article was compiled by Ms Pamela Hoyi and Ms Singita Maswanganye from the Directorate: International Trade, DAFF.

frozen hake with a share of 6.7 %. The top 3 leading importers in 2011 were Spain with a share of 20.3 %, Portugal (19.7 %), and Ukraine (10.5 %), which accounted for 50.5 % of world imports. South Africa imported US\$ 9 602 worth of frozen hake, with a share of 2.1 % in world imports.

Table 12 shows the top leading import markets for South Africa's exports of frozen hake and the tariffs that were faced by South Africa in 2011. The top 3 leading markets for South African frozen hake in 2011 were Spain with a share of 42.1 %, Portugal (37 %) and Italy (10.8 %). South Africa faced 0 % tariffs in Australia and Mauritius. The Most Favoured Nations (MFN) rate for frozen hake in European countries is 9.65 % while Angola is charging 20 %.

Table 12: South Africa's leading export markets for frozen hake in 2011.

Importers	Exported value in 2011 (US\$, thousand)	Share in SA's exports (%)	MFN Rate (%)
World	34 578	100	
Spain	14 552	42.1	9.65
Portugal	12 793	37	9.65
Italy	3 744	10.8	9.65
Angola	530	1.5	20
UK	509	1.5	9.65

Source: ITC Trade Map, 2012

Figure 16 shows the competitors of South Africa in the Spanish market in 2011. South Africa falls within the top 3 largest suppliers of hake in Spain with a percentage share of 19.1 %, while the largest supplier is Chile with 33.8 %. Namibia, which is a member state of the South African Custom Union (SACU), is in third position, followed by Argentina, with a percentage share of 14 % and 12.3 % respectively.

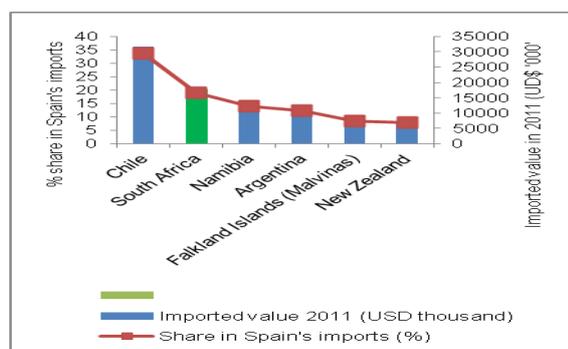


Figure 16: SA's competitors in Spain for frozen hake in 2011
Source: ITC, 2012

Table 13 (see Appendix A) shows South Africa's main competitors of frozen hake (HS 030378) in the United Kingdom. In terms of quantity and value, South Africa's main competitors are Argentina, Uruguay and Portugal. Argentina and Uruguay exported a larger value of hake to the UK than South Africa, Portugal or the Netherlands. South Africa and Argentina are gaining market share in the United Kingdom market, with positive import growth rates in value between 2007 and 2011.

Uruguay (-4 %) and Portugal (-16 %) were losing market share in the UK. Additionally, all the main competitors, with the exception of Uruguay (-4 %) and Portugal (-9 %) were gaining market share in terms of quantity between 2007 and 2011. Between 2010 and 2011 South Africa (-26 %) and Uruguay (-35 %) were losing market share in value terms to UK market for frozen hake (HS 030378).

Figure 17 presents the top suppliers of frozen hake to South Africa. The United States of America was the leading supplier of frozen hake to South Africa with a 41 % share in imports, followed by Argentina and Uruguay, with shares of 25 % and 13 % respectively. The imports from both Argentina and Uruguay might be attributed to the fact that SACU and MERCUSOR have a Preferential Trade Agreement signed.

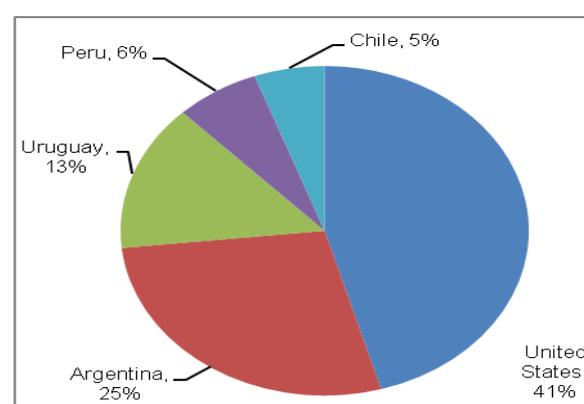


Figure 17: South Africa's frozen fish imports during 2011.
Source: Own calculations based on World Trade Atlas statistics, 2012

Figure 18 presents the trade balance for South Africa's frozen hake over the past five years. The trend shows that South Africa is a net exporter of frozen hake. Year-on-year¹² growth rates for frozen hake exports from 2007 to 2008 are 39 % and it showed an increase of 31 % from 2010 to 2011, which reflects that South African frozen hake exports recovered after the economic meltdown which affected world trade.

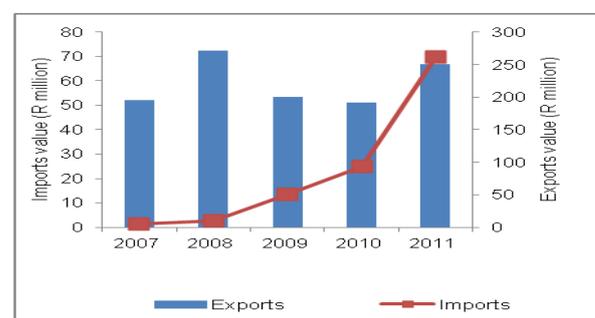


Figure 18: SA's trade balance for frozen hake (HS 030378).
Source: World Trade Atlas, 2012

¹²Year-on-year growth rates are rates of change expressed over the corresponding period (month or quarter in relation to the frequency of the data) of the previous year. The formula to calculate year on year growth rate is as follows: $\Gamma_y = (\lambda_t / \lambda_{t-1} - 1) \times 100$.

Tariffs faced by South Africa for hake products

SA has free access in 11 countries (0 % tariff) as follows:

- European Free Trade Association (EFTA): Iceland, Norway and Switzerland.
- SACU: Botswana, Lesotho, Swaziland and Namibia (Preferential tariff -SACU).
- SADC: Madagascar, Mozambique, Zambia and Zimbabwe (Preferential tariff-SADC).
- Almost all the above-mentioned countries apply a 0 % tariffs except for Madagascar that applies a higher tariff of 5 % ad valorem. South Africa faces high ad valorem tariffs in Tunisia (43 %), Sudan (40 %), and India (30 %). A low level of protection (0-5 %) is applied to South African frozen hake in Canada, the USA, Australia, and Madagascar (see **Appendix B** for **Figure 19**).

Conclusion

South Africa is the top 6th largest exporter of frozen hake in the world, with a significant share of 6.7 % of world exports. The main destination for South Africa's frozen hake is Spain, in which SA has a percentage share of 19.1 and is ranked 2nd after Chile, which is the largest supplier of frozen hake to Spain. In addition, South Africa should take advantage of the increase in world demand for this product to grow its export base, but also to consider value beneficiation as part of its trade strategies. The trend shows that the average annual growth rate¹³ from 2007 to 2011 was 9.8 %, which implies that South Africa's frozen hake is contributing to economic growth and employment creation in the fisheries sector.

7. TRADE PROFILE FOR SOUTH AFRICA'S TOBACCO: HS 24 – INCLUDING UNMANUFACTURED TOBACCO, CIGARS, CIGARETTES AND OTHER TOBACCO PRODUCTS¹⁴

In South Africa, tobacco is grown in five provinces, namely Mpumalanga, Limpopo, North West, Western Cape and Eastern Cape. According to the Department of Agriculture, Forestry and Fisheries, 2011, there are about 300 commercial tobacco farmers and 5 small scale tobacco farmers in the country, collectively producing a total of 15 300 tons on 5 000 hectares. The industry creates about 10 000 job opportunities at primary level and nearly 3 000 at the manufacturing level as well as roughly 55 364 people employed in the upstream side, i.e. wholesales, logistics, retailers and traders.

This Trade Profile looks at the trade trends and trading partners with South Africa in the past 12 years. Important to note is that tobacco is administered through various laws and regulations in South Africa such as Tobacco Products Control Act, 83 of 1993 as amended by Act 12 of 1999, which among other things bans advertising and

sponsorship of tobacco and bans smoking in public areas, work places except under specific conditions.

South Africa exports roughly between 50 % and 60 % of total production every year. Main countries of destination included Yemen, Angola, Cameroon, Mali and Iran. These top 5 destination markets for South African tobacco exports account for 61 % of total exports. The current top 5 markets have not changed significantly when compared to the top 5 destination markets recorded in 2000, except for Mozambique. The Mozambique market was the second largest destination in 2000 but it has now fallen out of the top 10 destination markets. Other important markets for South African tobacco exports include Algeria, Bahrain, Saudi Arabia, the UAE and Kenya.

Figure 20 represents the trade trends between 2000 and 2012. It is clear that in most years South Africa has been a net exporter of tobacco except in 2004, 2009 and 2011, when the imports were larger than the exports.

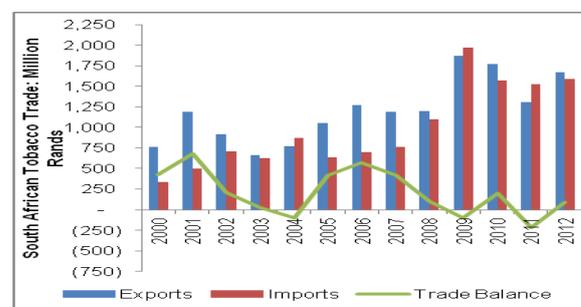


Figure 20: South African tobacco (HS 24 – including unmanufactured, cigars, cigarettes and other tobacco products) trade trends between 2000 and 2012. Source: WTA, 2013

Figure 20 also shows the import trends of tobacco products into South Africa. DAFF (2011) reported that the area under tobacco plantation is declining, moving from over 14 000 hectares in 2001 to 6 000 hectares in 2006 and to just around 5 000 hectares in 2011. During the same period, production declined from 37 000 tons in 2001 to 13 000 in 2006 and then slightly increased to 15 300 in 2011 (DAFF, 2011).

It is therefore not much surprising to observe that South African tobacco imports have been increasing gradually over the last 12 years. The imports recorded a positive growth rate of 18 % on average per annum in the last 12 years, outgrowing the average yearly exports by 7 % each year. The main suppliers of tobacco to South Africa include Brazil, which holds an 18 % share on total tobacco imports, followed by Zimbabwe with a 17 % share, India with a 13 % share, Switzerland with a 10 % share and Malawi with a 4 % share in total tobacco imports. The leading suppliers of tobacco to South Africa have not changed when compared to the supplier list registered in 2000.

Table 14 (see **Appendix A**) shows the leading exporters of tobacco in the world. The top 10 exporters accounted for 56.2 % of global export

¹³The **average annual growth rate (AAGR)** is the arithmetic mean of a series of growth rates. The formula to calculate average annual growth rate is as follows: $\bar{r}_A = (\text{Growth Rate in Period A} + \text{Growth Rate in Period B} + \text{Growth Rate in Period C} + \dots + \text{Growth Rate in Period X}) / \text{Number of Periods}$
¹⁴This article was compiled by Mr Sifiso Ntombela of the NAMC.

share and they are dominated by countries from Europe, i.e. Germany, the Netherlands, Poland, Belgium and France. South Africa is ranked low in the global export ranking, occupying only a small global share of 0.5 % in 2011.

Table 15 (see Appendix A) shows the leading importers of tobacco products in the world. Japan is by far the biggest importer of tobacco, accounting for 12.7 % of global import share in 2011. It was followed by Italy with 6.2 %, France with 5.6 % and German with 5.1 %. South Africa occupied a small share of 0.4 %, and the country has large tariff duties on tobacco imports. On average, tobacco imports into South Africa face 97.2 % of tariffs.

8. TRADE PROFILE OF AGRICULTURAL, FORESTRY AND FISHERIES PRODUCTS¹⁵

Introduction

South Africa is a diverse country with range of vegetation types, biodiversity, climate and soil types. Among other sectors in the country there is the agricultural, fisheries and forestry sector, which contributed 2.2 %¹⁶ to the South African GDP in 2012. As shown in **Figure 21**, South Africa had a positive trade balance of agricultural, fisheries and forestry exports collectively from 2007 till 2012. This article outlines the agricultural, forestry and fisheries products most traded by South Africa and their relative markets.

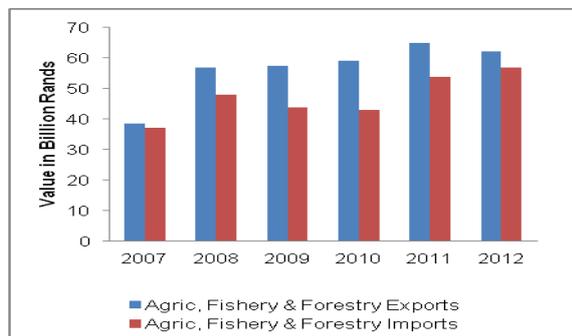


Figure 21: Historical agricultural, fisheries and forestry imports and exports.

Source: Global Trade Atlas, 2013

Agricultural trade

The country has a dual form of agriculture that consists of well-developed commercial farms and subsistence farming that is more based in the rural areas. Total agricultural exports and imports were valued at R50.9 billion and R57 billion in 2012, respectively. This section will highlight agricultural imports and exports in South Africa.

Agricultural exports

In 2012, the agricultural products most exported by South Africa included oranges (HS 080510) with a market share of 9.4 %, followed by grape wine

(7.1 %) and fresh grapes (6.9 %). Oranges are a citrus fruit that is produced in various areas of South Africa, namely Limpopo, Mpumalanga, KwaZulu-Natal, and the Western and Eastern Cape provinces.

Table 16: Top importing countries of oranges from South Africa

Rank	Importers	Exported value (ZAR billion) 2007	Exported value (ZAR billion) 2012	Growth value 2011–2012
World exports				
		2.88	4.78	72.1
1	Netherlands	0.44	0.84	90.3
2	Russia	0.30	0.51	71.0
3	Saudi Arabia	0.15	0.40	176.2
4	JAE	0.20	0.39	94.1
5	UK	0.22	0.29	33.0

Source: Global Trade Atlas, 2013

Table 16 shows South African importers of oranges in 2007 and 2012. Orange exports have grown by 72.1 % during this period, amounting to R4.78 billion in 2012. In 2007, the Netherlands was the leading importer of oranges from South Africa, importing oranges valued at R440 million, followed by the Russian Federation and the United Kingdom. However, in 2012, South African market share in the United Kingdom declined as the country fell from being the 3rd to the 5th biggest importer of South African oranges. More of this market share increased towards Saudi Arabia and the United Arab Emirates.

Agricultural imports

Rice is the main agricultural product imported by South Africa. The country imports high values of rice due to unfavourable climatic conditions that are not suitable for domestic production. South Africa imported rice valued at R5.6 billion in 2012, which accounted for 11.6 % of market share in the global market.

Table 17: Top exporting markets of rice to South Africa.

Rank	Importers	Imported value (ZAR billion) 2011	Imported value (ZAR billion) 2012	Growth value (2011–2012)
World imports				
		3.5	5.6	59.2
1	Thailand	2.5	1.92	-22.1
2	China	0.02	1.8	8455.1
3	India	0.5	1.2	143.6
4	Brazil	0.3	0.27	-14.3
5	Vietnam	0.03	0.14	330.3

Source: Global Trade Atlas, 2013

Table 17 depicts the top countries that supplied South Africa with rice in 2011 and 2012. Rice imports from the world to South have grown by 59.2 %. In 2012, Thailand was ranked the largest exporter of rice to South Africa with the market share of 34.5 %, followed by China and India with market share of 32.8 % and 21.3 % respectively. **Table 17** also shows that Thailand had a negative growth rate of 22.1 % between 2011 and 2012. China, India and Vietnam had very high growth rates between 2011 and 2012, while Brazil was a declining market for South Africa. Asian countries (Thailand, China and India) are leading exporters of rice with total market share of 86.6 % in 2012.

¹⁵This Article compiled by Ms Yolanda Potelwa and Ms Masego Moobi of the NAMC

¹⁶StatsSA (2013). http://www.statssa.gov.za/keyindicators/GDP/Fact%20Sheet%2012_4thq2012.pdf

Forestry trade

Forestry is an ecological system dominated by trees and other woody vegetation. Forest communities are characterised by complex interactions between woody and herbaceous flora, fauna, soils and other physical factors. Forestry is a valuable resource in South Africa for biological diversity, local uses and for aesthetic and spiritual importance. The plantation of forestry in South Africa is mainly used for timber. South African forestry exports were valued at R9.8 billion in 2012.

Forestry exports

The forestry product most exported by South Africa was chemical wood pulp (HS 470200), which accounted for 49.5 % of forestry exports in 2012. Exports of chemical wood pulp had a significant growth rate of 70.8 % between 2007 and 2012.

Table 18: Top importers of South African chemical wood pulp

Rank	Importers	Exported value (ZAR billion) 2011	Exported value (ZAR billion) 2012	Growth value (%)
World exports		5.1	4.9	-2.5
1	Indonesia	1.8	1.9	3.7
2	China	0.8	0.9	13.9
3	Thailand	0.6	0.5	-13.2
4	Belgium	0.3	0.45	36.3
5	India	0.5	0.4	-22.9

Source: Global Trade Atlas, 2013

Table 18 shows leading South African markets for exported chemical wood pulp. Between 2011 and 2012, South African wood pulp exports decreased by R0.2 billion to R4.9 billion. Indonesia was the largest importer of wood pulp, with South Africa having a market share of 37.8 % followed by China (18.7 %). Thailand and India showed a negative growth of imports from South Africa between 2011 and 2012, whereas Belgium imports from South Africa grew at a rate of 36.6 % between 2007 and 2012.

Forestry imports

The forestry product most imported by South Africa from the world was printed books and brochures (HS 490199), which accounted for 21 % of forestry imports in 2012. These imports were valued at R1.5 billion in 2012 and grew by 0.85 % with a weighted average growth of 0.52 % between 2007 and 2012. **Figure 22** shows that from 2007 to 2012 South Africa received almost half (49 %) of printed books and brochures from the United Kingdom. In 2012, leading countries that supplied South Africa with printed books and brochures were the United Kingdom, the United States of America, China, Singapore and Germany, in that order.

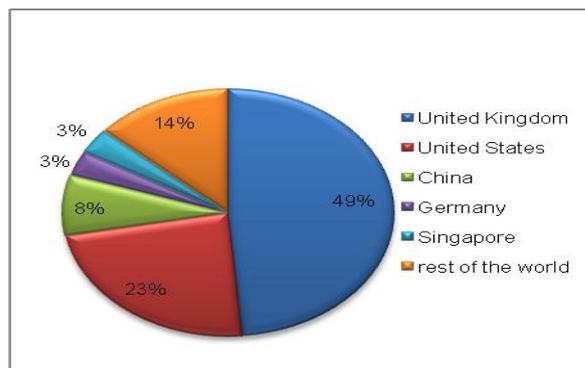


Figure 22: South African printed books and brochures imports: 2007-2012.

Source: Global Trade Atlas, 2013

Fisheries trade

Fish are of high nutritional value and are a good source of protein, which is essential for brain development. South Africa has oceans on its east, west and south and numerous inland rivers, which allows the country to have an advantage in fish production as compared to land-locked countries. South Africa exported and imported R1.4 billion and R2 billion worth of fisheries products in 2012 respectively, making the country a net importer of fisheries products.

Fisheries exports

Table 19: Leading export markets for a product imported by South Africa

South Africa Exports	value in ZAR billion 2011	value in ZAR billion 2012	2012 Market share (%)	% growth value
World	452.6	389.1	100	2007-2012
Italy	209.3	153.5	39.5	-23.7
Spain	128.1	126.9	32.6	-43.5
Greece	40.9	36.6	9.4	13.5
Portugal	31.3	30.0	7.7	-2.5
Thailand	5.9	10.6	2.7	333.6

Source: Global Trade Atlas, 2013

The fisheries product most exported is frozen cuttlefish and squid (HS code 030749). Of the total fisheries products that are exported by South Africa, 28.2 % are frozen cuttlefish and squid. South African exports of this fisheries product have declined, as shown in **Table 19**. Between 2011 and 2012, exports fell by R68 thousand from R452 million. Italy and Spain received 39.5 % and 32.6 % of cuttlefish and squid exports from South Africa, respectively (**see Table 19**).

Of the listed markets, only Greece and Thailand had a positive growth rate of 13.5 % and 333.6 % respectively between 2007 and 2012, even though from 2011 to 2012 Greece declined by 10 %. **Table 19** also suggests that Italy, Spain and Portugal are declining markets for South African exports, while Greece and Thailand's are seemingly increasing.

Fisheries Imports

Of the fisheries products that South Africa imported, in value the most imported product is sardine (HS code 61403). South Africa imported sardines valued at R1.1 billion in 2012 and this has grown significantly from R153 million in 2007. Thailand had an average market share of 86 % with a weighted average growth of 83.9 % (2007–2012). China and Philippines increased sardines exports to South Africa by R94 million and R37 million between 2007 and 2012 respectively. Indonesia did not export to South Africa in 2007.

Portugal's exports declined from 2007 to 2011, but in 2012 exports picked up. Portugal's value of sardine exports to South Africa has declined by 15.2 %. It is interesting to note that the four leading countries that supply South Africa with sardines are Asian countries with the last one on the list being a European country. Asian countries are significantly increasing their share in the South African market while Portugal is losing its share in the South African market. All these countries have coastal regions hence they are able to export such high values of fish.

Conclusion

South Africa is a net exporter of aggregated fisheries, forestry and agricultural products. Agriculture has the leading trade balance, followed by forestry and fisheries between 2007 and 2012.

Between 2007 and 2012:

- Forestry exports (50.1 %) grew faster than imports (9.2 %)
- Agricultural exports grew by 70.8 %, while imports grew by 60.9 %
- However, fisheries exports declined by 37 %, while imports grew by 112.1 %

Interestingly, the most exported products of these sectors (agriculture, fisheries and forestry) from South Africa as shown in this article go to Asian countries while Europe is a declining market for South Africa. Imports are also moving from European countries to Asian countries.

9. WATER RIGHTS IN SOUTH AFRICA: AN AGRICULTURAL PERSPECTIVE¹⁷

Contextualisation

Alongside the right to sufficient food, health care services and social security, the South African Constitution¹⁸ includes the right of "access to sufficient water". As the Constitution represents the social contract between the state and its citizens, both limiting and enshrining the scope of government authority, this provision imposes a duty that is both negative and positive in nature. On the one hand, the government must refrain from unjustifiably interfering with the enjoyment of the right, by abstaining from:

- Any practice or activity that arbitrarily denies or limits access to water;
- Unlawfully diminishing or polluting water sources;

- Prohibiting access to, or destroying water infrastructure as a punitive measure;
- Arbitrarily or unjustifiably disconnecting or excluding citizens from water services or facilities;
- Discriminatory or unaffordable increases in the price of water; or by
- Any activity that renders water intended for human consumption harmful to human health.

The positive side of the duty, is that the government must protect, promote and fulfil the right through "reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights"¹⁹ as enshrined in article 27(1), including enactment of national legislation.

Aside from government, it is also possible that such legislation may in turn place a burden on non-state actors, such as businesses and individuals, which may then be enforced via the courts against whichever entity is deemed to be acting contrary to the law. This was attempted²⁰ in *Government of the Republic of South Africa & Others v Grootboom & Others*,²¹ where the court found that the Constitution imposes a substantive duty to realise socio-economic entitlements as enshrined in the Bill of Rights. Phrased differently, not interfering with a citizen's lawful efforts to procure resources for themselves is not sufficient; in the event that citizens are unable to access resources through their own means, the state is under an obligation to mobilise public funds – as deemed reasonable – to bring about this entitlement.

The court affirmed, as stipulated in article 27(2) of the Constitution, that "reasonableness" will ultimately determine whether the state, or any other actor, has availed itself of its duty under the law. Constraints on public resources, the demands of the economy, and the interest of society as a whole, mean that trade-offs are unavoidable. As set out in the Grootboom case, challenging the failure of the state to take sufficient positive measures, "the real question will be whether the legislative and other measures taken by the state are reasonable," rather than the level of satisfaction experienced by individuals. Phrased differently, it is the "reasonableness" of conduct that will decide its lawfulness.

At the same time, the Constitution and legislation have been used to defend the introduction of prepaid water meters in low-income areas, with authorities arguing that prepaid water meters are "pro-poor," allowing households to better budget their water spending, while enabling the state to better manage its revenue flows to invest in extending water services to under-served areas. Similarly, water

¹⁷This article was compiled by Ms Stephanie van der Walt from the NAMC.

¹⁸Art. 27(1)(b), Constitution of the Republic of South Africa, 108 of 1996.

¹⁹Art. 27(2), Constitution of the Republic of South Africa, 108 of 1996.

²⁰De Vos, P., "Irene Grootboom died, penniless, forgotten, no C-class Mercedes in sight" (*Constitutionally Speaking*, 11 August 2008). <<http://constitutionallyspeaking.co.za/irene-grootboom-died-homeless-forgotten-no-c-class-mercedes-in-sight/>> accessed 21 November 2012.

²¹2000 (11) BCLR 1169. (CC)

cut-offs are deemed constitutionally sound, as the non-payment of service bills negatively affects the rights of others to water.

Access to water in South Africa is therefore enhanced in the Bill of Rights, but by no means guaranteed, as other legislative and macro-economic demands must be taken into account.

The Makhanya case

On 19 August 2011, the North Gauteng High Court (HC) gave judgment in the case of *Goede Wellington Boerdery (Pty) Ltd v Makhanya NO & Another*,²² finding in favour of the Applicant. In its judgment, the HC reviewed and set aside a decision by the Water Tribunal, namely to refuse an appeal against a decision by the Chief Director of Water Use in the Department of Water Affairs and Forestry, which denied the Goede Hoop farm a licence to utilise water from the Berg River for agricultural purposes.

The matter was subsequently taken to the Supreme Court of Appeal (SCA) in Bloemfontein and the SCA's judgment²³ was published on 30 November 2012, again finding in favour of Goede Wellington Boerdery (Pty) Ltd.

Water in South Africa is a scarce commodity, yet reliable access thereto is a prerequisite for sustained agricultural production. An estimated eight per cent of the country's potential arable land is under irrigation, accounting for nearly two thirds of the national water requirement.²⁴ **Figure 23** provides an overview of surface water withdrawal, as measured in 2000.²⁵

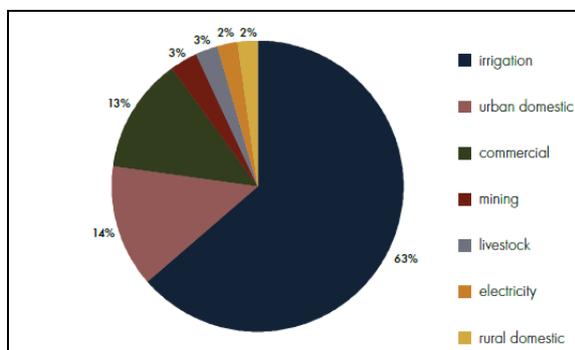


Figure 23: Surface water withdrawal in 2000 (Total = 12.5 km³)

Source: Water Accounts for RSA, 2000

Due to the high demand and limited availability, access to water for agricultural purposes is determined according to a licensing system,²⁶ affording a licence holder the right to utilise a prescribed quantity of water, from a specific source

for a predetermined period, subject to renewal. In this regard, it is important to distinguish between “water rights” as conferred by the allocation of a licence in accordance with the National Water Act²⁷ (NWA), and the fundamental “right to water” as defined *inter alia* in South Africa's Constitutional Bill of Rights.

Water rights, as envisioned in the first instance, relate to the supply of water, usually through some form of channelling system, for irrigated agriculture or industrial purposes.²⁸ Such supplies are typically accessed on the basis of an express or implied agreement (or licence) conferring upon the beneficiary the legal right to receive a quantity of water for a specified time, usually in return for the payment of a charge or fee.²⁹ Such rights, i.e. a legal entitlement to a specified volume of water, are effectively a form of “water rights.”³⁰

This type of entitlement has little correlation to the fundamental right to water, as referenced in the second instance. In jurisdictions where a human right to water is recognised, such a right establishes a fundamental entitlement which is claimed to exist either as a right in itself, or as an auxiliary aspect of the “right to food,” e.g. that established by article 11 of the International Covenant on Economic, Social and Cultural Rights³¹ (ICESCR), or the provisions of the South African Constitution as described above. The right to water is therefore concerned with the availability of water for survival purposes, entailing that no person may be arbitrarily deprived of the means of physical sustenance, as opposed to water rights which links closely to environmental³² and property rights.³³

As all national laws are subject to the Constitution, it is important to note the “reasonableness” test as discussed above, as it provides a valuable point of departure for the interpretation of subordinate legislation, including the NWA.

A central focus of the NWA, is to achieve a “more equitable distribution of rights to water.”³⁴ To this end, the NWA aims to “meet the basic human needs of present and future generations and to redress the

²⁷ *ibid.*

²⁸ Hodgson, S., *Modern water rights: Theory and practice* (Development Law Service: FAO Legal Office, FAO Legislative Study 92, 2006) pg. 6–8.

²⁹ Users of surface water buy a water right and pay an annual water levy, while groundwater is considered to be the property of the land owner and can therefore be utilised at no additional cost.

³⁰ n 11.

³¹ Art. 11 of the ICESCR, provides that everyone has a right to an adequate standard of living for himself and his family including adequate food, clothing and housing. The “Right to water” was developed in General Comment 15 on the Covenant by the Committee on Economic, Social and Cultural Rights. Such “General Comments” constitute authoritative interpretations of the provisions of the Covenant to clarify the normative contents of rights, states parties “and other actors” obligations, violations and implementation of the rights at national level.

³² Art. 24, Constitution of the Republic of South Africa, 108 of 1996.

³³ Art. 25, Constitution of the Republic of South Africa, 108 of 1996.

³⁴ Woodhouse, P., “Water rights in South Africa: Insights from legislative Reform” (April 2008) Brooks World Poverty Institute, University of Manchester, BWPI Working Paper 36.

results of past racial and gender discrimination”³⁵ as pertains to the allocation of water rights. The structure of the NWA is derived from the “best practices”³⁶ embodied in the 1992 Dublin principles.³⁷ Under the NWA, water management is devolved to seventeen Catchment Management Agencies (CMA), each having a governing board that is representative of the water users within the catchment.

As can be inferred from the above, the ability to transfer water rights is of critical importance in the development and expansion of agricultural production,³⁸ yet reading the purpose of the NWA³⁹ in conjunction with its equality provision⁴⁰ has given rise to some confusion as to which categories of persons, whether natural or juristic, are eligible to have such rights transferred to them.

The relevance of the Makhanya case lies in the courts’ affirmation that:⁴¹

- Water rights are indeed transferable
- That all relevant factors must receive due consideration upon receipt of an application for such a transfer
- That the persuasive weight of any single factor must be considered subject to the factual context as presented in any given application.

Both the HC and SCA judgements confirm that while the NWA’s empowerment provision can, and should be decisive with regard to the allocation of water rights where appropriate, it is not to be regarded in isolation. Instead, the courts have called for a balance to be struck between all relevant factors as prescribed by the NWA, including equitable access, resource quality and management, conservation, proposed use and costs when considering an application.⁴²

The Makhanya case concerns the use of water on the farm Goede Hoop in the Wellington area of the Western Cape, which belongs to Goede Wellington Boerdery (Pty) Ltd (Goede Wellington). Goede Wellington had been conferred a right to channel water from the Berg River for use on the farm Goede Hoop. A further entity, ECPA Boerdery (Pty) Ltd (ECPA), owned the adjacent farm, namely Middelpos, which also held rights to utilise water from the Berg River for agricultural purposes on

Middelpos. The sole shareholder of Goede Wellington, which is the owner of Goede Hoop, was also a trustee and beneficiary of the Middelpos trust, being the sole shareholder of ECPA, as well as the owner of Middelpos.

Following the installation of advanced water-savings technology, water use on the farm Middelpos became more efficient, and thus a portion of its water rights became available for transfer. In turn, the farm Goede Hoop was in the process of developing a high quality citrus orchard for export purposes, and required the use of the additional water to promote production. Consequently, the two farms concluded a usage agreement facilitating the transfer of Middelpos’s surplus water rights to Goede Hoop, and Goede Wellington proceeded to submit the requisite license application to the Department of Water Affairs and Forestry as it was known at the time (the Department).

In considering the application, the Department was obliged to take into account a number of factors as set out in section 27(1) of the NWA, which reads as follows:

In issuing a general authorisation or licence, a responsible authority must take into account all relevant factors, including:

- (a) Existing lawful water uses
- (b) The need to redress the results of past racial and gender discrimination
- (c) Efficient and beneficial use of water in the public interest
- (d) The socio-economic impact
 - (i) of the water use or uses if authorised; or
 - (ii) of the failure to authorise the water use or uses
- (e) Any catchment management strategy applicable to the relevant water resource
- (f) The likely effect of the water use to be authorised on the water resource and on other water users
- (g) The class and the resource quality objectives of the water resource
- (h) Investments already made and to be made by the water user in respect of the water use in question
- (i) The strategic importance of the water use to be authorised
- (j) The quality of water in the water resource which may be required for the Reserve and for meeting international obligations
- (k) The probable duration of any undertaking for which a water use is to be authorised.

The Department ultimately proceeded to deny Goede Wellington’s application, basing its decision solely on the considerations as set out in subsection 27(1)(b) of the NWA. An attempt was made to take the decision on appeal before the National Water Tribunal, however the appeal was denied.

Goede Wellington then proceeded to approach the HC for a review of both the Department and the Water Tribunal’s decisions. The HC, followed by the SCA, found that the Department and the Water

³⁵ “Water legislation for local government” Association for Water and Rural Development <http://www.award.org.za/file_uploads/File/WR-04C-d008.pdf> accessed 14 January 2013.

³⁶ n 17.

³⁷ Global Water Partnership, *Dublin-Rio Principles* <<http://www.gwp.org/The-Challenge/What-is-IWRM/Dublin-Rio-Principles/>> accessed 13 March 2013.

³⁸ Tracey Gowar, “Can water rights be transferred: What do the courts say?” (*Phatshoane Henny Attorneys: Commercial Law Department*) <<http://www.polity.org.za/article/can-water-rights-be-transferred-what-do-our-courts-say-2013-02-26>> accessed 13 March 2013.

³⁹ i.e. to protect the quality of water resources and to enable the integrated management thereof, including the determination of ownership.

⁴⁰ Section 27(1), which prioritises the promotion of access of previously disadvantaged groups and particularly women.

⁴¹ n 21.

⁴² n 18.

Tribunal misinterpreted the stipulation of section 27(1) of the NWA by regarding section 27(1)(b) not as one factor of several to be considered in a given context, but as an overarching prerequisite for the approval of any license application. The courts accordingly confirmed that “all relevant factors” must be taken into account when considering an application for the issuance of a water license, including those conferred via transfer. While the Department’s discretion was recognised, the courts emphasised the need for a balanced, administratively just approach to decision-making.

The precedent set in this case establishes a reference point for applications brought regarding the transfer of water rights and provides welcome clarification regarding the duty of organs of state when interpreting the stipulations of section 27(1). In addition, the judgment opens the door for the review of decisions which are unduly reliant on any single consideration.

The Water-Agriculture-International Trade Nexus

As the Goede Wellington example illustrates, water is a critical component of agricultural production capacity, and in turn, a determinant of the sector’s trade potential. The fundamental right to water and access to water rights are contentious issues, set to become more so as climate change exacerbates droughts, further diminishing already limited supplies.

The Middle East and North Africa were the first regions to be confronted with debilitating water shortages in modern times; Southern Africa is now the second,⁴³ with South Africa rating among the countries most direly affected.⁴⁴ In addition to a low concentration of stable freshwater bodies, South Africa’s climate is also characterised by highly inconsistent rainfall, both geographically and over time, as illustrated by **Figure 24** below.

Production outputs across the twelve per cent of national land area considered suitable for the cultivation of rain-fed crops are directly dependent on rainfall, adding greatly to the risks of farming in these areas.⁴⁵ Climate change predictions for the region expect rainfall to be even more infrequent, yet more intense.⁴⁶ This will effectively shrink the country’s arable land area and increase agricultural unpredictability,⁴⁷ with farmers finding it increasingly difficult to boost productivity in order to meet the nation’s growing demand for food.⁴⁸ This highlights the need for sound cropping and rangeland production practices to retain soil integrity despite these predicted intense rainfall events.

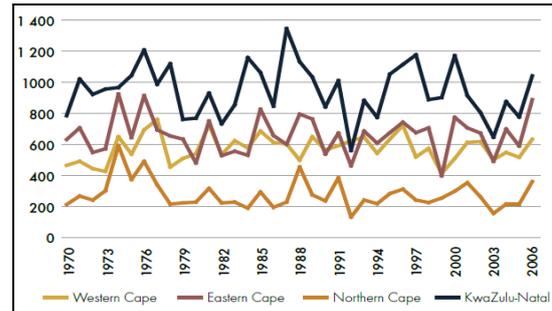


Figure 24: Mean annual rainfall in South Africa 1970–2006
Source: South African Weather Service

In a water-scarce country like South Africa, it is important for the agricultural sector to consider the availability of resources in determining strategies for future competitiveness. One solution proposed in addressing this conundrum is what is known as “virtual water.”⁴⁹

Virtual water is a recent concept that encourages nations to regard its agricultural crops in terms of the volume of water needed to produce said crops, with a view toward implementing trade policies that promote the conservation of scarce water resources.⁵⁰

In light of existing water scarcity, set to be aggravated by climate change, it is important for the agricultural sector to consider ways in which resources can be utilised more effectively in order to ensure competitiveness in decades to come.

Conclusion

The right to water is enshrined in the South African Constitution, while the equitable allocation of water rights is prioritised in the NWA. Water, and access thereto, are contentious issues in this country, yet the deciding factor in assigning responsibility and determining the scope of rights and entitlements in the South African legal system, is ultimately one of reasonableness.

Trade in agricultural commodities is one factor not yet considered in the “reasonableness” requirement as set out in the law, yet as natural resources become increasingly scarce with demand for food production predicted to increase, trade presented an important building block in addressing the scarcity contentions already plaguing the agricultural sector today.

⁴³ Turnton, A.R., “Precipitation, people, pipelines and power in Southern Africa: Towards a virtual water-based political ecology discourse” in Stott P. and Sullivan S. (eds.), *Political Ecology: Science, Myth and Power* (London: Arnold & New York: Oxford University Press, 2000).

⁴⁴ n 8.

⁴⁵ *ibid.*

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.*

⁵⁰ *ibid.*

Appendix A.

Table 4: Interpreting export performance graphs

<p>Losers in growing sectors:</p> <ul style="list-style-type: none"> Product in which South Africa has lost world sector share while the world market has grown. Entrepreneurs and trade promoters: determine how resources might be invested to profit from growing international demand. Policy makers: Opportunities for trade promotion and other efforts. 	<p>Winners in growing sectors:</p> <ul style="list-style-type: none"> Product in which South Africa has gained market share while the world market has grown. Products have proven their international competitiveness over the period. Promotional efforts in these products might consider broadening supply capacity.
<p>Losers in declining sectors:</p> <ul style="list-style-type: none"> Product in which South Africa has lost world market share while the world market has declined. Trade promotion efforts for product groups in this category face difficulty. Identify and resolve bottlenecks in supply and demand. 	<p>Winners in declining sectors:</p> <ul style="list-style-type: none"> Product in which South Africa has gained world market share while the world market has declined. Niche-marketing strategies might help in pin-pointing the positive trade performance of specific products from the overall decline in these markets.

Source: Adapted from International Trade Centre methodology, 2011

Table 11: World's leading exporters and importers of frozen hake in 2011

Exporters	Exported value in 2011(US\$ '000')	Share in world exports in 2011 (%)	Importers	Imported value in 2011 (US\$, '000')	Share in world imports 2011 (%)
World	518 891	100	World	461 293	100
USA	128 985	24.9	Spain	93 826	20.3
Spain	101 268	19.5	Portugal	90 958	10.5
Argentina	73 238	14.1	Ukraine	48 296	9.2
Canada	53 046	10.2	Russian Federation	42 593	5.6
Chile	37 356	7.2	Italy	25 827	3.7
South Africa	34 578	6.7	China	16 901	

Source: ITC Trade Map, 2012

Table 13: List of supplying markets for the HS 030378 imported by United Kingdom in 2011

Exporter	Imported value 2011(USD thousand)	Share in United Kingdom's imports (%)	Imported quantity 2011 (tons)	Unit value (USD/unit)	Imported growth in value 2007–2011 (% , p.a.)	Imported growth in quantity 2007–2011 (% , p.a.)	Imported growth in value 2010–2011 (% , p.a.)	Share of partner countries in world exports (%)
World	1 973	100	647	3 049	18	20	13	100
Argentina	1 148	58.2	390	2 944	15	14	107	14.1
South Africa	382	19.4	116	3 293	68	95	-26	6.7
Uruguay	144	7.3	53	2 717	-4	-4	-35	3.9
Portugal	95	4.8	18	5 278	-16	-9	22	1.2
Netherlands	74	3.8	19	3 895	31	51	573	0.3

Source: ITC Trade Map, 2012

Table 14: Leading exporters of tobacco (HS 24) – including unmanufactured tobacco, cigars, cigarettes and other tobacco products) in the world.

Exporters	Trade Indicators			
	Value exported in 2012 (USD thousand)	Trade balance in 2012 (USD thousand)	Annual growth in value 2008–2012 (%)	Share in world exports (%)
World	40 726 645	-5 104 518	5	100
Germany	5 336 354	2 953 533	5	13.1
Netherlands	4 982 542	3 035 756	3	12.3
Brazil	3 256 987	3 215 536	3	8
Poland	1 862 257	1 265 090	14	4.6
USA	1 654 011	-218 033	-5	4.1
Belgium	1 289 611	20 676	9	3.2
France	1 268 262	-1 270 902	-3	3.1
China	1 261 905	-54 111	14	3.1
Hong Kong, China	977 476	149 083	8	2.4
India	923 215	873 433	5	2.3
South Africa	2 041 88	10 620	5	0.5

Source: ITC-Trade Map, 2013

Table 15: Leading importers of tobacco (HS 24) – including unmanufactured tobacco, cigars, cigarettes and other tobacco products) in the world.

Importers	Trade Indicators				Average tariff (estimated) applied by the country (%)
	Value imported in 2012 (USD thousand)	Trade balance in 2012 (USD thousand)	Annual growth in value between 2008 and 2012 (%)	Share in world imports (%)	
World	45 831 163	-5 104 518	7	100	
Japan	5 793 935	-5 482 204	15	12.7	0.6
Italy	2 816 212	-2 362 950	-2	6.2	9.8
France	2 539 164	-1 270 902	2	5.6	9.8
Germany	2 382 821	2 953 533	5	5.1	9.8
Netherlands	1 946 786	3 035 756	7	4.3	9.8
USA	1 872 044	-218 033	4	4.1	29.7
Spain	1 681 689	-1 271 607	-6	3.7	9.8
China	1 316 016	-54 111	14	2.9	36.1
Russian Federation	1 295 202	-621 177	2	2.8	41
United Kingdom	1 290 586	-845 240	22	2.8	9.8
South Africa	193 568	10 620	7	0.4	97.2

Source: ITC-Trade Map, 2013

Table 20: Leading export markets for a product imported by South Africa

	2007	2008	2009	2010	2011	2012
Value in billion Rand						
World	153.1	486.4	749.1	539.1	448.6	1197.0
Thailand	129.1	449.8	684.5	433.9	373.3	1006.0
China	0.5	2.2	11.7	66.1	41.3	95.1
Philippines	0.9	0.4	0.004	4.3	21.5	38.8
Indonesia	0	1.3	19.2	19.0	0.4	27.8
Portugal	15.1	10.6	13.8	7.7	5.9	12.8

Source: Global Trade Atlas, 2013

Appendix B

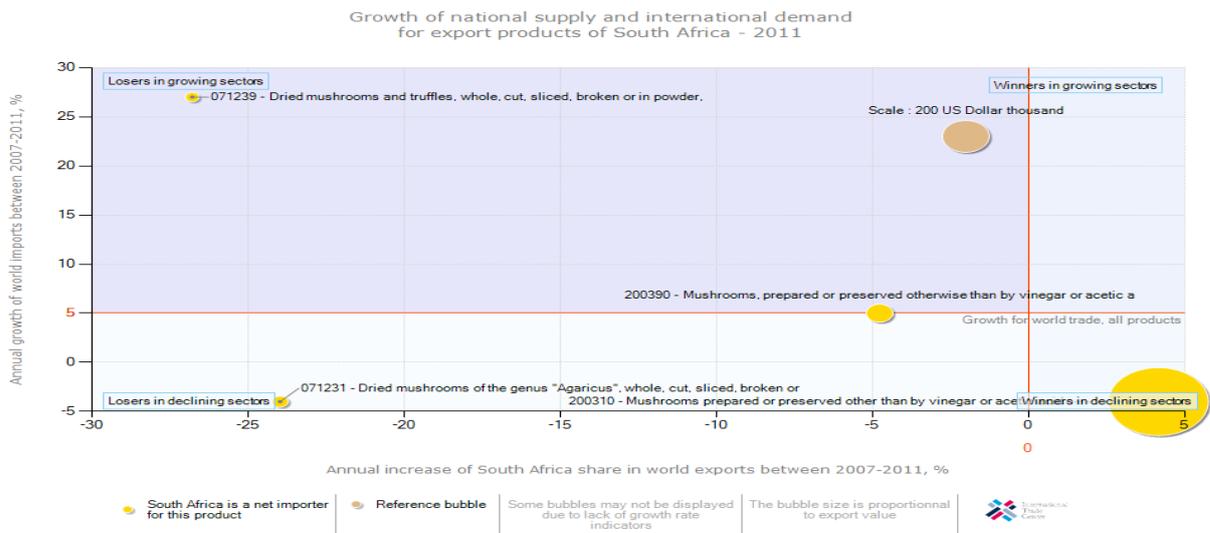
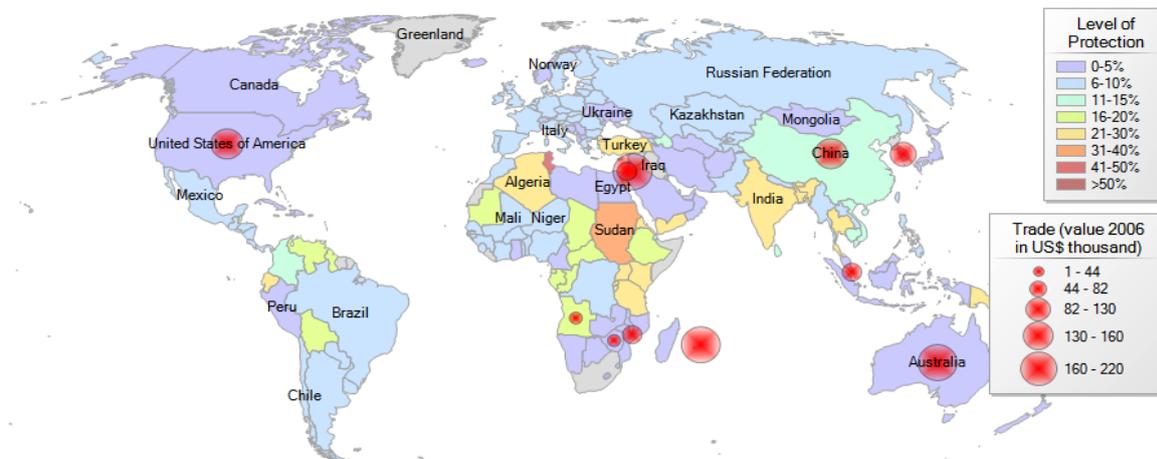


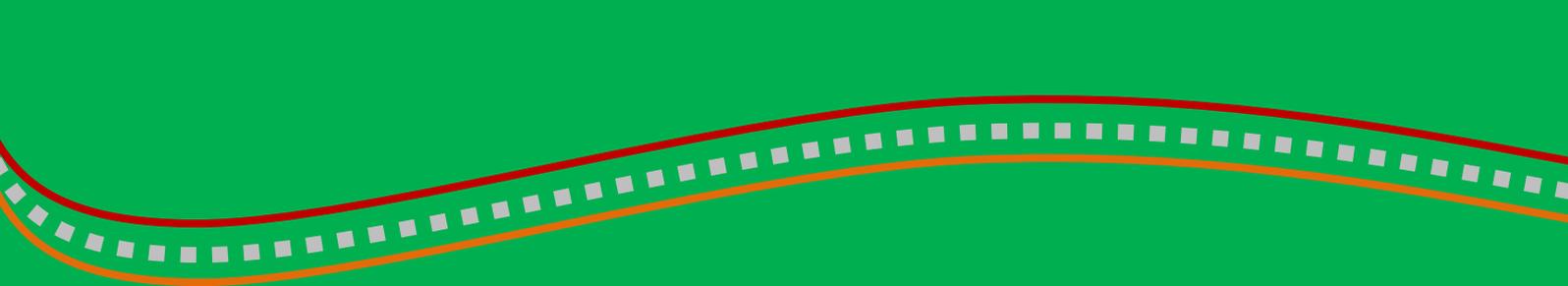
Figure 10: SA exports of preserved mushroom and truffle products, 2007–2011.

Figure 19: Ad valorem tariffs that importing countries apply to the product (HS 030378) frozen hake.

ifferent importing countries apply to the product (030378) Hake, frozen, excluding heading No 03.04, livers and roes originating from South Africa.



Source: Market Access Map, 2010



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