



Trade Probe

ISSUE 71 / November 2017

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In this issue we cover the following topics:

Profile of the South African Mohair Industry

Analysis of disaggregated agricultural trade

Dispute Resolution and Protection of Foreign Investment

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National Agricultural
Marketing Council
Promoting market access for South African agriculture



This issue of Trade Probe covers the following topics:

- Trade profile of Rice (HS 1006)
- Trade profile of milk and cream (HS 0401)
- An Outlook of Tobacco and Manufactured Tobacco Substitutes (HS 24)
- Analysis of disaggregated agricultural trade
- Market profile of the South African Mohair Industry
- Dispute Resolution and Protection of Foreign Investment: An Overview of China and South Africa

Trade profile of Rice: (HS 1006)

By Nomantande Yeki

Introduction

Rice is regarded as a cereal grain summer crop and is one of the staple crops in many households, globally. In the global market, rice is ranked as the second largest crop after maize in terms of volume. The total world production of rice in 2016 was estimated at around to 753.0 million tonnes (FAO, Rice Market Monitor, July 2017). Generally, South African households prefer rice as a substitute for maize meal, which confirms the domestic supply trends. South Africa is not a major producer of rice, hence resulting in dependence on imports to satisfy the local demand. The above report produced by the Food and Agriculture Organization indicates that small quantities of rice are produced for household consumption, but not for commercial purposes. Furthermore, rice has not been produced commercially in South Africa, except for trials.

Global trade overview of rice

Table 1 illustrates the world's leading importers of rice between 2012 and 2016, measured in value terms (US\$). Globally, imports of rice declined by US\$4 million between 2012 and 2016, equivalent to 17.5%. China was ranked as the largest importer of rice, accounting for a 7.9% share in 2016, followed by Saudi Arabia (4.6%) and Iran (4.5%). It has been noted that Benin's imports during this period experienced the most significant growth, from US\$315 000 to US\$773 000, equivalent to a 145.4% growth rate. South Africa was ranked 13th among the world importing countries, with a share value of 2.1% in the world's rice imports.

Table 1: World's leading importers of rice

Importer	Imported value (in US\$'M)		Share (%)	Growth rate
	2012	2016	2016	2012-16
World	24383	20128		-17.5
China	1125	1586	7.9	40.9
Saudi Arabia	1083	917	4.6	-15.3
Iran	1184	906	4.5	-23.5
UAE	783	844	4.2	7.9
Benin	315	773	3.8	145.4
USA	718	714	3.5	-0.6
Indonesia	945	531	2.6	-43.8
Iraq	0	520	2.6	-
Cote d'Ivoire	684	458	2.3	-33.0
France	460	447	2.2	-2.9

Source: TradeMap (2017)

Table 2 highlights the world's leading exporters of rice over the past five years. From a global perspective, rice exports declined from US\$24 billion in 2012 to about US\$20 billion in 2016, resulting in a decline of 15.9%. Asian countries are the major exporters of rice, with India being the largest exporter of rice, with a share of 26.3% in 2016, followed by Thailand, USA, Pakistan and Vietnam, with shares of 21.6%, 9%, 8.4 % and 8.1%, respectively. South Africa is not a major role player when it comes to exporting rice as it was ranked 23th among the world exporting countries.

Table 2: World's leading exporters of rice

Exporters	Exported value (in US\$'M)		Share (%)	Growth rate
	2012	2016	2016	2012-16
World	24096	20255		-15.9
India	6127	5315	26.2	-13.3
Thailand	4632	4370	21.6	-5.6
USA	2048	1821	9.0	-11.1
Pakistan	1882	1703	8.4	-9.5
Vietnam	3677	1640	8.1	-55.4
Italy	628	565	2.8	-10.1
UAE	270	470	2.3	73.8
Myanmar	373	438	2.2	17.5
Uruguay	560	413	2.0	-26.1
China	271	378	1.9	39.3

Source: TradeMap (2017)

South Africa's rice trade

Figure 1 illustrates South Africa's trade performance (exports, imports and trade balance) for rice over the past five years. It is evident that South Africa's exports were far lower than imports, making the country a net importer of rice. In 2016, South Africa's exports and imports were valued at US\$76 612 000 and US\$419 483 000, respectively, resulting in a negative trade balance (US\$ 342 871 000).

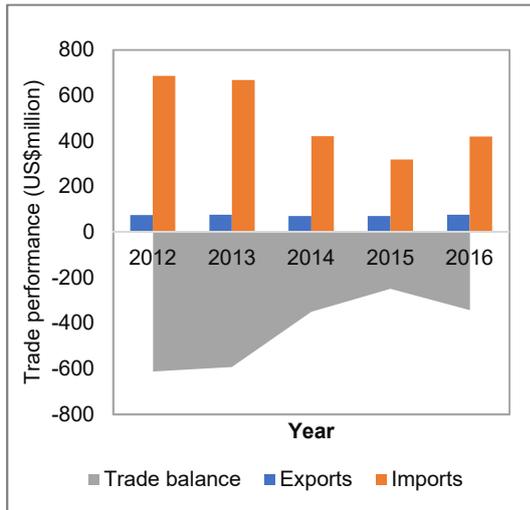


Figure 1: South Africa's trade performance in rice
Source: TradeMap (2017)

Figure 2 highlights the leading suppliers of rice, by market share, to South Africa during 2016. It is important to note that all countries that supplied South Africa with rice were from South, South-East and East Asia. Thailand was the largest supplier of rice into South Africa, with a share of 54.9%, followed by India (27.6%) and the United Arab Emirates (UAE) (4%), China (4%) and Vietnam (3%) respectively. Globally, South Africa's imports of rice had been decreasing, although imports began to increase again in 2016.

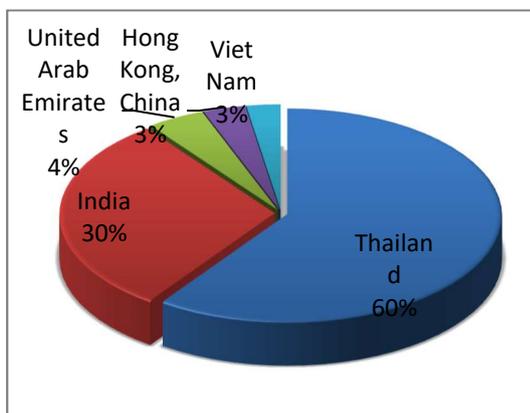


Figure 2: Top suppliers of rice imported by South Africa
Source: TradeMap (2017)

Figure 3 highlights the leading importing markets of rice exported by South Africa in 2016. All the top five importing countries were from Africa, with Botswana and Zimbabwe being the largest importers, accounting for shares of 28.7% and 27.2%, respectively. Swaziland, Lesotho and Namibia followed, with a collective share of 33.1%.

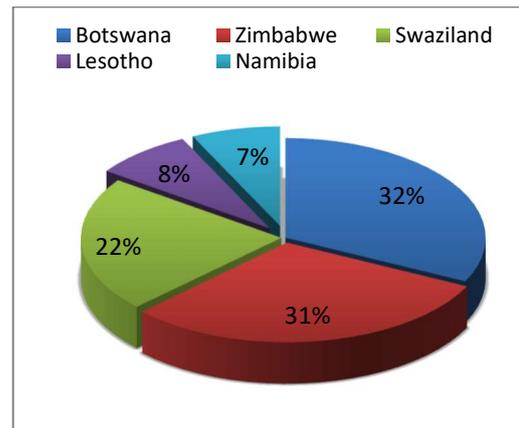


Figure 3: Top importing markets of rice exported by South Africa
Source: TradeMap (2017)

Conclusion

Global exports and imports of rice declined between 2012 and 2016. South, South-East and East Asia were the major exporters and importers of rice in the world. South Africa is not a major player in trading rice in the global context, which results in a dependence on imports to satisfy local consumption, and also for re-exporting rice to neighbouring countries. South Africa consumes more rice than it produces, and this clearly indicates that there is a market opportunity for rice in South Africa. South Africa was ranked 13th among the importing countries, with a negative share value of 39%, and ranked the 23rd globally in exporting rice.



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Trade profile of milk and cream (HS: 0401)

By Moses Lubinga

Introduction

Other than providing dairy products that are a vital source of essential nutrients required by the body, the dairy industry in general provides a source of livelihood to a wide spectrum of value chain actors (i.e. farmers, processors, traders, etc.) (Rozenberg *et al.*, 2016; FAO, 2013). Therefore, an insight into the trade performance of dairy products may stimulate business and policy decisions that might foster greater

competitiveness of the industry. According to the ITC database for trade statistics, there are ten products under the HS code 04, but the interest of this article rests on profiling South Africa's trade partners and trends for milk and cream (HS 0401) between 2005 and 2016. Firstly, a global overview of the milk and cream trade is provided, followed by a deeper insight into the South African perspective.

Global trade in Milk and cream

The top ten players in the milk and cream trade include New Zealand, Saudi Arabia, and France, as shown in Table 3. In 2016, South Africa was ranked 20th after Costa Rica (see appendix A).

Leading exporters and imports are presented in Table 3. Germany is both the leading exporter and importer, with 17% and 15% growth rates in exports and imports, respectively, between 2005 and 2016. South Africa ranked 26th among the global exporters, and 67th among the top 100 importers (see appendix A). As most countries registered an increase in exports and imports, Italy exhibited a 15% decline in milk and cream imports.

South Africa's trade in milk and cream

With the exception of 2007 and 2008, South Africa has been a net exporter of milk and cream (Figure 4). Between 2010 and 2016, milk and cream imports increased by 174%, while exports rose by 161%.

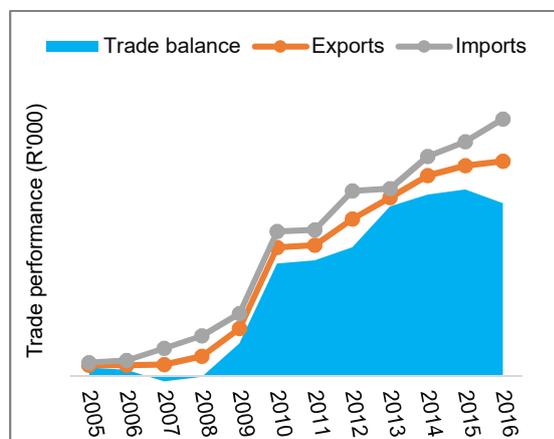


Figure 4: South Africa's milk and cream trade performance

Source: Author's compilation based on TradeMap database (2017)

South Africa's milk and cream imports are sourced from Poland, Uruguay, France, Belgium and the United Kingdom, among other countries, with estimated shares of 60.2%, 32.5%, 4.1%, 1.5% and 0.5%, respectively. On the other hand, South Africa's exports are largely destined for African countries, with the presented trade indicators in Table 4 (see appendix A).

Botswana was South Africa's biggest export market, accounting for about 24% of all milk and cream exports in 2016. Botswana was followed by

Lesotho, Mozambique and Swaziland, in that order, among other African markets. Between 2012 and 2016, Mauritius, Malawi and Angola registered increased annual growth rates in both the quantity and value of milk and cream imported from South Africa, while the other countries registered a decline in either one or both indicators. Namibia and Zimbabwe are good examples of countries to which South Africa's milk and cream exports declined in both indicators. It is worthwhile to note that milk and cream exports are subjected to no tariffs to the key destinations listed in Table 5 (see appendix A).

Conclusion

South Africa is a net exporter of milk and cream, much of which was destined for countries within Africa. Botswana, Lesotho, Mozambique and Swaziland were the top four importers of milk and cream from South Africa, and these countries collectively account for 72.1% of the exports. South Africa also imports some milk and cream, largely from Poland and Uruguay, commanding over 90% of the share of the country's milk and cream imports.

Policy implication: Major net importing countries of milk and cream, such as Italy, China, Belgium, Ireland and Russia, present a market opportunity for South Africa to venture into exporting to these countries. This would, however, require a detailed understanding of the core market demands of those countries, coupled with South Africa's potential to supply without compromising the need to meet the demand by the domestic market.

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An Outlook of Tobacco and Manufactured Tobacco Substitutes (Hs: 24)

By Fezeka Matebeni

Introduction

The tobacco plant is in the same botanical family as tomatoes, potatoes, peppers and eggplants. This crop plays a supporting role in agricultural output, exports, household income and employment generation in this country. In 2016, the tobacco industry contributed more than R16 billion (TobaccoSA, 2017). South Africa's area planted to tobacco comprises about 5000 ha under cultivation with Limpopo as largest producer, followed by North West province, Mpumalanga, Eastern Cape, and the Western Cape (DAFF, 2016). The purpose of this article is to present a trade analysis of tobacco, at global and South African market levels.

Figure 5 depicts the area planted, as well as the production in South Africa. It has been observed that the area under cultivation has been declining, with a notable decline of 9.3% between 2011 and 2016. The decline could have resulted from the ban that has been put on the promotion of all tobacco products in South Africa, (DAFF, 2017). Although the land under cultivation showed a decline in 2011, the tobacco industry sustained its production, with a notable increase of 14.7 thousand tons in 2016, from 12.9 thousand ton in 2013.

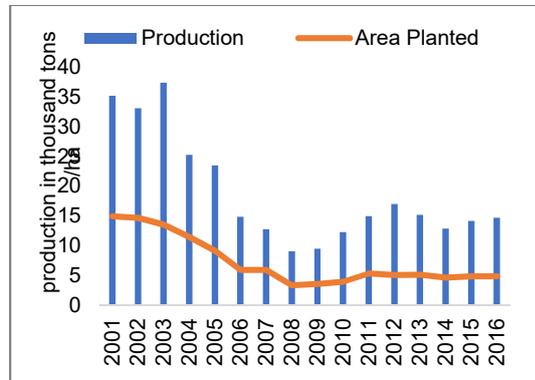


Figure 5: Tobacco: area planted and total production trends

Source: DAFF, Abstract (2017)

Table 6 illustrates the top 10 importing countries of tobacco and manufactured tobacco substitutes, globally, in 2016. The global value of imports for tobacco and tobacco manufactured substitutes decreased by 10.1 % between 2012 and 2016. This was mainly influenced by a notable decline in their major imports, such as those for Japan (30.2%) and Italy (17.4%). Although Japan showed a decline in demand of imports from the world, it was ranked as the largest importer of this product, with a total value of 442 billion in 2016. Italy was ranked as the second largest importer of this product, with a share of 5.3%, followed by the

USA and Germany, with shares of 5.2% and 5%, respectively.

Table 6: World's leading importers of tobacco and manufactured tobacco substitutes

Importers	Values in billion US dollars		Share (%)	Growth rate (%)
	2012	2016		
World	48	43.3		-10.1
Japan	5.8	4.0	9.3	-30.2
Italy	2.8	2.3	5.3	-17.4
USA	1.9	2.3	5.2	21.1
Germany	2.4	2.2	5.0	-9.2
France	2.5	2.1	4.7	-18.9
China	1.3	1.7	4.0	31.3
Spain	1.7	1.6	3.7	-2.9
Belgium	1.3	1.6	3.7	25.3
Netherlands	2.0	1.5	3.4	-23.6
UAE	1.7	1.3	2.9	-25.3

Source: TradeMap (2017)

Table 7 illustrates the top 10 global exporters of tobacco 2012 and 2016. The value of global export for tobacco and manufactured tobacco substitutes decreased by 6.0 %, from US\$43.5 billion to US\$40.9 billion between 2012 and 2016. This is mainly reflected by the largest producers of tobacco, such as Germany and which presented declines of 7% and 34.8%, respectively, in exports to world during 2016. Germany still sustained first place in terms of ranking as the major exporter, with a total value of \$5 billion in 2016, followed by , the USA and the Netherlands, with shares of 12.2%, 5.6%% and 5.3%, respectively, in 2016.

Table 7: Highlighting the world's leading exporters of tobacco and manufactured tobacco substitutes

Importers	Values in billion US dollars		Share (%)	Growth rate (%)
	2012	2016		
World	43.5	40.9		-6.0
Germany	5.4	5.0	12.2	-7.0
USA	1.7	2.3	5.6	38.6
Poland	1.9	2.2	5.3	16.6
Brazil	3.3	2.1	5.2	-34.8
Netherlands	4.5	2.0	5.0	-55.0
Belgium	1.3	1.5	3.8	19.3
China	1.3	1.4	3.4	9.2
Hong Kong,	1.0	1.2	2.9	22.1
Singapore	0.8	1.2	2.9	42.6
Korea	0.7	1.1	2.6	53.2

Source: Own calculation and TradeMap (2017)

It is noted that South Africa was not ranked among the top ten importers and exporters of tobacco. Therefore, the following section will indicate how South Africa performed in terms of trade between 2012 and 2015. **Figure 6** demonstrates the trends of South Africa's trade in tobacco between 2012 and 2016. Under the reviewed period, South Africa's trade balance was positive (2012–2015); however, in 2016, the country imported more than it exported, making it a net importer. This may be attributed to the increased demand in the local demand that the local supply does not meet. In 2012, South Africa's exports reached a peak value of US\$ 339 million. The value of imports in 2016

was US\$ 224.5 million, while imports had a value of US\$ 203 thousands.

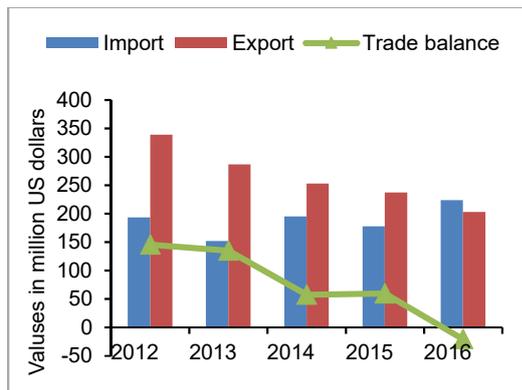


Figure 6: South Africa's trade in tobacco and manufactured tobacco, 2012–2016
Source: Trade Map (2017)

Figure 7 highlights the leading suppliers of tobacco and manufactured tobacco substitutes (by market share) imported by South Africa in 2016. Namibia, Mali and Yemen were the major supplying markets for tobacco, with shares of 15.6%, 11.4% and 10.2%, respectively.

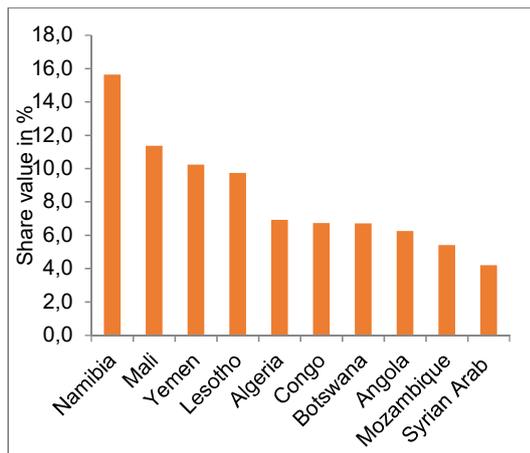


Figure 7: Top exporters of tobacco and manufactured tobacco substitutes by South Africa
Source: Trade Map (2017)

Figure 8 reflects the leading importing markets for tobacco and manufactured tobacco substitutes exported by South Africa in 2016. Switzerland, Zimbabwe and Brazil were among the top three main destinations, with shares of 31.3%, 24.8% and 17.6%, respectively.

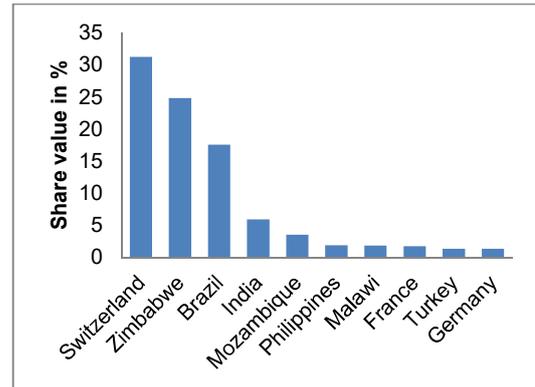


Figure 8: Main import destinations for South African tobacco and manufactured tobacco substitutes
Source: Trade Map (2017)

Conclusion

In a nutshell, South Africa was a net exporter of tobacco and manufactured tobacco substitutes over years, until recently (2016), when the trend changed to it becoming a net importer.

Reference

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Analysis of disaggregated agricultural trade

By Lucius Phaleng

Introduction

The disaggregation of agricultural trade refers to the exports and imports of both primary and secondary agricultural products. The agricultural products are distinguished between primary and secondary commodities; primary commodities are those directly produced by the farms, while the secondary commodities are involved in processing (Darius et al., 1996). Some primary commodities are inputs to the processing activities, yielding secondary commodities, and certain secondary products (feed and by-products) are in turn inputs to agriculture. The value of world trade in agricultural commodities has been growing rapidly over the recent decades, especially in high-value agricultural commodities such as horticultural products. It has been argued that the world trade in processed agricultural products has been growing faster than the global

trade in unprocessed agricultural products has (Liapis, 2011:16).

The international trade in agricultural commodities has changed in today's world. Countries are switching from exporting primary commodities to secondary commodities, ready for human consumption. Therefore, the main purpose of this article is to highlight South Africa's trade performance in primary and secondary agricultural products. In detail, the focus also closely looks at secondary agricultural exports that might have a positive impact on South Africa's foreign earnings and employment. **Figure 9** highlights South Africa's agricultural trade performance over the past 10 years, measured in millions of Rand. It can be observed that South Africa exported products than it imported. In 2016, R7432 million was exported, while R5274 million in agricultural products was imported.

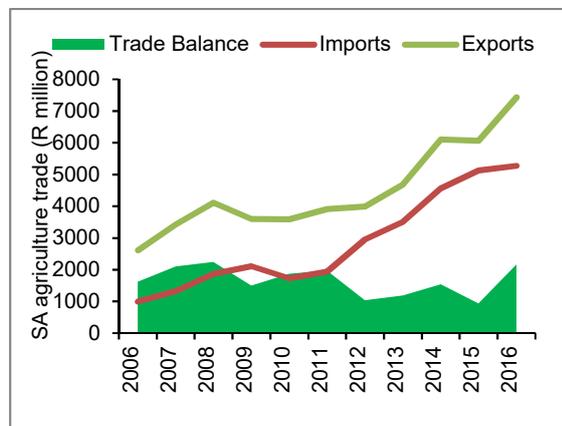


Figure 9: South Africa's agricultural trade performance
Source: GTA, 2017

Figure 10 provides the trends in South Africa's primary agricultural trade performance for the past 9 years, measured in millions of Rand. It can be observed that South Africa exported more primary commodities than it imported, which resulted in positive trade balance. Exports of primary commodities improved in 2016, by R59 billion, as compared with R23 billion in 2008, while imports also improved by R20 billion between 2008 and 2016. It is clear from Figure 14 that South Africa has been a net exporter of primary products throughout the reviewed period.

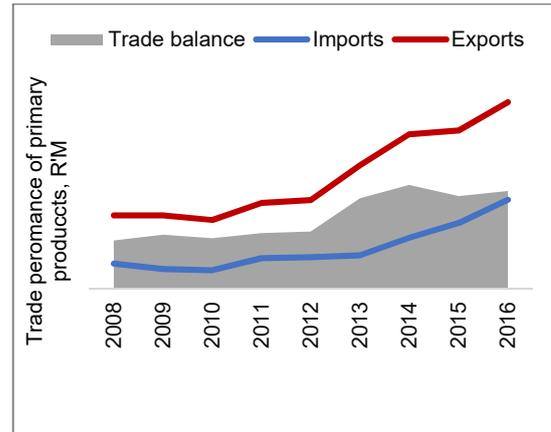


Figure 10: SA's primary products trade performance
Source: GTA, 2017

Table 8 and **Table 9** provide a detailed analysis of the main primary products traded (imported and exported) by South Africa, measured in value and percentage growth. On the export side (see **Table 8**), oranges were ranked as the largest primary product exported by South Africa, with a 16% growth in value, followed by grapes, apples and maize, with shares of 5%, 9% and 107%, respectively.

Table 8: Main primary products exported by SA

HS code	Exported values in R'Million			Growth values (%)
	Description	2011	2016	
080510	Oranges	4475	8839	16
080610	Grapes	3107	6415	5
080810	Apples	2113	5275	9
100590	Maize	5561	4454	107
080550	Lemons	969	3901	27
080830	Pears	0	2792	35
080520	Mandarins	740	2787	53
080540	Grapefruit	875	1564	19
080940	Plums	526	1196	24
080260	Macadamia	0	1144	-26

Source: GTA, 2017

On the import side (see **Table 9**), maize was ranked as the largest (R8.3 billion) in 2016, and showed an increase in imports from R1.7 billion in 2015. This may be attributed to the severe drought that affected agricultural products. Wheat, cane sugar and soybeans reflect values of R4.5 billion, R1.8 billion and R1.5 billion, respectively.

Table 9: Main primary products imported by SA

HS code	Imported values in R'M			Growth values (%)
	Description	2011	2016	
100590	Maize	188	8363	378
100199	Wheat	0	4567	-25
170113	Cane Sugar Nt 2	0	1775	19
120190	Soybeans	0	1495	140
170114	Cane Sugar	0	1263	23
100510	Maize Seed	48	898	309
090111	Coffee	510	786	4
030617	Shrimps&Prawns	0	656	35
010229	Cattle, Live	0	629	-41
030353	Sardines	0	586	111

Source: GTA, 2017

It is well noted that exports of secondary commodities fetch greater foreign exchange, while also contributing to job creation along the value chain in the country. **Figure 11** highlights the secondary products traded by South Africa over the past 9 years, measured in millions of Rand. Secondary products between 2008 and 2013, exports showed improvements from 2013, resulting in a positive trade balance to date. In 2016, R69 billion was exported, while R64 billion was imported. The current agro-processing initiative has had an impact on value-added exports.

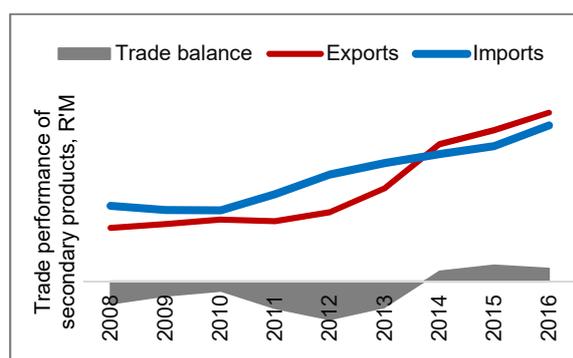


Figure 11: South Africa's secondary products' trade performance
Source: GTA, 2017

Table 10 reflects South Africa's main secondary products exported in 2016, measured in values and percentages. Wine (2 litres) was ranked as the top exported secondary product, with the export value increasing from R3.7 billion in 2011 to R6.5 billion in 2016. Wine (Nesoi) was in second place, with a growth rate of 11% between 2015 and 2016, followed by food preparations, cigarettes, and sauces, with values of R2.4 billion, R1.9 billion and R1.6 billion, respectively.

Table 10: Main secondary products exported by SA

HS code	Exported values in R'M			Growth values (%)
	Description	2011	2016	
220421	Wine, 2 Liters	3657	6555	10
220429	Wine, Nesoi	1600	2853	11
210690	Food Preparat	1099	2417	2
240220	Cigarettes, Tob	699	1906	-1
210390	Sauces	423	1595	26
230120	Flour Meal	391	1577	55
080262	Macadamia Nuts	0	1571	-6
230990	Animal Feed	245	1516	9
030474	Hake Fillets	0	1499	31
080620	Grapes	290	1459	3

Source: GTA, 2017

Table 11 highlights the main secondary products imported into South Africa in 2016. Rice (wholly milled) was ranked as the largest imported secondary product, at a value of R5.9 billion in 2016, followed by palm oil, chicken cuts and soybean oilcake, at growth rates of 33%, 18% and

24%, respectively. Whiskies (7%) and soybean oil (9%) showed a negative growth rate between 2015 and 2016.

Table 11: Main secondary products exported by SA

HS code	Imported values in R'M			Growth values (%)
	Description	2011	2016	
100630	Rice, Wholly	3496	5957	11
151190	Palm Oil	2992	4216	33
020714	Chicken Cuts	1795	3979	18
230400	Soybean Oilc	2606	2963	24
220830	Whiskies	2144	2496	-7
210690	Food Prep	1141	2369	13
240120	Tobacco	1021	1710	20
170199	Cane/Beet	341	1416	60
151211	Safflower Oil,	806	1357	31
150790	Soybean Oil	2180	1233	-9

Source: GTA, 2017

Conclusion

In conclusion, it was observed from the analysis (see **Figure 10** and **Figure 11**) that South Africa is more integrated in primary products (intermediate goods). Furthermore, the value-added goods have shown a positive trend over the past four (4) years, which plays an import foreign income role while contributing to job creation along the agro-processing activities chains. Therefore, it is advisable for South Africa to invest more on value-added activities and to support agro-processing activities. It can also be concluded that South Africa still retains a positive trade balance in the agriculture sector, regardless of the instability in the market.

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Market profile of the South African Mohair Industry

By Matsobane Mpyana

Background

South Africa is recognised not only as the world's largest source of mohair, but also as the most consistent supplier of this product. Mohair production in South Africa accounts for an estimated 54% of global production. On average,

around four million kilograms of mohair are produced annually in South Africa. The climatic conditions in the country allow Angora goats to grow their fleeces all year round, giving South Africa its reputation as the largest and most consistent source of mohair in the world. Moreover, with goats growing their fleece all year round, farmers are able to auction their produce twice a year – resulting in summer and winter sales (DAFF, 2016).

The start of South Africa’s Mohair industry

Angora goats were first imported into South Africa from Turkey in 1838, with a consignment of twelve rams and one ewe. Ankara is the region in Turkey where Angora goats are in abundance. On the goats’ arrival in Port Elizabeth, it was discovered that the rams had been sterilised prior to departure. Interestingly, however, the ewe was later found to be pregnant and gave birth to a ram kid during the journey to South Africa. Although numerous importations of Turkish stock occurred up until 1896, the ewe and her kid formed the basis of the Angora goat and mohair industry that developed in South Africa (NAMC, 2006).

The herds of mohair goats spread into the arid areas of the Karoo and south-eastern Free State. Since the goats’ first arrival in South Africa, the know-how of South African farmers has led to the improvement of the breed – especially in the quality of the hair – to the extent that local goats now far outshine the unique herds still found in Turkey (Hoffman *et al.*, 2008).

Nonetheless, from 1856 to 1896, more than 3000 head of goats were shipped from Turkey to South Africa, with some shipments comprising as many as 500 to 700 goats. Some of these goats made their way to Basotholand, which later became known as Lesotho. It is interesting to note that in 1988 there were 2.9 million Angora goats in South Africa, which produced a total of 12.2 million kilograms of mohair that year. Today there are an estimated 668 000 Angora goats in the country, producing almost 2.23 million kilograms of mohair per year (Mokhethi, 2015).

Mohair is the white, lustrous fibre that is produced by Angora goats. Mohair fibre, which is strong and elastic, forms a fabric that is easily dyed. It is mainly used in the textile industry and is especially suitable for apparel, knitwear, curtaining, upholstery, socks, shawls and other accessories. Although Angora goats are kept primarily for mohair production, goat milk and meat are often essential to the livelihoods of subsistence farmers in South Africa

Mohair production

Figure 12 below depicts the shares in mohair world production. It is with no doubt that South Africa is the largest producer of mohair, accounting for approximately 55% of the world’s mohair clip, followed by Lesotho accounting for 14%. Other producers of mohair in the world include the United States of America (9%),

Argentina (8%), Turkey (7%), Australia (4%) and New Zealand (1%). As previously indicated, South Africa produces the highest volumes of mohair, with an estimated production of approximately 2.23 million kilograms of mohair annually.

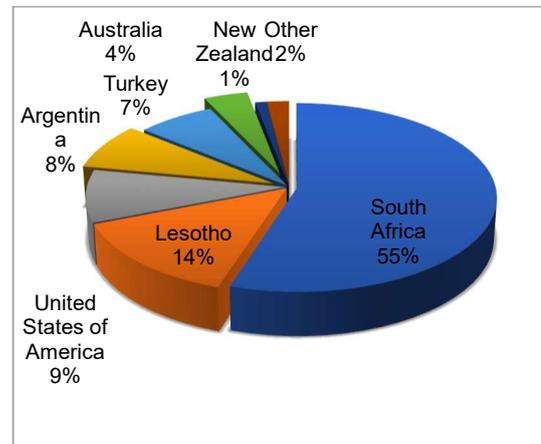


Figure 12: Major mohair production areas in the world
Source: Mohair South Africa, 2016

In South Africa, mohair is produced dominantly in the Eastern Cape and Western Cape Provinces. The Eastern Cape Province of South Africa is generally known as the mohair capital of the world, with the bulk of the world’s mohair passing through its ports. **Figure 13** below shows the top mohair production areas in South Africa, with an estimated total production of 36 000 tons in 2015. In addition, the figure shows that the major mohair production areas include Willowmore, with a total production of 20%, Aberdeen and Somerset East (17%) and Jansenville (10%), respectively. In addition, mohair is also produced in smaller volumes in areas such as Cradock (8%), Murreysburg (7%), Steytlerville & Graaf-Reinet (6%), Beaufort West (5%) and Uitenhage (4%), respectively.

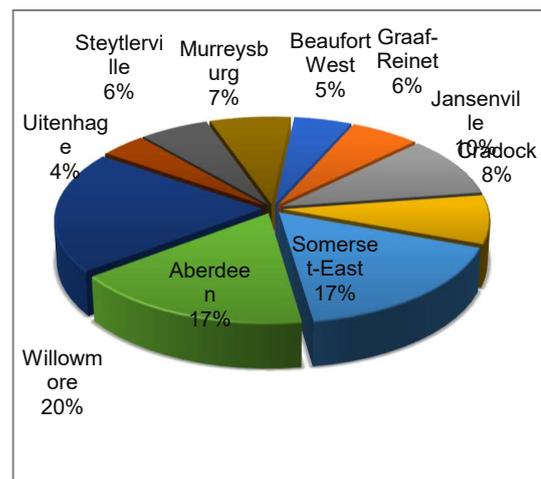


Figure 13: Top mohair production areas in South Africa
Source: Mohair South Africa, 2015

Market information

As the result of the non-specification of an HS code for Mohair in trade databases, we use the information that is ready available from the industry. **Figure 14** below indicates that South African mohair is still regarded as being top quality, and is highly demanded in world markets. In the 2015 marketing season, the largest volumes of South African mohair were exported to China, with the highest volume of 35%, followed by Italy with a significant 25%, and finally, the United Kingdom, with 12%. However, the lowest importers of South African Mohair included countries such as Taiwan (10%), Japan (5%), Bulgaria (7%), Egypt (2%), Korea (2%) and India (1%), respectively.

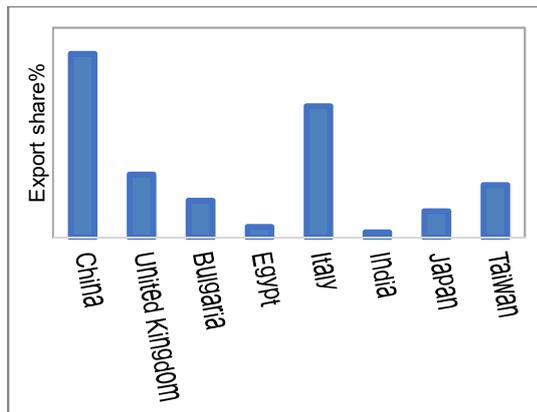


Figure 14: Major Export Markets for South African Mohair

Source: Mohair South Africa, 2017

The remaining volumes are sold in the local market through auctions, and to other textiles industries. **Figure 15** in appendix B presents details of the total bales bought by the mohair buyers through auctions for the period March to November, 2017. For this period, the figure shows that eight auctions were held, with approximately 12 343 bales on sale. Companies such as SAMIL (Pty) and Stucken & Co (Pty) LTD were the main buyers of mohair bales, with totals of 4650 and 4695 bales bought for the reported period, respectively. On the other hand, New England Wool SA and SAFIL remain the lowest buyers of mohair, with totals of 352 and 688 bales bought for the same period, respectively.

Figure 16 below presents the market share (%) of the top 5 buyers of South African mohair through auctions for the period March to November, 2017. The figure shows that SAMIL and Stucken & Co (Pty) LTD are the major buyers of South African Mohair through auctions, with a market share of 38%, as compared with other buyers such as Mosenthals Wool & Mohair SA (Pty) LTD, with a market share of 16%. The figure further illustrates that buyers such as New England Wool SA and SAFIL remain the lowest, with market shares of 3% and 5% respectively.

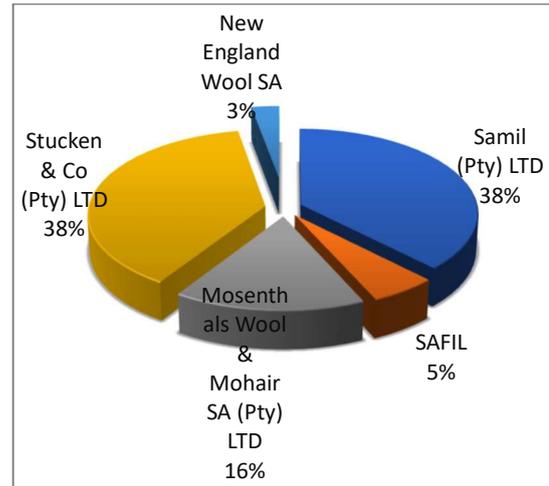


Figure 16: Auction market share % (Mar–Nov 2017)

Source: Mohair SA, 2017

Conclusion

It can be concluded that South African mohair is highly demanded in the world's export markets and is still regarded as being of the best quality. China remains the major role player in terms of mohair imports, being the largest and leading importer of South African mohair, with a share of 35%, followed by Italy with a share value of 25%. These two countries (China and Italy) are considered significant major destination markets for South Africa's mohair. It is important to note that the Eastern Cape province is the most suitable area for the production of high-quality mohair, given the climatic conditions, particularly in the Karoo. Most interesting is that the buyers of South Africa's mohair include companies such as SAMIL and Stucken & Co (Pty) LTD, with the greatest numbers of bales purchased, which amounted to 4650 and 4695, respectively, for the period March to November, 2017.

An area of concern is that, of the total bales presented at auctions from March to November, 2017, it is still unknown as to how much of the volumes came from the smallholder mohair farmers, seeing that there are smallholders mohair farmers in the communal areas in the Eastern Cape province.

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Dispute Resolution and Protection of Foreign Investment: An Overview of China and South Africa

By Stephanie van der Walt

1. Introduction

The previous discussion provided an overview of the challenges and advantages that any foreign investor, including South Africans, would face when entering into a joint venture in China. The law governing investment dispute resolution in South Africa will now be analysed. To avoid unnecessary repetition, the discussion regarding pros and cons of litigation versus arbitration as it pertains to China can be to be applied *mutatis mutandis* to the South African state of affairs, save where key differences are highlighted.

As stated above, courts in China are heavily dependent on the executive and therefore cannot be seen as “strong” entities upon themselves.¹ This is *one* area where the South African status quo differs greatly. Unlike most of its contemporaries on the continent, South Africa boasts a well-established, independent court system with a relatively good track record of fairness to foreigners. As mentioned already, the biggest pitfall of litigation in South Africa is the

1 Rebecca Frett, *Forum Selection for Resolution of Foreign Investment Disputes in China*, Dispute Resolution Journal, (1 February 2007), (Last Visited: 30 April 2017), <http://www.highbeam.com/doc/1P3-1248285011.html>

2 Terry Mahon (Routledge Modise Moss Morris), The changing face of dispute resolution, Managing Partner Volume 8 Issue 9 (14 March 2006), (Last Visited: 30 April 2017), http://www.mpmagazine.com/display.asp?articleid=F851E44E-3D9E-43B2-9B31-31735CDC1E13&Title=South_Africa_country_report_The_changing_face_of_dispute_resolution

immense delays that are encountered due to overflowing court rosters.²

As far as the language issue is concerned, the constitution requires that a litigant be allowed to present a matter in the language of their choosing, so long as it is practical and practicable for the court to hear it. Determining whether or not a certain language will prove overly onerous is left up to the trial judge. This might prove to be a hindrance for a Chinese investor that wishes to have a case heard in Chinese, since it is highly unlikely that a South African judge will allow proceedings to be conducted in Chinese. At best, the Chinese party will be allowed to make use of a translator when presenting evidence.

While the bar to becoming a judge is relatively high in South Africa, as compared with China, the concerns over the expertise of a presiding judge are not nullified, particularly when it comes to matters of foreign law. The benefits of arbitration as discussed above, particularly as far as privacy, party autonomy, flexible procedure, expertise of arbitrators and standing of representing council are concerned, hold true for South Africa as well.³

While the court system in South Africa is relatively well managed compared with that of China, the same cannot be said about the country's arbitration system – at least not as far as international disputes are concerned.

2. Sources of Arbitral Law in South Africa

Since the onset of democracy in 1994, the country has become “one of the world's most active arenas for experimentation with alternative dispute resolution (ADR) systems.”⁴ The governing law pertaining to arbitration is the Arbitration Act, 42 of 1965 (*the Act*).⁵

One recent development of note is the inauguration of the South African Protection of Foreign Investment Act, 22 of 2015 (*Investment Protection Act*). It is important to note that this Act emphasises the protection of investment by foreign nationals in South Africa, and therefore is not the most useful tool for a local company wishing to protect its interests abroad.

The Investment Protection Act was approved by the President on 13 December 2015, and is intended to fill the gap left by lapsed bilateral investment treaties. Further, it provides that:

3 The Centre for Democracy and Governance, Alternative Dispute Resolution: Practitioner's Guide, (March 1998), Appendix B: Case Studies (Last Visited: 21 April 2017), http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacb895.pdf.

4 The Centre for Democracy and Governance, Alternative Dispute Resolution: Practitioner's Guide, (March 1998) Appendix B: South African Case Study, (Last Visited: 21 April 2017), http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacb895.pdf.

5 *Ibid.*

"Existing investments that were made under such treaties will continue to be protected for the period and terms stipulated in the treaties. Any investments made after the termination of a treaty, but before promulgation of this Act, will be governed by the general South African law."

It also provides that *"the government may consent to international arbitration in respect of investments covered by the Act, subject to the exhaustion of domestic remedies."* However, such *"arbitration will be conducted between the Republic and the home state of the applicable investor."*

A basic investment agreement was concluded between China and South Africa in 1997 and remains in force. However, this agreement essentially only provides for the recognition of contractual obligations in each respective jurisdiction. The national law on arbitration therefore remains the primary source for the adjudication of investment disputes.

One key difference between the Chinese Act and its South African counterpart is that the latter draws no distinction between domestic⁶ and international arbitrations.⁷

As Meyer and Colman point out in their article on arbitrating in Africa, there are three main features of the South African legislation that cause concern for foreign investors:

*"First, the courts may at any time on application of a party to an arbitration agreement on good cause set aside an arbitration agreement."*⁸

As Meyer and Colman go on to illustrate, South African courts have leaned in favour of a broad definition of "good cause," interpreting the term to include disputes that deal foremost with questions of law and where it would be "inconvenient or unnecessarily expensive" for a conflict to be dealt with pursuant to the provisions of a particular arbitration agreement.⁹

The second concern highlighted by Meyer and Colman reads as follows:

"...courts may stay court proceedings if there is

*no sufficient reason for the matter not to be referred to arbitration."*¹⁰

This can be compared with Article 8 of the United Nations Model Law. The use of the word "may" gives the courts a wide discretion in determining what would be seen as "sufficient reason".

Thirdly, as Meyer and Colman point out:

*"... there are provisions for the courts to rule on any question of law by way of a stated case procedure."*¹¹

The main arbitral body in South Africa concerned with investment disputes is the Arbitration Foundation of South Africa (AFSA) and it is subject to the laws of South Africa.

3. Enforcement

As already stated above, South Africa is a signatory to the New York Convention, having signed with no reservations. Enforcing an arbitral award in the country is therefore a relatively simple matter. The New York Convention forms part of South African domestic law under the ambit of Act 40 of 1977. However, as discussed above, uncertainty does exist regarding the definition of "foreign arbitral award." Furthermore, this Act makes no mention of the recognition or enforcement of an arbitration clause or agreement. Rather, the wording seems to allow for a wide discretion of judges by stating that a "foreign arbitral award *may* be made order of court."¹²

The South African Law Commission has proposed new legislation to remedy the defects in Act 40 of 1977, particularly pertaining to the lack of differentiation between foreign and domestic disputes and to limit recourse to the courts during the course of an arbitration hearing. The Law Commission has proposed that the UNCITRAL Model Law be implemented as the South African legislation on International Arbitration. However, this has not yet come into effect.¹³

Foreign judgments are not directly enforceable in South African courts, although such a judgment constitutes a cause of action for bringing a matter before a South African court.¹⁴ The South African courts will enforce a decision provided, *inter alia*, that no material conflict exists with South African

⁶ "Domestic conflicts" can be seen as conflicts arising between private parties resident within the country, while disputes are seen as "foreign" when at least one of the parties thereto does not reside within South Africa. This holds true for both natural and juristic persons; see Meyer and Colman (Deneys Reitz), *South Africa: Arbitration in Africa*, Mondaq (28 March 2007), (Last Visited: 1 May 2017), <http://www.mondaq.com/article.asp?articleid=47178>.

⁷ The Centre for Democracy and Governance, *Alternative Dispute Resolution: Practitioner's Guide*, (March 1998) Appendix B: South African Case Study, (Last Visited: 21 April 2017), http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/bnac895.pdf.

⁸ Meyer and Colman (Deneys Reitz), *South Africa: Arbitration in Africa*, Mondaq (28 March 2007), (Last Visited: 1 May 2017), <http://www.mondaq.com/article.asp?articleid=47178>.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Pinchas and A v Pienaar* (2002) 3 ALL SA 632 (W).

law¹⁵, that the judgment was final and conclusive, enforcement would not be against South African public policy, and that it was not obtained by fraudulent means.¹⁶

4. Concluding Remarks

From the discussion above, it is clear that both China and South Africa have, on the whole, good systems in place for the resolution of international investment disputes. As Frett points out, however, deciding on the “most favorable forum for the resolution of disputes between foreign investors ... is a complex issue.”¹⁷ It is an evident truth that both the countries under discussion have a great deal to offer each other in terms of investment opportunities, provided that contracts are used effectively.

With the pros and cons of the dispute resolution mechanisms available in both countries having been highlighted, the best means to negate these problems, in the view of the author, is through the proper drafting of investment agreements. An FDI contract, like any other agreement, should be the child of consensus between the parties, and the most effective means of resolving a dispute would be through negotiation. In both China and South Africa, the old adage about prevention being better than cure holds true, for both arbitration and litigation as the means of resolving a dispute. As highlighted above, both these mechanisms have tremendous drawbacks. In conclusion, as Rebecca Frett eloquently states:

“A detailed comparison of arbitration and litigation yields

only one clear answer. Both are to be avoided if at all possible ... the best strategy for resolving a dispute is to be willing to compromise and agree to a settlement, rather than insisting upon strict legal rights.”¹⁸



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¹⁵ This is particularly true concerning Protection of Business Act 99 of 1978. This Act Prohibits the recognition and enforcement of certain foreign judgments or arbitral awards, that relates to transactions involving South African goods and businesses except with consent of Minister of Economic Affairs. Specifically, it prohibits Recognition and enforcement of judgments for punitive damages and relating to bodily injury relating to certain transactions; see Terry Mahon (Routledge Modise Moss Morris), *The Changing Face of Dispute Resolution*, Managing Partner Volume 8 Issue 9 (14 March 2006), (Last Visited: 30 April 2017), [http://www.mpmagazine.com/display.asp?articleid=F851E44E-](http://www.mpmagazine.com/display.asp?articleid=F851E44E-3D9E-43B2-9B31-31735CDC1E13&Title=South_Africa_country_report_The_changing_face_of_dispute_resolution)

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¹⁶ *Ibid.*

¹⁷ Rebecca Frett, *Forum Selection for Resolution of Foreign Investment Disputes in China*, *Dispute Resolution Journal*, (1 February 2007), (Last Visited: 30 April 2017), <http://www.highbeam.com/doc/1P3-1248285011.html>

¹⁸ *Ibid.*

Appendix A

Table 3: Trade balance of the top ten milk and cream trade partners (R' million)

Partners	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
World	448	338	97	387	966	968	2151	11073	3082	1274	-1365	-3087
New Zealand	327	333	475	805	701	889	1158	1315	1680	2184,2	2704	4233
Saudi Arabia	65	21	282	241	389	781	749	1313	1703	1116,1	1215	4106
France	1400	1212	1455	2307	1054	1047	1992	1802	1943	2394,3	2777	3232
Czech Rep.	657	1107	1600	2311	1667	1697	2176	2261	3122	3779,7	3399	3216
Austria	1289	1495	2052	3108	2388	2167	2602	2770	4056	4264,3	3492	3099
Netherlands	578	520	307	491	1277	1390	1676	246	1208	2162,8	2009	2849
Germany	3888	3396	3787	3975	4309	3721	3206	2822	4473	4018,5	2136	2767
Poland	805	998	1045	1405	1132	1127	1295	1230	1566	2532,6	2402	2419
Australia	486	440	472	531	564	559	701	919	1158	1746,9	1960	2404
Denmark	76	352	448	1072	979	751	934	1110	1375	1569,0	1652	2254
South Africa	25	18	-19	-4,8	107	378	388	433	571	611,6	628	582

Source: Author's compilation based on TradeMap database (2017)

Table 4: Top 5 importers and exporters of milk and cream (R' million).

Exporters	2015	2016	Growth rate (%)	Importers	2015	2016	Growth rate (%)
Germany	16088	18752	16,6	Germany	13952	15985	14,6
France	9025	10255	13,6	Italy	11308	11184	-1,1
Netherlands	6643	8849	33,2	Belgium	7637	10278	34,6
Belgium	7851	8247	5,0	China	6153	9376	52,4
Saudi Arabia	2681	4997	86,4	France	6248	7023	12,4

Source: Author's compilation based on TradeMap database (2017)

Table 5: Top ten export destinations for South Africa's milk and cream

Importers	2016 exports (US\$'000)	2016 Trade balance (US\$'000)	Share in S.A.'s exports (%)	2016 export (Ton)	Growth in exported value (2012-16, %, p.a.)	Growth in exported quantity (2012-16, %, p.a.)	Mean tariff faced by S. Africa (%)
World	49478	39729	100	80657	-6	-9	
Botswana	11713	11713	23.7	25205	10	-10	0
Lesotho	10354	10335	20.9	13437	-10	0	0
Mozambique	7675	7675	15.5	11045	-3	9	
Swaziland	5948	5948	12	12146	-3	10	0
Namibia	5698	5698	11.5	7060	-2	-28	0
Zimbabwe	2297	2297	4.6	3040	-34	-30	0
Tanzania	2214	2214	4.5	3722	-4	5	
Mauritius	857	857	1.7	1513	18	50	0
Malawi	599	599	1.2	760	16	31	
Angola	486	486	1.0	729	18	36	

Source: Author's compilation based on TradeMap database (2017)

Appendix B

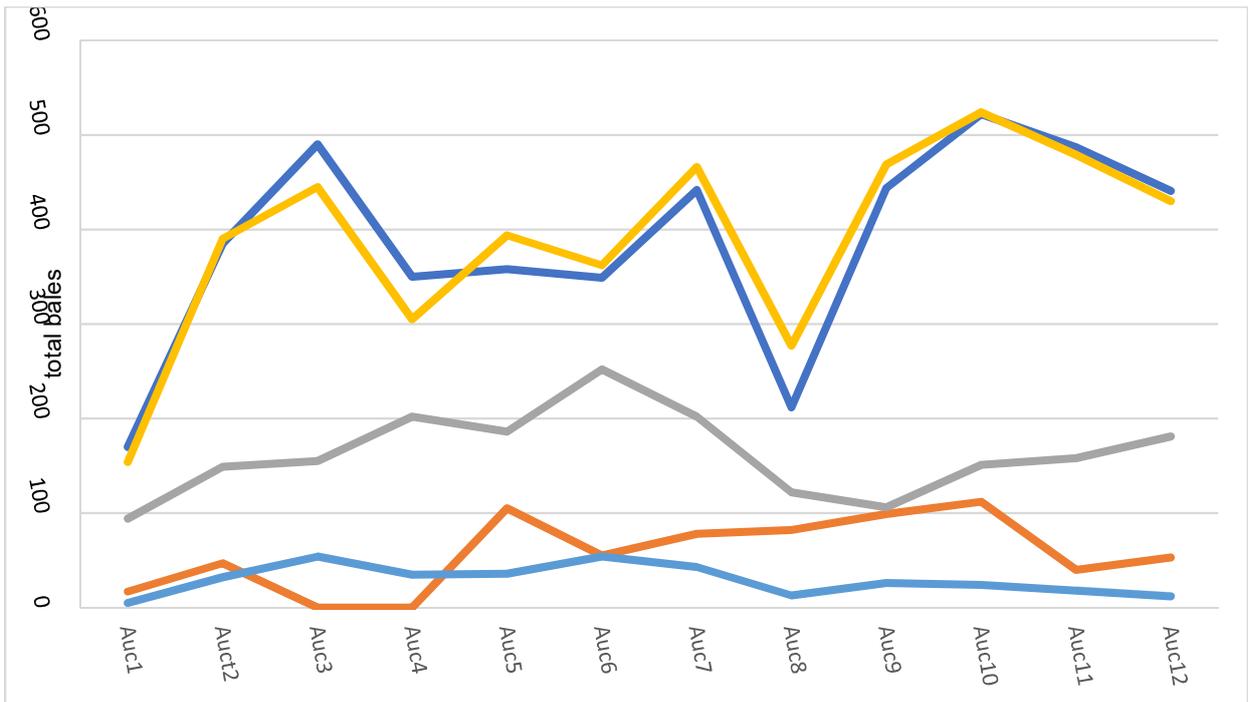


Figure 15: Total bales bought through auction (March - November 2017)
 Source: Mohair SA, 2017

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