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Department:
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Markets and Economic Research Centre and Directorate of International Trade



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This issue of *TradeProbe* covers the following topics:

- **Product profile: kiwi fruit – 081050**
- **Overview of South Africa's trade trends with both its leading destination market (Netherlands) and supplier market (Argentina)**
- **Market profile: Mozambique agricultural trade**
- **Market profile: South Africa's agriculture, forestry and fisheries trade with the Democratic Republic of Congo**
- **Topical issue: a snapshot of SA-EU TDCA¹ provisions on preferential rules of origin**

1. TRADE PROFILE OF KIWI FRUIT

Definition and description of kiwi fruit

Kiwi fruit is an edible berry of a woody vine in the genus *Actinidia*. The most common cultivated group of kiwi fruit (Hayward) is oval, about the size of a large hen's egg, (5–8 cm in length and 4–5 cm in diameter). It has a fibrous, dull greenish brown skin and bright green or golden flesh with rows of tiny, black edible seeds. Kiwi fruit has a soft texture and a sweet but unique flavour. Currently it is a commercial crop in several countries such as Italy, New Zealand, Chile, Greece and France.

Global and domestic plantation of Kiwi

Most kiwi fruit comes from New Zealand. About 2700 kiwi farmers in New Zealand harvest around 3.7 billion kiwis per year. The fruit is sold in 55 countries. It is also grown in Europe, Australia, Japan, China, the United States and Spain. Kiwis grown in Asia and the United States are not exported to Europe.

South African kiwi fruit industry is relatively small, with an estimated 200 ha of the green-fleshed varieties under production. Production in South Africa has not kept pace with current best practice methods. It is important to note that New Zealand and Australian growers achieve yields of 40 tons/ha, whereas South African yields are between 10 and 12 tons/ha. Currently kiwi fruit is produced in three provinces in South Africa, which are Limpopo, KwaZulu-Natal and the Eastern Cape. South African growers mainly produce yellow kiwis and their growing time starts in January/February to mid-March/April.

World production of kiwi fruit

Figure 1 indicates that in 2012, China produced 466 billion tons of kiwi fruit, that is, approximately 27 % of total world production. Italy produced 442 billion tons, which constitute about 26 % of total world production. New Zealand produced 370 billion tons, that is, approximately 22 % of total world production. Chile

took fourth position and produced 173 billion tons, that is, approximately 10 % of total world production. Greece produced 81 billion tons, that is, approximately 5 % of total world production.

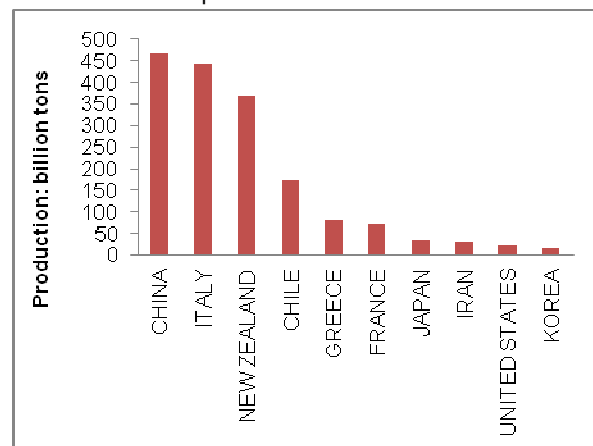


Figure 1: World production of kiwi fruit

Source: World Kiwi fruit Review, 2012

Kiwi fruit trade

Figure 2 shows the leading global importers of kiwi fruit from the world market between 2009 and 2012, measured in terms of quantity. Noteworthy is the fact that kiwi fruit imports from Spain showed a decline from 2009 to 2011 and a slight recovery in 2012. Belgium was the second largest importer of kiwi fruit with a gradual decline between 2009 and 2012. Russia, as the third largest importer, showed a continuous increase in kiwi fruit imports from 2009 to 2012.

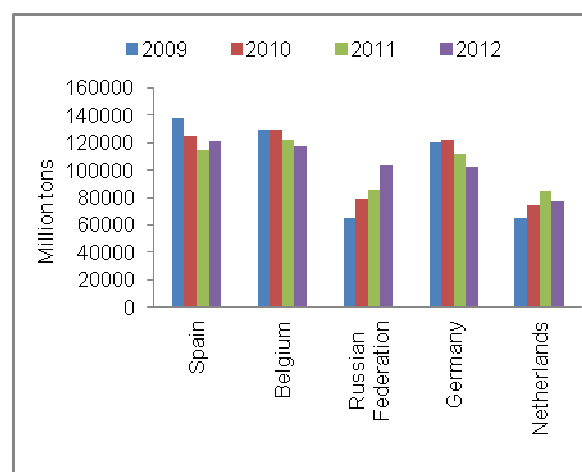


Figure 2: List of world importers for kiwi fruit (quantities)

Source: ITC Trade Map, 2014

Figure 3 shows that New Zealand has remained the world's biggest exporter of kiwi fruit throughout the reviewed period. Although New Zealand remains a largest exporter of kiwi fruit, its export quantities have been fluctuating in the past four years. Italy, the second biggest exporter in quantity terms, showed a constant decrease between 2009 and 2012. Chile's exports of kiwi fruit remained relatively the same from 2009 to 2010 and decreased in 2011. In 2012 there

¹ The SA-EU TDCA was concluded in 1999, and entered into force in 2000.

was an increase in Chile's export quantities of kiwi fruit. Greece's exports of kiwi fruit increased in 2010 and decreased in 2011 and 2012 respectively. In Belgium the export of kiwi fruit increased from 2009 to 2011 and then decreased in 2012.

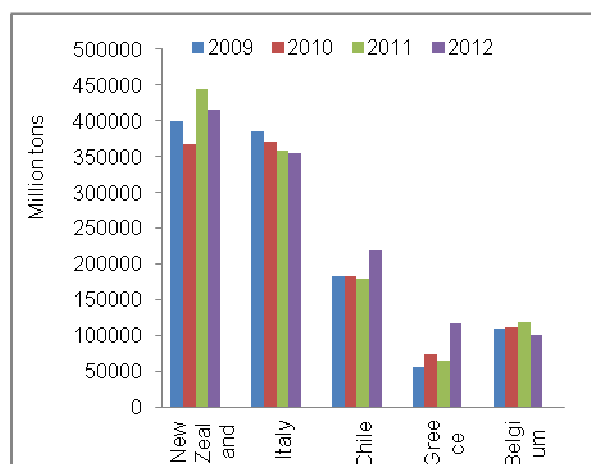


Figure 3: List of world exporters for kiwi fruit (quantities)
Source: ITC Trade Map, 2012

South Africa's import markets for kiwi fruit

Figure 4 presents markets that supplied South Africa with kiwi fruit for the period 2009–2013. From 2009 to 2013 Belgium was the biggest supplier of kiwi fruit to South Africa. The imports of kiwi fruit from France and Italy have not been stable under the reviewed period. South Africa's imports of kiwi fruit from Greece and Belgium increased continuously from 2010 to 2013.

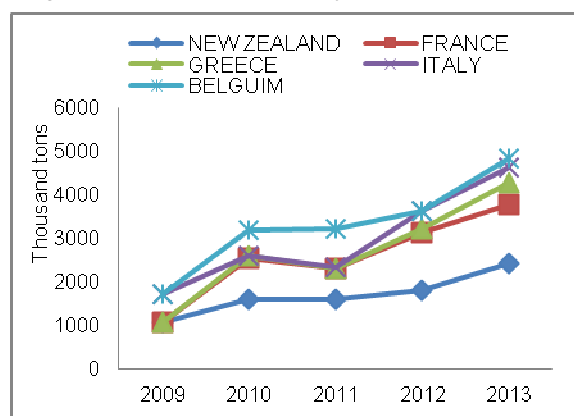


Figure 4: South Africa's import markets for kiwi fruit
Source: ITC Trade Map, 2013

South Africa's export markets for kiwi fruit

Figure 5 presents main destinations for South African kiwi fruit. Noteworthy is that South Africa has been sending its kiwi fruit to SADC countries, which include Angola, Zimbabwe, Mozambique and Zambia. All the market destinations under review showed a significant increase of South African kiwi fruit exports between 2012 and 2013.

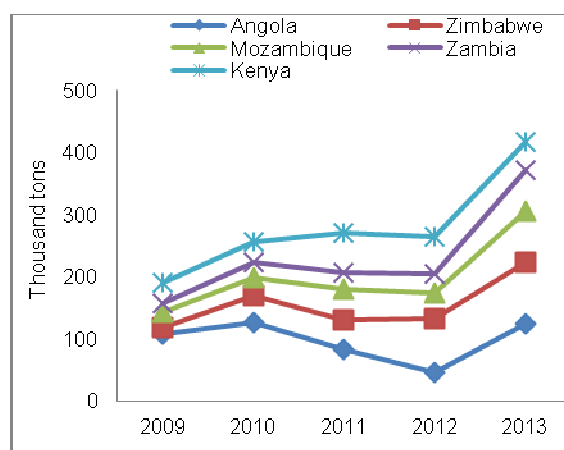


Figure 5: South Africa's export markets for kiwi fruit
Source: ITC Trade Map, 2013

Conclusion

South Africa is not an important producer or exporter of kiwi fruit. This could be attributed to the high production costs and complicated production practices associated with kiwi fruit. The intense competition from countries like Chile and New Zealand in global markets further discourages South African producers from farming kiwi fruit on a larger scale.

About the author:



Ms P. Hoyi is an Agricultural Economist at the Directorate International Trade of the Department of Agriculture, Forestry and Fisheries. You can contact her at PamelaH@daff.gov.za or +27 (0) 12 319 8199.

2. OVERVIEW OF SOUTH AFRICA'S TRADE TRENDS WITH BOTH ITS LEADING DESTINATION MARKET (NETHERLANDS) AND SUPPLIER MARKET (ARGENTINA)

South African exports to the Netherlands

South Africa exported a total of R66 billion worth of agricultural products to the world in 2013, and this increased by R42 billion (182 %) between 2003 and 2013. On average South Africa exported about 11 % of its total agricultural exports to the Netherlands between 2003 and 2013 (see **Figure 6**). In 2013, this market share was equivalent to R6.6 billion worth of agricultural exports. A closer analysis of South Africa and the Netherlands agricultural trade relations shows that prior to 2008 South Africa's export share to the Netherlands was above 11 %; however, post 2008 it contracted to closer to 10 %. This may be attributed to the Eurozone being affected by the economic meltdown (agricultural exports declined by 23 % between 2008 and 2009) and South Africa also diversifying its export market.

Even though export share shows a declining trend, export value to the Netherlands is showing modest increases. South African exports to the Netherlands for the period under review increased by 13 % year on year while experiencing the highest decline in exports between 2008 and 2009 (23 %).

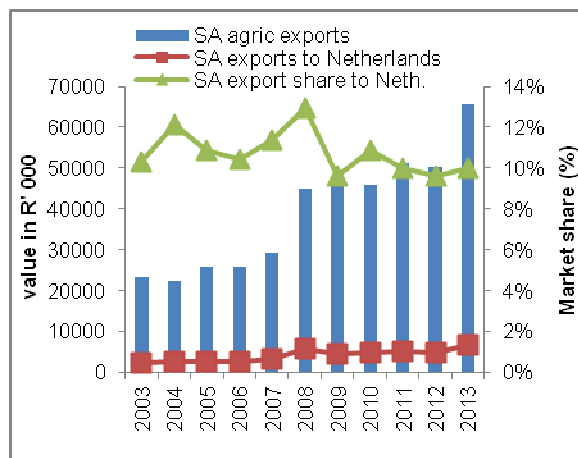


Figure 6: South African agricultural exports to the Netherlands, 2003–2013
Source: WTA, 2014

Figure 7 and **Figure 8** show the composition of South African agricultural exports to the Netherlands from 2003 to 2013. The agricultural product most exported by South Africa over the years was table grapes. Between 2003 and 2013 table grapes exports to the Netherlands increased by 278 %, commanding an agricultural exports share of 28 % in 2013 as compared to 21 % in 2003. Orange exports to the Netherlands increased rapidly over the reviewed period (442 %), with export share doubling in 2013 as compared to 2003. Interestingly, South Africa's wine exports to the Netherlands increased by only 10 %,

which is very small compared to all the other products. The share of wine exports among all of South Africa's exports to the Netherlands declined from 19 % in 2003 to 8 % in 2013.

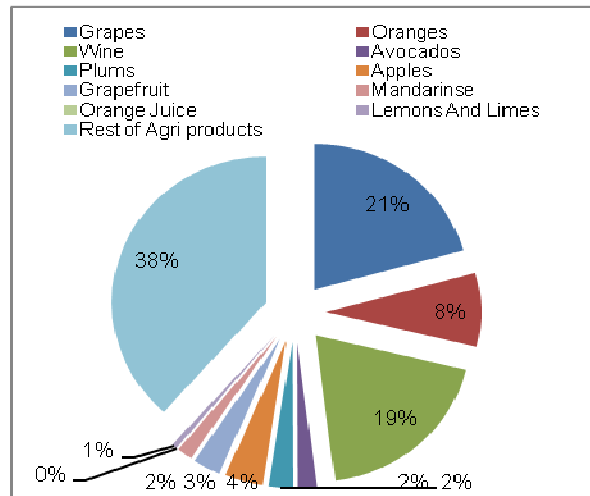


Figure 7: South African agricultural exports to the Netherlands, 2003
Source: WTA, 2014

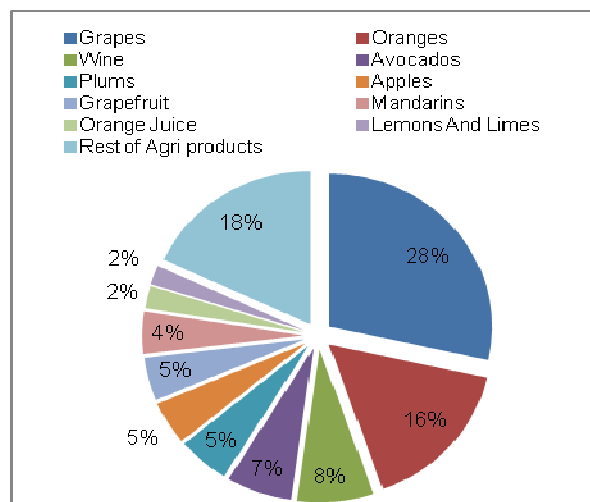


Figure 8: South African agricultural exports to the Netherlands, 2013
Source: WTA, 2014

South African imports from Argentina

Between 2003 and 2013, the value of South African agricultural imports increased by 279 % (an average of 15 % year on year), outpacing export growth. In 2013, South Africa largely sourced its agricultural products from Argentina (10 %), China (9 %), Thailand (8 %), the United Kingdom (7 %) and Brazil (7 %). The market share of Argentina for South Africa's total agricultural imports declined to 10 % in 2013, down from 20 % in 2007. The decline in imports share may be largely attributed to other markets increasing their agricultural exports to South Africa and it may also be a reflection of Argentina increasing its market in other countries at the expense of South African imports.

Another possible explanation is Argentina's policy reforms which placed an export ban on certain agricultural commodities.

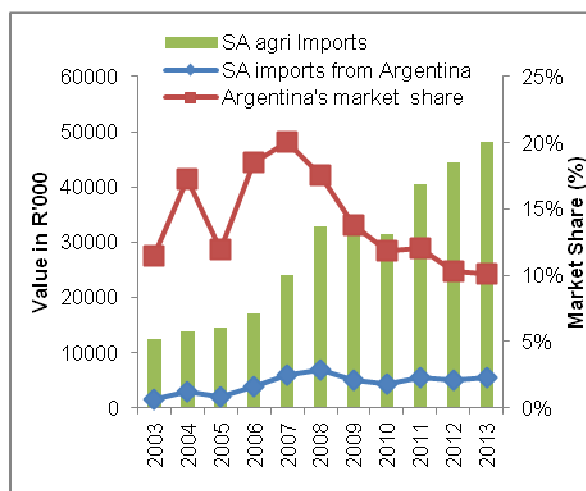


Figure 9: South African agricultural imports from Argentina, 2003–2013

Source: WTA, 2014

Figure 9 and **Figure 10** highlight the share of South African imports from Argentina in 2003 and 2013 respectively. For both periods the agricultural product most imported from Argentina was soybean oilcake. Imports of this product increased by 381 % between 2003 and 2013, commanding an import share of 58 % in 2013. Refined soybean oil increased in market share by 6 % in 2013 as compared to 2003. Interestingly, South African imports from Argentina have concentrated into the top 10 products, accounting for 96 % of total imports from Argentina. In comparison to 2003, South Africa's import product mix from Argentina was relatively good because the top 10 imported products constituted only 63 % as compared to 96 % in 2013.

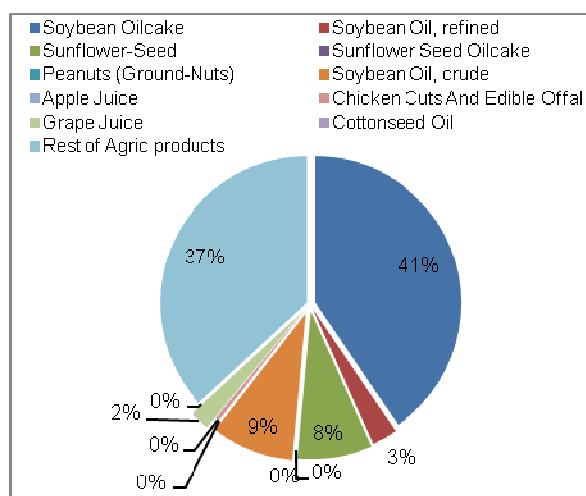


Figure 10: South African agricultural imports from Argentina, 2003

Source: WTA, 2014

Both the Netherlands and Argentina have been leading export destination and supplier to South Africa respectively over the years. Trade trends suggest that South Africa had higher export shares destined for the Netherlands and higher growth rates in the first half of the analysed period compared to the second half. Netherlands is losing market share to other countries, however, particularly Zimbabwe. Zimbabwe ranked as 4th and 3rd export market for South African agricultural products in 2011 and 2012 respectively. In 2013 the UK lost its 2nd place to Zimbabwe, showing that South Africa is increasing its exports to its Southern African neighbour.

With regards to imports, China and Thailand are threatening markets for Argentinean exports into South Africa. South African imports from Argentina had more rapid growth rates and higher exports share in the first half of the analysed period than in the second half. Similarly, Argentina may remain the main importing market in the short run, with China promising a leading role.

The Netherlands and Argentina have remained significant agricultural trading partners for South Africa. The former has retained its position as a leading agricultural export destination market, while the latter has remained a leading supplier of agricultural products into South Africa. Recent trends, however, suggest that both trading partners could lose their leading positions.

Between 2011 and 2013, Zimbabwe significantly increased its share of South African agricultural exports, outpacing all other countries to become the second largest destination market in 2013. A similar picture emerges on the import side. China and Thailand are increasingly claiming a bigger share of South African agricultural imports from the world. If the current growth rates continue, the Netherlands could relinquish its leading market destination position to Zimbabwe and Argentina its leading supplier position to China.



This article was written by Ms Masego Moobi, Economist from the National Agricultural Marketing Council. Her work includes Trade Research under the MERC division. She is currently working on the issues relating to Regional Trade Agreements and intra-African Trade. She can be reached at: mmoobi@namc.co.za or + 27 (0) 12 341 1115.

3. COUNTRY PROFILE – MOZAMBIQUE

Overview

Mozambique is country situated on the south-eastern coast of the African continent. It has a population of 25.2 million as measured in 2012. It has shown improved economic growth since its independence from the Portuguese authority. In 2012, GDP was estimated at \$ 26.69 (World Bank, 2013). Increased economic growth in 2012 was the result of direct inflows of foreign direct Investments (FDI), increased road table, credit expansion and strong infrastructure development (African Economic Outlook, 2013).

The most important sectors in Mozambique are the mineral and agricultural sectors. The two sectors play a pivotal role in creating employment, improving the rural economy and reducing poverty lines. According to the World Bank (2013), agriculture contributes about 30 % to the country's GDP.

The purpose of this article is to highlight agricultural trade performance in Mozambique, bilateral trade between South Africa and Mozambique, and also the potential trade between the two countries.

Agricultural production in Mozambique

Figure 11 shows Mozambique's production between 2001 and 2012. Mozambique's production showed a significant increase of 75.4 % under the reviewed period. The increase in production can be attributed to an improved integrated technology and access to markets. In 2012, the total volume of agricultural production was 2 billion tons, which is a slight decline in comparison to the previous year. Cassava, maize, sugar and meat are the largest agricultural products that are produced in Mozambique.

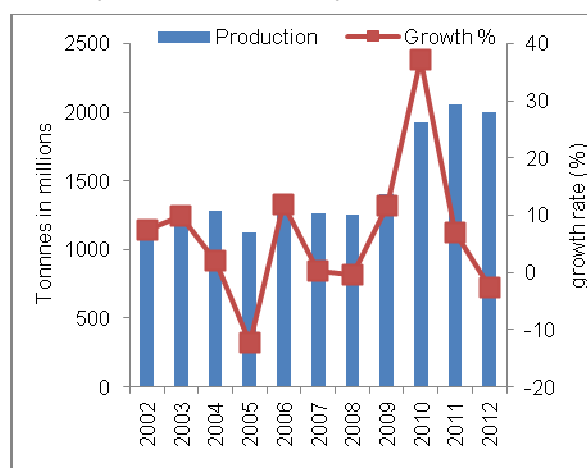


Figure 11: Mozambique agricultural production

Source: FAOSTAT, 2014

The total value of agricultural imports amounted to \$772 million in 2012, which was a significant increase in comparison with 2002. Flour meal and pallets of meat are ranked first place among imported products in Mozambique with a total value of \$233 million in

2012. Wheat, rice, milk powder and crude palm oil are among top five imported agricultural products with a growth rate of 167 %, 46 %, 7480 % and 1415 % respectively between 2002 and 2012 (**see Table 1**). Noteworthy is that the growth value of the reviewed products showed a significant increase between 2002 and 2012. Growth of these imports was attributed to the growing population. The main suppliers of agricultural imports into Mozambique are Brazil, South Africa, Thailand, the USA and Australia, with a share of 33.7 %, 20.1 %, 6.7 %, 3.9 % and 3.8 % respectively in 2012.

Table 1: Agricultural product imports from the world market

Values in million USD				
Code	Product label	2002	2012	Growth value (%)
	All products	1543	6177	300
	AGRIC PRODUCTS	177	772	336
230110	Flours, meals	0.2	233	113 731
100190	Wheat	39	103	167
100630	Rice	64	93	46
040210	Milk powder	0.4	28	7480
151110	Palm oil, crude	2	25	1415
	Soya-bean oil			
150710	crude	2	19	800
220710	Ethyl alcohol	0.7	12	1545
	Safflower oil,			
151211	crude	2	10	363
020712	Fowls frozen	1	9	790
240120	Tobacco	4	8	116

Source: Trade Map, 2014

Exported agricultural products showed a significant increase of 328 % between 2002 and 2012. Increased agricultural exports into the global market were a result of better access in various markets such as the European Union countries market. Of the top exported products, tobacco (HS 240120) was ranked first with a total of \$ 219 million in 2012. Sugar, wheat flour, cotton and bananas were among the top five exported agricultural products collectively, with a total of \$239 billion in 2012 (**see Table 2**). All the reviewed products showed a significant increase between 2002 and 2012, except for tobacco (HS 240110). The main destination of these agricultural products are Italy, Poland, Spain , South Africa and the Netherlands with a share of 9.9 %, 8.4 %, 7.5 %, 7.1 % and 7 % respectively in 2012.

Bilateral trade

Figure 12 illustrates the main agricultural imports that South Africa sourced from Mozambique between 2011 and 2013. South Africa started to import plantains (HS-080310) in 2012 with the largest share of 25 % in 2013. Wheat bran (HS 230230), cane molasses (HS 170310) and groundnuts (HS 1202721) were among the top four products imported from Mozambique under the reviewed period.

Table 2: Main agricultural products exported by Mozambique

Values in million USD				
Code	Product	2002	2012	Growth (%)
All products		810	3470	328
Agricultural products		113	595	428
240120	Tobacco,	8	219	2754
170111	Sugar	17	146	756
520300	Cotton	10	38	271
110100	Wheat flour	4	31	667
080300	Bananas	0	24	24
230230	Wheat bran	4	20	434
	Sesame			
120740	seeds	3	17	521
080132	Cashew nuts	1	14	1038
520100	Cotton	5	9	69
240110	Tobacco	17	9	-48

Source: Trade Map, 2014

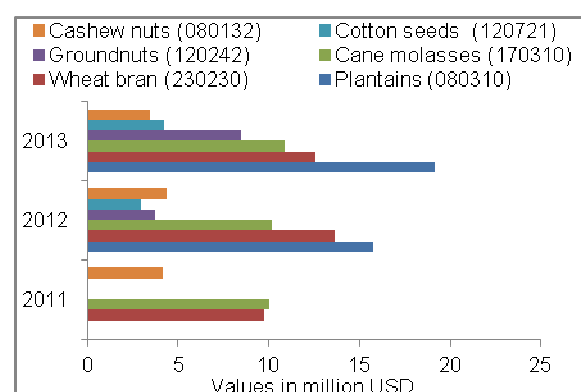


Figure 12: South African imports from Mozambique

Source: Trade Map, 2014

Figure 13 shows the main agricultural products that South Africa exported to Mozambique between 2011 and 2013. Refined sugar (HS 170199) was ranked among the top products exported to Mozambique, with a share of 9.5 % in 2012. Soups & broth (HS 210410), beer (HS 220300) and maize (HS 100590) were among the top four exported products to Mozambique with the total value of \$58 million in 2013.

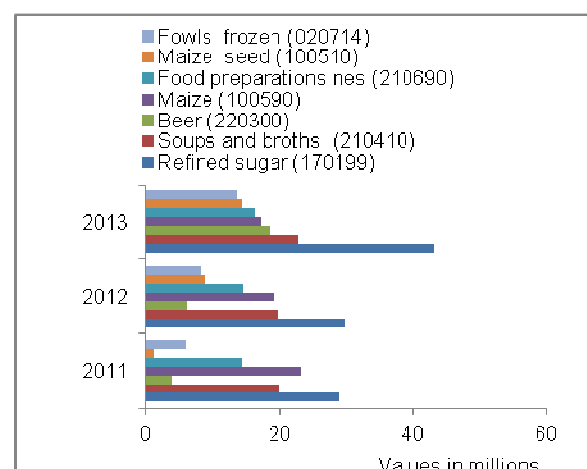


Figure 13: South African exports to Mozambique

Source: Trade Map, 2014

Potential trade between South Africa and Mozambique

Table 3 (see Appendix A) shows the products that South Africa exports to Mozambique. The potential trade is determined by minimal exports from South Africa to Mozambique while South Africa's exports to the global market are deemed sufficient.

Table 4 (see Appendix A) shows the products that Mozambique has the potential to export to South Africa. The potential trade is determined by minimal exports from Mozambique to South Africa while South Africa's exports to the global market are deemed sufficient.



This article was compiled by Ms Xolisiwe Yolanda Potelwa, Economist from the National Agricultural Marketing Council. Her work includes Trade Research under MERC division. She is currently working on the issues relating to non tariff measure (NTMs) more particularly on SPS issues and fruit industry. She can be reached at: YPotelwa@namc.co.za or +27 (0) 12 341 1115.

4. AGRICULTURE, FORESTRY AND FISHERIES TRADE RELATIONS BETWEEN SOUTH AFRICA AND THE DEMOCRATIC REPUBLIC OF CONGO (DRC)

Background

This section provides an overview of South Africa's agriculture, forestry and fisheries trade (AFF) with the Democratic Republic of Congo. The aim of the study is to investigate the opportunities for maximising trade between the two countries. The DRC is ranked 31st as South Africa's trading partner in agriculture, forestry and fisheries products, while it is ranked 9th as South Africa's destination market in Africa after Zimbabwe, Mozambique, Angola, Zambia, Nigeria, Tanzania, Mauritius and Kenya. Agriculture and Forestry are the biggest contributors to the GDP in the DRC with 44.9 %, followed by services and industry at 33.4 % and 21.8 % respectively (Economic Intelligence Unit, 2014).²

The main growth drivers have been private sector investment in the mining and trade sectors as well as an increase in public sector investment, especially in construction. The sources of growth remain only slightly diversified and the structural distribution of the GDP has continued unchanged over the last decade. Alongside agriculture and forestry, which employ about 70 % of the population and produce 45 % of GDP, the most important sectors are trade (22 %) and the mining sector (12 %). The manufacturing industry only represents 5 % of GDP and construction 6 %. Industry is in fact handicapped by significant shortfalls in energy supply, the obsolete production apparatus, the labour force's lack of technical skills and the weak competitiveness of local production.³

The average annual growth rate⁴ of agriculture, forestry and fisheries exports between 2009 and 2013 was 12 %, which implies that the DRC is a growing market of AFF products from South Africa. The DRC has an overlapping membership of both the Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community (SADC) but has not acceded to both FTAs. The DRC acceded to the World Trade Organisation on 1 January 1997 while South Africa's accession was on 1 January 1995. It is still trading with the Member States of COMESA and SADC through the MFN⁵ trade

regime. The DRC is part of the Tripartite FTA as an observer; it has not yet signed the declaration to negotiate this FTA. The poor state of ports, electricity and road interconnection infrastructure, the inefficiency and high cost of transport services and the vast amount of red tape and levies imposed by a plethora of institutions prevent the realisation of the benefits of regional economic integration.

Table 5 reflects the comparison of key economic indicators between South Africa and the DRC. The population of South Africa is about 78 % of that of the DRC, while the DRC's GDP is about 5.5 % of South Africa's GDP. The GDP per capita in 2013 for South Africa was about US\$ 10 903, higher than US\$ 193 of the DRC, which implies that the DRC's GDP per capita is about 3.5 % of that of South Africa. Table 5 indicates that the average real GDP growth of the DRC over a period of five years (2009–2013) was 6.4 % while South Africa's average during the same period was 1.9, which reflects that the growth rate of DRC's GDP is 30 % faster than that of South Africa.

Table 5: Comparative economic indicators between the DRC and South Africa

DRC	2013	South Africa	2013
GDP (US\$ m)	193.25	GDP (US\$ m)	351.027
Real GDP growth (%)	6.2	Real GDP growth (%)	1.9
GDP per head (US\$ at PPP)	400	GDP per head (US\$ at PPP)	11.303
Population (million)	68	Population (million)	53

Source: Economist Intelligence Unit, 2014

Trade balance between South Africa and the Democratic Republic of Congo

Figure 14 illustrates the agricultural, forestry and fisheries trade balance between South Africa and the DRC. Trade between the two countries is conducted based on the MFN trade regime. The DRC's average applied MFN tariff rate on agricultural products (including processed food products) is 12.4 % relative to South Africa's average of 17.4 % MFN. The AFF trade balance between the two countries is skewed in favour of South Africa and it increased from R 601 million in 2012 to R 752 million in 2013. The annual average growth rate of AFF imports from the DRC is 11 % as compared to the 12 % annual average growth rate of South Africa's exports to the DRC.

² Economic Intelligence Unit (EIU). Country Report: Democratic Republic of Congo. Available from www.eiu.com (Accessed in April 2014).

³ African Development Bank (ADB). 2013–2017. Country Strategy Paper: Democratic Republic of Congo. Available from www.afdb.org (Accessed in April 2014)

⁴ The formula used to calculate the average annual growth rate for exports is: $\bar{\lambda}_A = (\lambda_0/\lambda_0)^{1/10} \times 100$

⁵ The Most Favoured Nation (MFN) principle requires that each WTO Member should extend to all other WTO Members treatment no less favourable than it accords to imports from any other country. In simpler terms the MFN treatment means 'if you favour one, favour all'.

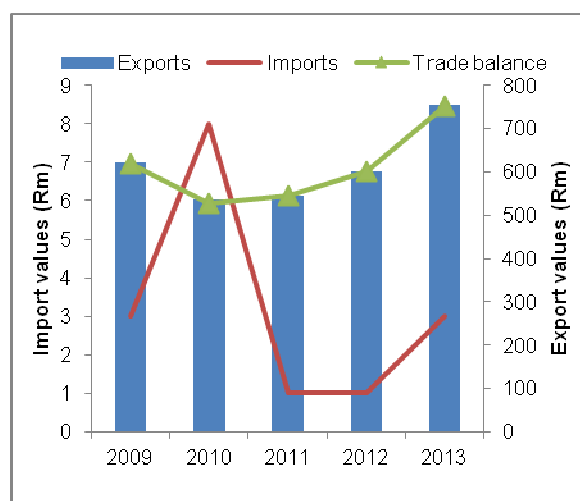


Figure 14: AFF trade balance between SA and DRC
Source: Global Trade Atlas, 2014

South Africa's agricultural, forestry and fisheries exports to the DRC (2009–2013)

Table 6 below shows South Africa's top five AFF exports to the DRC over a period of five years and the duties charged in that market. On average, cross-border procedures take 44 days for exports and 63 days for imports, i.e. respectively 12 and 15 days longer than the average for the other sub-Saharan African countries. The top five AFF exports to the DRC account for 23.7 % of all South African exports to the DRC and South African products are faced with MFN rates ranging from 10 % to 20 %. South Africa's competitors for the top five AFF products in the DRC markets include the USA, Tanzania, Belgium and the Netherlands, which all access this market through the MFN trade regime.

Table 6: Average value of South African top five AFF exports to the Democratic Republic of Congo (Rand Million)

HS Code	Description	Average Value (2009 to 2013)	MFN Tariff (%)	Competitors
Total	AFF	612		
110313	Groats and meal of corn	41	10	USA
220210	Waters	47	20	Tanzania
210690	(Mineral)	28	10	Belgium
151800	Food preparations	16	20	Tanzania
170199	Animal and vegetable fats	13	20	Netherlands
	Cane / Beet sugar			

Source: Global Trade Atlas (2014), own calculations and MacMap (2014)

SA's agricultural, forestry and fisheries imports from the DRC (2009–2013)

Table 7 below shows South Africa's top five AFF imports from the DRC over a period of five years and the applicable duties charged. Live birds (HS 010632) are the top import products from DRC and constitute 30 % of all AFF products imported by SA over a period of five years. A review of the last five years indicates that, on average, 10 % of all tropical wood used in South Africa was imported from the DRC. The top five AFF imports from the DRC account for 41.8 % of all South African AFF imports from the DRC and the top five products enjoy 0 % MFN rates on the South African market, except for cotton seed oilcake, which faces a duty of 6.6 %.

Table 7: Average value of South African top five AFF imports from the Democratic Republic of Congo (Rand Million)

HS Code	Description	Average Value (2009 to 2013)	MFN Tariff (%)
Total	AFF	3	
010632	Live birds - Psittaciformes (Parrots, Macaws and Cockatoos)	0.9	0
440729	Other tropical wood and wood sawn	0.3	0
440710	Coniferous wood sawn	0.04	0
230610	Cotton seed oilcake	0.01	6.6
480700	Composite papers	0.004	0

Source: Global Trade Atlas (2014), own calculations and MacMap (2014)

Conclusion

Despite its central geo-strategic positioning in the region, the DRC has not yet been able to take advantage of the benefits of regional economic integration. The DRC has a major role to play in the region because of its strategic position with nine neighbouring countries, and its membership of two regional economic communities. Despite the advantages of this positioning and the increased liberalization of international trade, the country's trade integration performance remains weak.

The poor state of ports, electricity and road interconnection infrastructure, the inefficiency and high cost of transport services and the vast amount of red tape and levies imposed by a plethora of institutions prevent the realisation of the benefits of regional integration. These obstacles to cross-border trade have made these exchanges the slowest, most costly and riskiest on the continent. On average, cross-border procedures take 44 days for exports and 63 days for imports, i.e. respectively 12 and 15 days longer than the average for the other sub-Saharan African countries. The average costs by container are about US\$ 3500 – well above the average for the other countries of the continent. South African

producers are still facing stringent tariff and non-tariff barriers in the DRC market. However, the situation could change if the DRC accedes either to the SADC FTA or becomes part of the tripartite FTA.



This article was written by Mr Solly Molepo who is a Senior Agricultural Economist from the Directorate International Trade within the Department of Agriculture Forestry and Fisheries. His work includes monitoring the implementation of the SACU Agreement, the SADC FTA and work on the currently negotiated tripartite FTA agreement. He can be reached at: SollyMo@daff.gov.za or +27 (0) 12 319 8029

5. A SNAPSHOT OF SA-EU TDCA⁶ PROVISIONS ON PREFERENTIAL RULES OF ORIGIN

ABSTRACT

The World Trade Organization (WTO) was established to make global trade rules. Global value chains enable two or more countries to work together to produce a finished product and export to third countries. An example of globalisation of production could be a South African company producing chocolate that sources cocoa from the Ivory Coast, sugar from Swaziland, and milk, fruits and nuts for further processing in South Africa.

This article is limited to the South Africa-EU TDCA provisions on preferential Rules of Origin. The Trade Development Cooperation Agreement (TDCA) is a free trade agreement between South Africa and the European Union (EU); it established an agreement for preferential access between the two partners subject to certain international and national customs controls. A key feature of preferential access is the responsibility of an exporting country to ensure compliance with agreed Rules of Origin (RoO). The EU applies more or less similar RoO in all their trade agreements, which are normally negotiated on a line-by-line approach to maintain a high degree of uniformity. Although the arrangements of preferential RoO strive to obtain the same objective, the provisions may still vary in details, depending on the agreement between the EU and its trading partner. There are various methodologies to determine the origin of a product that is imported into its territory. In the TDCA, preferential access is given to goods from South Africa, if they fulfill the criteria agreed upon in the RoO Protocol 1.⁷ This allows for preferential rates of duty to be claimed. In order to obtain preferential access, the criteria generally require that the goods are either wholly obtained from South Africa or have undergone specific predetermined processing or value addition in South Africa.

The concept of Rules of Origin (RoO)

The **WTO Agreement on Rules of Origin** establishes trade policy guidelines that set out work aimed at the long-term harmonisation of RoO. These are regulations, laws and administrative rulings applied by governments in international trade and investment to determine the country of origin of goods, services or investments. The rules set the conditions under which a product may be considered as being of local origin and hence qualify for preferential market access (TRALAC, 2008). The origin of a product can have a

⁶ The SA-EU TDCA was concluded in 1999, and entered into force in 2000.

⁷ A protocol in the SA-EU TDCA containing the definitions of the concepts of originating products and the methods of administrative cooperation

significant bearing on its cost in the import market and therefore its competitiveness; i.e. it may enter the market free of tariffs if it comes from a particular area (e.g. a SA product may enter with free access with no or reduced duties into the EU market under the SA-EU TDCA). In the TDCA, SA and EU agreed to reduce or remove most import duties, therefore the RoO are an essential tool to ensure non-abuse of these preferences (trade deflection).⁸

TDCA provisions (Protocol 1)

The RoO for the application of tariff preferences are provided for in the Protocol 1 of the TDCA agreement. In order to have preferential access South African goods must meet the relevant conditions laid down in the RoO Protocol 1 of the TDCA. This Protocol 1 forms a significant part of the SA-EU TDCA agreement, and determines the conditions under which certain goods from South Africa can benefit from preferential market access into the EU. The Protocol defines the nationality of goods, by determining whether a product qualifies for the status of originating from South Africa or not. This determination of origin is easier for raw materials than it is for manufactured goods. Raw materials are usually wholly obtained but processed goods might have inputs from elsewhere in the process of value addition. There are two cases in which products can be considered to be of South African origin, and these are:

(i). **Wholly obtained products (Article 4):** Within the context of the TDCA, a product is considered to be '**originating**' from South Africa if it is wholly produced, or '**wholly**' obtained⁹ in South Africa in order to benefit from the concessions provided for by the EU in the TDCA. These conditions mainly apply to agricultural and other products produced from such local materials. The concept of '**wholly**' is very broad in the sense that for agricultural products it means for example that a fruit or vegetable is wholly obtained if it was harvested, or live animals were raised in South Africa. Processed products from such wholly obtained raw materials should come from South Africa. Goods must either be manufactured from raw materials obtained locally or components which have been grown or produced in South Africa.

(ii) In cases where the goods are not wholly obtained, it is required that they **must have been sufficiently worked or processed (Article 5)** in South Africa. The conditions under which sufficient work or processing could be fulfilled are listed in Annex II of the Protocol (List rules). Such goods are considered to be '**originating**' in South Africa only if they have met the

appropriate requirements on the list of non-originating products allowed to undergo working or processing in South Africa. However, the protocol specifies processes that are considered as constituting **insufficient work or processing (Article 6)**. These are minimum operations carried out on a product but do not have a significant effect on the finished product, because alone they cannot be considered as conferring originating status. An example in the TDCA is the rule on smoking tobacco (2403) to confer origin status for 'at least' 70 % of its manufacturing by weight of unmanufactured tobacco or tobacco refuse of heading HS 2401 must already be originating in South Africa. If raw tobacco is imported into South Africa from Zimbabwe and in South Africa such tobacco is only dusted, sorted and packaged, these minimal operations of sorting, dusting and packaging are not sufficient to confer origin. This simply means that in this case the product will have a Zimbabwean origin, irrespective of the operations made in South Africa because they are insufficient to confer origin.

List Rules (Annex II, Protocol 1)

Annex II of Protocol 1 of the TDCA contains a list on the level of the working or processing¹⁰ of each product manufactured from non-originating materials or what components must undergo in order to obtain originating status to benefit from preferences. These rules are referred to as 'the list rules'. An example is: the rules on RoO say that in order to qualify for preferences in the EU it is required that during production of smoking tobacco (HS 2403), at least 70 % by weight of HS 2401 (un-manufactured tobacco) used should originate in South Africa.

Cumulation of origin (Article 3)

Cumulation is a concept used in preferential trade agreements and is an important provision in RoO. It is a flexible system that allows products that have obtained RoO status in one partner country (e.g. SA) to be further processed or added to products originating in another participating country (e.g. EU) as if they had originated in the latter country, without the finished product losing the benefit of preferential customs tariffs. This provision can only be applied between countries that use identical or harmonised Rules of Origin. The cumulation concept essentially widens the definition of originating products and thereby assists manufactured goods to meet the relevant rule of origin. The TDCA does have a provision which allows for cumulation (Protocol 1, Article 3 (1–7)). There are four types of cumulation in the EU: bilateral, diagonal, regional and full cumulation.

⁸ A process where a third country which is not party to the TDCA, channels their exports to the EU via South Africa as a beneficiary to the concessions.

⁹ This means that for a product to benefit from the preferences of an agreement it must be fully produced by a beneficiary country, without sourcing imported material or inputs from another country.

¹⁰ Sufficient value must be added to the product in SA to be considered as originating in South Africa

The TDCA provides for cumulation in three ways:

Bilateral cumulation (with the EU): A rule on bilateral cumulation applies when defining the origin of a South African product that contains input materials from the EU for the purposes of exporting the final product to the EU and benefitting from the TDCA preferences. An example is: a South African producer uses oranges originating in Germany (EU member) to produce juice. The finished product is exported to Spain (EU member). As long as the oranges are imported from a European Union (EU) member with proof of origin, the South African exporter can use them in his/her production as if they had been produced in South Africa.

Diagonal cumulation (with African, Caribbean and Pacific (ACP) states) is contrary to bilateral cumulation in that it allows South Africa to source input materials from the ACP countries provided the value added in South Africa exceeds the value added in any ACP state. There is also a condition that a free trade agreement must be in place containing identical origin rules and provisions of cumulation between them. However, it is similar to bilateral cumulation in that only originating products or materials can benefit from diagonal cumulation. Although more than two countries can be involved in the manufacturing of a product it will have the origin of the country where the last working or processing operation took place, provided that it was more than a minimal operation.

Example: Non-originating cotton fibres are imported into South Africa where they are spun and woven into fabrics. The fabrics are then exported to Italy where they are cut and made into men's shirts. The shirts are exported to Botswana where, due to the possibility of diagonal cumulation, no customs duties have to be paid. Here, the FTAs concerned are the EU-SA TDCA, the EU-ACP Agreement (Botswana as a member) and the SACU Agreement (SA and Botswana being members).

Other forms of cumulation

Full cumulation (BLNS¹¹ countries) involves a process whereby all goods, including those that originate outside the preferential area, can be included provided that all work or processing required to confer origin status is carried out in the country with the preference. **Example:** A South African manufacturer can use materials from the BLNS countries and still give their products a label of 'made in South Africa'. These products are defined as being of South African origin provided that all work and the final stage of processing is undertaken in South Africa (the country of preference).

Another form of diagonal cumulation is **Regional cumulation** which operates between members of a

regional group of beneficiary countries (e.g. SADC, ACP, ASEAN or EU). **Example:** South Africa imports tobacco from Zimbabwe¹² (a SADC member). The raw product is then processed to produce cigarettes that are later exported to France (EU member). Cumulation may happen as a result of free trade between Zimbabwe and South Africa on the one hand, through the TDCA Agreement between South Africa and the EU and finally from the EU-ACP Agreement. This form of cumulation is not provided for in the TDCA but could be possible upon conclusion of the SADC-EC Economic Partnership Agreement (EPA). Some materials could be excluded from regional cumulation in cases where the tariff preferences applicable in the EU are not the same for all the countries involved in the cumulation.

Administration of RoO

After an agreement has been negotiated, signed and concluded, the administration part of RoO is the responsibility of the South African Revenue Services (SARS) through its customs administration unit. This includes issuing and verification of certificates of origin. In order to benefit from the concessions when exporting to EU, it is the responsibility of the exporters to ensure that they fully comply with the provisions of Protocol 1 on RoO. These include full disclosure of all documents such as declaration of exports and certificate of origin (EUR1). An EUR1 is a movement certificate issued by customs authorities of the exporting country for the purposes of proving origin of products exported into the EU.

Conclusion

There could be some changes affecting South Africa in the provisions on RoO in future. This is as a result of the ongoing SADC-EC EPA negotiations in which South Africa also participates. The ACP countries (excluding South Africa)¹³ have for a long time benefited from non-reciprocal preferential market access into the EU under the Cotonou preferential trade agreement, which has since expired and been replaced with the EPA, which is WTO compatible. The ACP states were divided into different configurations for the purposes of negotiating the EPAs with the EC. South Africa by virtue of being in a customs union with the BLNS countries and on the other hand having concluded a TDCA with the EU, initially joined the SADC EPA configuration as an observer member in the negotiations. Currently, South Africa participates fully in the ongoing SADC-EC EPA negotiations with the objective of transposing the trade component of the TDCA into the EPAs. This means amongst others that the new RoO will be incorporated into one agreement upon conclusion of the EPA negotiations.

¹¹ Botswana, Lesotho, Namibia and Swaziland, are members of the Customs Union with South Africa

¹² Zimbabwe is a signatory member of the SADC Trade Protocol

¹³ South Africa did not form part the Cotonou PTA; the trade with EU is regulated by the TDCA

Since the EPAs are not yet concluded, it remains to be seen which aspects of the existing agreement will be changed or remain the same.



This article was written by Mr Leeu Aphane and Mr Peter K. Maibelo. Mr Leeu Aphane is a Senior Economist at the Department of Trade and Industry. He can be reached at LAphane@thedti.gov.za or +27 (0) 12 394 5054. Mr Peter K. Maibelo is an Agricultural Economist: Bilateral Trade Relations – Europe, Russia & Middle East at the Department of Agriculture, Forestry and Fisheries Directorate: International Trade. He can be reached at KholofeloM@daff.gov.za or +27 (0) 12 319 8009

Appendix A

Table 3: South African potential exports to Mozambique

Values in thousand USD					
Code	Product label	Mozambique total imports	Mozambique imports from South Africa	South Africa total exports	South Africa exports to Mozambique
150300	Lard steaming & oil	796	0	672	0
150990	Olive oil	1425	44	516	39
160249	Swine meat preserved	545	36	670	71
160232	Fowl preserved	519	27	1207	98

Source: Trade Map, 2014

Table 4: Mozambique potential exports to South Africa

Code	Product label	South Africa total imports	South Africa imports to Mozambique	Mozambique total exports	Mozambique exports to South Africa
110100	Wheat	4413	0	31208	0
520100	Cotton,	67868	0	9230	0
240110	Tobacco	23002	0	8772	0
071310	Peas dried	11664	0	7429	0
080212	Almonds	11778	28	4900	0
190230	Pasta nes	13452	25	3880	0
071333	Kidney beans	84967	0	2980	0
090240	Black tea	46116	0	2507	0
071332	Beans,small red	1248	0	2004	0
100590	Maize	21318	0	1708	0

Source: Trade Map, 2014

For correspondence:
Mr. Bonani Nyhodo
Bonani@namc.co.za
+27 (0) 12 341 1115

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