



African, Caribbean and Pacific Group of States

**“Analysis of the TBT and SPS provisions of the EU-SADC
Economic Partnership Agreement”**

**“ACP-EU TBT PROGRAMME”
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ABBREVIATIONS AND ACRONYMS

ACP	African, Caribbean and Pacific Group of States
EU	European Union
IAF	International Accreditation Forum
IB	Inspection Body
ILAC	International Laboratory Accreditation Cooperation
ILC	Inter-Laboratory Comparison
IEC	International Electro Technical Commission
ISO	International Organisation for Standardisation
KE	Key Expert
MRA	Mutual Recognition Agreement
PMU	Project Management Unit (of the EU ACP project)
TBT	Technical Barriers to Trade
ToR	Terms of Reference
WTO	World Trade Organisation

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The contribution of the following individuals to the project is gratefully acknowledged. The sharing of their expertise and commitment to the project has been instrumental to successfully delivering the results within the time available to complete the project:

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EXECUTIVE SUMMARY

The EPA negotiations between the EU and the SADC EPA Group concluded in mid-July 2014 and were subsequently ratified on the 10th October 2016. There is a therefore now a legally binding requirement for each of the EPA Governments to fulfil their responsibilities related to implementing the Agreement to obtain the desired positive impacts on trade and sustainable development. The objective of this project is to enable the five EU - SADC Economic Partnership Agreement (EPA) Member States to be compliant with, and meet international best practice technical regulations, standards and SPS and related TBT requirements for access of their products into EU and other international markets. SPS measures are those requirements that lay down requirements for the importation of animals and plants and products of animal or plant origin, including fish, fishery products and wild fauna, plants and plant products, that contain an element of risk to the importing country, hence countries have the right to implement import health measures to protect their human, animal and plant life and health from pests and diseases. This right is balanced by corresponding obligations which form the basis of WTO rules for international trade in agricultural products.

The following results were therefore expected to be achieved:

- Result 1 - Study analyses of potential opportunities and benefits presented by the EU – SADC EPA for the SADC EPA states.
- Result 2 - Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland based on the overview of the national situations (covering legislative and regulatory frameworks in relation to implementation and compliance to SPS and TBT measures) for full compliance with SADC-EU EPA requirements in the areas of SPS and TBT.
- Result 3 - Elaboration of national / regional project proposals to address shortcomings and gaps identified in the structures, legal and regulatory frameworks and implementation provisions required in the SADC EPA states to allow for implementation of the SADC-EU EPA (such proposals can be used by countries to source for further funding).

The SADC EPA Group is a very diverse set of countries that brings together least-developed countries (LDCs), Lesotho and Mozambique, together with middle to upper income countries such as Botswana, Namibia, South Africa and Swaziland. Prior to the negotiation and adoption of the EPA, least-developed African, Caribbean and Pacific (ACP) countries, including the 5 SADC EPA countries that are the focus of this project, already enjoyed duty and quota-free market access to the EU for most products. The elimination of EU tariffs and quotas has not significantly improved the export opportunities for products from these countries. The SADC EPA countries are strong as exporters of certain specific products, and some of these product exports can be considered as success stories. There is still much however to be done.

With respect to trade facilitation and closer regional integration, EPA responsibilities are shared between the Governments of the 5 EPA member states and the SADC. This report has specifically focused on SPS and associated TBT issues and needs related to addressing gaps and shortcomings in existing legislative, policy and regulatory frameworks as compared to the SPS and related TBT

requirements contained in the EPA. It is stressed that there is a need for the identified issues to be addressed in a coordinated and cooperative way. Private sector stakeholders also need to be intimately involved in addressing the various needs that have now been identified.

Successful national implementation of the SPS and TBT related aspects contained in the EPA will require additional and targeted development assistance to upgrade capacity and expertise. Such assistance includes but is not limited to:

- Updating those existing laws and regulations that specifically support the identified national priority SPS/TBT related products and produce so as to appropriately align them with international developments and trends in SPS / TBT related matters;
- Developing an integrated and electronically accessible SPS database for planning, management and decision making;
- Strengthening / introducing plant pest and food safety risk analysis activities and the associated establishment and ongoing maintenance of pest free areas;
- The harmonization of food safety and pesticide registration requirements;
- Building appropriate and sustainable capacity in the private sector given their major role in implementing effective and sustainable SPS measures.
- Identifying and strengthening technical infrastructure including cost effective and internationally recognised conformity assessment capability for identified national priority SPS/TBT related products and produce.

This report provides details of the project activities that were completed and also provides a set of 11 SADC related recommendations that are summarised below, and fully motivated in section 4 of the report - key findings and recommendations, for future work in order to address the regional Sanitary – Phyto Sanitary (SPS) and associated Technical Barrier to Trade (TBT) issues and assist the 5 EPA member states in addressing the gaps and shortcomings in existing legislative, policy and regulatory frameworks and associated technical infrastructure. Addressing these will also assist the products and produce identified by the project to successfully and sustainably access the EU and other markets.

Recommendation 1: *The SADC Secretariat approach the EU to assist each of the EPA member states in identifying and implementing more current legislation / Technical Regulations in a coordinated and mutually supportive way.*

Recommendation 2: *The SADC Secretariat encourage each of the EPA member states and facilitate a process assist them in the creation and implementation of a national SPS/TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed.*

Recommendation 3: *The SADC Secretariat encourage each of the EPA member states to designate the same bodies they have identified as their “Enquiry Point” – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.*

Recommendation 4: *The SADC Secretariat take the lead supported by the EU delegation to SADC in determining the role and constituency of a dedicated EU SADC SPS monitoring group that would ensure that EPA member state SPS / TBT committees are functioning and appropriately support their SADC and EPA SPS / TBT related obligations.*

Recommendation 5: *The SADC Secretariat, together with at least the 5 EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.*

Recommendation 6: *The Secretariat is encouraged to take an even more active role in assisting in the provision of EPA SPS related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis including (pest risk) analysis and surveillance epidemiology given the fast spreading invasive fruit flies and new banana diseases (already recorded in DRC, Northern Angola etc.) and SPS / TBT related test and inspection capability.*

Recommendation 7: *The SADC Secretariat approach the EU to assist each of the EPA member states in identifying appropriate national and / or regional SPS / TBT technical infrastructure needs that will be required to prove ongoing adherence to and compliance with best practice based SPS legislation and associated procedures in a sustainable and cost effective way.*

Recommendation 8: *The SADC Secretariat, together with the EPA and other SADC member state SPS Committees, are encouraged to cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures given that success in increasing global and regional food and agricultural trade also depends on prevention, mitigation and control of plant and animal pests and diseases.*

Recommendation 9: *The SADC Secretariat take responsibility for coordinating a regional strategy for ensuring that the role of the committees are functional.*

Recommendation 10: *The SADC Secretariat take responsibility for coordinating a regional strategy for ensuring that the role of Commodity Based Trade in the processing and export of de-boned beef be recognised and adopted in terms of the EU - SADC EPA. The affected SADC EPA countries should address this as a regional trade initiative. A SADC Committee should be formed with the assistance of SADC Secretariat to advocate the region's interest at EU and SADC forum through EU - SADC EPA.*

Recommendation 11: *The SADC Secretariat take the lead supported by the EU delegation to SADC in determining the need for and role of a SADC EPA / EU expert committee(s) of member state Competent Authorities tasked with strengthening and aligning EPA member state animal, plant and fisheries regulatory systems in line with SADC and EPA SPS / TBT obligations.*

The work that has been completed in terms of the project provides the 5 SADC EPA states and the SADC Secretariat with a set of recommendations, proposed actions and project proposals that will assist them in prioritising and addressing a set of product / produce related SPS a related TBT issues. The outcomes should also foster even closer regional integration by focusing everyone's attention on some specific SPS and related TBT aspects that will need to be cooperatively addressed in order to facilitate increased inter and intra-regional trade in these specific agricultural products and produce.

In her introductory remarks at the final workshop, the Chief Technical Advisor to the SADC EPA Unit noted that the workshop marked yet another step towards implementation of the SADC – EU Economic Partnership Agreement. The fact that so many of the invited Competent Authorities were in attendance signified the importance and commitment they attach to the achievement of the SADC regional integration agenda and the implementation of the SPS and TBT related aspects of the Agreement. She also stressed that the Committee of SADC EPA Ministers of Trade, the SADC – EU Ministerial as well as the EU – ACP Council of Ministers have consistently and persistently underscored the need to implement while also recognising the critical role to be played by the Private sector and other supporting stakeholders.

The EU Trade counsellor to Botswana and SADC, Mr John Taylor, highlighted the fact that despite the long-standing trade relationship between the EU and Africa, the SADC EPA offered a new approach and foresaw new areas of cooperation, that take parties far beyond the traditional offer of market access, which in any case, was never fully exploited. He re-iterated that export-led growth in Southern Africa was dependent on meeting certain international standards. Without these being met, or technical requirements being respected, the promise of duty-free, quota-free market access to the EU, had little value. TBT and SPS issues are covered by the EPA and the results of the study show the high interest across the region and the collaboration from all stakeholders, the representatives from the administrations and the private sector consulted during the course of the consultants' work, is well documented in the papers that have been prepared for this workshop which represents an important step in the process of deepening understanding and of capacitating affected stakeholders including member state administrations.

The workshop discussions served to highlight and underscore the need, in the work ahead flowing from the recommendations of the project, for collaborative and consistent efforts by several national and SADC regional institutions and their respective leaders if the issues at hand were to be successfully and sustainably resolved. In closing the workshop, the Chief Technical Advisor to the SADC EPA Unit, Ms. Boitumelo Sebonego, acknowledged the valuable work done by the project, expressed her appreciation to all involved and stated that all of the issues raised by the project were critical and needed to be addressed. She acknowledged that this would need everyone to work together, in a suitable combination of public and private sector actors, from professional associations and with appropriate continuing support from cooperating partners.

1 BACKGROUND

Economic Partnership Agreement (EPA) negotiations were concluded in July 2014 between the European Union (EU) and with the Southern African Development Community (SADC) Group. It subsequently came into force in October 2016. The EPA is the culmination of nearly 70 years of development cooperation. A key EPA provision mutual obligation replaces a previous, one-way, donor-beneficiary type relationship. Future interactions are intended to be more aligned to that of cooperating partners with agreed responsibilities while noting that differentiation acknowledges and considers each partner's level of development, needs, performance and long-term development strategy.

The SADC EPA Group is a very diverse set of countries that brings together least-developed countries (LDCs), Lesotho and Mozambique, together with middle to upper income countries such as Botswana, Namibia, South Africa and Swaziland. Prior to the negotiation and adoption of the EPA, least-developed African, Caribbean and Pacific (ACP) countries, including the 5 SADC EPA countries that are the focus of this project, already enjoyed duty and quota-free market access to the EU for most products. The elimination of EU tariffs and quotas has not significantly improved the export opportunities for products from these countries. The SADC EPA countries are strong as exporters of certain specific products, and some of these product exports can be considered as success stories. There is still much however to be done.

Despite the SADC region's natural endowment and great potential for agricultural production, for instance, SADC EPA Member States' respective production capacities remain underdeveloped due to a number of factors. There are significant potential market access opportunities that could be gained through addressing the supply-side constraints due to non-traditional barriers to foreign market entry such as demonstrated and sustainable compliance with foreign market Sanitary and Phyto-Sanitary (SPS) and related Technical Barrier to Trade (TBT) regulatory requirements. There is a need therefore to identify the major challenges in these SADC countries in the areas of SPS and TBT would lead to proposals and recommendations to address the identified limitations in achieving conformity with international best practices. Given the difference in levels of economic development between the EU and the 5 targeted countries of the SADC EPA Group, as well as within this sub SADC group, it was necessary to analyse the EPA TBT and SPS provisions to identify specific areas where SADC EPA Member States already had encountered, or would soon encounter, EPA implementation related SPS/ TBT gaps including legislative, regulatory and supportive institutional shortcomings.

Under the ACP-EU TBT PROGRAM, a project "Analysis of the TBT and SPS provisions of the EU – SADC Economic Partnership Agreement among the five SADC EPA Member States (Botswana, Lesotho, Mozambique, Namibia and Swaziland)", was implemented by BKP Development Research & Consulting GmbH.

The purpose of the project is to provide support for the implementation of the EPA in the area of SPS and associated TBT, including development of national level plans to address gaps and shortcomings in existing legislative, policy and regulatory frameworks as compared to requirements in the SADC-EU EPA around SPS and TBT measures. These plans are to inform project proposals for funding either by the Governments and / or other interested parties. Furthermore, the outputs are intended to

provide input material for undertaking sensitization workshops, at the regional level, for policy makers and non-state actors.

The following results were expected to be achieved:

- **Result 1** – Study analyses of potential opportunities and benefits presented by the EU – SADC EPA for the SADC EPA states;
- **Result 2** - Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland based on the overview of the national situations (covering legislative and regulatory frameworks in relation to implementation and compliance to SPS and TBT measures) for full compliance with SADC-EU EPA requirements in the areas of SPS and TBT; and
- **Result 3** – Elaboration of national / regional project proposals to address shortcomings and gaps identified in the structures, legal and regulatory frameworks and implementation provisions required in the SADC EPA states to allow for implementation of the SADC-EU EPA (such proposals can be used by countries to source for further funding).

Although South Africa is not a direct beneficiary of this project there is a significant volume of the trade between it and the 5 SADC EPA states. Such trade is substantially influenced by South African suppliers and regulatory bodies. Many South African firms are also very active in the value chains of products exported from the intended beneficiary States. South Africa was therefore an important source of information for this project, including as an important source of lessons learnt in the area of integration of efforts between the regulatory bodies and National Quality Institutions (NQIs) in supporting SPS and related Technical Barrier to Trade (TBT) activities.

This report provides details of the project activities that were completed and provides a set of recommendation for future work in order to address the national and regional Sanitary – Phyto Sanitary (SPS) and associated Technical Barrier to Trade (TBT) issues. These include national and SADC needs related to addressing the gaps and shortcomings in existing legislative, policy and regulatory frameworks and associated technical infrastructure that will assist the products and produce identified by the project to successfully and sustainably access the EU and other markets.

2 ACTIVITIES CARRIED OUT

2.1 Result 1 - Study analyses of potential opportunities and benefits presented by the EU – SADC EPA for the SADC EPA states

Using internet research and the results of prior knowledge of the two project experts, an extensive list of resource material was created. The list of documents consulted can be found in Annex A2. Work under this result area was initially focused on understanding the legislative and regulatory frameworks in each EPA member state. The results of this part of the research is summarised in Table 1.

Table 1: Overview of the National Situations on Legislative and Regulatory Frameworks in Relation to SPS and related TBT Measures

EPA Member States	KEY SPS/TBT Legislative and Regulatory Framework	Weakness on SPS/TBT Measures and Insufficiently Specified SPS Procedures	National Initiatives to Address Policy Gaps and Shortfalls in TBT/SPS Requirements to Implement the EU-SADC EPA
Botswana	<ul style="list-style-type: none"> Diseases of Animals Act 1977 – Sanitary Animal Health- Related /OIE (has strong points mainly in terms of technical veterinary quality – preventative and control of animal diseases as well as facilitating beef trade). 	<p>The Act is extremely outdated and is too general to address issues now being confronted. Suffers from considerable weaknesses in form as well as in substance and more importantly, the legislative framework fails to incorporate key international norms and obligations.</p> <p>There is no mention of the OIE as well as WTO's references for matters of animal health and disease control.</p> <p>Its supporting regulations are also outdated so much so that it is even difficult to review them.</p> <p>The Act does not make specific mention with regards to:</p> <ul style="list-style-type: none"> Delegation of specific official tasks to private sector Veterinarians of Veterinary Para-professionals Key elements such as the laboratory animal welfare and transport of animals and their survival during transport 	<p>The Director of Veterinary Services/OIE Delegate/Competent Authority for EU for the Republic of Botswana, Dr. Letlhogile Modisa has requested the OIE to conduct a Veterinary Legislation Identification Mission under the auspices of the OIE Veterinary Legislation Support Programme (VLSP). The OIE Quarantine has been completed and this initiative awaits Botswana Government approval to give the OIE VLSP to go ahead.</p>
	<ul style="list-style-type: none"> Plant Protection Chapter 35:02 of 2009: (Phytosanitary Plant related/IPPC). 	<p>Critical implementation challenges of the Act by NPPO due to:</p> <ul style="list-style-type: none"> Limited capacity No protocols that could be the basis of certification of the agriculture produce No accreditation body that can approve certification for exports Lack of surveillance from the agricultural process from start of growth of crop, and production and harvesting Traceability is an issue. These challenges hamper information exchange, transparency and 	

EPA Member States	KEY SPS/TBT Legislative and Regulatory Framework	Weakness on SPS/TBT Measures and Insufficiently Specified SPS Procedures	National Initiatives to Address Policy Gaps and Shortfalls in TBT/SPS Requirements to Implement the EU-SADC EPA
		<p>monitoring capacity. NPPO faces challenges of the EU-SADC EPA on areas of SPS requirements especially with regards to information exchange and transparency</p> <ul style="list-style-type: none"> • Most of the international regulations OIE, IPPC, Codex that are used in the SPS domain are not yet domesticated and there is no law which ensures enforcement of International SPS measures in Botswana <p>Common deficiencies when regulations are not domesticated, implementation becomes a problem. Instead the SPS control regulations need to be in line with IPPC, OIE, Codex etc.</p>	
	<ul style="list-style-type: none"> • Standards (import inspection regulations of 2008) 	<p>The regulations were drafted without proper regard to the WTO and SADC TBT Annex which could lead to litigation.</p>	<p>Currently the Compulsory Standards Unit of BOBS is conducting a gap analysis between SIIR and the WTO TBT regulations.</p>
Lesotho		<p>Lesotho has no legislation dealing specifically with SPS matters and its institutional framework is not clearly defined.</p> <p>Lesotho does not have a national accreditation authority; neither does it have any internationally accredited testing and certification bodies.</p>	<p>During the period 2008-2015 Lesotho took some deliberate steps towards developing SPS legislation by issuing various policy papers. Lesotho has four (4) entities dealing with SPS measures.</p> <p>Ministry of Agriculture and Food Security. Department of Livestock Services if responsible for animal health and trans-boundary disease control.</p> <p>Department of Crops, Department of Agricultural Research – responsible for plant health. Department of Crops, Department of Agricultural Research – responsible for plant health and plant material.</p> <p>Ministry of Forestry, responsible for forest and wildlife products. Ministry of Health responsible for inspection activities and; Ministry Trade and Industry; responsible for the</p>

EPA Member States	KEY SPS/TBT Legislative and Regulatory Framework	Weakness on SPS/TBT Measures and Insufficiently Specified SPS Procedures	National Initiatives to Address Policy Gaps and Shortfalls in TBT/SPS Requirements to Implement the EU-SADC EPA
			development of standards and food testing laboratories.
Mozambique	<ul style="list-style-type: none"> Decree No. 26/2009 – Animal Health Regulation Primary Legal Text for Animal Disease Control Decree No. 08/2004 of 1st January 2004 	<p>Lacks associated mechanisms for addressing coordination and chain of command between Veterinary Authority and other actors in the veterinary domain.</p> <p>Fails to incorporate international standards and obligations regarding imports and exports of live animals and animal products including WTO Agreements on the Application of Sanitary and Phytosanitary measures.</p>	<p>The OIE Delegate for the Republic of Mozambique Dr. José Libombo Jr. has requested the OIE to conduct a Veterinary Legislation Mission through the PVS Veterinary Legislation Support Programme.</p> <p>OIE Veterinary Legislation Identification Mission Report 2015.</p>
	<ul style="list-style-type: none"> Ministerial Diploma No. 134/92 of 2nd September 1992 Phytosanitary Inspection and Control (Plants and Plant Decree No. 184/2001 of 19 December 2001 – Regulatory Framework for Seeds 	Mozambique's sanitary and phytosanitary measures have not been revised substantially since 2001.	
	<ul style="list-style-type: none"> Decree No. 76/2009 – General Regulation for The Hygienic Control of Foodstuffs of Aquatic Origin – Lays down the requirements for handling, processing export and import of foodstuffs of aquatic origin 	The effectiveness of the residues monitoring plan is compromised by some weaknesses in its implementation, laboratory performance and controls on the authorization of veterinary medicines.	The Regulation can be readily updated to reflect the relevant EU provisions.
Namibia	<ul style="list-style-type: none"> Animal Health Act 2011 	Has no supporting regulations, which makes implementation difficult.	The regulations are still under preparation.
	<ul style="list-style-type: none"> Plant Quarantine Act 2008 	NPPO has limited capacity and capability of control procedures and the limitations are acute at border posts. No Seed Laws and regulations.	
	<ul style="list-style-type: none"> Marine Resources Act (No. 27) 2000 and Regulations; Exploitation of Marine Resources (No. 24) of 2001; Inland Fisheries Resources Act of 2003; 	Outdated	The Ministry of Fisheries and Marine Resources is in the process of reviewing and updating policies, the Marine Resources and its Regulations as well as the Inland Fisheries Act and Regulations.

EPA Member States	KEY SPS/TBT Legislative and Regulatory Framework	Weakness on SPS/TBT Measures and Insufficiently Specified SPS Procedures	National Initiatives to Address Policy Gaps and Shortfalls in TBT/SPS Requirements to Implement the EU-SADC EPA
	<ul style="list-style-type: none"> • Aquaculture Act (No. 18) of 2002 and Aquaculture Licensing Regulations 		
Swaziland	<ul style="list-style-type: none"> • Animal Disease Act 1965 as Amended 	Old and outdated.	
	<ul style="list-style-type: none"> • Importation of Bees Act 1910 	Old and outdated.	
	<ul style="list-style-type: none"> • Veterinary Public Health Act 17/2013 	No supporting regulations, procedures and personnel.	The Veterinary Services Department (VSD) needs to ensure that the drafting and passage of supporting regulations of VPH Act 17/2013 are prioritized to allow implementation by the end of 2016.
	<ul style="list-style-type: none"> • Plant Health Act 2013 	NPPO hampered by resource constraints to implement the Act.	

The initial research was also used to inform a set of project related questionnaires were used, and are further described, in paragraph 2.2 result 2.

2.2 Result 2 - Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland based on the overview of the national situations (covering legislative and regulatory frameworks in relation to implementation and compliance to SPS and TBT measures) for full compliance with SADC-EU EPA requirements in the areas of SPS and TBT

To prepare the required overviews of national situations, based on a set of specific products / produce affected by SPS / TBT related issues, information was collected through a series of field missions. Questionnaires related to animal health, fish and fishery products and plant protection with questions relevant to both national regulatory bodies and private sector organisations (see Annex A3 to A9) were created, refined and used as part of the information gathering process. Subsequent interviews with a comprehensive group of national public and private sector stakeholders were then conducted in each of the 5 SADC EPA member states (See Annex A10). These interviews were used to explore how the regulatory organisations and private sector stakeholders impacted by SPS and associated TBT related measures could leverage additional benefit from the EPA that was now in place and legally binding. The interviews were also used to explore the relationship in the SPS and associated TBT related areas between the selected EPA member states, the European Union, their fellow member states in SADC and other regions to unpack issues related to increasing intra and inter regional trade.

The answers received from these interviews were used to populate a set of 5 national country reports (see Annex A11 to A15 - specifically Annex A2 of these reports). The tables contained in each of these reports identify issues related to increasing trade both with the European Union and within SADC in the sectors and products targeted by this project. The tables indicate the information received and the severity of the issue based on a colour code (green: no attention required at this stage, yellow: attention needed but not urgent and red: urgent attention required).

2.3 Result 3 – Elaboration of national / regional project proposals to address shortcomings and gaps identified in the structures, legal and regulatory frameworks and implementation provisions required in the SADC EPA states to allow for implementation of the SADC-EU EPA (such proposals can be used by countries to source for further funding).

The information from the various field mission interviews was collected and collated into a set of five national country information reports as already described in result 2. The information contained in the country information tables, including the perceived priority of the SPS and related TBT issues identified, was used to create a set of 5 national country reports (See Annex A11 to A15). A table in the national country report contains cross references to the tables in the country information reports that identify where the red (urgent attention required) issues have been addressed to ensure that they are addressed in a holistic way. The national reports and associated annexures were then circulated to representatives of each of the 5 EPA member states for

comment. These national reports also contain recommended actions and national / regional project proposal(s) to address the urgent SPS / TBT issues that were identified as relevant to more than one of the 5 EPA member states. This approach was used to encourage further and more focused technical interaction between the member states and also foster increased regional integration in addressing the trade facilitation needs related to the products / produce identified for further funding.

A regional validation workshop to which representatives of the SPS and TBT Competent Authorities of each of the selected SADC EPA states was invited, took place in Johannesburg on 23rd and 24th January 2017. A copy of the workshop agenda can be found in Annex A18. Opening addresses were made by the Head of the SADC EPA unit (See Annex A19), the Head of the EU Delegation (See Annex A20) and the SADC SQAM unit (See Annex A21). This was followed by a presentation given by KE1 on the main SPS and related TBT issues to be addressed by the EPA (See Annex A22). This was followed by a presentation on Project Objectives and Main Results also made by KE1 (See Annex 23). A presentation was then made by KE2 using four case studies where SPS and related TB issues related to 4 products / produce identified by the project had been successful resolved in other parts of the region. The case studies addressed beef (See Annex A24), Honey (Annex A25), High Value Agriculture (See Annex A26) and Fisheries (See Annex A27) and included specific and very relevant examples where SADC produce and agricultural products could become more competitive and benefit from targeted interventions related to legislation, regulation, standards and accredited conformity assessment.

Figure 1: Group feedback session at the validation workshop



The informational presentations were then followed by, and informed a set of 7 problem statements that were discussed by 7 appointed task groups, one for each of the problem statements (See Annexes A28 and A29). Each group appointed a rapporteur who then gave

feedback in a combined session led by the SADC Secretariat facilitator. The workshop concluded with a series of suggestions and assigned responsibilities for future action that are described in the facilitators report (See Annex A30).

3 RESULTS ACHIEVED

3.1 Result 1 - Study analyses of potential opportunities and benefits presented by the EU – SADC EPA for the SADC EPA states.

An analysis of the legislative frameworks of the five (5) SADC EPA Countries (see Table 1), shows that there are some notable strengths. Certain elements are already, and comprehensively, addressed such as import and export of animals and animal products. The extent and technical implementation related details obviously differ from country to country.

The study has also identified a critical lack of supportive Regulations which are required to specify the technical, procedural and administrative modalities to implement the legislation. The analysis also shows that institutional frameworks are necessary, especially for veterinary services. These should be based on an holistic, system-based approach that provides the Central Veterinary Authorities with the overall competence required to develop programmes and implement activities throughout the country and assign specific areas of responsibility to provincial and local authorities. It is also important that the relationships between the different administrative levels are defined and the coordination mechanisms needed to ensure coherent and effective implementation on the ground are suitably specified.

The insights gained through the background research were also used to create a set of seven questionnaires, from a regulatory and private sector perspective. These were utilised during the subsequent field missions to interrogate SPS and related TBT issues related to animal and animal products (See Annex A3 and A4), plants and plant products (see Annex A5 and A6) and fisheries and fish related products (see Annex A7 and A8). A more generic, private sector focused, questionnaire was also refined and finalised during the course of the field missions due to feedback received, and experience gained, during the initial interviews (see Annex A9).

3.2 Result 2 - Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland based on the overview of the national situations (covering legislative and regulatory frameworks in relation to implementation and compliance to SPS and TBT measures) for full compliance with SADC-EU EPA requirements in the areas of SPS and TBT.

There are several issues that currently limit implementation or negatively impact on the utility of the legislation to achieve the intended policy objectives. Most of the enabling provisions are inadequate. This leaves the relevant national competent authorities without the explicit legal mandate required for them to appropriately discharge their responsibilities. In some of the EPA

states, a serious concern is the absence of a formal chain of command in the veterinary domain. This weakens the Veterinary Authorities in these countries, and affects their capacity for animal disease detection and control, particularly in the case of trans-boundary and trade sensitive animal diseases and zoonoses where rapid and effective response at every administrative level is critical. In some EPA Member States, formal plant and animal pest and disease surveillance systems, including communication protocols, are lacking preventing the early detection, control and reporting of plant and animal pest and disease occurrences.

In some EPA Member States a formal chain of command, together with mechanisms to coordinate and enforce implementation, was evident. In others, this was not the case. Feedback obtained from stakeholders regarding national legislative frameworks was that the authorities have the authority and capability to participate in the preparation of national legislation. The weakness occurs in the subsequent preparation and formalisation of supportive regulations, which can take several years, or in implementing the regulations once approved.

A previous project (Report code 020/STE1 – STE2 “Analysis of the EU-SADC EPA: Harnessing opportunities presented by the Agreement for Market Access and Trade Facilitation”) has identified some of the EPA member state SPS and TBT related issues that could have an impact on their ability to exploit the market access and related capability enhancement opportunities now made available by the EU – SADC EPA. Those that are also relevant to the current project have been detailed in each of the 5 separate national reports (See Annex A11 to A15). Further SPS and related TBT challenges and issues are identified in the 5 country reports, see Annex A2 of each of the 5 EPA member state national reports. These are further described in the higher level national reports (See Annex A11 to A15) and are a major impediment on the ability of SADC EPA member state producers and traders to access other SADC member states, the EU, as well as other foreign markets.

3.3 Result 3 – Elaboration of national / regional project proposals to address shortcomings and gaps identified in the structures, legal and regulatory frameworks and implementation provisions required in the SADC EPA states to allow for implementation of the SADC-EU EPA (such proposals can be used by countries to source for further funding)

It was noted that in most cases, the competent authorities had no explicit programmes to ensure stakeholder compliance with the regulations for which they were responsible. There is, in general, limited or even a total lack of information regarding SPS and TBT related regulations that was available to stakeholders. The authorities were generally aware of policy gaps and limitations, inconsistencies and non-conformities in national legislation and regulations related to SPS measures when compared to international standards. They often stated that they did not have the capability to rectify the known problems, often because of budgetary constraints. Some of these problems include the failure of the legislative framework to incorporate key international norms and obligations and, most noticeably, provisions on the import of animals, plants and their products. This implies, that as World Trade Organization (WTO) members, they do not comply to the SPS Agreement. In some legislative frameworks of the EPA Member States, there is no mention of the

OIE as the WTO's reference organization for matters of animal health and disease control. There was also no mention of the IPPC as the WTO's reference organization for matters related to plant health. The main policy gaps and challenges that now need to be addressed in order to strengthen EPA member state capacity related to suitably compliant, and internationally aligned, SPS management and control are:

- Review current legal framework dealing with SPS / TBT matters;
- Assess the appropriateness of the existent legal frameworks as compared to the obligations as a signatory to the EU - SADC EPA;
- Strengthening to ensure an even more coherency in the national legislative framework in each of the EPA Member States related to SPS / TBT measures;
- Review of the public sector institutional arrangements with particular focus on operational procedures from a user perspective;
- Develop effective SPS and related TBT legal frameworks and enabling institutional/operational arrangements to allow EPA Member State competent authorities to manage SPS / TBT measures;
- Assess the technical infrastructure needs, including equipment, at laboratories and border posts to support the SPS / TBT priorities and link these and other SPS / TBT related priority areas for capacity building to the related sections in the SADC Economic Partnership Agreement such as:
- Capacity building for SPS control (including inspection, certification and supervision in the public and private sectors;
- Capacity for maintenance and expansion of market access by SADC States;
- Technical capacity to implement and monitor SPS measures and promote the use of international standards;
- Support for SADC EPA States' participation in international standard setting bodies;
- Promotion of cooperation on implementation of SPS Agreement (particularly with regard to Enquiry Points and Notification and International Standards Setting Bodies); and
- Development of capacity for risk analysis, harmonization, compliance testing, certification, residue monitoring, traceability and accreditation, taking into account the identified priority products and sectors as identified by the Trade and Development Committee.

With respect to regional trade facilitation, the responsibilities are shared between the 5 Governments and SADC. The 5 national reports therefore contain a set of national actions and project interventions that would benefit from member state collaboration and cooperation. The SPS and related TBT issues in these activities where it is appropriate that the SADC Secretariat urgently take a leading role are contained in Annex A16 (SADC Regional Feedback) and summarised in Table 2.

Table 2: Proposed SADC Secretariat coordinated and led actions

Action No.	Proposed Action	Entities Involved	Annex A16 paragraph
1	The SADC Secretariat encourage each of the EPA member states to initiate a process to create and implement a national SPS/TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed.	SADC Secretariat and all 5 EPA Member State Ministries of Agriculture, Trade and the national Bureau of Standards.	A1, C5
2	SADC Secretariat approach the EU to assist each of the EPA member states in identifying and implementing more current legislation / Technical Regulations including the identification of appropriate national and / or regional technical infrastructure needs that will be required to prove ongoing adherence to and compliance with such amended SPS legislation and associated procedures in a sustainable and cost effective way.	SADC Secretariat and all 5 EPA Member State Ministries of Agriculture, Trade and the national Bureau of Standards.	A1, C5, G2, G12
3	The SADC Secretariat encourage each of the EPA member states to designate the same bodies they have identified as their “Enquiry Point” – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.	SADC Secretariat and all 5 EPA Member State Ministries of Agriculture, Trade and the national Bureau of Standards.	A1, C5
4	The SADC Secretariat take responsibility for coordinating a regional strategy for ensuring that the role of Commodity Based Trade in the processing and export of de-boned beef be recognised and adopted in terms of the EU - SADC EPA.	SADC Secretariat and The Botswana and Namibian Member State Ministries of Agriculture and Trade	C5, G12
5	The SADC Secretariat take the lead with the EU delegation to SADC in determining the role and constituency of a dedicated EU SADC SPS group that would be tasked with supporting closer alignment of EPA member state systems with their SADC and EPA SPS / TBT obligations.	SADC Secretariat, EU delegation to SADC	A1, C5, G12
6	The SADC Executive Secretariat invite the EU to review and appropriately revise Article 8 based on Council Decision 79/542/EEC given that it may be considered as a potential contravention of Article 2.3 of the WTO.	SADC Secretariat	C5
7	The SADC Secretariat, together with at least the 5 EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.	SADC Secretariat, and all 5 EPA member state nominated representatives.	A1
8	The SADC Secretariat take an even more active role in assisting in the provision of EPA SPS / TBT related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis and SPS / TBT related test, inspection and certification capability.	SADC Secretariat.	G2, G12

In some cases, it was evident from interactions during the field mission that SADC EPA States are pooling resources to build the necessary SPS and related TBT capacity at the SADC regional level. These included regional laboratory capacity and committees of experts to set harmonized regional standards in a cost-effective way. The EPA encourages and refers (Article 67) to such cooperation in strengthening regional capacity on SPS issues and in promoting intra-regional harmonization.

The 5 national reports contain details on suggested project(s) proposals that are focused on addressing national SPS, and related TBT, impediments to increased or new trade in prioritised products or produce currently impacted by these requirements. It is intended that the suggested project interventions that, could address such SPS and related TBT challenges, be undertaken with other EPA member states facing similar challenges in a coordinated and cooperative way noting that representative private sector stakeholders will also need to be intimately involved in seeking sustainable and trade enhancing remedies. The project proposals are now briefly summarised in the paragraphs that follow where the 5 EPA member states in which the projects are, or could be, relevant are also identified. The full details of each of these projects as well as the associated action plans can be found in the respective national reports of the countries concerned.

3.3.1 Commodity based Trade in Beef Trade: Botswana, Namibia

Complete eradication of Foot and Mouth Disease (FMD) in Southern Africa is not a realistic goal, since the disease is endemic in wildlife, mainly buffaloes. As part of the Wildlife Conversation Society's Animal and Human Health for the Environment and Development (AHEAD) Programme, a pilot project was conducted on the beef value chain in the Zambezi Region of Namibia (Caprivi) from 2010-2014 which incorporated appropriate best practices into a formal Hazard Analysis and Critical Control Points (HACCP) programme to be operated by the meat packers in the Zambezi Region (an FMD infected zone).

The pilot study has shown that the integrated management of sanitary (i.e. food safety and animal disease) risk along the beef value chains is a relatively simple exercise and can be achieved through appropriate and parallel application of HACCP and CBT principles and associated systems. A quantitative risk assessment (QRA) was subsequently conducted as part of the Zambezi Region study which measured the FMD risks associated with beef derived from the Zambezi Region value chain. The QRA estimated the risk of releasing a box of beef cuts infected with FMD virus to be less than one (1) in a million. Such a value is commonly used to define negligible risk.

An alternative approach to current, very expensive and resource intensive efforts to manage the risks associated with the disease could therefore be found by adopting a risk assessment based programme such as the Commodity Based Trade (CBT) which is an approved OIE standard. The adoption of the CBT approach would also provide a means to address other issues of concern to Botswana and Namibia raised during the various interviews regarding SPS / TBT measures, e.g. the 90/40-day rule which currently excludes Ngamiland in Botswana and Namibian communal farmers' cattle from qualifying for EU market access This deprives Botswana of the potential export of 400 000 cattle in the Ngamiland and Namibia of the potential export of 1.5 million cattle in the NCAs

together with the associated foreign exchange earnings.

3.3.2 Animal Identification and Traceability System: Botswana, Lesotho

This project proposal aims to strengthen the capacity of member states Competent Authority for Animal Health regarding official controls that focus on Animal Identification and Traceability System. An animal identification and traceability system is an OIE accepted animal health and food safety measure. Major shortcomings that have materialised surrounding the Livestock Identification and Traceability System include the following:

- The Government of Botswana has already invested over BWP230 million for a cattle identification and traceability system. The project as implemented is however failing to deliver a reliable and appropriate solution. The animal owner's details for instance are still not correctly updated in the main central server at the Ministry of Agriculture Head Office. The system requires a member of staff from DVS to scan animals at the farm as part of issuing movement permits. This has led to delays and disruptions. Data is not updated by small scale producers due to the lack of money to purchase a scanner thus failing to comply with export market requirements; and
- In Lesotho, animal traceability is currently managed solely as a stock theft prevention activity which is not adequate for SPS management purposes.

This project would strengthen the capacity building to enable the Competent Authorities to meet the legitimate SPS requirements of other trading partners.

3.3.3 Mitigation of the spread of invasive or other Fruit Flies: Lesotho, Mozambique, Namibia

In pursuit of accessing developed country markets, EPA member states are, or could with sufficient support, expand production and diversification in the agri-food sector toward high-value perishable products. High-value fresh and processed agri-food products which are destined for sale directly to foreign market consumers are subject to stricter SPS requirements than the food exports destined for further processing in those same markets. Similarly, high-value perishable products are more vulnerable to infection or infestation by pathogens and pests. Higher value fruit from other EU - SADC EPA member states are currently excluded from exporting to South Africa due to the presence of *Bactrocera invadens*, the fruit fly originating from Asia. As indicated in a study by Cassidy, D (2010) in the study of horticulture trade, the response by SADC member states has been largely reactive and uncoordinated. It is probable that new invasive species were introduced in many SADC countries without the relevant NPPOs being aware until after the fact.

The spreading of fruit flies threatens food production future food security. Surveillance is necessary for the early detection of SPS risks and problems so as to minimise the damage inflicted and limit the spread of the pest. Such a surveillance system will need a national action plan, good coordination between different stakeholders and appropriate technical diagnosis capacity. This

project intends to strengthen the capacity of the member state NPPOs to develop and implement surveillance systems to monitor fruit fly incursion given the potential cost in their absence could easily be catastrophic noting that it has already led to market bans and loss of production in other SADC member states.

Motivations for the Project Proposal include:

- There is a need to identify risk areas within each of the countries including border inspection points, production areas for host commodities, populated areas and markets;
- There is a need to determine the amount of traps needed using the trap densities established by the International Atomic Energy Agency (IAEA) and use their recommended trap combinations for the detection and monitoring of target fruit flies (See Review of Fruit Fly Surveillance Programmes in the United States 02/2006); and
- Lesotho, Mozambique and Namibia have little or no capacity and appropriate expertise to undertake modern procedures of establishing a national fruit fly surveillance programme designed to both detect new species of fruit flies and monitor endemic species that are already established.

3.3.4 Development of a Honey Value Chain: Swaziland

Swaziland has a tradition of bee keeping and honey hunting is part of the Swazi culture. Bee keeping in Swaziland is based on the availability of bee forage which is in abundance throughout the year. The bee forage comprises indigenous bee plants (aloes and acacias), extensive eucalypt plantations and citrus orchards in the country. There are currently 11007 bee keepers in Swaziland keeping 3 860 hives of bees. An Industry Strategic Plan for Honey produced by Techno Serve, Business Solutions to Poverty - 2011, estimates that there are 400 rural bee keepers in Swaziland. It is further estimated that Swaziland has the potential capacity to produce 600 tons of honey, implying that a high percentage of honey potential remains unutilized. The honey bees which are found in Swaziland are:

- *Apis mellifera scutellata*
- *Apis mellifera litorea*

The Government of Swaziland regulates the importation of honey and bee products through a very old piece of legislation – Importation of Bees Act 1910 and provides Veterinary Services and extension workers in all regions of Swaziland to assist bee keepers. The major challenges that face the industry have been listed as:

- Sanitary (varroa mites, American Foulbrood (AFB))
- Honey and bee products require SPS standards to ensure food safety and eliminate health risks. Bee keepers and traders should be able to comply with SPS standards in order to participate in domestic supply chains and engage in regional and international trade

- Shortage of equipment
- Loss of bees due to forest fires
- Pesticides poisoning

It is against this background, and given the high profile of bee keeping in Swaziland, that a project proposal is now suggested for support through the EU - SADC EPA to develop a Honey Value Chain in Swaziland within an appropriate SPS / TBT Framework.

3.3.5 Support of selected Inspection Bodies to obtain accreditation – Swaziland together with all other EPA member states

In order to provide trusted results that will be internationally acceptable, it is important that a group targeted Inspection Bodies in Swaziland, together with those in other EPA member states, be assisted to independently demonstrate their competence through accreditation. Based on experience gained in other areas of capacity building for conformity assessment, both within SADC and elsewhere, it is important that such assistance contain an appropriate mix of training interventions and on-site mentoring and other technical assistance. The logical steps in the journey to successfully obtaining internationally recognised accreditation are further elaborated in the Swaziland National Report (See Annex A14, paragraph 6.2)

Table 3: Log frame of activities conducted during the project

Result Area 0: Inception - Inception phase to be performed during Activity					
Activity	Description	Inputs/Outputs	Activities planned	Results	Comments
0.1	Review proposed approach	INPUT: KE1 and KE2 meeting with PMU in Brussels. OUTPUT: Confirmed activities and outcomes.	Project Team met with PMU on 6th September 2016	Done	Clarifications from PMU and subsequent negotiations with the beneficiary enabled the creation and approval of a new project schedule to ensure that all expected activities still occurred within the remaining time available to complete the project.
0.2	Inception Report	INPUT: Preparation of report. OUTPUT: Inception Report.	The draft inception report was submitted on 17th October and approved on 2 November 2016	Done	See Annex A1: Inception report - final
Result Area 1: Study analyses of potential opportunities and benefits presented by the EU – SADC EPA for the SADC EPA states					
Activity	Description	Planned Inputs/Outputs	Activities planned	Results	Comments
1.1	Prepare both general summary of the SPS and TBT provisions of the EU – SADC EPA and technical analyses of potential opportunities and benefits presented by the Agreement.	INPUT: Collect relevant materials and desk work OUTPUTS: 1. Reference material used to prepare a set of 7 questionnaires. 2. Analysis of legislation created in tabular form (see Table 1).	Review previous project related research material in order to better understand the context of the project.	Done	See Annex A2: List of Documents Consulted. Annex A3: Animal and Animal products - Regulatory Questionnaire v3. Annex A4: Animal and animal products - Private Sector Questionnaire v1. Annex A5: Plant and Plant products - Regulatory Questionnaire v3. Annex A6: Plant and Plant products - Private Sector Questionnaire v1. Annex A7: Fisheries and Fishery Products - Regulatory Questionnaire. Annex A8: Fisheries and Fishery Products - Private Sector Questionnaire. Annex A9: Generic Private sector questionnaire. Table 1: Overview of the National Situations on Legislative and Regulatory Frameworks in Relation to SPS and

					related TBT Measures
Result Area 2: Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland (based on the overview of the national situation covering legislative and regulatory frameworks in relation to SPS and TBT requirements)					
Activity	Description	Inputs/Outputs	Activities planned	Results	Comments
2.1	Preparation of comprehensive overviews of national situations – focus on review of legislation, policy and regulatory frameworks in line with SADC-EU EPA requirements as well as recommendations to update / establish / improve such framework and legal provisions.	INPUT: <ul style="list-style-type: none"> • Missions to 5 SADC countries with the purposes of conducting interviews and meeting the relevant stakeholders. • Preparation of national level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland. OUTPUTS: <ol style="list-style-type: none"> 1. Produce 5 EPA country information reports that details the inputs collected during the field missions to each of the 5 EPA member states. 	Conduct interviews with senior officials in each EPA member state with responsibility for SPS / TBT issues and representative private sector organisations. Produce a set of documents where information is recorded and prioritised.	Done	<p>See Annex A10: List of all interviews scheduled and conducted.</p> <p>And the Tables in the Annex 2 attachment of:</p> <p>Annex A11: National Report Botswana v3 and associated Annexes.</p> <p>Annex A12: National Report Namibia v1 and associated Annexes.</p> <p>Annex A13: National Report Mozambique v2 and associated Annexes.</p> <p>Annex A14: National Report Swaziland v2 and associated Annexes.</p> <p>Annex A15: National Report Lesotho v1 and associated Annexes.</p> <p>Annex A16: SADC Regional Feedback.</p>
Result Area 3: Elaboration of national / regional project proposals for further trade capacity building implementation.					
Activity	Description	Inputs/Outputs	Activities planned	Results	Comments
3.1	Elaboration of national / regional project proposals to address shortcomings and gaps identified in the structures, legal and regulatory frameworks and implementation	INPUT: <ul style="list-style-type: none"> • On the basis of collected information and prepared studies and conducted analyses elaborate drafts of national / regional project proposal for further funding (to be verified in a regional validation workshop for representatives of all SADC EPA states). • Both key experts prepare for and present at the validation workshop 	Produce a set of 5 national reports that include suitable recommendations, action plans and project proposals to address the SPS / TBT issues that were identified.	Done	<p>See Annex A11: National Report Botswana v3 and associated Annexes.</p> <p>Annex A12: National Report Namibia v1 and associated Annexes.</p> <p>Annex A13: National Report Mozambique v2 and associated Annexes.</p> <p>Annex A14: National Report Swaziland v2 and associated Annexes.</p> <p>Annex A15: National Report Lesotho v1 and associated Annexes.</p>

	<p>provisions required in the SADC EPA states to allow for effective implementation of the SADC-EU EPA (such proposals can be used by countries to source complementary and additional donor support).</p>	<p>held in Johannesburg on 23rd and 24th January 2017.to report on the results of the project.</p> <p>OUTPUTS:</p> <ol style="list-style-type: none"> 1. Produce 5 EPA national reports that detail the relevant SPS / TBT issues and provides a set of actions and project proposals to address these. 2. Present the information gathered and associated recommendations and project proposals at a validation workshop to educate and inform invited Stakeholders. 	<p>Present these at a validation workshop</p>	<p>Annex A16: SADC Regional Feedback.</p> <p>See</p> <p>Annex A17: Validation Workshop Participant List</p> <p>Annex A18: Validation Workshop Agenda</p> <p>Annex A19: Opening Remarks by Head of SADC EPA unit</p> <p>Annex A20: Opening Remarks by Head of EU Delegation</p> <p>Annex A21: Opening Remarks by SADC SQAM Unit</p> <p>Annex A22: The Main SPS and related TBT issues to be addressed by the EPA</p> <p>Annex A23: SADC Presentation on Project Objectives and Main Results</p> <p>Annex A24: Case Study - Beef</p> <p>Annex A25: Case Study - Honey</p> <p>Annex A26: Case Study - High Value Agriculture</p> <p>Annex A27: Case Study – Fisheries</p> <p>Annex A28: Validation Workshop minutes Day 1</p> <p>Annex A29: Validation Workshop minutes Day 2</p> <p>Annex A30: Workshop Facilitators Summary</p> <p>Annex A31: Closing remarks</p>
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4 KEY FINDINGS AND RECOMMENDATIONS

The EPA negotiations between the EU and the SADC EPA Group concluded in mid-July 2014 and were subsequently ratified on the 10th October 2016. There is a therefore now a legally binding requirement for each of the EPA Governments to fulfil their responsibilities related to implementing the Agreement to obtain the desired positive impacts on trade and sustainable development. A previous project (Report code 020/STE1 – STE2 “Analysis of the EU-SADC EPA: Harnessing opportunities presented by the Agreement for Market Access and Trade Facilitation”) has already identified some issues that could have an impact on each of the 5 EPA member states ability to exploit the market access opportunities the EU – SADC EPA might present. Those already raised that are also relevant to the current project have been detailed in each of the 5 national country reports that are attached to this report.

The Agreement on the application of sanitary and phytosanitary measures of the WTO has a two-fold objective:

- To recognize the sovereign right of the Members of the WTO to provide the level of health protection which they deem appropriate and
- Ensure that the SPS measures do not represent unnecessary, arbitrary, scientifically unjustifiable, or disguised restrictions on international trade

Annex A of the SPS Agreement, defines an SPS measure as any measure applied:

- To protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease carrying organisms or disease causing organisms,
- To protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease causing organisms in foods, beverages or feed stuffs,
- To protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from entry, establishment or spread of pests; or
- To prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests or diseases.

Noting the contents of the previous paragraph, SPS measures are those requirements that lay down requirements for the importation of animals and plants and products of animal or plant origin, including fish, fishery products and wild fauna, plants and plant products, that contain an element of risk to the importing country, hence countries have the right to implement import health measures to protect their human, animal and plant life and health from pests and diseases. This right is balanced by corresponding obligations which form the basis of WTO rules for international trade in agricultural products.

With respect to trade facilitation and closer regional integration, EPA responsibilities are shared between the Governments of the 5 EPA member states and the SADC. This report has specifically focused on SPS and associated TBT issues and needs related to addressing gaps and shortcomings in existing legislative, policy and regulatory frameworks as compared to the SPS and related TBT requirements contained in the EPA. It is stressed that there is a need for the identified issues to be addressed in a coordinated and cooperative way. Representative private sector stakeholders also need to be intimately involved in addressing the various needs that have now been identified.

An analysis of the legislative frameworks of the five (5) SADC EPA Countries indicates that there are some notable strengths. Certain elements are already, and comprehensively, addressed such as import and export of animals and animal products. The extent and technical implementation related details obviously differ from country to country. The study has also identified a critical lack of supportive Regulations which are required to specify the technical, procedural and administrative modalities to implement the legislation. Although this is a member state responsibility, there are benefits, including almost automatic harmonisation of subsequent legislative and regulatory remedial action, that could be derived by appropriate SADC facilitation of targeted legislative remedies between EPA member states.

Recommendation 1: *The SADC Secretariat approach the EU to assist each of the EPA member states in identifying and implementing more current legislation / Technical Regulations in a coordinated and mutually supportive way.*

Implementation of the EPA could initially focus and begin to address only the problems related to the legislative and communication related obligations of the WTO TBT and SPS Agreements, by improving legislation, institutional arrangements and procedures. These issues once addressed will not however, be sufficient on their own. Some of the implementation problems relating to the transparency provisions of the WTO SPS Agreement do not necessarily relate to difficulty of enforcing or complying with these provisions but rather to the local capacity constraints that limit the ability to derive benefits from them. Among these constraints are institutional problems, such as insufficient coordination between the various responsible Government Ministries, dormant SPS committee structures, no apparent linkage between the national SPS and TBT institutions and appropriate use of associated and existing technical support capacity, limited / no flow of information regarding notified draft SPS/TBT regulations and limited / no capacity for framing responses that reflect national positions and available technical capability. In addition, capacity constraints in monitoring the often substantive in-flows of notifications have been identified. Although again this is a member state responsibility, there are benefits that could be derived by appropriate SADC facilitation of targeted remedies between the 5 EPA member states.

Recommendation 2: *The SADC Secretariat encourage each of the EPA member states and facilitate a process assist them in the creation and implementation of a national SPS/TBT policy that identifies the strategic products / produce that it wishes to prioritise for export and clearly delineates the associated roles and responsibilities for the SPS and relevant TBT issues that need to be addressed.*

Recommendation 3: *The SADC Secretariat encourage each of the EPA member states to designate the same bodies they have identified as their “Enquiry Point” – Single Contact Point (for information) under the SPS Agreement, as their Contact Point under the EU SADC EPA to avoid overlapping competences and unnecessary duplication of work.*

The overall impression from the interviews conducted in each of the 5 EPA member states is that the resources available for SPS and TBT related activities are severely constrained. The local SPS committees are mostly informal or even inactive and feedback / reporting for related and informed high level decision making is also a major problem. National SPS coordinating structures are tasked with the implementation of activities meant to improve and strengthen national SPS and Food Safety Control Management. This issue is critical given that the management of SPS issues at the SADC level is based on having effective national SPS committees. Now that the EPA is in force, it is imperative that these vital committees are constituted and made operational as a matter of urgency.

Recommendation 4: *The SADC Secretariat take the lead supported by the EU delegation to SADC in determining the role and constituency of a dedicated EU SADC SPS monitoring group that would ensure that EPA member state SPS / TBT committees are functioning and appropriately support their SADC and EPA SPS / TBT related obligations.*

Recommendation 5: *The SADC Secretariat, together with at least the 5 EPA member state SPS Committees cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures.*

Plant and animal pests and diseases do not obey political boundaries. It is therefore important that the existing cooperation among SADC Member States is further strengthened to timeously control the spread of pests and diseases while protecting current and future regional crops and produce as a sustainable and sought after resource for both local consumption and potential export. Moving to technical infrastructural support and the support required for sustainable implementation, it is evident from inputs received during the various interviews that there are important issues regarding availability of the necessary scientific and technical capacity and associated infrastructure. One area is the lack of expertise and experience in Risk Analysis / Assessment. Another is lack of technically supported and internationally recognised inspection capacity. Concerted and national / regionally coordinated efforts will be required to address such underlying problems. The project has identified the need for appropriate capacity-building programmes that could assist in unlocking increased or new export related trade for a group of beneficiary country selected products / produce but also it was noted that there are SADC technical support structures and associated capacity already in place, much of which was substantially funded by the EU. These could be used to a much greater extent in the appropriate strengthening and use of the national and regional institutional SPS / TBT technical capacity.

Recommendation 6: *The Secretariat is encouraged to take an even more active role in assisting in the provision of EPA SPS related institutional capacity through adopting a regional approach to assisting member states in SPS / TBT related human capital development such as SPS risk analysis*

including pest risk analysis, and surveillance, epidemiology and quarantine given the fast spreading invasive fruit flies and new banana disease (already recorded in DRC, Northern Angola etc.) and SPS/TBT related test and inspection capability.

Recommendation 7: *The SADC Secretariat approach the EU to assist each of the EPA member states in identifying appropriate national and / or regional SPS / TBT technical infrastructure needs that will be required to prove ongoing adherence to and compliance with best practice based SPS legislation and associated procedures in a sustainable and cost effective way.*

Recommendation 8: *The SADC Secretariat, together with the EPA and other SADC member state SPS Committees, are encouraged to cooperate more closely in the coordination and monitoring of the effectiveness of implementation of future EPA related SPS measures given that success in increasing global and regional food and agricultural trade also depends on prevention, mitigation and control of plant and animal pests and diseases.*

The SADC Regional SPS Committee consists of representatives of national SPS committees, who represent their stakeholders along the food chain involved in SPS and Food Safety Control Management. The national SPS coordinating structures are tasked with implementation of activities meant to improve and strengthen SPS and Food Safety Control Management. Guidance to the SADC member state national SPS structures is provided by the Regional SADC SPS Committee which comprises of the Regional Technical Committees of Food Safety, Animal Health and Plant Health. In the EPA member states visited there was very little evidence that any actions to date from the SADC SPS committees had subsequently translated to any practical outcomes for the public and private sector actors who are engaged in the trading of SPS sensitive commodities.

Recommendation 9: *The SADC Secretariat take responsibility for coordinating a regional strategy for ensuring that the role of the committees are functional.*

The SADC EPA countries surrounding the Caprivi Strip (Zambezi region of Namibia) and the Okavango Delta (Ngamiland in Botswana) have experienced difficulties resulting from FMD. Beef producers in these regions have had difficulties in gaining access to the international and regional markets for livestock commodities and products.

Recommendation 10: The SADC Secretariat take responsibility for coordinating a regional strategy for ensuring that the role of Commodity Based Trade in the processing and export of de-boned beef be recognised and adopted in terms of the EU - SADC EPA. The affected SADC EPA countries should address this as a regional trade initiative. A SADC Committee should be formed with the assistance of SADC Secretariat to advocate the region's interest at EU and SADC forum through EU - SADC EPA.

The SADC Trade and Development Committee is responsible for monitoring the development cooperation procedures in the relevant EPA in general and making recommendations in this regard. While provisions in the EPA create an institutional forum for discussion, the general nature of such a forum and thus also of the delegates sent to participate in its meetings, mitigates against opportunities for high level scientific and technical discussions amongst expert participants. It is also does not automatically provide for the possibility for expert networking and learning between SPS

regulatory officials. The implementation of the EPA does however create an opportunity to establish special technical groups or special committees to deal with specific matters.

Recommendation 11: *The SADC Secretariat take the lead supported by the EU delegation to SADC in determining the need for and role of a SADC EPA / EU expert committee(s) of member state Competent Authorities tasked with strengthening and aligning EPA member state animal, plant and fisheries regulatory systems in line with SADC and EPA SPS / TBT obligations.*

The work that has been completed in terms of the project provides the 5 SADC EPA states and the SADC Secretariat with a set of recommendations, proposed actions and project proposals that will assist them in prioritising and addressing a set of product / produce related SPS and related TBT issues. The outcomes should also foster even closer regional integration by focusing everyone's attention on some specific SPS and related TBT aspects that will need to be cooperatively addressed in order to facilitate increased inter and intra-regional trade in these specific agricultural products and produce.

In her introductory remarks at the final workshop, the Chief Technical Advisor to the SADC EPA Unit noted that the workshop marked yet another step towards implementation of the SADC – EU Economic Partnership Agreement. The fact that so many of the invited Competent Authorities were in attendance signified the importance and commitment they attach to the achievement of the SADC regional integration agenda and the implementation of the SPS and TBT related aspects of the Agreement. She also stressed that this assignment is mandated by the Committee of SADC EPA Ministers of Trade, the SADC – EU Ministerial as well as the EU – ACP Council of Ministers and that the Ministers have consistently and persistently underscored the need to implement while also recognising the critical role to be played by the Private sector and other supporting stakeholders.

In his opening remarks the EU Trade counsellor to Botswana and SADC, Mr John Taylor, highlighted the fact that despite the long-standing trade relationship between the EU and Africa, the SADC EPA offered a new approach and foresaw new areas of cooperation, that take parties far beyond the traditional offer of market access, which in any case, was never fully exploited. He re-iterated that export-led growth in Southern Africa was dependent on meeting certain international standards. Without these being met, or technical requirements being respected, the promise of duty-free, quota-free market access to the EU, had little value. TBT and SPS issues are covered by the EPA and the results of the study show the high interest across the region and the collaboration from all stakeholders, the representatives from the administrations and the private sector consulted during the course of the consultants' work, is well documented in the papers that have been prepared for this workshop which represents an important step in the process of deepening understanding and of capacitating affected stakeholders including member state administrations.

The workshop discussions served to highlight and underscore the need, in the work ahead flowing from the recommendations of the project, for collaborative and consistent efforts by several national and SADC regional institutions and their respective leaders if the issues at hand were to be successfully and sustainably resolved. In closing the workshop, the Chief Technical Advisor to the SADC EPA Unit, Ms. Boitumelo Sebonego, acknowledged the valuable work done by the project,

expressed her appreciation to all involved and stated that all of the issues raised by the project were critical and needed to be addressed. She acknowledged that this would need everyone to work together, in a suitable combination of public and private sector actors, from professional associations and with appropriate continuing support from cooperating partners.

ANNEXES

Annexes are grouped into three folders based on the Project Results as outlined in the final report:

1. **Folder (Result) 1** labeled “**Background and study analyses** of potential opportunities and benefits presented by the EU – SADC EPA”:
 - **Annex A1:** Inception Report – Final
 - **Annex A2:** List of Documents Consulted
 - **Annex A3:** Animal and Animal products - Regulatory Questionnaire
 - **Annex A4:** Animal and animal products - Private Sector Questionnaire
 - **Annex A5:** Plant and Plant products - Regulatory Questionnaire
 - **Annex A6:** Plant and Plant products - Private Sector Questionnaire
 - **Annex A7:** Fisheries and Fishery Products - Regulatory Questionnaire
 - **Annex A8:** Fisheries and Fishery Products - Private Sector Questionnaire
 - **Annex A9:** Generic Private sector questionnaire

2. **Folder (Result) 2** labeled “**National Level Plans**” contains 28 documents covering National level plans for Botswana, Lesotho, Mozambique, Namibia and Swaziland and associated annexures together with a SADC level feedback report that also covers TBT/SPS issues, national / regional project proposals and aspects normally addressed in mission reports such as dates of missions and persons visited. A separate document gives a complete list of all persons consulted during the project.
 - **Annex A10:** List of all interviews scheduled and conducted
 - **Annex A11:** National Report Botswana and associated Annexes
 - **Annex A12:** National Report Namibia and associated Annexes
 - **Annex A13:** National Report Mozambique and associated Annexes
 - **Annex A14:** National Report Swaziland and associated Annexes
 - **Annex A15:** National Report Lesotho and associated Annexes
 - **Annex A16:** SADC Regional Feedback

3. **Folder (Result) 3** contains 15 documents relevant to the **final workshop**.
 - **Annex A17:** Validation Workshop Participant List
 - **Annex A18:** Validation Workshop Agenda
 - **Annex A19:** Opening Remarks by Head of SADC EPA unit
 - **Annex A20:** Opening Remarks by Head of EU Delegation
 - **Annex A21:** Opening Remarks by SADC SQAM Unit
 - **Annex A22:** The Main SPS and related TBT issues to be addressed by the EPA
 - **Annex A23:** SADC Presentation on Project Objectives and Main Results

- **Annex A24:**Case Study - Beef
- **Annex A25:**Case Study - Honey
- **Annex A26:**Case Study - High Value Agriculture
- **Annex A27:**Case Study – Fisheries
- **Annex A28:**Validation Workshop minutes Day 1
- **Annex A29:**Validation Workshop minutes Day 2
- **Annex A30:**Workshop Facilitators Summary
- **Annex A31:**Closing remarks