LIBERALISATION OF TRADE IN TOURISM SERVICES

STE REPORT
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ABBREVIATIONS

AoA	Angola Kwacha
BBEE	Broad-based Black Economic Empowerment
BoI	Board of investment
BSO	Business support organisation
BRP	Business residency permit
BWP	Botswana Pula
CHSL	Constance Hotels Services Limited
CPC	Central Product Classification
CRS	Central Reservation System
DTA	Double Taxation Agreement
DTI	Department of Trade and Industry
EAC	East African Community
ENT	Economic needs test
FDI	Foreign direct investment
FIAS	Financial Investment Advisory Services
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
ICT	Intra-corporate transfer
HAN	Hospitality Association of Namibia
JV	Joint venture
IFC	International Finance Corporation
IRS	Integrated Resort System
Lux*	Lux* Island Resorts Limited
MINHOTUR	Ministry of Hotels and Tourism
MITUR	Ministry of Tourism
MWK	Malawi Kwacha
MUR	Mauritius Rupee
NEEEF	New Equitable Economic Empowerment Framework

NMHL	New Mauritius Hotels Limited
NTB	Namibia Tourist Board
OECD	Organisation for Economic Co-operation and Development
PE	Permanent establishment
PHAZ	Professional Hunters Association of Zambia
PIL	Private Investment Law
REDS	Real Estate Development Scheme
RETOSA	Regional Tourism Organisation of Southern Africa
RISDP	Regional Indicative Strategic Development Plan
SADC	Southern African Development Community
SCR	Seychelles Rupee
SICTA	Standard International Classification of Tourism Activities
SSA	Sub-Sahara Africa
SUN	Sun Resorts Limited
TEP	Temporary Employment Permit
TCM	Protocol on Transport, Communications and Metrology
TFCA	Transfrontier Conservation Area
TIFI	Trade, Industry, Finance and Investment Directorate
TiS	Trade in Services
TNF	Trade Negotiations Forum
UNCTAD	United Nations Conference on Trade and Development
USAID	United States Agency for International Development
WHT	Withholding Tax
WTO	World Trade Organization
WTTC	World Travel and Tourism Council
ZAR	South African Rand
ZAWA	Zambia Wildlife Authority
ZMK	Zambia Kwacha

EXECUTIVE SUMMARY

The Southern African Development Community (SADC) negotiations on the liberalisation of six priority services sectors (communications, construction, energy-related, financial, tourism, and transport services) were launched in April 2012, and are expected to be concluded within three years.

In line with its mandate to prepare background studies for the six priority sectors, the SADC Secretariat, through the GIZ-SADC Trade in Services Project, has commissioned the study “Liberalisation of Trade in Tourism Services in the Southern African Development Community (SADC)” to assist Member States in preparing for the process of negotiating commitments to the Protocol on Trade in Services. This study provides information on, inter alia, the structure and scope of liberalisation, competitiveness of the domestic and regional markets in tourism services, and the interface between the Protocol on Tourism Development and the Protocol on Trade in Services.

The tourism and travel-related services sector is an important area of economic activity for the SADC region in terms of its contribution to gross domestic product (GDP), employment, foreign exchange earnings and capital investment. In the SADC context, it comes as no surprise that South Africa generates the highest level of tourism earnings in the region. However, in relative terms, the industry is far more important to Member States such as Seychelles and Mauritius with tourism services provided directly to tourists accounting for a substantial share of GDP. Nevertheless, there is some way to go before the region can truly tap into the potential that the tourism industry holds.

Perhaps owing to wider awareness of its importance and a strong desire to attract more FDI, the tourism sector in the region has generally been more open than other services sectors. With the exception of Mozambique, all SADC countries made GATS commitments in this sector, and made more commitments in the tourism sector than in any other services sector.

The examination of the Standard Industrial Classification of Tourism Activities (SICTA) flags this alternate system as a useful tool for SADC Member States to determine whether they wish to make offers and requests on any additional tourism-related services beyond those captured by the WTO W/120 classification. The review of the Member States tourism-related legislation points to the need for a wider conceptualisation of tourism services as services such as entertainment services, transport services, duty-free retail services and hunting, diving and fishing excursions are all considered to be part and parcel of the tourism offering.

Improvements in SADC’s tourism product cannot be achieved simply by making commitments on tourism services alone. Rather reforms and commitments in services sectors which are inputs into the tourism industry are important complementary measures in upgrading the competitiveness and quality of the final tourism product.

There is significant scope for SADC Member States to use the synergies between the Protocol on Trade in Services and the Protocol on Tourism to drive the development of the sector as these two instruments feature complementary agenda with the former geared towards freer exchange of services and latter encouraging deeper co-operation. While the Protocol on Trade in Services facilitates businesses by providing improved access to markets and clear rules on the conditions of access and treatment of services and service providers, the Protocol on Tourism seeks to foster an enabling environment for the industry.

The study identified a number of barriers to trade in tourism services which negotiators will need to address. For the most part, many of these measures are located in the cross-cutting legislation and policies and impede trade in tourism services via modes 3 and 4. Among the main barriers identified are:

Measures which affect the temporary movement of natural persons

- Bureaucracy and delays in visa issuance
- Delays and red-tape surrounding work permits
- Residency requirements

Measures which affect commercial presence

- Restrictions on capital movement
- Restriction on real estate acquisition
- Restrictions related to directors
- Authorisation requirements

Cross-cutting measures

- Licensing issues
- Empowerment policies

The study concludes that the task ahead for a number of Member States will be to consider the areas in which they face capital and skills shortages and the extent to which commitments can assist in overcoming these challenges. On the other side of the coin, other Member States will need to secure opportunities for their own growing and competitive services providers to tap into the larger regional market.

1 INTRODUCTION

The Southern African Development Community (SADC) negotiations on the liberalisation of six priority services sectors (communication, construction, energy-related, financial, tourism and transport services) were launched in April 2012, and are expected to be concluded within three years. The current roadmap for the negotiations foresees that SADC Member States present each other with requests for market opening in the tourism services sector by early 2013. Initial offers for market opening are to follow by mid-2013.

For several SADC countries, such as Botswana, Namibia, Mauritius, and the Seychelles, the tourism sector is an important source of foreign exchange, as well a key sector for the generation of employment. A number of other countries in the region are aspiring to reap similar rewards from the industry.

Tourism is the service sector with the highest incidence of World Trade Organization (WTO) commitments by SADC Member States (12 Member States for Hotel Services, 9 for Tour Operator and Travel Agency Services, and 7 for Tour Guide Services), which indicates a recognition of the need to attract foreign investment in the sector.

In order to be able to formulate negotiating positions on tourism services, Member States have to undertake some important preparatory work, which requires information on, inter alia, the structure, scope of liberalisation, and competitiveness of the domestic and regional markets in tourism services, including any existing regulatory restrictions and restrictive business practices.

In line with its mandate to prepare background studies for the six priority sectors, the SADC Secretariat, through the GIZ-SADC Trade in Services Project, has commissioned the study "Liberalisation of Trade in Tourism Services in the Southern African Development Community (SADC)" in the context of the project "Strengthening of economic and trade-related capacities and competencies in SADC". The Scope of Work for the Consultancy is attached as Annex 1.

1.1 Objective of the study

The objective of the study is to compile and complement existing information on trade in tourism services with the view of assisting SADC Member States' participation in the regional negotiations on trade in services.

Broadly, the study:

- provides an assessment of the relevant policies and laws and regulations that govern the tourism services sector in each SADC Member State (excluding Madagascar), in particular trade restrictions in the sense of Articles 14 (Market Access) and 15 (National Treatment) of the SADC Protocol on Trade in Services. For all subsectors contained in the W/120 classification, the study will attempt to identify the most important and relevant restrictions to market access and national treatment;

- surveys the tourism services landscape in each Member State for each subsector with a view to determining the structure of the sector and the level of openness;
- assess the state of liberalisation in tourism services across the region;
- explores the linkages between the tourism sector (as defined in the WTO W/120 classification) and other services sectors and depict the basic value chain for tourism services, ideally from a regional perspective; and
- depicts the main features of the SADC Tourism Protocol, the main achievements of work and elements of current activities; and identify where there are synergies and potential conflicts between the Protocol on Trade in Services and the Protocol on Tourism and where the former Protocol can add value to trade in tourism services.

1.2 Tourism and Travel-Related Services in the Southern African Region in Context

Tourism and travel related services continue to be one of the world's largest industries. The total impact of the industry means that, in 2011, it contributed 9 per cent of global GDP or a value of over US$ 6 trillion, and accounted for 255 million jobs. Over the next ten years this industry is expected to grow by an average of 4 per cent annually, taking it to 10 per cent of global gross domestic product (GDP), or some US$10 trillion. By 2022, it is anticipated that it will account for 328 million jobs or 1 in every 10 jobs on the planet.[1]

In relative terms, the contribution of the tourism industry is somewhat less important to Sub-Saharan Africa[2] (SSA) than to other regions in the World Travel and Tourism Council's (WTTC) rankings. Placing 7th among the 12 regions, the tourism industry directly accounted for 3.12 per cent of GDP. (Refer to Table 1.1). In terms of the indirect contribution of the sector to GDP (7.33 per cent), the industry is even

[1] World Travel and Tourism Council (WTTC), 'Travel and Tourism Economic Impact 2012: Angola', Foreword, London: WTTC, 2012.

[2] This region includes Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Ethiopia, Gabon, Gambia, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Republic of Congo, Reunion, Rwanda, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia and Zimbabwe.

less important to the SSA region which took 10th position in the ranking. Similarly, the sector's comparative importance as an employer is lower than other regions with SSA placing 10th in terms of the industry's direct contribution to employment and 11th in terms of the indirect contribution. The direct contribution of the sector to employment was 2.3 per cent and the indirect contribution was 5.6 per cent.

By contrast, the weight of visitor exports as a proportion of overall exports was significant, accounting for 6.73 per cent of total exports and putting the region in 5th place. Likewise, capital investment in the industry as a share of overall investment was 6th highest in the SSA region standing at 5.38 per cent.

Generally, it is expected that SSA's tourism industry will experience a relatively high rate of growth. It is projected that the real growth rates of both the industry's direct and indirect contribution to GDP over the next ten years will be an impressive 5.3 per cent per annum over the next ten years making it the 5th fastest rate of growth among regions.

A similar trend is expected to emerge with respect to rate of growth in job opportunities. SSA will be ranked 4th in terms of the growth rate of the direct contribution to employment and 2nd in terms of the indirect contribution, both of which are forecast to experience an annualised growth rate of 2.6 per cent by 2021.

The rate of growth of visitor exports from 2011 to 2021 is expected to be 5.5 per cent per annum giving the region 5th place in the rankings. However, a comparatively slower rate of growth in capital investment (4.6 per cent per annum) will see SSA taking 9th place in the regional line up.

Table 1.1 SSA's Global Relative Rankings at a Glance

Indicator	Percentage	Rank
Direct Contribution to GDP	3.12	7
Total Contribution to GDP	7.33	10
Direct Employment	2.3	11
Total Employment	5.6	12
Capital Investment	5.83	6
Visitor Exports	6.79	5

Source: WTTC, Travel and Tourism Economic Impact 2012: Sub-Sahara Africa.'

In absolute terms, SSA does not fare very well in comparison to the other eleven regions on the WTTC rankings. (See Table 1.2 below). SSA placed 10th out of 12 regions both in terms of the direct and indirect contribution of the sector to GDP earning US$ 39.74 and US$ 93.30 billion respectively.[3] In SSA, the industry directly provided 4.76 million

[3] WTTC, 'Travel and Tourism Impact 2011: Sub Saharan Africa'. London: WTTC, 2011. Definitions of the terms direct and indirect GDP, direct and in-direct employment, visitor exports and capital investment are provided in Annex 2.

jobs and indirectly provided 11.57 million jobs giving it a rank of 7th place. The picture is less positive when one assesses capital investment and visitor spending in the region. With capital investment in the SSA tourism industry standing at US$ 13.5 million (placing it in 10th position), it is clear that the region's competitors are investing more heavily in developing the industry. Similarly while visitor exports reached US$ 27.9 billion in 2011, tourists spent more in the eight other regions.

Table 1.2 SSA's Global Absolute Rankings at a Glance

Indicator	Value	Rank
Direct Contribution to GDP (US$ bil.)	39.74	10
Total Contribution to GDP (US$ bil.)	93.3	10
Direct Employment (mil.)	4.76	7
Total Employment (mil.)	11.57	7
Capital Investment (US$ bil.)	13.15	10
Visitor Exports (US$ bil.)	27.92	9

Source: World Travel and Tourism Council (WTTC), Travel and Tourism Economic Impact 2012: Sub-Sahara Africa.'

In the SADC context, it comes as no surprise that South Africa generates the highest level of tourism earnings in the region. In 2011, the sector directly contributed US$ 10.95 billion to the South African economy while it indirectly contributed US $34.68 billion (see Table 1.3). The relative diversity of the South African economy is reflected in the fact that the sector's direct contribution to GDP was a modest 2.7 per cent and the indirect contribution was 8.5 per cent. By contrast, as shown in Table 1.4, in relative terms, the industry is far more important to Member States such as Seychelles and Mauritius with tourism services provided directly to tourists accounting for 24.8 and 12.6 per cent of GDP respectively. For Lesotho, Tanzania and Zimbabwe, the share of earnings from direct tourism activities as a proportion of overall economic activity was significant standing at 6.3, 5.0 and 5.7 per cent respectively.

Table 1.3 Value of SADC's Tourism and Travel Industry's Contribution to GDP, Employment, Visitor Exports and Capital Investment, 2011

Country	GDP (US$ bil.)		Employment (thousands)		Visitor Exports US$ bil.	Capital Investment US$ bil.
	Direct	Indirect	Direct	Indirect		
Angola	1.38	3.23	59.6	139.9	0.70	0.32
Botswana	0.48	1.31	18.4	45.0	1.04	0.13
D.R. Congo	0.19	0.42	123.0	290.8	0.03	0.12
Lesotho	0.13	0.30	31.0	71.4	0.03	0.05
Malawi	0.16	0.34	74.1	162.4	0.04	0.02
Mauritius	1.48	3.35	67.5	151.6	1.83	0.19
Mozambique	0.37	0.88	232.7	561.8	0.25	0.11
Namibia	0.49	2.29	29.2	116.0	0.68	0.34
Seychelles	0.24	0.60	10.9	25.3	0.36	0.12
South Africa	10.95	34.68	512.8	1188.2	10.32	5.85
Swaziland	0.08	0.16	5.8	12.7	0.04	0.02

Tanzania	1.27	3.38	430.6	1182.2	1.40	0.74
Zambia	0.39	0.90	21.9	57.8	0.19	0.07
Zimbabwe	0.37	0.77	42.7	93.3	0.41	0.05

Source: WTTC, Economic Data Search Tool

Table 1.4 Share of Tourism and Travel Industry in Total GDP, Employment, Visitor Exports and Investment, 2011 (per cent)

Country	GDP		Employment		Visitor Exports	Capital Investment
	Direct	Indirect	Direct	Indirect		
Angola	1.4	3.4	1.3	3.0	1.2	2.5
Botswana	2.3	6.4	3.1	7.6	15.3	6.2
D.R. Congo	1.0	2.2	0.8	1.9	0.2	3.3
Lesotho	6.3	14.2	5.3	12.2	2.5	8.3
Malawi	2.8	6.0	2.4	5.2	2.7	1.3
Mauritius	12.6	28.5	11.9	26.9	34.7	6.5
Mozambique	2.9	6.9	2.5	6.1	9.0	5.8
Namibia	4.3	20.3	6.8	27.0	9.9	10.6
Seychelles	24.8	60.7	25.8	59.8	33.2	38.3
South Africa	2.7	8.5	3.8	9.0	8.6	7.5
Swaziland	1.8	4.0	1.6	3.5	1.8	4.9
Tanzania	5.0	13.3	4.2	11.5	17.7	10.8
Zambia	2.2	5.0	1.3	3.6	1.9	1.8
Zimbabwe	5.7	11.7	4.2	9.1	9.1	6.1

Source: WTTC, Economic Data Search Tool

In absolute terms, the largest number of employment opportunities in the sector was generated in South Africa, Tanzania and Mozambique. In relative terms, the sector made a strong contribution to employment in Mauritius and Seychelles and provided a significant number of jobs in Lesotho and Namibia.

The labour-intensive nature of the tourism industry means that it represents a viable avenue for export diversification and increased employment. Given that the most dominant mode of supply of tourism service exports is through the customer coming directly to the supplier, exporting is possible anywhere from in a country (i.e. where tourism takes place), including in remote and rural areas which otherwise might have few economic opportunities.[4] This is all the more important when tourism's employment opportunities for women, lower skilled workers and small and medium sized enterprises are considered. In addition, the minimal entry barriers for many tourism activities typically offer significant opportunities for small-scale domestic entrepreneurship.

One issue that deserves consideration is the impact of localisation policies on the competitiveness of the sector; localisation policies seek to preserve employment opportunities for nationals, particularly at the

[4] Dale Honeck, 'LDC Poverty Alleviation and the Doha Development Agenda: Is Tourism being Neglected?' Staff Working Paper ERSD-2008-03, Geneva: WTO, 2008, 11.

higher skilled levels, by limiting the period of employment of expatriates and requiring the training of nationals to fill the positions. While the objectives underlying initiatives to increase national employment opportunities are legitimate, there is a risk that some aspects of these policies may have a negative effect on tourism generation and competitiveness, thereby shrinking the size of the pie that can be shared. Business has suggested that in an environment characterised by a scarcity of skills and training, these localisation policies restrict the private sector from hiring in the best skills available thereby hindering efforts to improve the final product delivered and lowering the potential for innovation.[5] In addition, it is argued that the limited period which an expatriate is given to transfer skills is unrealistic as skills acquired by foreign staff members over the course of relatively longer timeframes such as ten years or more cannot be effectively transferred within the short periods of two to four years.

With respect to visitor exports as a proportion of total exports, Mauritius, Seychelles, Tanzania and Botswana have enjoyed the most significant levels of tourist spending. Similarly, Namibia, Mozambique, South Africa and Zimbabwe have a relatively high ratio of visitor exports to total exports. By contrast, Member States such as Angola, D.R. Congo, Lesotho, Malawi, Swaziland and Zambia have not fared as well.

The regional industry is characterised by relatively heavy levels of capital investment in the sector, with Seychelles leading the pack with tourism investment representing a substantial 38.8 per cent (US$ 0.19 billion) of total investment. Similarly, Tanzania, South Africa, Namibia and Lesotho have experienced substantial investment in the sector. In both absolute and relative terms, Malawi has the lowest level of investment at US$ 0.02 billion or 1.3 per cent of overall investment.

While this study does not provide an assessment of the foreign component of investment in the sector, available literature for a few of the SADC Member States provides interesting insights. Foreign direct investment (FDI) is important for the tourism industry not only in terms of the capital it brings, but also the opportunities for technology and skills transfer and other benefits. An UNCTAD study revealed that one of the major assets of FDI that Botswana has been able to leverage is market access.[6] It is estimated that 49 per cent of tourists in foreign-owned establishments were booked through foreign tour operators or travel agents, compared with only 12 per cent in local establishments and 18 per cent in joint ventures. Foreign-owned establishments also attract far more visitors for holiday purposes than do domestic-owned enterprises or joint ventures.

The review of Zambia's investment policies indicated that FDI's strongest impact on the industry has been in transferring skills and knowledge. It was highlighted that the entry of a number of international

[5] Conclusion based in numerous interviews with private sector stakeholders in Botswana, Namibia and South Africa.

[6] UNCTAD, 'FDI and Tourism: The development dimension: East and Southern Africa,' New York and Geneva: United Nations, 2008, 55.

hotel groups brought with it an increase in services and in the quality of hotel management.[7] Employees had been retrained since the takeovers and were performing at international standards. Further, foreign investors provided on-going staff training programmes and employed modern reservations systems and marketing techniques. In addition, FDI has created new tourism facilities in the Livingstone District, attracting an international clientele.[8]

In the case of Mozambique, the UNCTAD review reported that although FDI in tourism in Mozambique remains small on aggregate, there have been some significant recent investments by foreign companies in high-end and labour-intensive resorts, which have helped Mozambique tap into its potential for water-based tourism.[9]

Mozambique aims to develop as a high-end tourism destination. This requires a relatively high-level of skills from the labour force and an excellent knowledge of the niche and requirements of international clients. Given that both of these components are currently lacking in Mozambique, it is expected that FDI will play a significant role in the development of the sector.

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[7] UNCTAD, 'Investment Policy Review: Zambia,' New York and Geneva: United Nations, 2006, 10.

[8] UNCTAD, 'Investment Policy Review: Zambia,' 43.

[9] UNCTAD, 'Investment Policy Review: Mozambique,' New York and Geneva: United Nations, 2011, 18.

2 CLASSIFICATION OF TOURISM SERVICES

2.1 Trade in Tourism Services

Perhaps owing to a wider awareness of its importance and a strong desire to attract more FDI, the tourism sector in the region has generally been more open than other services sectors.[10] With the exception of Mozambique, all SADC countries made GATS commitments in this sector. In terms of coverage, SADC countries have made more GATS commitments in the tourism sector than in any other services sector. For example, Mauritius, Malawi and Zambia have made specific commitments in all subsectors. In addition, Mauritius made commitments in other tourism-related services such as tourist transport operation (car rental), yacht chartering and cruising services and tourist duty-free shops.

Trade negotiators are familiar with the services sectoral classification list W/120 which was used to negotiate commitments under the GATS. Category 9 of the W/120 sets forth a limited number of tourism activities, namely, “hotels and restaurants (incl. catering)”; “travel agencies and tour operators services”; “tourist guide services”; and an unspecified “other” category.[11] No further sub-classifications are currently provided for under the W/120. Tourism activities which are part of more general services activities - most notably many transport services, but also including certain business services; distribution services; and recreational, cultural and sporting services - are typically placed within those other services sectors.

Under the Provisional Central Product Classification (CPC), CPC 641 (Hotel and other lodging services) is divided into CPC 6411 (Hotel lodging services), CPC 6412 (Motel lodging services) and CPC 6419 (Other lodging services), the last of which is further separated to include holiday camp services, youth hostels, etc. CPC 642 (Food serving services) is divided into full restaurant services (CPC 6421), self-service facilities (CPC 6422), catering services (CPC 6423) and other (CPC 6429). The CPC 643 classification (Beverage serving services for consumption on the premises) is composed of services without entertainment (CPC 6431) and those with entertainment (CPC 6432). Travel agencies and tour operators services (CPC 7471) and Tourist guides services (CPC 7472) are not further subdivided. (See Table 2.1)

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[10] UNCTAD, Towards SADC Services Liberalization: Balancing Multiple Imperatives, UNCTAD/DITC/TNCD/2008/4, New York and Geneva: United Nations, 2009, 72.

[11] WTO, Tourism Services: Background Note by the Secretariat, S/C/W/51, September 23, 1998, 2.

Table 2.1 Tourism Services in the Provisional CPC

Group	Class	Sub-class	Description
641			**Hotel and other lodging services**
	6411		
		64110	Hotel lodging services
	6412		
		64120	Motel lodging services
	6419		Other lodging services
		64191	Children's holiday camp services
		64192	Holiday center and holiday home services
		64193	Letting services of furnished accommodation
		64194	Youth hostel and mountain shelter services
		64195	Camping and caravaning site services
		64196	Sleeping car services and sleeping services in other transport media
		64199	Other lodging services n.e.c.
642			**Food serving services**
	6421		
		64210	Meal serving services with full restaurant service
	6422		
		64220	Meal serving services in self-service facilities
	6423		
		64230	Caterer services, providing meals to outside
	6429		
		64290	Other food serving services
643			**Beverage serving services for consumption on the premises**
	6431		
		64310	Beverage serving services without entertainment
	6432		
		64320	Beverage serving services with entertainment
747			**Travel agency, tour operator and tourist guide services**
	7471		
		74710	Travel agency and tour operator services
	7472		
		74720	Tourist guide services

2.2 Use of the ‘Other’ Category by WTO Member States

Eighteen WTO Member States have taken commitments under the ‘Other’ category.

The commitments of a few members shed light on the types of activities considered to be in the ‘Other’ tourism services category. Egypt inscribed commitments for five main classes of activities: tourism management services; tourism transport services; tourism training institutions; tourism-related conventions; and institutional food service caterers (with the exception of airport catering facilities which are confined only to the national air carriers).

Guatemala identified tourism marina operators. Indonesia refers to marinas, golf courses, cultural open stage and other facilities which may be included in tourist resorts. Mauritius elaborated that the category consists of car rental, yacht chartering and cruise services and tourist duty-free stores. Thailand included hotel management services. Venezuela specifies holiday camps, rental or leasing services without operators and auxiliary tourist enterprises such as sporting and other recreational services; library, archives, museums and other cultural services; washing, cleaning and dyeing and hairdressing services.

Practically all of these services would be classified under the W/120 list as other services such as recreational or transport services. Section 2.4 below provides a brief outline of how such services may be classified.

2.3 Review of the Standard Industrial Classification of Tourism Activities

The underlying goal of the Standard International Classification of Tourism Activities (SICTA) is to provide the fundamental conceptual structure to guide the development of a consistent, comprehensive and objective system for producing, organizing and reporting statistical information regarding tourism.[12] The SICTA identifies approximately 70 specific activities related to supplying tourism services; and another 70 activities at least partially concerned the supply of tourism services.[13]

The SICTA is extremely broad in scope incorporating construction; wholesale and retail; transport, storage and communications; financial intermediation; real estate, renting and business activities; public administration; education; other community, social and personal activities and; extra-territorial organisations and bodies. The SICTA includes activities excluded by the W/120 such as general public services by the state such as customs administration and activities of business, employers and professional organisations. Table 2.2 below provides a comparative assessment of the SICTA to the WTO classification.

[12] United Nations and World Tourism Organization, 'Recommendations on Tourism Statistics', Series M No. 83, New York: United Nations, 1994, 28.

[13] World Trade Organization, 'Tourism Services: Background Note by the Secretariat', S/C/W/51, 23 September 1998, 3.

Table 2.2 Attributing SICTA Tourism-dedicated Activities to the GATS Services Sectoral Classification List[14]

Sector 1 - Business services

- buying, selling or letting of own or leased tourism property
- real estate agencies for tourism properties
- tourism property management
- automobile rental
- motorcycle rental
- recreational vehicle, camper, caravan rental
- rental of watercraft and related facilities
- rental of bicycles
- rental of ski equipment
- rental of tourism-related goods
- tourism and tourism market research
- tourism business and management consultancy activities
- tourism architecture and engineering
- tourism advertising
- passport photographers
- translation services
- information bureau
- visitor and convention bureau

Note: Neither SICTA nor the GATS classification specify travel clinics, travel assistance (related to, but different from, travel insurance) and repatriation services (can be part of travel assistance). Under "community, social and personal services" SICTA includes "Travellers Aid Societies" ("usually consisting of voluntary members").

Sector 2 - Communication services

Note: Neither SICTA nor the GATS classification specify destination data bases.

Sector 3 - Construction and related engineering services

- construction of commercial facilities (hotels, etc.)
- construction of recreational facilities (ski areas, golf courses, marinas, etc.)
- civil works - transportation facilities
- resort residences - second homes, weekend homes

Sector 4 - Distribution services

- retail sale of travel accessories, luggage
- other retail sale of travel accessories in specialized stores
- retail sale of skin diving and scuba equipment
- retail sale of ski equipment
- retail sale of camping and hiking equipment

[14] Some SICTA-tourism dedicated activities have not been not concerned with the supply of commercial services (administration, trade-union services) not been included in the list. Some activities have been merged for presentation.

- retail sale of gift and souvenir shops

Note: Franchising is mentioned by the GATS classification, not by SICTA

Sector 5 - Educational services
- hotel schools
- tourism degree programmes
- recreation and park schools
- other tourism-related education
- ski instruction

Sector 6 - Environmental services

Note: Environmental services outlined in the GATS (sewage, refuse disposal, sanitation and similar, and other services) offer a vast scope for singling out tourism-related services (e.g. beach cleaning). Environmental activities are not specified in SICTA.

Sector 7 - Financial services
- travel insurance
- "all payment and money transmission services, including consumer credit, montage, charge and debit cards, travellers cheques and bankers drafts" (GATS)

Note: Under this title, GATS is more specific than SICTA, and the GATS Annex on Financial Services is more specific than the overall GATS Services Sectoral Classification List.

The term "travel insurance" is explained by SICTA as "covering accidental death while travelling away from home", while it normally covers also medical assistance, hospitalization, emergency repatriation for health reasons and repatriation of the body in case of death.

Sector 8 - Health-related and social services
- physical fitness facilities
- travel clubs
- traveller aid societies

Note: Under health-related and social services, neither the GATS classification nor SICTA are specific about services and activities aimed at providing specialized medical treatment to tourists.

Sector 9 - Tourism and travel-related services
- hotels and motels with restaurants
- hotels and motels without restaurants
- hostels and refuges
- camping sites, including caravan sites
- health-oriented accommodation
- other provisions of lodging
- bars and other drinking places
- full-service restaurants

- fast-food restaurants and cafeterias
- institutional food services, caterers
- food kiosks, vendors, refreshment stands
- night-clubs and dinner theatres
- travel agents
- tour operators, packagers and wholesales
- ticket offices
- guides

Note: WTO/UN recommendations regarding standard classification of tourism accommodation are more specific and use different terminology than SICTA.

Restaurants, bars and canteens have been shown to make allowance for the GATS classification of "Tourism and Travel-Related Services", although SICTA identifies such activities as partly involved in tourism but representing a medium percentage of sales to tourism, as well as a medium share of tourism purchases (between 20 and 60 per cent)

Sector 10 - Recreational, cultural and sporting services
Note: No SICTA-identified activity is classified as "dedicated" to tourism and those representing a medium percentage of sales to tourism include:

- dramatic arts, music and other arts activities
- operation of ticket agencies
- other entertainment activities
- amusement parks
- museum of all kinds and subjects
- historic sites and buildings
- nature and wildlife preserves
- operation of sporting facilities
- activities relating to recreational fishing
- gambling and betting operations, casinos
- operation of recreational fairs and shows

Sector 11 - Transport services

- interurban rail passenger services
- special rail tour services
- scheduled interurban bus services
- long distance tour buses
- local tour vehicles
- cruise ships
- ship rental with crew
- inland water passenger transport with accommodation
- inland water local tours
- supporting land transport activities
- supporting water transport activities
- supporting air transport activities
- scheduled air passenger transport
- non-scheduled air passenger transport

- aircraft rental with crew

Note: Neither the GATS classification nor SICTA specify computer reservation systems (CRS) services. CRS services are mentioned, however, in the GATS Annex on Air Transport Services.

Sector 12 - Other services not included elsewhere
- international tourism bodies

Source: World Trade Organization, 'Tourism Services: Background Note by the Secretariat', S/C/W/51, September 23, 1998, 13 - 15.

The SICTA provides a useful tool for SADC Member States to determine whether they wish to make offers and requests on any additional tourism-related services beyond those captured by the W/120 classification. Certainly, the review of the Member States tourism-related legislation points to the need for a wider conceptualisation of tourism services so as to include services such as entertainment services, transport services, duty-free retail services and hunting, diving and fishing excursions which are all considered to be part and parcel of the tourism offering and in many cases the provision of the service is regulated by the board or ministry which has responsibility for tourism issues.

2.4 Classification Issues related to Tourism for the SADC Trade in Services Negotiations

On the basis of reports of consultations undertaken by the SADC Secretariat and other agencies active in the region, it would appear that that some Member States a have keen interest in negotiating tourism related services beyond the narrow W/120 classification of tourism services.

Questions have arisen as to the most appropriate way of scheduling of the relevant ancillary sectors. Resolving such questions is likely to result in an improved level of clarity in terms of the commitments eventually made. Table 2.3 below provides some guidance in this regard.

Table 2.3 Scheduling of tourism-related sectors

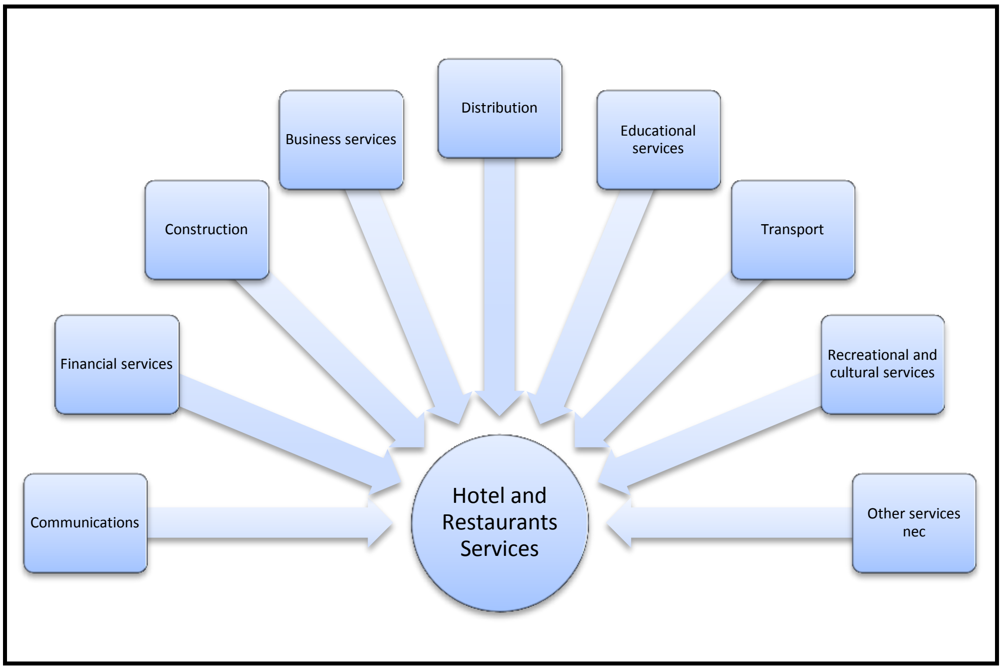
Service	Classification
Hospitality schools	Education services - 92420 - Post-secondary non-tertiary education services, technical and vocational
Institutions for training tour guides and hunting guides	Education services - 92420 - Post-secondary non-tertiary education services, technical and vocational
Car rentals	Rental and Leasing services - 73111 - Leasing or rental services concerning cars and light vans without operator

Sightseeing buses	Passenger transportation services - 64132- Sightseeing services by land
Pleasure craft and yacht cruises	Passenger transportation services - 64133- Sightseeing services by water
Casinos	Community, social and personal services - 96929 - Other gambling and betting services
Golf courses	Community, social and personal services - 96520 - Sports and recreational sports facility operation services
Marinas	Community, social and personal services - 96520 - Sports and recreational sports facility operation services
Duty-free shops	Retailing services- parts of 621- Non-specialized store retail trade services and 622- Specialized store retail trade services
Hotel management services	Business and production services- 83190 - Other management services, except construction project management services

2.5 Value Chain for Tourism Services

Discussions on the liberalisation of trade in tourism services should be considered in their proper context in the sense that improvements in the SADC tourism product cannot be achieved simply by making commitments on tourism services alone. Rather reforms and commitments in services sectors which are inputs into the tourism industry are important complementary measures in upgrading the competitiveness and quality of the final tourism product.

Figure 2.1 Inter-relationship between Tourism Services and other Services



As Figure 2.1 illustrates, several other service sectors feature prominently in the production of tourism services. For example, hotels and other similar establishments may consume a wide range of business services such as:

- professional services (legal services, accounting, auditing and bookkeeping services, taxation services, architectural services and engineering services);
- computer and related services (access to central reservations systems; property management systems and point of sale systems);
- real estate services; and
- other business services (advertising, market research and public opinion polling and management consulting services).

Other services likely to be significantly utilised by hotels and restaurants are:

- distribution (wholesale of food and beverages, linens, cutlery, furniture and other supplies; and franchising);
- transport (air and road transport for undertaking transfers);
- communications (providing telephone and internet facilities);
- financial (insurance products such as public and employee liability insurance, building and contents cover, and banking products such as payment facilities, loans); and
- recreational, cultural and sporting services (casinos and live performances).

The extent to which these services are utilised depends on the size and business strategy of the operator. For instance, some establishments may find it more economical to outsource functions such as laundry services and ground transfers while others may internalise it as a part of their operations.

In addition, some services are so closely integrated into tourism operations, that service providers and policy-makers conflate them with tourism services. These include casinos and other entertainment services and other services not elsewhere classified such as spas.

More heavily used services for the travel agency and tour operators subsector include transport and recreational, cultural and sporting services. Table 2.4 provides a rudimentary idea of the type of services that a tour operator would assemble to prepare a package.

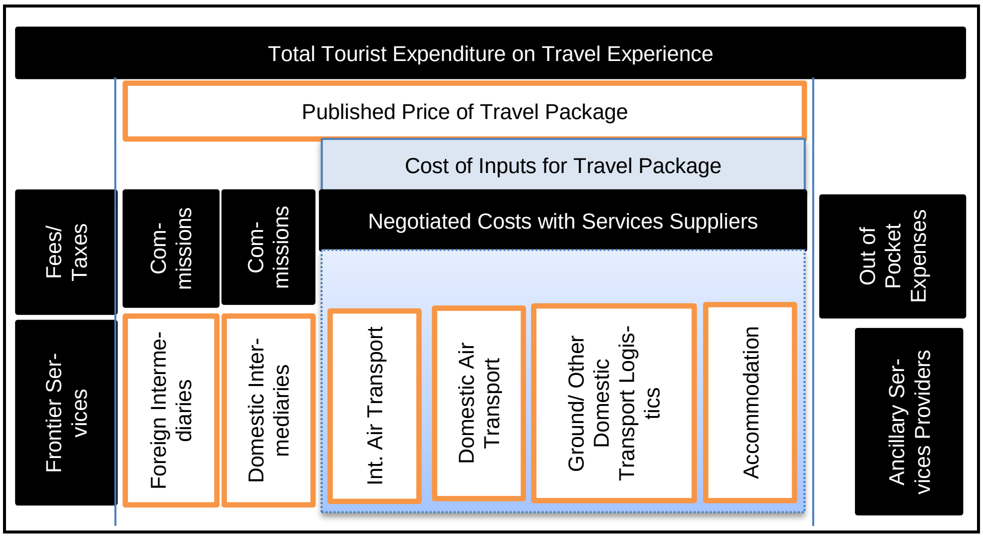
Table 2.4 Tour Operators' Main Contracted Products and Suppliers

Elements of Tourism Products	**Suppliers**
Accommodation	Hotels, bed & breakfasts, self-catering, (serviced) apartments, campsites, cruise ships
Transport to and from destinations	Public transport (e.g. trains), airports, scheduled air carriers, air charters, scheduled sea passages, chartered sea passages, coaches, cruises
Catering and food and beverage	Restaurants and bars, grocery stores, farmers, fishermen, local commerce/markets, bakers, butchers, food Wholesalers
Ground transport	Car rentals, boat rentals, fuel providers, gas stations, coach rentals
Ground services	Agents, handlers or inbound operators in the destination
Cultural and social events	Excursion and tour providers, sports and recreation facilities, shops and factories
Environmental, cultural and heritage resources of destinations	Public authorities, protected site managers, private concessionaires and owners

Source: Tour Operators' Initiative for Sustainable Tourism Development and Center for Environmental Leadership in Business, 'Supply Chain Management for Tour Operators: A Handbook on Integrating Sustainability into Tour Operators' Supply Chain Systems,' 2003. Available from www.conservation.org/Documents/CI_ecotourism_supply_chain_mgt_handbook_nov2003.pdf

This study reviewed the tourism value chain analyses available for a few SADC Member States; however, it was not able to benefit from access to such an analysis at the regional level. These value chain analyses, which are based on concrete itineraries that are time, place, and price-specific, identify how value is appropriated among the various service providers and suppliers in the industry; assess the performance of operators and identify industry-specific constraints.

Figure 2.2 Value Chain Map



Adapted from Foreign Investment Advisory Service (FIAS) and OECD, 'The Tourism Sector in Mozambique: A Value Chain Analysis', Vol. I, IFC, 2006, 24.

A value chain analysis on the Seychelles found that by 2009, the large hotels in Seychelles were absorbing nearly half of the tourist expenditure, excluding spending on international air travel.[15] Approximately 48 per cent of tourist expenditure was spent in foreign-owned hotels.

Another value chain analysis, for Mozambique, examined a number of itineraries. On the Lisbon-Bazaruto value chain, Portuguese tour operators; airlines - international and domestic and; hotels/resorts accounted for about 75 per cent of a tourist's total travel expenditure.[16]

With respect to the London-Johannesburg-Maputo-Pemba-Quirimbas itinerary, the main economic agents that influence the costs and value of a tourism product in this segment of the market are: the South African intermediaries, regional (e.g. LAM) or domestic (e.g. Air Corridor) airliners that fly to Pemba, and the hotels/resorts. These agents account for 19.2 per cent, 16.4 per cent and 64.4 per cent of the published package price, and 15.5 per cent, 15.1 per cent, and 51.7 per cent of total tourist expenditures respectively.

[15] David McEwen and Oliver Bennett, 'Seychelles Tourism Value Chain Analysis', London: Commonwealth Secretariat, October 2010, 20 - 23.

[16] Foreign Investment Advisory Service (FIAS) and OECD, 'The Tourism Sector in Mozambique: A Value Chain Analysis', Vol. I, IFC, 2006.

For business conference tourism, the study found that for the Europe/USA – Maputo route, the main economic agents that influence the costs and value of the tourism product are the event planners, international and regional airliners and the hotel/resorts. Airlines and hotels account for a majority (over 60 per cent) of the travel expenditures. Domestic tour operators and travel agencies appear to play a significant role, accounting for over 20 per cent of tourist expenditures, if they are successful in selling tour packages to business tourists. This usually would require close coordination with the event organizers and hotels.

For all three itineraries, ground operators (e.g., ground transport organizers, taxi cabs, car rental agents, and so on) do not seem to play a significant role.

A value chain analysis for Tanzania assessed three itineraries. On the London-Nairobi-Zanzibar itinerary, the main economic agents that influence the costs and value of this package include the international and domestic tour operators; airlines – international and regional; and hotel accommodation providers.[17] These agents account for 71 per cent of the tourists travel expenditure. On the London-Arusha-Northern circuit, the main economic agents that influence the costs and value of this particular itinerary include airlines (international and domestic); accommodation providers and tour operators. These agents account for 71 per cent of the tourists travel expenditure. The overall picture changes for the 21 day hunting safari itinerary in which the government appropriates 37 per cent of the value; accommodation accounts for 35 per cent and airfares for 19 per cent.

All of these studies point clearly to the fact that destination countries find themselves unable to appropriate a greater share of the value in the production of tourism services. As such SADC would need to carefully examine how it can increase its value added into the tourism product and develop strategies to appropriate the returns on this investment.

[17] Strategic Business Advisors and Serengeti Advisers, 'Tanzania Tourism Value Chain Study', Dar es Salaam: Tourism Confederation of Tanzania, 2009.

3 COMPARISON OF THE SADC TRADE IN SERVICES AND TOURISM PROTOCOLS

3.1 Main features of the SADC Protocol on Tourism

The Protocol on Development of Tourism entered into force on 26 November 2002.[18] Its objectives are, inter alia, to develop the region's tourism industry; to promote and market the region as a single but multifaceted tourism destination; to improve the quality, competitiveness and standards of service of the tourism industry in the SADC region; to create a favourable investment climate for tourism within the region for both the public and private sectors, including small and medium scale tourist establishment; and to facilitate intra-regional travel through the reduction/elimination of travel and visa restrictions and harmonisation of immigration procedures. Table 3.1 below sets out the core obligations of the Protocol on Tourism.

Table 3.1 Core obligations in the Protocol on Tourism

Article	**Main Obligations**
Travel Facilitation	1. Facilitate the ease of entry and travel by: • Co-ordinating regional travel through the various modes of transport and improving communications and transport facilities • Abolishing visa requirements for regional tourists • Negotiating and agreeing upon a tourism univisa for international tourists • Removing obstacles to tourism and transport and harmonising legislation in these areas • Providing facilities for the travel of senior citizens and disabled and handicapped travellers 2. Permit the entry of tourists via vehicles registered in any member state in line with the SADC Protocol on Transport, Communications and Metrology (TCM) 3. Harmonise tourism registration documents
Training and Education	1. Develop common education policy on tourism education in schools 2. Co-ordinate and harmonise training at tourism training institutes and develop exchange programmes

18 SADC, 'Assessment of Linkages between the SADC Draft Protocol on Trade in Services and other SADC Protocols and Legal Instruments', Gaborone: SADC Secretariat, 2012, 58.

	3. Harmonise the standards of tourism training
Marketing and Promotion	Establish RETOSA as the marketing and promotion agency of the regional tourism sector
Research and Statistics	1. Establish a unified system of collecting and analysing tourism statistical data 2. Create a regional tourism research, information and statistics exchange network
Service Standards	1. Establish a regional standard and quality control mechanism 2. Develop tourism signage and markings
Transportation	Enhance the overall quality of transport by implementing the TCM
Environmentally Sustainable Tourism	Pursue sound, sustainable policies on the utilisation and management of natural and cultural resources and the environment
Investment Incentives and Development	1. Enhance the attractiveness of the region as a location for investment and develop tourism appropriate incentives 2. Promote the growth and development of private sector initiatives 3. Ensure the involvement of local communities in the sector 4. Prioritise investment the sustainable development of natural and cultural resources which transcend national boundaries

3.2 Main achievements under the SADC Protocol on Tourism

The following section captures some of the main achievements under the Protocol on Tourism. Unfortunately, the study was not able to benefit from access to documents which provide information on all areas of co-operation.

Travel Facilitation

Visa Abolition for SADC Visitors
Bilateral agreements between Member States have resulted in the general liberalisation of visa regimes for SADC citizens.[19] Only Angola and DRC still require SADC citizens to apply for visas prior to entry. The other SADC Member States have reciprocated by requiring citizens of the two countries to also apply for visas. The only country that is visa

[19] Shepherd Nyaruwata, Rosemary Mukogo and Dorothy Mushayavanhu, 'Final Study Report on the Identification of Bottlenecks to Free Trade in Tourism Services in Southern Africa', Midrand: RETOSA, 36 – 37.

exempted by Angola is Namibia. Zimbabweans are also exempted from visa requirements by DRC.

UNIVISA for International Visitors[20]

The UNIVISA Working Group has undertaken a substantial amount of work that is aimed at facilitating the implementation of the UNIVISA system by the pilot group of countries made up of Mozambique, Namibia, Swaziland and Zimbabwe. Activities completed by the group include the following:

- Harmonization of rules, regulations, and operational procedures;
- Budget allocation/resources mobilization;
- Information and communications technologies procurement;
- Administration and corporate communications (marketing of the concept to overseas embassies and agreement on revenue sharing model).

Services Standards

In the SADC region, there is a diversity of grading systems in operation in Member States.[21] The current situation creates a major challenge for both the international and regional tour operators trying to understand the quality implications of the different grading systems. For example, a recent RETOSA study expressed concern at the explosion of bed and breakfast, guest houses and guest lodges in many Member States which has not been subject to strict supervision by the responsible authorities.

RETOSA is seeking to expedite the harmonization of accommodation classification and grading in the region. To date, it has developed accommodation ratings standards for lodges. Once, finalised, it is intended that the standards be implemented across the SADC region.

Investment Incentives and Development
Investment in Natural and Cultural Resources that Transcend National Boundaries

The SADC Member States committed themselves to the conservation of biodiversity through the signing of the Protocol on Wildlife Conservation and Law Enforcement of 1999 which was ratified in 2003.[22] Member States are obliged to promote the conservation of the shared wildlife

[20] The Protocol on Tourism envisages the creation of a tourism UNIVISA which will facilitate movement of international tourists in the region on the basis of arrangements to be negotiated.

[21] Nyaruwata, Mukogo and Mushayavanhu, 'Final Study Report on the Identification of Bottlenecks to Free Trade in Tourism Services in Southern Africa', 27 – 28.

[22] Nyaruwata, Mukogo and Mushayavanhu, 'Final Study Report on the Identification of Bottlenecks to Free Trade in Tourism Services in Southern Africa', 23 – 27.

resources through the establishment of Transfrontier conservation areas (TFCA). These are defined as the area or component of a large ecological region that straddles the boundaries of two or more countries encompassing one or more protected areas as well as multiple resources..

The TFCAs in the SADC region can be classified into three categories using their current level of development namely: dormant, emerging and advanced. For the emerging and the advanced TFCAs, the Integrated Development Plans (IDP) of each TFCA has identified a wide range of potential tourism investment opportunities which the private sector can undertake. Potential areas of investment include development of lodges, tourism resorts, camping sites, game viewing safaris and trails, adventure tourism and cultural tourism.

Lack of progress in the implementation of projects is due to a number of factors. These include limited access to donor funding and a cautious approach by Member States to proceeding with the development of the area.

Advanced TFCAs include the following:

- Kgalagadi (Botswana/South Africa)
- /Ai-/Ais-Richtersveld (Namibia /South Africa)
- Maloti-Drakensberg (Lesotho/South Africa)
- Lubombo (South Africa /Swaziland)
- Great Limpopo (Mozambique/South Africa/Zimbabwe

These five TFCAs have experienced a substantial amount of development in terms of policy and institutional frameworks, infrastructure and tourism products. This is primarily because the majority of these entities were already fully functional national parks. In addition, in the case of the most successful TFCA, the Kgalagadi, it was established in response to market demands.

The Maloti-Drakensberg, the Lubombo and /Ai/Ais-Richtersveld TFCAs have benefited immensely from donor funding for infrastructural developments. The presence of basic infrastructure has attracted private sector investors who have developed a wide range of products.

Overall, it appears that whilst the concept of TFCAs received high political publicity and buy-in from SADC principals there is still limited infrastructural development in the majority of the TFCAs. It is only in the advanced TFCAs where substantial developments have taken place. But even in this group of TFCAs there are huge disparities in the level of development between the Member States. For example, within the Great Limpopo Transfrontier Park, the Kruger National Park is fully developed whilst both Gonarezhou National Park in Zimbabwe and Limpopo Park in Mozambique are in general still devoid of basic infrastructure like roads, electricity and communication systems.

3.3 Potential synergies or conflicts between the Protocol on Trade in Services and the Protocol on Tourism

There is significant scope for SADC Member States to use the synergies between the Protocol on Trade in Services and the Protocol on Tourism to drive the development of the sector as these two instruments feature complementary agenda with the former geared towards freer exchange of services within the region and the latter encouraging deeper co-operation among Member States. While the Protocol on Trade in Services facilitates business by providing improved access to markets and clear rules on the conditions of access and treatment of services and service providers, the Protocol on Tourism seeks to create an enabling environment for the industry. There are several instances where the Protocols address different aspects of the same issue, for example, the Protocol on Trade in Services deals with the movement of services and service providers while the Protocol on Tourism covers the movement of tourists.

Other areas in which the Protocol on Trade in Services enhances the environment for the tourism industry relate to the instrument's non-discrimination rules which aim to create a more competitive environment for tourism services providers. Moreover, rules and procedures regulating the tourism sector are likely to be enhanced by disciplines on transparency and redound to the benefit of policy-makers, regulators and service providers alike.

A study undertaken for the SADC Secretariat provides guidance as to where these synergies exist.[23] For instance, the Protocol on Tourism's provisions on tourism training and education are likely to facilitate the movement of tourism personnel (mode 4) by providing policy-makers and regulators with a higher level of comfort in the competence of the service providers from the region. Similarly, the development of exchange programmes (mode 2) will also engender confidence by stimulating the wider development of the region's skills and human resources base.

However, the Protocol on Tourism does not provide for the entry, stay or establishment of non-tourists, i.e., the service providers. It is in this context that mode 4 commitments under the Protocol on Trade in Services could play an important role in allowing the movement of skilled professionals to provide tourism services. Moreover, the current process of negotiating commitments to the Protocol on Trade in Services provides an opportunity to move away from the high-skilled biased found in GATS commitments to provide meaningful access to select medium and low skilled workers who are critical to the delivery of tourism services. For example, in the case of mobile safari operators, it may be worth the effort to secure access for the entry and temporary stay of the

[23] SADC, 'Assessment of Linkages between the SADC Draft Protocol on Trade in Services and other SADC Protocols and Legal Instruments', Gaborone, SADC Secretariat, 2012, 60.

entire entourage which supports the provision of the service such as the driver, tour leader, tent lady and the cook.

Nevertheless, beyond the issue of commitments, in some instances, the true obstacle to this type of movement has proven to be the operation of work permit regimes. The Protocol on Trade in Services enshrines the right of Member States to apply their laws, regulations and requirements regarding entry and stay, work, labour conditions, and establishment of natural persons. However, serious consideration should be given to ensuring that work permit regimes do not operate in such a way as to frustrate private sector initiatives in the region. For example, it is counterproductive to require a driver from one SADC Member State who is part of a tour operator which enters another SADC Member State for short periods to obtain a work permit for each entry or to require that a national of the state being visited drive the bus/ vehicle. The same would apply to other members of staff of the service providers. Administratively, such work permits are likely to be time consuming and difficult to obtain. Financially, the cost of incorporating staff from the country being visited raises costs to service providers which in most cases will be passed on to the final consumer and it may also restrict the service providers' ability to control the ultimate quality of the tourism product as they no longer have full control over all aspects of the production of the service.

Another area of synergy between the two Protocols relates to the issue of the recognition of certifications. The Protocol on Trade in Services foresees the mutual recognition of requirements, qualifications, licences and other regulations with which service providers must comply in order to operate. Specifically, TNF-Services is mandated to commence the process of negotiating a mutual recognition agreement no later than two years following the entry into force of the Protocol on Trade in Services. Given the importance of mutual recognition in facilitating trade in services, the Protocol on Tourism's mandate to harmonise the standards for registration, classification, accreditation and grading of service providers within the region should provide a strong basis for the conclusion of a mutual recognition to be applied to the sector.

Furthermore, the Protocol on Tourism requires Member States to develop and pursue strategies that promote the growth of private sector initiatives. In a wider sense, the trade in services liberalisation agenda can stimulate private sector growth in the sector by facilitating intra-regional investment. Importantly, there are some specific features of the Protocol on Trade in Services which reinforce this objective. These are the mandate to develop, three years following the implementation of the Protocol:

- mechanisms for generating information on, and identification and dissemination of, services business opportunities;
- model laws, regulations and uniform and simplified administrative procedures;
- mechanisms for joint investments, in particular with the small and medium-sized service suppliers of the State Parties.

On a more general note, negotiations under the Protocol on Trade in Services may be an opportunity to overcome some of the obstacles facing the tourism sector.[24] The "hard" nature of the obligations which Member States might undertake pursuant to the Protocol on Trade in Services could encourage progress in respect of implementing some other "softer" undertakings already set out in other instruments such as the Protocol on Tourism, the Protocol on Transport, Communications and Metrology and the Protocol on the Free Movement of Persons.

While the foregoing discussion sheds light on the ways in which the Protocol on Trade in Services can add significant value to the regional tourism industry, some issues remain as sticking points for the industry, but fall beyond the remit of the Protocol on Trade in Services. For example, limited progress has been reported on the implementation of UNIVISA. Despite the decision by the Heads of State to develop the system, the debate continues on the pros and cons of the system and as to how such a system could be practically implemented.

Multi-county visits in Southern Africa have become increasingly popular. Up to 95 per cent of European and American tour operators offer trips which combine two or more countries.[25] Multi-country packages include almost always South Africa, Zambia, Namibia and Botswana. Many operators offer also Tanzania (in connection with Kenya), Mozambique, Zimbabwe, Malawi and Swaziland. In contrast, Angola, DRC and Madagascar feature rarely in multi-country packages.

However, tourism professionals agree that visa requirements have a deterring effect for tourists to travel to that particular destination.[26] The deterrent lies in the procedures involved in applying for and obtaining a visa rather than the visa regime per se. For visitors, the need to obtain a visa prior to their departure incurs financial and non-financial costs:

- Financial costs include: cost of the visa, cost of the visa service, costs of documentation, photos, postage, etc.
- Non-financial costs include: temporarily ceding possession of passport, risk of delayed return of passport, risk of visa refusal, concerns about being controlled during travel, time spent to apply for, and collect the visa, concerns about not being welcome, negative image in tourist community and perception of intrusiveness into privacy.
- Indirect impact: Discouragement of foreign investors in (not only) the tourism industry of the visa granting state.

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[24] SADC, 'Assessment of Linkages between the SADC Draft Protocol on Trade in Services and other SADC Protocols and Legal Instruments', Gaborone: SADC Secretariat, 2012, 60.

[25] GRF Tourismusplanung, 'SADC UNIVISA: An Economic Case Study', Midrand, RETOSA, 2010, 22.

[26] GRF Tourismusplanung, 'SADC UNIVISA: An Economic Case Study', Midrand, RETOSA, 2010, 11 - 13.

According to a RETOSA study, in Southern Africa, 78.4 per cent of tour operators consider visa requirements as a moderate or a serious obstacle for their business. Almost 20 per cent judge the visa requirement as the greatest obstacle for the development of their country's tourism industry. Only one operator from overseas considered a visa as a serious obstacle, but 65 per cent of the respondents see it as a moderate problem.

Nevertheless, continued reservations on the part of Botswana and South Africa have precluded the wider introduction of the UINVISA beyond the pilot countries mentioned.

4 APPLIED REGIMES FOR TOURISM AND TRAVEL RELATED SERVICES AND THE LEVEL OF TRADE OPENNESS

4.1 Angola

While Angola's economy remains heavily dependent on oil, gas and mineral resources, rapid growth has paved the way for fiscal expansion and an outward shift in domestic demand that is propelling other sectors of the economy.[27] While international tourism is still constrained by immigration controls and high prices, internal tourism (locals and expatriate residents) is flourishing.

Table 4.1.1 Key Indicators of Angola's Tourism and Travel-related Services Sector

Measure	**2011 Contribution to Economy**		**Projected Growth, 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	1.4	1.38	6.6	2.57
Total GDP	3.4	3.23	6.2	5.90
Direct Employment ('000)	1.3	59.6	3.2	77.0
Total Employment ('000)	3.0	139.9	2.7	175.0
Visitor Exports	1.2	0.70	1.7	0.84
Investment	2.5	0.32	4.6	0.51

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Angola'.
Notes: Monetary values are expressed in US$ billions.
2022 projections are in constant 2011 prices.

In 2011, direct tourism and travel-related services accounted for 1.4 per cent of Angola's GDP, while the total contribution of the sector to the economy reached 3.4 per cent. It is estimated that 59.6 thousand persons are directly employed in tourism and travel related jobs, accounting for some 1.3 per cent of total employment. The total contribution of tourism and travel-related activities to employment was 139.9 jobs or 3.0 per cent of total employment.

It is estimated that international visitors spent US$ 0.70 billion which represented 1.3 per cent of total exports in 2011. This is forecast to grow by 1.7 per cent per annum to US$ 0.84 billion in 2022. Investment in the sector stood at US$ 0.32 billion, or 2.5 per cent of total investment. It is anticipated that the annualised ten year growth rate of capital investment in the sector will be 4.6 per cent.

[27] Estefanía Jover, Anthony Lopez Pinto and Alexandra Marchand, 'Angola Private Sector Profile', Tunis: African Development Bank, September 2012, 2.

Over 80 per cent of all arrivals to Angola originate from other continents, while 18 per cent originate from within Africa.[28] About 50 per cent of all arrivals originate from just three countries: Portugal, China and Brazil. The majority of visitors to Angola are entering for business and employment.

Economic Structure and Level of Competition

The Angolan tourism sector is predominately operated by the private sector with domestic investment featuring more prominently in industry. This is particularly evident in respect of smaller tourism enterprises.[29] Information was limited to the accommodation sub-sector and so all subsequent observations relate to it.

According to MINHOTUR there were 136 hotels in Angola in 2010, of which 60 were located in Luanda.[30] The number of hotels in the country increased by over 50 per cent in 2010 - from 87 in 2009 to 136 in 2010 (See Table 4.1.2 below). MINHOTUR reports that the average occupancy rate in 2010 was 89 per cent.

The tourism sector is open to foreign competition. While there is still no internationally-branded hotel in Luanda, interest in operating in the country has been expressed by a number of international chains such as Accor, Starwood and Intercontinental.[31] There is significant investment from the state-owned oil company Sonangol in the form of the 5 star hotel Tatalona.

Table 4.1.2 Accommodation in Angola

	2006	**2007**	**2008**	**2009**	**2010**
Hotels	50	77	81	87	136
Rooms	2,699	6,326	108,235	140,706	368,946
Beds	7,242	12,652	197,211	201,221	606,243
Guest Houses	336	504	540	714	996
Rooms	21,177	22,325	134,530	161,436	438,749
Beds	38,345	44,650	189,864	208,851	712,058

Source: Estefanía Jover, Anthony Lopez Pinto and Alexandra Marchand, 'Angola Private Sector Profile', African Development Bank: Tunis, September 2012, 67.

28 Jover et al., 'Angola Private Sector Profile', 66.

29 Eduardo Dos Santos, 'National Assessment Study on Trade in Services in Six Services Sectors in Angola', UNCTAD, 2008, 12.

30 Jover et al., 'Angola Private Sector Profile', 66.

31 Jover et al., 'Angola Private Sector Profile', 2 and HospitalityNet, 'Hotels Chains and Brands', available from www.hospitalitynet.org, accessed November 18, 2012.

Regulatory Regime and Trade Openness

The tourism sector in Angola is regulated by the Ministry of Hotels and Tourism. The main pillars of Angola's regulatory framework include:[32]

- The National Policy on Tourism, Decree 6/97 (15 August 1997) which seeks to ensure the harmonious and sustainable development of national tourism activities, and that these activities provide benefits that contribute to the socioeconomic development of local communities;
- The Sectoral Strategy for Hotels and Tourism, Resolution 9/97 (27 June1997) deals with the recovery, rehabilitation and building of the hotel industry;
- The Licensing and Regulation of the Operation of Travel and Tourism Agencies, Decree 54/97 (1 August 1997) defines the licensing procedures and governs the operation of travel and tourism agencies and related activities;
- The Use of Tourism Resources, Decree 6/97 (15 August 1997) which establishes rules pertaining to the use of the country's tourist resources;
- The Institute of Tourism Promotion of Angola, Decree 62/97 (29 August 1997) that identifies ways of integrating the capital of national and foreign companies in order to promote the development rational integrated projects in tourist zones.

The review of the regulatory environment as contained in Angola's tourism specific legislation is limited to Decree 6/97 on use of Tourism Resources and Decree 54/97 on the licensing and regulation of travel and tour agencies due to limited access to the majority of Angola's laws and policies for the sector.

Measures related to commercial presence

Decree 6/97 requires suppliers of accommodation and restaurant services to secure the approval of their location and plans from MINHOTUR as well as provincial government and other agencies.[33] With respect to travel agents and tour operators, Decree 54/97 permits foreign entities to establish representative offices in Angola.[34] Such offices are required to be licensed in Angola and must be authorised by MINHOTUR.

[32] Dos Santos, 'National Assessment Study on Trade in Services in Six Services Sectors in Angola', 12.

[33] Decreto-Lei n.º 6/97 of August 15, 1997, Article 3 1. a), Article 4 1. a) and b), available from www.minhotur.gv.ao/pagina_angola/Decreto_lei_n_6_97.html, accessed November 28, 2012.

[34] Decreto-Lei n.º 54/97 of August 1, 1997, Article 13, available from www.saflii.org/ao/legis/num_act/dn549776.pdf, accessed November 28, 2012.

In order for travel and tour agencies to secure a permit to operate applicants must:[35]

- Establish a corporate body in Angola with the sole corporate objective of providing travel and tour agency services;
- Have a minimum capital of AoA 3 trillion[36] (~US$ 31.18 billion);
- Demonstrate the suitability of the company's directors, managers and officers;
- Post a fixed bond;
- Have liability insurance;
- Ensure that the premises of the agency conforms to legal specifications;
- Employ a technical director.

Prior approval from MINHOTUR is required for all (foreign and local) travel agents and tour operators to open a branch.[37] Conditions for approval are:

- Natural growth of the business as measured against its previous level of activity and the original plans submitted;
- Increase of the company's minimum capital by at least 20 per cent for each branch requested;
- Employment of a technical director.

In addition, MINHOTUR reserves the right to request that the company increases its paid-up capital to a level beyond the minimum 20 per cent depending on the location of the new branch or the plans submitted.

Once the travel and tour agency is licensed, additional approval is required for:[38]

- changes in the memorandum/ articles of incorporation which involve a change in legal form or headquarters;
- a change in the company name;
- a transfer in the ownership or management of agency or its branches;
- With respect to the security bond required, only a bond with an insurance agency or bank headquartered in Angola or with a branch in Angola will be accepted.[39]

The annual bond for Angolan agencies is AoA 1.5 trillion (~US$ 15.59 billion) and an additional bond of AoA 500 million (~US$ 5.19 million) is required for each branch. Foreign agencies must post a bond of AoA 500 million.

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[35] Decreto-Lei n.º 54/97 of August 1, 1997, Article 15.

[36] In the legislation, the figure given is AoA 3 billion. For ease of reference, figures for the long-scale countries in this study (Angola, Democratic Republic of Congo and Mozambique) have been converted to short-scale.

[37] Decreto-Lei n.º 54/97 of August 1, 1997, Article 19.

[38] Decreto-Lei n.º 54/97 of August 1, 1997, Article 21.

[39] Decreto-Lei n.º 54/97 of August 1, 1997, Articles 28 and 29.

Foreign tour guides are not permitted to ply their services in Angola except if there is reciprocity with the tour guides' country of origin.[40]

Law 1/04 of February 13, 2004, which sets forth the rules governing companies, establishes non-discriminatory minimum capital requirements for all public limited companies and limited liability companies.[41] Public limited liability companies must have a minimum capital equivalent to US$ 20,000. In addition, at least 30 per cent of that amount must be paid up upon establishment with the remainder being payable within three years.

The minimum capital requirement for a limited liability company is US$ 1,000 of which 50 per cent of the initial cash contributions may be deferred for a period of up to three years. Additionally, the capital cannot be reduced to an amount any lower US$ 1,000. Other limitations associated with specific legal forms include the limiting of the staff complement of representative offices to six employees.[42]

Law no. 20/11 of May 20, 2011- the private investment law (PIL) - only applies to investments (domestic and foreign) in Angola of US$ 1 million and above.[43] Provided that an investment falls within the scope of the PIL, the investor is required to enter into a contract with the National Agency for Private Investment. This contract sets out the conditions for the investment as well as the incentives granted to the investor.

In the case of foreign investments, it is permitted to export and repatriate:

- dividends and other profit distribution;
- liquidation proceeds;
- payments relating to indebtedness;
- indemnities (resulting from expropriation);
- royalties.

The repatriation of revenue can only be effected if it is accordance with the foreign exchange laws and once the payment of taxes due in Angola has taken place. Moreover, the repatriation of dividends needs to be effected gradually and proportionally, taking into account the size of the investment and other criteria. The precise terms of the proportion and percentages of the profit and dividend distribution are to be agreed as part of the investment contract between National Agency for Private Investment and the investor.

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[40] Decreto-Lei n.º 54/97 of August 1, 1997, Article 40.

[41] Law n° 1/04 of February 13, 2004, Commercial Companies Law, Article 520; Clifford Chance, 'Doing Business in Angola', Client Briefing September 2011, 5; and Gabinete Legal Angola Advogados,' Investment Guide', January 2011, 48.

[42] Jover et al., 'Angola Private Sector Profile', 24.

[43] Law n° 20/11 of May 20, 2011, Article 3; Deloitte 'Guide to Fiscal Information 2011- 2012', 13; Clifford Chance, 'Doing Business in Angola', 3.

However, only investments which satisfy the minimum US$ 1 million threshold per investor can qualify for the repatriation of dividends, profits and other returns under the PIL. In addition, depending on the value of the investment and the regional zone in which the investment is made, profits may not be repatriated earlier than two or three years after completion of the project. (See below)

Table 4.1.3 Permitted Repatriation of Revenue by Monetary Threshold

Zone	Thresholds	Permitted Repatriation	Minimum Repatriation Timeframe
A[44]	less than US$ 10 million	Profits, dividends and similar returns	3 years after completion of the project
A	US$ 10 million or more, but less than US$ 50 million	Profits, dividends and similar returns	2 years after completion of project
B[45]	Less than US$ 5 million	Profits and dividends	2 years after completion of project

The PIL stipulates that private investors (whether resident or non-resident) must have accounts with banks domiciled in Angola. They may keep monies in these bank accounts in foreign currency and partially convert them into national currency so as to make all domestic and foreign payments relating to the investment approved under the Law on Private Investment. The use of such funds is regulated by the Central Bank.

In addition, the PIL specifies that companies and enterprises incorporated to qualify for benefits under the PIL should be special purpose vehicles.[46] Further, capital increases for ongoing projects and the expansion of a company's or enterprise's purpose to areas of activity beyond the initial investment authorization requires prior authorization from the relevant approval authority.

Other restrictions include the requirement for foreign companies to contract local accountants and auditors as well as legal counsel; and the use of Angolan registered lawyers by parties involved in dispute settlement proceedings under Arbitration Law n° 16/03 taking place in Luanda.[47] Further, parties may choose the language of international

[44] Zone A — Province of Luanda, the municipal seats of the provinces of Benguela, Cabinda, Huíla, and the Municipality of Lobito.

[45] Zone B — Other municipalities of the provinces of Benguela, Cabinda, and Huíla, and provinces of Bengo, Cuanza-Norte, Cuanza-Sul, Malanje, Namibe, and Uíge.

[46] Law n° 20/11 of May 20, 2011, Private Investment Law, Article 77 - 78; Clifford and Chance, 'Doing Business in Angola', 4.

[47] World Bank Group, 'Investing Across Borders 2010', Washington D.C., 2010, 84.

arbitration proceedings, but domestic arbitrations must be conducted in Portuguese.

Measures related to the temporary movement of natural persons

For investments which fall within the scope of the PIL, there is an obligation to employ Angolan nationals.[48] However, it is possible to employ qualified foreign nationals on the condition that the investor provides an education and capacity building programme for Angolan nationals to allow them to progressively replace the foreign nationals. In addition, these training programmes must be submitted at the time of approval of the investment by the National Agency for Private Investment.

Consultations with private sector operators in a number of SADC countries also revealed that Angola's visa regime is perceived to be a significant barrier to the temporary movement of people.[49]

One of the requirements contained in the Law on Foreigners in the Republic of Angola (Law 2/07 of 31 August) for obtaining a visa is a recommendation from the Ministry of Public Administration, Employment and Social Security, in the case of public institutions or companies, or from the ministry responsible for the relevant sector, in the case of private institutions.[50] The Ministry of Public Administration, Employment and Social Security or the ministry responsible for the relevant sector is required to issue a negative recommendation if there is unemployment in the professional sector in question. A negative recommendation from the Ministry of Public Administration, Employment and Social Security or the ministry responsible for the relevant sector prevents the Migration and Foreigners Service from approving the visa application.

The work visa can be granted for the term of the employment contract, with a minimum period of time of three months and a maximum period of 36 months, according to the duration of the contract, except if it is casual employment which shall last less than 90 days.

A summary of the market access and national treatment restrictions is captured in Table 4.1.4 below.

Table 4.1.4 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
Approval for opening additional branches	Travel agency and tour operator bonds must be with a financial institution headquarted in or possessing a branch in Angola

48 Clifford Chance, 'New Angolan Private Investment Law', Client Briefing, June 2011, 3; and Law n° 1/04 of February 13, 2004, Article 72.

49 USAID consultations in Botswana, Namibia and Tanzania.

50 Law n° 2/07 of August 31, 2007, Law on Foreigners in the Republic of Angola, Article 67.

Access for tour guides based on reciprocity	Repatriation of dividends and profits to be effected gradually and proportionally
Representative offices limited to 6 employees	Repatriation of dividends and profits, etc. guaranteed for investments of US$ 1 million
Approval required for increases of share capital	Licensing requirement and ministry authorisation for representative offices of foreign based tour operators
ENT for entry and stay of foreign employees	Foreign enterprises must use local accountants, auditors and legal counsel
	Foreign enterprises must be represented by Angolan registered lawyers in domestic based arbitral proceedings

WTO Commitments

In taking commitments under the GATS, Angola did not schedule any horizontal limitations. However, it made specific commitments on the hotels and restaurant subsectors. Specifically, Angola has provided unfettered market access for the provision of these services via cross-border supply, consumption abroad and commercial presence. In addition, Angola has committed not to treat domestic services and service suppliers any more favorably than foreign ones.

Angola remains unbound in terms of market access and national treatment for the provision of services in these sub-sectors through the movement of natural persons. However, for the hotels sub-sector, Angola allows such service provision by senior managers and employees with specialized knowledge required for the provision of the service. For the restaurants subsector, Angola has provided access for natural persons employed as directors, senior managers and persons with specialized knowledge. In both cases, Angola will refrain from providing any treatment more favorable to domestic services and service suppliers.

Many of the measures identified with Angola’s applied regime do not tally with its GATS commitments. For example, the requirements of approval for additional branches and for increases in share capital are not consistent with Angola’s market access mode 3 commitments. Neither is the limitation on the number of staff in representative offices to six persons consistent with that commitment.

Again, many of the national treatment restrictions are also inconsistent with scheduled commitments. These include the requirement to utilise national financial institutions and professional services, the rules regarding repatriation of dividends, profits and other such forms of remuneration. The measures on repatriation would also be inconsistent with Article 20 of the SADC Protocol on Trade in Services.

For all other categories of natural persons besides directors, senior managers and specialist, the ENT in Angola's legislation is consistent with its commitments. However, this is not the case for these three categories. As Angola has not made a commitment on the tour guides sector, it may deny entry to these service providers. However, conditioning access on reciprocal arrangements is in violation of the most favored nation principle.

4.2 Botswana

Overshadowed by the importance of the international diamond trade, tourism has not been as heavily prioritized or promoted by the government of Botswana as it might have been.[51] Botswana has developed a name for being an exclusive and rather expensive destination. Nevertheless, the industry makes a significant contribution to Botswana's economy.

International tourist arrivals to Botswana have grown at an average annual rate of 9 per cent since 2003. Wildlife and wilderness are the most significant attractions. Growth was slower from 2000 - 2003 due to government neglect and the unstable situation in Zimbabwe, but arrival numbers have doubled since then to reach two million visitors per annum. However, 88 per cent visitors to Botswana are from other African countries, primarily South Africa and Zimbabwe.

Table 4.2.1 Key Indicators in Botswana's Tourism and Travel-related Sector

Measure	**2011 Contribution to Economy**		**Projected Growth, 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	2.3	0.48	5.2	0.87
Total GDP	6.4	1.31	5.6	2.46
Direct Employment ('000)	3.1	18.4	3.2	27.7
Total Employment ('000)	7.6	45.0	4.2	74.5
Visitor Exports	15.3	1.04	4.9	1.80
Investment	6.2	0.13	4.6	0.29

Source: WTTC, 'Economic Impact 2012: Botswana'.
Note: Monetary values are in US$ billions.
2022 projections are in constant 2011 prices.

The direct contribution of tourism and travel-related services to GDP stood at US$ 0.48 billion or 2.3 per cent of total GDP in 2011.[52] By 2022, it is expected to reach US$ 0.87 billion increasing by 5.2 per cent per annum. Taking into account indirect and induced spending, the total

[51] World Bank, 'Botswana', Sub Saharan Africa Tourism Database 2009.
[52] WTTC, 'Economic Impact 2012: Botswana', London: WTTC, 2012.

contribution of tourism and travel-related services rose to US$ 1.31 billion representing 6.5 per cent of GDP. By 2022, with an annualised growth rate of 5.6 per cent, this should reach US$ 2.46 billion.

The sector directly provided 18.4 thousand jobs (3.1 per cent of total employment) and by 2022 this figure is expected to rise to 27.7 thousand jobs at an annual rate of growth of 3.2 per cent per annum. The total contribution to employment was 7.6 per cent of total employment providing some 45.0 thousand jobs. This is expected to rise by 4.2 per cent per annum to 74.5 thousand jobs in 2022.

In 2011, spending by international tourists generated US$ 1.04 billion (15.3 per cent of total exports). It is anticipated that these earnings will grow by 4.9 per cent per annum to US $1.80 billion by 2022. The sector's share of capital investment as a proportion of total investment was 6.2 per cent standing at US$ 0.13 billion. Over the next ten years, this is expected to grow by 4.6 per cent per annum to US$ 0.29 billion.

Economic Structure and Level of Competition

Botswana's tourism and travel-related services industry provides opportunities for some 769 operators. There is a significant level of local participation in the industry with 436 citizen owned enterprises and 141 joint ventures. (See Table 4.2.2). Botswana has attracted substantial foreign investment from Zimbabwe (Cresta) and South Africa (Three Cities, Sun International, & Beyond, Africa Hotels and Adventure). It is also an outward investor through operations like Wilderness Safaris which has lodges located in Namibia, South Africa, Seychelles, South Africa, Zambia and Zimbabwe. According to UNCTAD studies, the international segment of Botswana's tourism industry has been developed by foreign investors and FDI in tourism has focused on high-value tourism. [53]

Table 4.2.2 Structure of Ownership of Botswana's Tourism and Travel-related Services Sector

Ownership Structure	2006	2007	2008	2009	2010	2011	2012
Citizens	254	290	296	321	341	375	436
Joint Venture	129	132	135	138	139	140	141
Non-Citizens	177	177	177	199	210	212	219
Total	**560**	**599**	**608**	**658**	**690**	**727**	**769**

Source: Ministry of Environment, Wildlife and Tourism, 'Ownership Structure as at December 2012', available from www.mewt.gov.bw. Accessed February 11, 2013.

[53] UNCTAD, 'Investment Policy Review: Botswana', 9; and UNCTAD, 'FDI and Tourism: The development dimension East and Southern Africa', United Nations: New York and Geneva, UNCTAD/DIAE/IA/2008/6, 55.

Table 4.2.3 highlights that operators are predominantly in the accommodation sector with the fastest level of growth being recorded in the fixed accommodation sector. Growth in a number of sectors has been relatively stagnant. These include the mobile accommodation sector, accommodation in campsites and caravan parks, transport, motor boats and mekoro operations. The number of mobile safari operators[54] has stayed fixed at 158 over the past few years given a government-mandated moratorium of mobile safari licenses. This is due to congestion in certain parks.[55]

Table 4.2.3 Tourism Operators by Sub-sector, 2006 - 2012

Category	2006	2007	2008	2009	2010	2011	2012
Fixed Accommodation 1	145	159	170	180	184	198	224
Fixed Accommodation 2				6	6	6	6
Accommodation on a fixed site	220	225	230	236	239	240	241
Mobile Accommodation	149	164	158	158	158	158	166
Travel agents	46	51	50	55	59	70	89
Transport				6	17	22	28
Motor boats					2	2	2
Other				1	1	1	2
Mekoro						6	9
Foreign Operators				14	24	24	24
Houseboats							5
Total	560	599	608	658	690	727	796

Source: Ministry of Environment, Wildlife and Tourism, 'Category of Licenses Issued as at December 2012', available from www.mewt.gov.bw. Accessed February 11, 2013.

Regulatory Regime and Trade Openness

All tourism related matters fall within the ambit of the Ministry of Environment, Wildlife and Tourism. The key legal document governing the sector is the Tourism Act of 2009 and the related subsidiary regulations.

Measures related to licensing regimes for tourism operators

The review identified a few restrictions in the principal act. First, there is the issue of the duration of licences. For all Botswana based tourism operators, the licence is of an indefinate duration, but is subject to the

54 According to the Tourism regulations mobile safari operators offer off-site facilities that receive and transport travellers and guests within protected areas. It is not clear how this would be classified as there is an element of lodging, tour operator and tour guide services.

55 Hannah Messerli, 'Botswana's Tourism: Reaping Higher Dividends', Presentation to the Export Diversification Conference, Gaborone, November 7 – 8, 2011.

payment of an annual licence fee, however for foreign based operators the licence duration is 12 months.[56] Second, residency and work permit requirements are imposed on managers of a tourism enterprise.[57]

Third, provision is made for the Minister to reserve certain activities for nationals or companies wholly owned by nationals. Further, tourist enterprises in reserved categories must remain 100 per cent owned by nationals.[58] Reserved areas include guesthouses, mobile safari, camps and caravan sites, mekoro and motor boating activities.

Also of interest are the conditions attached to the Tourism Enterprise Licence, specifically the 'I' Licence which is granted to foreign based companies that offer tourism related activities in Botswana. This licence allows foreign tour operators to transfer tourists along the main roads and utilise public facilities.[59] However, it precludes these operators from conducting their own safaris into the game reserves or national parks and encourages them to hand the clients over to a Bostwana-based operator if they wish to gain entry to those facilities. Feedback from operators in other SADC countries indicate that they consider the cost of the licence- US$ 2,000 - to be high, but more importantly, the application form for the licence requires the applicant to provide the names and contact details of two companies which support the application.[60] From discussions with the Botswana industry, it would appear that these two companies should be Botswana based.[61] This is clearly intended to only allow access by companies who are handing over business or cooperating with businesses in Botswana.

The Wildlife Conservation and National Parks Act, 1992 regulates licensing of professional guides and hunters. The Department of Wildlife and National Parks administers three types of licences for guides and three for hunters respectively. See table 4.2.4 below:

Table 4.2.4 Licences Available from the Department of Wildlife and National Parks

Guides	**Hunters**
Professional Guide license	Professional Hunters Licence
Assistant Professional Guide license	Assistant Professional Hunters license
Specialist Guide license (Mekoro Polers)	Trainee Professional Hunters license

[56] Tourism Act 2009, Article 18.
[57] Tourism Act 2009, Article 20.
[58] Tourism Act 2009, Article 23.
[59] Tourism Regulations, 2010.
[60] Natasha Ward and Richard Self, 'Report of Consultations in Namibia on Tourism Services for the SADC Trade in Services Negotiations', Gaborone: USAID Southern Africa Trade Hub, 2011, 11.
[61] Natasha Ward, Consultations in Botswana on Tourism Services for the SADC Trade in Services Negotiations', Gaborone: USAID Southern Africa Trade Hub, 2011.

The Professional Guides License is available to non-nationals who have successfully passed professional the guide licensing examination(s) conducted by Department of Wildlife and National Parks. The requirements for foreign nationals just to write the examinations are somewhat different as non-citizens need to be in possession of a first aid certificate, proof of five years of relevant experience, a residence permit (or receipt of the application thereof) and a work permit (or receipt of the application thereof). In addition, whereas the non-national must have five years of relevant experience, holders of the assistant guides licence with three years of experience qualify to take the exam.

With respect to the acquisition of the licence itself, there is also a substantial difference between the licensing fees with nationals paying BWP 200 (~US$ 24.35) per annum while foreign nationals pay BWP 1,500 (~US$ 182.62) per annum.

Professional Hunter's licences are available to foreign nationals. However, there are residency and work permit requirements attached to the issuance of such licences. For nationals, the fee for Professional Hunters is BWP 200, for Assistant Hunters it is BWP 100 (~US$ 12.17) and for trainees it is BWP 50 (~US$ 6.08) per year. However, foreign nationals pay BWP 1,500 per year.

The Assistant Guides License, the Specialist Guides Licence, the Assistant Professional Hunters Licence and the Trainee Professional Hunters Licence are available only to Botswana nationals.

Measures related to operations serving alcoholic beverages

Sale of alcoholic beverages is controlled by the Liquor Act, 2008. The Act reserves, among others, bar liquor licences and discotheque/night club liquor licences for nationals.[62] However, a joint venture of a medium business enterprise between a national and a foreign national may be granted a licence in a reserved liquor trade or business provided that national has a minimum beneficial ownership of 51 per cent of the joint venture.[63] Exceptionally, the Minister may grant approval for a national to own less than 51 per cent of the joint venture.

In addition, residency and work permit requirements are imposed on licence holders and managers of a premise licensed under the Liquor Act.[64]

Measures affecting directors and the temporary movement of natural persons

[62] Liquor Act, 2008, Article 18, paragraphs 3 – 4.

[63] The Act defines a medium business enterprise as one which employs less than 100 people and which has an annual sales turnover of between BWP 1,500,000 and BWP 5,000,000.

[64] Liquor Act, 2008, Articles 15 and 25.

In terms of broader legislation, the Companies Act requires that public companies must have at least two directors, one of which must be resident in Botswana.[65]

The Employment of Non-Citizens Act prohibits foreign nationals from being employed unless they have acquired a work permit or exemption certificate.[66] The Act requires the Immigration Board to take into account the effect of issuing the work permit on the opportunities for employment or for other employment for profit or reward in the particular occupation and the arrangements made by the employer to train a national to replace the foreign applicant.

The Botswana system for processing the entry and stay of foreign nationals has has been described as non-transparent, arbitrary and subjective.[67]

Measures affecting commercial presence

A review of secondary sources also identified to a number of restrictions which impact mostly on the provision of tourism and travel related services through the establishment of a commercial presence.

One example is a transfer duty on property sales. For citizens, no duty is charged on freehold land valued at BWP 200,000 (~US$ 24,185.60) or less; a 5 per cent duty is charged on any amount in excess of this threshold.[68] Non-citizens, including companies with less than majority local ownership, pay 5 per cent duty on the total value of freehold land.

Another discriminatory element of the tax regime is the requirement that non-residents pay a 15 per cent withholding tax on managment, technical and consulting fees while residents are exempt from this tax.[69] These fees include payments in consideration for any services of an administrative, technical, managerial or consulting nature and virtually all service fees are caught irrespective of where services are rendered. Payments for services made to South Africa and Zimbabwe are subject to a withholding tax at 10 per cent under their respective double taxation agreements with Botswana.

Similarly, the payment of interest to non-residents is liable to a 15 per cent withholding tax per cent while residents pay 10 per cent. In both cases, the withholding taxes applied to payments by residents is not a final tax; however, it is a final tax on non-residents.

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65 Companies Act, 2008, Article 145.

66 Employment of Non-Citizens Act, 1983, Articles 4 – 5.

67 Keith Jefferis, 'Technical Report: Proposals for Business-friendly Immigration Reform in Botswana', Gaborone: USAID Southern Africa Trade Hub, 2011, 5 – 6.

68 WTO, 'Trade Policy Review - Report by the Secretariat - Southern African Customs Union' - Annex 1 – Botswana, 2009, 78.

69 Deloitte, 'Guide to Fiscal Information 2011 – 2012', 20 – 21.

There are also a number of restrictions which relate to the level of foreign investment. For instance, for each investment proposal, two foreign directors/shareholders are permitted to reside in Botswana.[70] Additional foreign directors/shareholders who wish to live and work in Botswana require further investment of 50 per cent of the original amount.

Also foreign investors can participate in reserved activities up to 49 per cent equity if the investment would expand the activity to medium scale within an approved schedule.

In addition, minimum foreign investment levels are reduced for joint ventures by either one half, one quarter or one third, depending upon the sector. For the tourism sector, minimum foreign investment levels are set respectively for non-joint-ventures and joint-ventures at US$ 200,000 and US$ 100,000 for tourism.

Finally, there are three main categories of land in Botswana: freehold, state land and tribal land which respectively constitute 5 per cent, 25 per cent and 70 per cent of Bostwana's total land mass. Foreign nationals and companies canot purchase tribal or state land; however, a foreign-owned enterprise registered in Botswana may lease state land. Commercial use leases are for 50 years and residential leases are for 99 years.

A summary of the market access and national treatment restrictions is captured in Table 4.2.5 below.

Table 4.2.5 Snapshot of Market Access and National Treatment Restrictions

Market Access	**National Treatment**
Reservation of sectors for nationals under the Tourism Act and the Liquor Act	Foreign based operators licences valid for 12 months only and fees are significantly higher
No access for tour guides and hunters below the professional category level	Licences for foreign based tour operators do not permit them to enter national parks
ENT for the entry and stay of foreign staff	Different criteria, qualifications and licensing fees for professional hunters and guides
	Residency requirements for directors
	Discriminatory transfer duty and withholding tax
	Restrictions on access to land
	Minimum investment requirements for foreign investors

[70] WTO, 'Trade Policy Review - Report by the Secretariat - Southern African Customs Union - Annex 1 – Botswana', 2003, A1-66.

WTO Commitments

Botswana's GATS commitments on the tourism and travel-related services sector are limited by a number of horizontal restrictions. The inscriptions for mode 3 merely confirm registration and licensing requirements for legal persons. With respect to mode 4, the inscriptions confirm the need to conform to immigration and labour laws and in the case of professionals register with the appropriate body. More importantly, access is granted for managers, executives, special technicians and highly qualified professionals employed by companies that provide services in Botswana. It is also stipulated that investors are required to train citizens to assume senior management positions.

Horizontal national treatment limitations for modes 1 and 2 indicate that capital remittances, the transfer of funds and fees payable to a non-resident service supplier are subject to the Bank of Botswana and that fees are payable to the Bank of Botswana. For mode 3, there is a policy of encouraging joint ventures and legal persons must be registered in their own countries of origin. In addition, the Ministry of Commerce and Industry must be notified of all sales of business interests and mergers and take-overs. Moreover, in disposing of interests in resident companies, foreign investors should give priority to locals. With respect to professional foreign natural persons, they should be recognised as such and be entitled to practice in their own countries. In addition, these persons need to be recognised and registered by the appropriate committee or council.

As shown in Table 4.2.6 below, Botswana has undertaken specific commitments on hotels and restaurants including catering. Full commitments have been made under mode 1. For mode 2 market access, there are limitations on the amount of local and foreign currency to which permanent residents are entitled are limited for each trip and for the year by the Bank of Botswana. There is no mode 2 national treatment commitment.

For mode 3 market access, it is indicated that the service must be supplied through a commercial presence and on the national treatment side, residency requirements are imposed on service providers. For mode 4, there is no commitment beyond that in the horizontal schedule.

For the travel agencies and tour operators' subsector, there are no limitations on market access for modes 1 though to 3. There is no commitment on mode 4 beyond the access granted in the horizontal schedule. Mode 1 national treatment is constrained by the limitation that permanent residents must not purchase tickets to enable non-residents to visit Botswana and accept payment outside Botswana. There are no mode 2 or 3 national treatment restrictions and as is the case for the other sectors, access is only provided for the categories specified in the horizontal schedule.

Table 4.2.6 Botswana's Specific Commitments on Tourism and Travel-related Services

Sub-Sector	Market Access	National Treatment
Hotel and restaurants including catering (CPC 641-643)	1) None 2) The amount of local and foreign currency entitled to permanent residents is limited for each trip and for the whole year by the Bank of Botswana. 3) The service should be supplied through commercial presence. 4) Unbound except as indicated in the Horizontal Commitments.	1) None 2) Unbound 3) The service supplier should meet all residency requirements. 4) Unbound except as indicated in the Horizontal Commitments.
Travel agencies and tour operators	1) None 2) None 3) None 4) Unbound except as indicated in the Horizontal Commitments.	1) Permanent residents should not purchase tickets to enable non-residents to visit Botswana and accept payment outside Botswana. 2) None 3) None 4) Unbound except as indicated in the Horizontal Commitments

A number of the measures found in Botswana's applied regime are permitted as they cover areas in which Botswana has not made any commitments. These include the discriminatory licensing and fees for tour guides and hunters, the reservation of mekoro and motor boat activities and the residency requirements for managers of liquor establishments.

However, several other measures would appear to be inconsistent with Botswana's commitments. The reservation of the operation of bars, discotheques and night clubs for nationals only as well as the reservation of guesthouse, campsites and caravan park operations are inconsistent with Botswana's commitments. With respect to the discriminatory fees and different periods of licence validity and the prohibition on providing services in game reserves and national parks, these measures also contravene Botswana's commitment on tour operators. Neither did Botswana reserve the right to restrict access to land, impose different minimum investment requirements for foreign investors or, in the case of travel agents and tour operators, residency requirements for directors.

4.3 Democratic Republic of Congo

Table 4.3.1 Key Indicators for the Democratic Republic of Congo's Tourism and Travel-related Services Sector

Measure	**2011 Contribution to Economy**		**Projected Growth, 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	1.0	0.19	4.5	0.29
Total GDP	2.2	0.42	4.6	0.66
Direct Employment	0.8	123.0	1.5	136.3
Total Employment	1.9	290.8	1.7	330.3
Visitor Exports	0.2	0.03	4.7	0.04
Investment	3.3	0.12	5.2	0.21

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Democratic Republic of Congo'.
Note: Monetary values are in US$ billions.
2022 projections are in constant 2011 prices.

The direct contribution of tourism and travel-related services to Congo's GDP was US$ 0.19 billion in 2011. This is forecast to rise by 4.5 per cent per annum, from 2012 to 2022, to US$ 0.29 billion in 2022. The total contribution of the sector to GDP was US$ 0.42 billion or (2.2 per cent of GDP). With a ten year annualised growth rate of 4.6 per cent per annum, the contribution to total employment should reach US$ 0.66 billion in 2022.

In 2011, the sector directly supported 123.0 thousand jobs and indirectly supported 290.8 thousand jobs. By 2022, direct employment in the sector should increase by 1.5 per cent to 136.3 thousand jobs and indirect employment will increase to 290.8 thousand jobs with an annual growth of 1.7 per cent.

Visitor exports generated US$ 0.2 billion accounting for some 0.2 per cent of total exports) in 2011. By 2022, spending by international tourists should grow by 4.7 per cent per annum to US$ 0.04 billion in 2022. Approximately, US$ 0.12 billion was invested in the sector in 2011; this should grow by 5.2 per cent over the next ten years to US$ 0.21 billion in 2022.

Economic Structure and Level of Competition

There was no information available on the number of operators or on the level of competition in the market.

Regulatory Regime and Trade Openness

There was limited access to information on the Congolese regulatory framework for tourism services. However, the Ministry of Tourism indicated that there are no numerical limits on the number of operators or transactions. Neither is there any form of regulation which accords an advantage to Congolese services and service suppliers. However, some activities are reserved for nationals. Included in the list of reserved activities is the operation of a hotel of less than 10 rooms.[71]

In addition, there is no discrimination in the regime for licensing tourism operators. Licenses are of an indefinite duration except in the case of the expansion of the company or change of name.

It was indicated that managers must have formal training in the area in which they operate. In addition, the number of foreigners who may be employed by a foreign commercial presence must not exceed 15 per cent of work force.

In the survey of the legislation available, a few restrictions were identified. For example, there are limitations on the number of tour guides who can be licensed.[72] The study was unable to verify whether this restriction is still in force.

More generally, although a company's capital may be determined by its shareholders, the Companies Act reserves the right to establish minimum capital requirements.[73]

In order to qualify for benefits under the Investment Code, investors must have a minimum of the equivalent of US$ 200,000. In addition, investors must commit to training Congolese nationals to assume specialised technical and managerial positions.[74]

The Investment Code further stipulates that the treatment accorded to foreign investors and investments is based on the reciprocal treatment granted to Congolese investors and investment in the country of origin of the foreign investor or investment.[75] Congo guarantees the right of investors and investment which qualify for benefits under the Investment Code to repatriate dividends and profits from reinvested capital, royalties, interests, debt payments and indemnity.[76]

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[71] Loi n°73-009 du 05 Janvier 1973.

[72] Arrêté départemental (00602/Agri) du 2 juillet 1973 réglementant la profession de guide de chasse, Article 6.

[73] Acte uniforme relatif au droit des Sociétés Commerciales et du Groupement d'Intérêt Economique Acte, Article 65.

[74] Loi N° 004/2002 du 21 Février 2002 Portant Code des Investissements, Article 8.

[75] Loi N° 004/2002 du 21 Février 2002 Portant Code des Investissements, Article 23.

[76] Loi N° 004/2002 du 21 Février 2002 Portant Code des Investissements, Articles 27 – 30.

A summary of the market access and national treatment restrictions is captured in Table 4.3.2 below.

Table 4.3.2 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
Reservation of the operation of hotels of 10 rooms of less for nationals only	
Foreign employees cannot exceed 15 per cent of the workforce	
Limitations on the number of tour guides	

WTO Commitments

DRC has made some commitments on tourism services under the GATS. The sole horizontal limitation on mode 3 market access and national treatment relates to authorisation requirements for foreigners to acquire real estate. For mode 4, market access and national treatment remain unbound except for measures concerning the temporary entry and stay, without the requirement of an economic needs test, of senior managers, specialists essential to the provision of the service.

For the hotels and restaurants, travel agents and tour guides and tour guides subsectors, DRC has made full commitments on modes 1 and 3, while mode 4 access is restricted to the movement of the natural persons (senior managers and specialists) inscribed in the horizontal section of the schedule.

The limitations on the number of tour guides are in line with DRC's schedule as the primary mode of entry for these professionals is through mode 4 where access is permitted only for senior managers and specialist. However, the reservation of the operation of hotels below 10 rooms for nationals is inconsistent with DRC's GATS commitments.

The limitation of expatriate employees to 15 per cent of the staff complement might contravene DRC's GATS commitment as the access provided for senior managers and specialists was not limited; however, a violation could only be construed if a company wanted to employ more than 15 per cent of its workforce at management and specialist level.

4.4 Lesotho

Lesotho has been assessed to have considerable untapped tourism potential, but faces considerable geographic and social challenges in the development of its tourism sector.[77] A recent visitor survey identified scenery, people and the culture as the three most important reasons to visit Lesotho. Total visitor numbers have been relatively stable since 2001. Germany, US, the Netherlands and the UK are the main long-haul

[77] World Bank, 'Lesotho', Sub Saharan Africa Tourism Database, 2012.

source markets. However, African short-haul markets, primarily from South Africa, make up 90 per cent of all arrivals. Length of stay is short and there are no direct long-haul flights. The highest spending tourists are Asians and Americans.

Table 4.4.1 Key Indicators for Lesotho's Tourism and Travel-related Services Sector

Measure	2011 Contribution to Economy		Projected Growth, 2012 - 2022	2022 Projection
	%	Value	% p.a.	Value
Direct GDP	6.3	0.13	4.4	0.23
Total GDP	14.2	0.30	4.6	0.53
Direct Employment ('000)	5.3	31.0	1.4	39.9
Total Employment ('000)	12.2	71.4	1.6	92.3
Visitor Exports	2.5	0.03	1.4	0.04
Investment	8.3	0.05	3.5	0.08

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Lesotho'.
Notes: Monetary values are in US$ billions
2022 projections are in constant 2011 prices

In 2011, the direct contribution of tourism and travel-related services to GDP was US$ 0.13 billion accounting for a significant 6.3 per cent of total GDP. By 2022, this is expected to rise to US$ 0.23 billion with at an annual rate of 4.4 per cent. Taking into account indirect and induced spending, the total contribution of the sector comes in at an appreciable 14.2 per cent of GDP earning US$ 0.30 billion. This is projected to rise by 4.6 per cent per annum to US$ 0.23 billion in 2022.

The sector is a significant source of employment directly generating 31.0 thousand jobs (5.3 per cent of total employment) in 2011 and indirectly proving 71.4 thousand jobs (12.2 per cent of overall employment). By 2022, it is expected that the sector will directly employ 39.9 thousand persons and indirectly provide 92.3 thousand jobs.

The spending of international tourists generated US$ 0.03 billion (2.5 per cent of total exports) in 2011. This is forecast to grow by 1.4 per cent per annum, from 2012 to 2022, to US$ 0.04 billion. Investment in the sector stood at US$ 0.05 billion or 8.3 per cent of total investment. By 2022, this is expected to increase to US$ 0.08 billion.

As of 2010, there were a total of 137 accommodation establishments in Lesotho. This figure comprised 20 hotels, 23 lodges and 94 other types of accommodation establishments.[78] In 2007, it was reported that there are 14 organised campsites, 16 tour operators, 7 travel agencies and 21

[78] UNCTAD, 'Lesotho Services Policy Review, 2012', New York and Geneva: United Nations, 2012, 71.

handicraft co-operatives.[79] There is regional participation in the accommodation market with South Africa's Sun International operating the two top-end hotels in Maseru.

Regulatory Regime and Trade Openness

A recent study by UNCTAD observed that Lesotho's tourism legislation and regulations are very outdated and their provisions have not kept pace with industry developments.[80] Some tourism sub-sectors such as travel agents, tour operators and tour guides are devoid of regulation and are registered and licensed by the Ministry of Trade, Industry and Co-operatives and Marketing.

The Accommodation, Catering and Tourism Act which regulates the other aspects of the sector is currently being overhauled. One of the key weaknesses of the law is the cumbersome and expensive licensing regime which is administered by a Board which travels from district to district dealing with licensing issues.[81] Another reason for seeking to modernize the Act is that its provisions are too detailed and inflexible as it seeks to prescribe the precise structure of buildings, their size, lay-out and even furnishings for licensed accommodation.

It has further been reported that the current licensing system inhibits the operations of tour operators. The license does not permit a tour operator to operate tours around the entire country; instead a separate licence is required for every tour and this licence restricts operators to a particular route.

Lesotho does impose some market access limitations on the tourism and travel-related services sector. Specifically, market access is only guaranteed for hotels that exceed a certain size in terms of the number of rooms.[82] Otherwise, smaller hotels are required to undergo an economic needs test.

Other restrictions which may affect the provision of accommodation services, but do not constitute a restriction on their supply *per se* are the limitations imposed by the Casinos Act on the provision of entertainment services.[83] The Act stipulates that a casino license for slot machines will not be granted unless the applicant operates a hotel of not less than 100 accommodation units.[84] Casino licences are also not available unless the applicant operates a hotel of not less than 200 accommodation units.

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[79] Jodi McKeeman and Zachary Rozga, 'Strengthening the Tourism Market in Lesotho: A Content Collection and Market Readiness Audit Exercise', 2007, 5.

[80] UNCTAD, 'Lesotho Services Policy Review', 78.

[81] UNCTAD, 'Lesotho Services Policy Review,' 74 – 78.

[82] UNCTAD, 'Lesotho Services Policy Review', 89.

[83] As noted in Section 2.5, casino services are classified as entertainment services.

[84] UNCTAD, 'Lesotho Services Policy Review', 86.

There are a number of restrictive measures affecting tourism services contained in Lesotho's wider legal framework.

The Constitution and the Land Act preclude ownership of land by foreign natural and legal persons.[85] Title to land may be held by, inter alia, a foreign enterprise for investment purposes, provided that Basotho form at least 20 per cent of the membership or shareholding of the enterprise; a company incorporated in Lesotho of which the shareholders are Basotho and which carries on business in Lesotho or a partnership carrying on business in Lesotho of which shareholders are Basotho.[86] Foreign investors or citizens can only hold land as a sub-lessee for a limited duration.[87] Leases for residential land are for thirty years, renewable, while leases for commercial sites are for sixty years.[88]

In addition, commercial landholding is limited to 5 commercial land leases or an aggregate area of 2000m^2 or more.[89] Ministerial approval is required for landholding beyond the stipulated size.

Lesotho reserves some economic opportunities for nationals, namely to be an agent of a foreign firm, barber, Basotho beer shop, butcher, snack bar, domestic fuel dealer, dairy shop, general café, general dealer, hawker, street photographer, broker, mini-market, hair and beauty salon, petrol dealer, and tentage dealer.[90] Activities such as agent of a foreign firm, snack bar, general café and tentage dealer are likely to have implications for foreign service suppliers such as tour operators and restaurant operators.

Minimum capital requirements are imposed on some legal entities. For example, a private limited company must have a paid in minimum capital of 11.2 per cent of income per capita.[91]

Lesotho is part of the Common Monetary Area (other countries in the CMA are Namibia, South Africa and Swaziland). In broad terms, there are no restrictions on inward investment by foreigners and profits may be fully repatriated.[92] However, remittances in foreign exchange need Central Bank permission, but in practice there is no difficulty in sending funds abroad.[93]

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[85] Constitution of Lesotho, Articles 107- 108 and Land Act 2009, Article 4 (1).

[86] Land Act 2009, Article 6 (1).

[87] Enhanced Integrated Framework, 'Diagnostic Trade Integration Study: Lesotho', Draft Report, Vol. II, 2002, 45.

[88] UNCTAD, 'Lesotho Services Policy Review', 77.

[89] Land Act 2009, Article 44 (1) – (2).

[90] Trading Licences Act 1993, Articles 34(2) (n) and Trading Licences Regulations, 1999, Article 14.

[91] World Bank and International Finance Corporation, 'Economy Profile: Lesotho, Doing Business 2012', 21.

[92] Deloitte, 'Guide to Fiscal Information 2011 – 2012', 62.

[93] WTO, 'Trade Policy Review - Report by the Secretariat - Southern African Customs Union' - Annex 2 - Kingdom of Lesotho, 2003, A2-122.

Generally, dividends, interest and royalties paid to non-residents are subject to a withholding tax of 25 per cent while management charges and other fees are subject to a tax of 10 per cent. However, for countries with which Lesotho has a double taxation agreement, the incidence of tax is reduced. In the SADC region, Lesotho has DTAs with Mauritius and South Africa.

Table 4.4.2 WHT Rates once DTA is applied with SADC Treaty Partner

Recipient's Country of Residence	Dividends	Interest	Royalties	Management Charges
Mauritius	10	10	10	----
South Africa	15	10	10	10

In terms of the conditions imposed on employment, expatriate staff can constitute a maximum of 5 per cent of employment in an enterprise.[94] Foreign nationals employed in Lesotho require both a work permit and residence permit. In determining the application for a work permit, consideration is given to whether any citizen of Lesotho is qualified and available for the job.[95] The UNCTAD Services Policy Review noted the lengthy processing time for residence and work permits, which can take months in some instances. In addition, there are instances where the duration of the residence and work permits does not correlate with the contract of employment. This is because work permits cannot exceed two years and residence permits are issued to tally with work permits. Moreover, the permits, and their renewals, are considered to be relatively expensive.

Table 4.4.3 Fees for Residence and Work Permits

Permit Type	**Price**	
	Lesotho loti	**US$ equivalent**
Residence Permit:		
Temporary Permit for 90 days	1,000	108.78
Renewal of Temporary Permit	1,000	108.78
Application for Residence Permit	1,500	163.17
Residence Permit	2,000	217.56
Renewal of Residence Permit	2,000	217.56
Indefinite Permit	20,000	2,175.60
Late Renewal of any Permit Per Week or part thereof	200	21.75
Work Permit:		
First application	750	81.58
Renewal	1,000	108.78
Issuance of Card	70	7.61

UNCTAD, 'Lesotho Services Policy Review, 2012', Geneva: United Nations, 2012.

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94 WTO, 'Trade Policy Review - Report by the Secretariat - Southern African Customs Union' - Annex 2 - Kingdom of Lesotho, 2003, A2-121.

95 Labour Code Order 1992, Article 166 (2).

A summary of the market access and national treatment restrictions is captured in Table 4.4.4 below.

Table 4.4.4 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
ENTs for smaller hotels	Limitations on access to land
Limitations on number/size of land holdings	Discriminatory withholding taxes
Reservation of some tourism oriented activities	
Expatriates can form 5 per cent of an enterprises staff	
ENTs for entry and stay of natural persons	

WTO Commitments

The horizontal commitments by Lesotho relate only to market access commitments for allowing the supply of services through the modes 3 and 4.[96] The commitments indicate that foreign-owned enterprises, including joint-venture enterprises with Lesotho, must satisfy minimum capital outlay and foreign equity requirements. Also, the agency established must have authority to negotiate and conclude contracts on behalf of the foreign parent company.

Finally, the schedule states that automatic entry and work permits are granted for up to four expatriate senior executives and specialized skill personnel in accordance with the Laws of Lesotho. Approval is required for any additional expatriate workers beyond the quota. Enterprises must also provide training in higher skills for locals to enable them to assume specialized roles.

Under the GATS Lesotho has undertaken limited trade liberalization commitments for tourism and travel-related services.For hotels and restaurants, market access is provided for mode 1 catering services only. Modes 3 and 4 are unbound except as indicated in the horizontal section of the schedule. For travel agency and tour operator services, all modes of supply are unbound. Only for mode 4 is access provided for senior executives and specialists in accordance with the horizontal limitations. For tourist guide services, mode 1 remains unbound while modes 2 and 3 are not subject to any sector specific restrictions. Mode 4 also has been left unbound.

Generally, Lesotho's applied regime appears to be consistent with its GATS commitments. In the absence of commitments, Lesotho is free to impose ENTs for smaller hotels and reserve tourism activities such as snack bars, agents of foreign firms (which are most likely to affect tour operators) and general cafés. The limitations on land holding size and

[96] UNCTAD, 'Lesotho Services Policy Review', 25.

access to land are also generally consistent as the only sub-sector in which Lesotho scheduled a commitment for mode 3, where these types of measures are likely to be problematic, was tour guides. While in theory, this could be a limitation to the establishment of commercial presence providing tour guides services, these services are more hindered by restrictions on mode 4. Similarly, discriminatory withholding taxes are unlikely to be a problem for tour guides services.

Nevertheless, there could be some inconsistencies between the measures in the applied regime on the temporary entry and stay of natural persons and GATS commitments. Only for large enterprises (100 employees or more) would the measure of permitting the employment of 5 per cent foreign nationals be desirable. Otherwise, for smaller enterprises, the automatic entry and work permits for 4 expatriate employees is a more generous regime. With respect to the ENTs, there would be no issue if the ENTs are applied once the enterprises have used up their quota of four foreign nationals in the categories of persons specified.

4.5 Malawi

Malawi is a small volume, relatively high cost destination.[97] Although, land locked, Lake Malawi provides significant tourism opportunity. Arrivals increased dramatically in 2006, when the UK and US markets almost doubled. Since then the increase continued albeit at a lower rate. As a former British protectorate, the UK is the main source market, followed by the US. Mozambique was the main short-haul market in 2009, followed by Zambia. The average length of stay in 2009 was seven days. Visitors include a mix of upscale travellers interested in nature and wildlife. It also includes backpackers. While tourism represents only a very small percentage of overall GDP, the sector is recognized as a major foreign exchange earner.

Table 4.5.1 Key Indicators for Malawi's Tourism and Travel-related Services Sector

Measure	**2011 Contribution to Economy**		**Projected Growth, 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	2.8	0.16	6.5	0.32
Total GDP	6.0	0.34	6.5	0.67
Direct Employment	2.4	74.1	2.5	99.9
Total Employment	5.2	162.4	2.5	217.4
Visitor Exports	2.7	0.04	6.4	0.08
Investment	1.3	0.02	7.0	0.04

Source: WTTC, Travel and Tourism Economic Impact 2012: Malawi'.
Note: Monetary values are expressed in US$ billions.
2022 projections are in constant 2011 prices.

[97] World Bank, 'Malawi', Sub Saharan Africa Tourism Database, 2012.

The tourism and travel-related services sector doubled its share in Malawi's GDP since 1996 moving from less than 3 per cent to just over 6 per cent generating some US$ 0.34 billion in 2011.[98] By 2022, it is forecasted that the sector would have grown by 6.5 per cent per annum to earn US$ 0.67 billion. The total contribution of the sector to employment was 162.4 thousand jobs in 2011, accounting for 5.2 per cent of total employment. By 2022, tourism and travel-related services are expected to support 217.4 thousand jobs (5.1 per cent of total employment), an increase of 2.5 per cent per annum over the period.

Economic Structure and Level of Competition

The travel and tourism sector in Malawi is characterized by a diverse set of enterprises, with relatively few large, specialist, or international operators.[99] Most operators are domestic, though a few have international parent companies or relationships. Malawi has not been successful in attracting the large multinational hotel groups. Many operators are small with limited travel and tourism experience and invest out of profits from their core businesses, particularly construction.

There are nearly 500 licensed accommodation units in Malawi. Twenty-six of which are classified as hotels, of which Sunbird is the largest Malawi-based operator, with seven separate accommodation units. It is partially listed on the Malawi Stock Exchange and has a small element of employee ownership, with its majority shareholder being the Government of Malawi.

Protea is the only international brand in Malawi, currently operating Ryalls Hotel in Blantyre; it is owned and operated by local investors. Club Makakola, regarded as a premier lakeshore resort, is part of the local SR Nicholas Group, which is mainly involved in construction but also owns a lodge in South Luangwa National Park, Zambia.

The diversity of ownership, including by groups with wider business interests, is repeated with urban, lake, and game lodge ownership. Central African Wilderness Safaris (CAWS) operates Mvuu Camp in Liwonde, probably Malawi's premier game lodge, as well as Chinteche Inn (formerly government owned) and Heuglins Lodge (urban) and has recently won the concession for Nyika camp and lodge. CAWS is part of a group of premier lodge operators in Central Southern Africa. Pumulani lodge (lakeshore) was a new operation in 2009 and is part of the Robin Pope Group,[100] which has recently commenced another new investment in Majete National Park. The Ulendo group of Lilongwe has been active in helping existing service providers to upgrade their product offerings and then managing the service/ product for them. Huntington Lodge at Satemwa Tea Estate and Burley House in Lilongwe are examples of this

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[98] WTTC, 'Travel and Tourism Economic Impact 2012: Malawi', 3 – 4 and World Bank, 'Malawi Travel and Tourism: Realising the Potential', Report No. 62353-MW, Washington, D.C., 2010, 21.

[99] World Bank, 'Malawi Travel and Tourism: Realising the Potential', 36 – 37.

[100] Robin Pope is a high-end tour operator based in Zambia.

type of business model. Ulendo is the co-owner of Nyassa Airways, a charter flight operator.

There are other groups with multiple accommodation units, such as Annie's Lodges (Zomba, Lilongwe, and Blantyre), but most are locally owned single, non-specialist operations whose owners were attracted by the relatively high demand for accommodation in the major cities and, to a lesser extent, on the lakeshore.

In rural areas, towns and trading centres, low-cost accommodation targeting small-scale businesses and other economy travellers is owned and operated by indigenous Malawians, usually as single units, meeting a local demand niche. In the urban areas and towns, there are many more indigenous Malawian owners of middle to upper end accommodation. There are also several non-indigenous and foreign-owned lodges in urban areas, including those owned by Malawian Asian, Chinese, Korean, and South African nationals. Most operate just one or two accommodation units.

Regulatory Regime and Trade Openness

Restrictions identified in tourism specific legislation include the reservation of the right of the Minister, or by extension, the Tourism and Hotels Board to fix the maximum price that a hotel operator can charge.[101] In addition, exercise of the profession of tour guide is limited to nationals and residents in possession of a temporary employment permit (TEP).[102]

Further, tour operators and travel agents are required to have a minimum working capital of MWK 100,000 (~US$ 265.91). If the operation is established as a limited liability company, then it should have a paid-up capital of at least MWK 100,000. For a sole proprietorship or a partnership, it must have a capital contribution of MWK 100,000.[103] In addition, the sole business of operators receiving these licences must be travel agents or tour operators.

In terms of laws closely linked to the provision of some tourism services, the Gaming Regulations limit applications for licences to specific periods of time (only in response to a gazetted invitation) and reserves the right of the Board to limit the type and number of licences granted.[104] In practice, the Gaming Board only issues two licences per region and potential operators compete for the two licenses.[105]

In terms of restrictions on the cross-border provision of services, a foreigner or foreign entity requires a physical presence in Malawi in

[101] Tourism and Hotels Act, 1968, Article 15 (2) (c).
[102] Tourism and Hotels (Enterprises) Order 2005, Article 11.
[103] Tourism and Hotels (Enterprises) Order 2005, Article 13.
[104] Gaming Regulations, 1998, Article 13 (l) (a).
[105] Response by the Ministry of Tourism and Culture to questionnaires.

order to acquire a trading licence and import goods for commercial purposes.[106]

There are a number of restrictions that relate to providing tourism services through a commercial presence. For instance, commercial presences are required to have a majority of resident directors (including the managing director), but in any case the minimum number of resident directors is three.[107] A similar requirement is in place for external companies as they must appoint not less than three but no more than nine individuals as the local directors in Malawi (one of whom must be appointed the chairman of the local directors) prior to registering the company in Malawi. Other restrictions include a minimum capital requirement of not less than US$ 50,000 including capital assets.[108]

With respect to the temporary movement of natural persons, there have been reports of difficulties in obtaining TEPs and business residency permits (BRPs) as the process is reputed to be time consuming.[109] TEPs are normally granted for a specific person and employer for two years at a time, with an expectation that the individual should not remain in the same post beyond six years.[110] Also work permits are granted based on a needs assessment.[111] Expatriate individuals may, once authorisations are obtained, repatriate up to two-thirds of their after-tax remuneration and bonuses, as well as end-of-contract gratuities and leave pay.[112]

There are no restrictions on equity ownership by foreigners.[113] Inward investment must be registered with the exchange control authorities if repatriation of profits, dividends or capital is contemplated. Capital transactions and those relating to royalties and technical or management fee agreements are referred by commercial banks to the Reserve Bank of Malawi. Moreover, repatriation of capital gains is at the discretion of the exchange control authorities. Foreign owned companies may borrow from abroad with exchange control approval. Loans must bear interest at the prevailing rate for the currency in which the loan is denominated.

A summary of the market access and national treatment restrictions is captured in Table 4.5.2 below.

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[106] WTO, 'Trade Policy Review - Malawi - Minutes of the Meeting, Addendum', 2010, 4.)

[107] Companies Act 1990, Articles 143 and 314.

[108] WTO, 'Trade Policy Review - Malawi - Minutes of the Meeting, Addendum', 2010, 4.

[109] WTO, 'Trade Policy Review - Report by the Secretariat – Malawi', 2010, 14.

[110] Deloitte, 'Guide to Fiscal Information 2011 – 2012', 81.

[111] WTO, 'Trade Policy Review - Report by the Secretariat – Malawi', 2010, 14.

[112] Deloitte, 'Guide to Fiscal Information 2011- 2011', 81.

[113] Deloitte, 'Guide to Fiscal to Fiscal Information 2011 – 2012', 89.

Table 4.5.2 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
ENTs for the entry and temporary stay of foreign nationals	Minimum capital requirements
	Nationality or residency requirement for tour guides
	Residency requirements for directors
	Remittance restrictions on expatriate individuals
	Registration with Central Bank required for subsequent repatriation of profits, dividends or capital
	Capital gains repatriation is at discretion of Reserve Bank of Malawi
	Approval required for foreign borrowing

WTO Commitments

Malawi has taken significant liberalisation commitments on tourism and travel related services. At the horizontal level, for mode 4, market access is unbound except for measures related to the entry and temporary stay of managers and experts involved in the implementation of foreign investment. For mode 3, Malawi imposes a national treatment restriction requiring a foreign company to get permission to obtain loans or an overdraft up to one third of its paid up capital. There is no national treatment commitment for this mode except for measures related to managers and experts. The schedule notes that employment of foreign staff is to be approved by the Ministry of Home Affairs.

Malawi's commitments cover the entire tourism and travel services sector. No restrictions are maintained for modes 1, 2 and 3 and mode 4 is unbound subject to horizontal limitations. It is in this context that the applied regime appears somewhat less generous than Malawi's bound regime. Measures such as the potential for authorities to fix maximum prices charged by hotels, remittance restrictions on expatriate individuals, residency requirements for directors and registration with the Reserve Bank to repatriate dividends, profits and capital gains are in this vein as no such limitations appear in Malawi's schedule. Moreover, restrictions on the repatriation of dividends, profits and capital gains would be in contravention of Article 20 of the SADC Protocol on Trade in Services.

However, the applied regime reflects Malawi's commitments with respect to the use of ENTs to govern the entry and temporary stay of natural persons and the imposition of residency requirements on tour guides.

4.6 Mauritius

Tourism has developed strongly over the last decade to become the third most important economic sector in Mauritius after sugar and textiles. Promoting luxury beach resort tourism, Mauritius has managed to increase international arrivals from 681,648 in 2002 to 934,000 in 2010. The main long-haul markets are France and the UK. There is a significant diaspora market from India due to the large population of Indian people living in Mauritius. Regional visitors come from Réunion and South Africa. The majority of visitors are holidaymakers (88 per cent) with a small but growing number of business tourists (4 per cent in 2010). The average length of stay was estimated at 9.7 nights in 2010. Demand for travel and tourism is expected to increase by 6.1 per cent annually. Tourist arrivals in Mauritius rose by 3.2 per cent in 2011 to 964,642 from 934,827 in 2010.

Table 4.6.1 Key Indicators for Mauritius' Tourism and Travel-related Services Sector

Measure	2011 Contribution to Economy		Projected Growth, 2012 - 2022	2022 Projection
	%	Value	% p.a.	Value
Direct GDP	12.6	1.48	5.6	2.76
Total GDP	28.5	3.35	5.6	6.20
Direct Employment ('000)	11.9	67.5	3.4	99.9
Total Employment ('000)	26.9	151.6	3.3	219.8
Visitor Exports	34.7	1.83	6.0	3.61
Investment	6.5	0.19	6.3	0.38

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Mauritius'.
Note: Monetary values are expressed as US$ billions.
2022 projections are in constant 2011 prices.

Tourism and travel-related services earned US$1.48 billion, which represented some 12.6 per cent of total GDP. This figure is expected to reach US$ 2.76 billion in 2022 growing by 5.6 per cent per annum. When indirect and induced spending are incorporated into the analysis, the sector earned US$ 3.35 billion which was 28.5 per cent of GDP. It is forecast to rise by 5.6 per cent per annum to US$ 6.20 billion by 2022.

In 2011, the tourism and travel-related services industries directly supported 67.5 thousand jobs accounting for 11.9 per cent of total employment. This is expected to rise by 3.4 per cent per annum to 99.9 thousand jobs in 2022. The industry indirectly provided 151.6 thousand represented 26.9 per cent of total employment. By 2022, tourism and travel-related services will support 219.8 thousand jobs, an increase of 3.3 per cent per annum over the period.

Visitor exports generated US$ 1.83 billion (34.7 per cent of total exports) in 2011 and are expected to grow by 6.0 per cent per annum, from 2012 to 2022, to US$ 3.61 billion in 2022. Investment in the industry in 2012 totalled US$ 0.19 billion representing 6.5 per cent of total investment. By 2022, it should have risen by 6.3 per cent per annum to US$ 10.7 billion.

Economic Structure and Level of Competition

In 2011, Mauritius' hotel stock stood at 116.[114] The largest hotel groups in terms of revenue are New Mauritius Hotels Limited (NMHL), which operates under the Beachcomer brand, Sun Resorts Limited (SUN), Lux* Island Resorts, previously known as Naiade Resorts and Constance Hotels Services Limited (CHSL).[115] All of these hotels are listed on the Stock Exchange of Mauritius.

NMHL operates eight hotels in Mauritius and one in Seychelles. Sun owns and operates four hotels in Mauritius and one in Maldives. Lux* Island runs 5-star resorts and mid-range hotels in Mauritius, Maldives and Réunion. CHSL owns and operates 5-star hotels in Mauritius and Maldives. It also runs another hotel in Maldives, two in Seychelles and a lodge in Madagascar.

2011's occupancy rate stood at 65 per cent; however, since 2007, hotels have lost 10 per cent of market share by volume to cheaper apartments and bungalows on the island.[116] It is expected with the introduction of luxury villa rental pools are likely to nibble away at the upper end of the market.

In terms of market share by volume, NMHL leads the pack with 17 per cent, followed by LUX at 9 per cent, Sun with 7 per cent and Constance with 3 per cent and Southern Cross Tourist Company with 2 per cent.

There are 7 tour operators in the Mauritian industry of which NMHL and Sun Resorts each own one.

Regulatory Regime and Trade Openness

The main elements of the legal framework for tourism services in Mauritius are the Tourism Act of 2004, the Tourism Authority Act 2006, the Tourism Authority Amendment Act of 2008 and the Tourism Employees Welfare Act of 2002.

The sole restriction found in the tourism specific legislation is the ability of the Minister to restrict the number of tourism enterprise licences for any particular tourism enterprise, the number of pleasure craft licences of any type in any regional or navigational area or the number of

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114 Government of Mauritius, Central Statistical Office, 'Digest of International Travel and Tourism Statistics 2011', 49.

115 Ministry of Tourism, 'Overview of Mauritius Tourism Sector', available from www.gov.mu/portal/site/tourist, accessed December 4, 2008 and Axys Stockbroking, 'The Mauritian Tourism Industry', August 2012, available from www.axys-group.com, accessed November 25, 2012.

116 Axys Stockbroking, 'New Mauritius Holdings Limited', August 2012, available from www.axys-group.com, accessed December 14, 2012.

canvasser permits for any region.[117] It appears that this provision was imposed on pleasure craft due to heavy congestion. Nevertheless, foreign participation is still allowed if the investment is of at least MUR 10 million (~US$ 311,197) and approval is obtained from the Ministry of Tourism, Leisure and External Communications.[118] A similar provision is found in the Gaming Act of 2004.[119]

An UNCTAD study found that Mauritius maintains practically no restriction in terms of cross-border supply (mode 1) of tourism services.[120] Nevertheless, foreign travel agencies, arranging for services in Mauritius, must work through an agent established in Mauritius.[121]

Under the Non-Citizens (Property Restriction) Act, a non-citizen investor may acquire property in Mauritius subject to prior approval by the Prime Minister.[122] However, Mauritius has established some mechanisms to facilitate investors. Under the Integrated Resorts System (IRS), no authorization is required for acquisition of immovable property by non-citizens or companies registered as foreign companies.[123] In addition, approval is not required when property is acquired under a lease agreement not exceeding 20 years, under the real estate development scheme (REDS) to purchase a villa, or when the investor has obtained approval from the Board of Investment (BOI) for business purposes. However, there are still some restrictions on the acquisition of real estate such as the requirement that foreign-owned coastal hotels lease land from the Government and in these instances the land area must be at least 10 acres per project.

A number of tourism and travel-related services are reserved for Mauritian nationals. These are car rentals, yacht and cruise services and tour guides services (although there is an exception for languages not officially spoken in Mauritius).[124] In addition, the provision of tour-operating services is in principle restricted to Mauritian nationals, although commercial presence is allowed for foreign operators subject to a permit from the ministries responsible for tourism and finance, and the Prime Minister. Nevertheless, the WTO's 2008 Trade Policy Review of Mauritius indicated that foreign investment is now allowed in travel agencies and tour operator services, subject to the following conditions: car rental businesses being reserved for Mauritian nationals; the project must have a minimum value of MUR 5 million (~US$ 155, 598) (except for tour operators operating in niche markets); and minimum employment criteria (not yet defined).

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117 Tourism Authority Act 2006, Article 123.
118 WTO, 'Trade Policy Review: Mauritius, 2008', 113.
119 Gaming Act, 2004, Article 72.
120 Achad Bhuglah, 'National Assessment Study on Trade in Services in Six Services Sectors in Mauritius', UNCTAD, 2008, 8.
121 WTO, 'Trade Policy Review: Mauritius', 2008, 112.
122 Non-Citizens (Property Restriction) Act, 1996, Article 3.
123 WTO, 'Trade Policy Review - Report by the Secretariat – Mauritius', 2008, 111.
124 WTO, 'Trade Policy Review - Report by the Secretariat – Mauritius', 112 – 113.

Several general limitations apply to investment in the tourism subsector. Since 1989, the maximum number of rooms per hotel has been limited to 200 for new hotels.[125] Hotel projects must be financed by at least 40 per cent of equity and the hotel companies must be incorporated in Mauritius. Investment per room should be at least MUR 4.5 million (~US$ 140, 039). In the case of coastal resort hotels, the promoter must have at least 4 acres of land.

Further, Mauritius imposes some limitations on some types of activities with a view towards encouraging upscale tourism development for which the market can sustain only a limited number of operators due to the small size of tourist sites and environmental concerns.[126] For restaurants and hotels, there are a number of bound measures which seem not to be applied or partially applied.[127] This is the case for restrictions on foreign participation in restaurant projects, which is limited to activities of more than MUR 10 million.

Foreign equity in hotels with less than 100 rooms is limited to 49 per cent. However, this is not applied provided that the project meets the objectives of 'quality tourism' and adds value to the existing project. Other foreign equity limitations include the 30 per cent limit on participation in diving centers and duty-free shops.

There are minimum investment requirements for some sectors. For example, to establish a tour operator enterprise, the minimum investment is MUR 5 million and for foreign firms seeking commercial presence to offer yacht chartering and cruise services a minimum of MUR 10 million is required. However, for an innovative project a minimum of MUR 1 million (US$ 31, 119) is acceptable.

With regard to mode 4, the previously cited UNCTAD study found that the market is fairly open to the temporary stay of highly qualified persons.[128] The Government has further relaxed the entry conditions for:

(i) investors generating more than MUR 3 million (~US$ 93, 359) of annual turnover;
(ii) professionals offered employment with salaries exceeding MUR 30,000 (~US$ 933.59) a month; and
(iii) self-employed foreign persons generating an annual income of MUR 600,000 (~US$ 18, 671) a year.

However, an examination of Mauritius' GATS offer reveals that provision will be made for market access for intra-corporate transferees (ICTs)

[125] WTO, 'Trade Policy Review - Report by the Secretariat – Mauritius', 2008, 111.
[126] Bhuglah, 'National Assessment Study of Trade in Services in Six Services Sectors in Mauritius', 8.
[127] WTO, 'Trade Policy Review - Report by the Secretariat – Mauritius', 113.
[128] Bhuglah, 'National Assessment Study of Trade in Services in Six Services Sectors in Mauritius', 8.

and business visitors only. Moreover, access for ICTs appears to be subject to numerical limits.

An additional stipulation is that foreign hotel and restaurant operation must be staffed predominantly by Mauritians.[129]

A summary of the market access and national treatment restrictions is captured in Table 4.6.2 below.

Table 4.6.2 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
Possibility of limiting the number of licences for tourism enterprises, pleasure craft and canvassers	Foreign travel agencies must work through an agent established in Mauritius
Reservation of some tourism services for nationals only- tour guides. Reservation of tourism related sectors for nationals only - car hire, yacht and cruise services	Restrictions on the acquisition of real estate such as leases only available from the Government and a minimum of 10 acres per project
Maximum of 49 per cent foreign equity permitted in hotels of less than 100 rooms	Minimum foreign investment in tour operator business is MUR 5 million
Maximum of 30 per cent foreign equity permitted in diving centres and duty-free shops	Minimum foreign investment in restaurant projects is in excess of MUR 10 million
	Minimum foreign investment in commercial presences offering yacht chartering and cruise services is MUR 10 million
	Foreign hotel and restaurant operations must be staffed predominantly by Mauritians

WTO Commitments

In the Uruguay Round, Mauritius committed to provide access tourism and travel-related services subject to a number of horizontal limitations. Mauritius' market access and national treatment commitments on the supply of services via a commercial presence are all subject the provisions of the Companies Act (1984); Non-Citizens Property Restrictions Act (1975); Non-Citizens Employment Restriction Act (1970); Income Tax Act (1974); Act No. 41 of Banking Act (1988); and the Exchange Control Act . Mauritius' commitment to allow the supply of services by highly qualified natural persons is governed by the Passport Act, 1969 and the Immigration Act, 1973.

Mauritius bound (without limitations on market access and national treatment) measures affecting consumption abroad of all types of

[129] WTO, 'Trade Policy Review - Report by the Secretariat – Mauritius', 112.

tourism services.[130] Measures affecting the presence of natural persons are unbound with the exception of those bound under horizontal commitments. Certain limitations have been maintained on market access and/or national treatment in the case of cross-border provision of tourism services and commercial presence. These are presented below.

Table 4.6.3 Mauritius' Specific Commitments on Mode 1 and 3 Tourism and Travel-related Services

Sub-Sector	Market Access	National Treatment
Hotels	1) The operator has to incorporate a Company (Hotel Management Act 1982) 3) Foreign participation in hotels with less than 100 rooms limited to 49 per cent. In hotels with more than 100 rooms full foreign participation is allowed: None	1) Free repatriation of profit governed by Bank of Mauritius Act and Income Tax Act. 3) Foreign establishments must be staffed predominantly by Mauritians.
Restaurants	1) Foreign participation is allowed in projects of more than Rs 10 million. 3) The project must not be less than Rs 10 million.	1) Free repatriation of profit governed by Bank of Mauritius Act and Income Tax Act. 3) Foreign establishments must be staffed predominantly by Mauritians.
Travel Agents	1) Travel agencies established outside of Mauritius must work through an agency established in Mauritius 3) Requires bank guarantee and licence. Clearance to be obtained from the Ministry of Tourism and Ministry of Internal and External Communications	1) None 3) None
Tour Operators	1) Restricted to Mauritian nationals	1) None

[130] WTO, 'Trade Policy Review: Mauritius, 2008', 112.

	3) Permit requirement from the Ministry of Tourism, Ministry of Finance and Prime Minister's Office.	3) None
Tour Guides	1) Limited to Mauritian Nationals – Exception made for languages not spoken by Mauritian. 3) Allowed only in linguistic-scarcity areas	1) Governed by Immigration Laws 3) Governed by Income Tax Laws
Transport Tourism Operator (Car rental)	1) Limited to Mauritian nationals only 3) Limited to Mauritian nationals only	1) Limited to Mauritian nationals only 3) Limited to Mauritian nationals only
Yacht Chartering and Cruising Services	1) Reserved for Mauritian nationals. Pleasure Craft Act 1993 3) Reserved to Mauritian nationals. Pleasure Craft Act 1993	1) Reserved to Mauritian 3) Reserved to Mauritian
Duty free shops	1) Limited to Mauritian nationals 3) (i) Requirement of an Export Service Certificate (ii) Foreign participation limited to 30 per cent	1) Limited to Mauritian nationals 3) (i) Subject to customs (ii) Transaction in foreign currency with tourist customers only

Mauritius' GATS 2000 offer seeks to provide access for ICTs and articulate the conditions governing their entry and stay. It also seeks to generally improve on its commitments by clarifying them.

For the most part, there is a high level of consistency between Mauritius' GATS commitments and its applied regime. There are many areas in which the applied regimes appear to be more generous, but this better treatment involves a significant level of discretion.

In a few areas the applied regime seems to subtract from GATS concessions. One example is where the Tourism Authority Act provides for the imposition of restrictions on the number of tourism enterprises licences. This is an issue for sectors which have been opened for foreign participation such as hotels, restaurants, travel agency and tour operator services.

4.7 Mozambique

Since 2001 tourism has been growing. Receipts from tourism have tripled from 2002 to 2009.[131] Total leisure tourist arrivals in 2007 were 420,000. By 2009 this had increased to 1,599,000. While most of the growth is from within the region, arrivals from Europe more than tripled. Portugal, the UK, and the US are Mozambique's most important long-haul source markets while South Africa is the main leisure market. Over the next ten years, WTTC expects demand for travel and tourism to grow at 6.7 per cent per year.

Table 4.7.1 Key Indicators of Mozambique's Tourism and Travel-related Services Sector

Measure	**2011 Contribution to Economy**		**Projected Growth, 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	2.9	0.37	5.9	0.68
Total GDP	6.9	0.88	5.9	1.60
Direct Employment ('000)	2.5	232.7	1.9	280.0
Total Employment ('000)	6.1	581.8	1.2	631.4
Visitor Exports	9.0	0.25	4.0	0.38
Investment	5.8	0.11	1.8	0.13

Source: WTTC, Travel and Tourism Impact 2012: Mozambique'.
Notes: Monetary values are expressed in US$ billions.
2022 projections are in constant 2011 prices

Direct tourism and travel-related spending contributed US$ 0.37 billion or 2.9 per cent to Mozambique's GDP in 2011. By 2022, this should rise to US$ 0.68 billion at rate of growth of 5.9 per cent per annum. Taking into account the sector's indirect and induced spending, the total contribution stood at US$ 0.88 billion in 2011 which was 6.9 per cent of GDP. With a projected growth rate of 5.9 per cent per annum, it is expected to reach US$ 1.60 billion by 2022.

In 2011, tourism and travel related services directly supported 232.7 thousand jobs (2.5 per annum of total employment). This is expected to rise by 1.9 per cent per annum to 280.0 thousand jobs in 2022. The total contribution of the sector to employment was 561.8 thousand jobs in 2011 (6.1 per cent of total employment). By 2022, this is projected to have risen to 631.4 thousand jobs, an increase of 1.2 per cent per annum over the period.

Visitor exports generated US$ 0.25 billion (9.0 per cent of total exports) in 2011. This is forecast to grow by 4.0 per cent per annum over the years to US$ 0.38 billion in 2022. Investment in the sector in 2011 was US$ 0.11 billion, or 5.8 per cent of total investment. This should rise by

[131] World Bank, 'Mozambique'. Sub Saharan Africa Tourism Database, 2012.

1.8 per cent per annum over the next ten years to US$ 0.13 billion in 2022.

Economic Structure and Level of Competition

Mozambique's small tourism industry is dominated by South African operators and is often an extension of tours to South Africa.[132] South African FDI has helped to develop Mozambique's tourism industry with approved projects valued at over $600 million.[133] Tourism has proven to be an important source of formal employment including for less developed provinces that have benefitted from eco-tourism projects. Furthermore, South African firms have invested in a wide variety of niche markets from beach resorts to casinos and private safari parks.

In 2009, there were 396 accommodation providers, 5, 276 restaurants and bars and 33 operators in the travel agency, tour operator, other travel services and similar activities sector.[134] The accommodation sector is dominated by businesses with less than 10 employees. See below:

Table 4.7.2 Accommodation Sector in Mozambique classified by size

Size by Employees	Number of Businesses
Less than 10	5227
10 - 29	343
30 - 99	80
More than 100	20

Source: Instituto Nacional de Estatística, Estatísticas das Empresas 2009, 54.

Regulatory Regime and Trade Openness

Mozambique's tourism sector is governed by the Tourism Law of 2004; however, many of the specific rules governing the tourism sub-sectors are contained in a raft of regulations which were unfortunately unavailable.

Travel agency licences are granted to travel agents and tour operators.[135] In applying for a travel agency licence, applicants must include technical proposals which identify the need for a travel agency in that particular part of the country, based on the national plans for development of tourism.

The Mozambican classification of travel agency services is according to the scale of operations. Businesses which organise large, cut-price

[132] ADB, 'Mozambique Private Sector Country Profile', August 2008, 2.
[133] UNCTAD, 'Investment Policy Review: Mozambique', 20.
[134] Instituto Nacional de Estatística, 'Estatística das Empresas 2009', Maputo, 2012, 54 – 55.
[135] Sofala Provincial Directorate of Tourism, 'Legal Framework for Tourism Licensing', Edition I, 2008, 42 - 45.

packages are considered to be tour operators and they must wholesale their products to travel agents who will then retail them to the individual tourists. Holders of a travel agency licence are permitted to have subsidiaries and branches. Any alteration to the ownership of the company holding license must be communicated to MITUR in writing within 30 days of the change taking place. Any other changes to the conditions under which the agency was licensed must also be communicated in writing.

Travel agencies are required to use recognised tourism information professionals on organised tours. Tourism information professionals are either tour guides or tourism technicians.[136] The Forestry and Wildlife Regulations limit the exercise of the profession of a hunting guide to nationals or residents.[137] However, new regulations for hunting and eco-tourism are being drafted. Foreigners or those holding certificates obtained abroad can also be licensed as tourism information professionals as long as their certificates are duly recognised by the relevant national authority.

With regard to legislation of a wider scope of application, the Regulation on Investment stipulates that the minimum value of investment for accessing incentives is approximately 2.5 million meticals (~US$ 84, 516) for foreign direct investment. However, there is no minimum value of investment for accessing incentives for national investment.[138] Remittance of profits and dividends requires prior authorisation from the Bank of Mozambique. In addition, the investment must have been previously registered with the Central Bank and all tax obligations satisfied.

In order to remit profits and re-export invested capital, the investment must either satisfy the abovementioned minimum threshold; generate an annual sales volume that is not less than three times 2.5 million meticals from the third year of operations; register annual exports of goods or services with a value equivalent to 1.5 million meticals (~US$ 50, 709); or create and maintain from the second year of operations at least twenty-five direct employment positions for Mozambican nationals who are registered with the social security system.

Foreign companies may lease land provided they have an authorised investment project as provided by Mozambique's investment law and the company is established or registered in Mozambique.[139] The process of leasing land requires negotiations with the relevant public authority and members of the surrounding community in which the land is located and

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[136] Tourism guides may be independent or employed by others. Tourism technicians on the other hand, are always employed, and are the category of staff which provide tourist information in travel agencies or other tourist information premises.

[137] Regulations on the Law on Forestry and Wildlife, Decree No.12/2002, June 6, 2002, Article 51.

[138] Clifford Chance, 'Doing Business in Mozambique', 2010; 4, and Regulation on Investment Law, Decree nº 43/2009, July 2009, Article 6.

[139] World Bank Group, 'Investing Across Borders 2010', Washington D.C., 2010, 135.

consequent approval from both the public authority and community members. Land may be leased for a maximum of 99 years.

Approval is required from the provincial government to lease land of up to 10,000 hectares. For greater amounts of land, approval must be sought from the relevant minister. Lease contracts offer the lessee the right to subdivide or sublease land, subject to approval by the relevant authority.

For foreign natural persons access may only be gained through a minimum residency in Mozambique of five years. After the submission of an application of land use, a provisional authorisation is issued. This authorisation is valid for two years for foreigners and five years for nationals.

There are two ways to contract foreign labour in Mozambique. In the first instance, an authorisation may be obtained from the Minister of Labour if there are no Mozambican nationals qualified to do the job the number of suitably qualified Mozambican nationals are insufficient to meet demand.[140]

In the second instance, foreign employees can be contracted either where a company has an investment authorisation which pre-establishes the total number of foreign employees needed for the operation or a quota system where the permitted number of foreign employees is a percentage of the number of Mozambican employees. In the latter case, where a company employs over 100 Mozambicans, it can contract 5 per cent of its work force as foreigners; for a staff complement of 11 to 100 Mozambican workers, it can contract 8 per cent as foreigners; and where the staff is less that 10 Mozambican employees, then 10 per cent of the work force can be foreigners.

A summary of the market access and national treatment restrictions is captured in Table 4.7.3 below.

Table 4.7.3 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
ENT and quotas on the entry and temporary stay of foreign nationals	Hunting guide licences subject to nationality and residency requirements
ENT for travel agency and tour operator providers	Minimum capital requirements
	Discriminatory regime for access to land
	Recognition of qualifications of foreign tourism information professionals
	Approval required for remittance of

[140] ACIS, SAL & Caldeira and GIZ Pro-Econ., 'The Legal Framework for Employment and Immigration', Edition III, April 2011.

	dividends and profits
	Conditions on the repatriation of profits and re-export of invested capital

WTO Commitments

Mozambique has no GATS commitments.

4.8 Namibia

With one of the lowest population densities in Africa, spectacular desert scenery, and some of the best roads in Africa, Namibia is one of the more competitive destinations in the region.[141] Tourist arrivals increased from 634,642 in 1999 to 9,984,099 in 2010. The main international markets are Germany and the UK. South Africa and Angola are important regional markets. More than half of all visitors spend more than two weeks in the country. Over the next six years, Namibia's travel and tourism is expected to achieve an annual growth of 6.1 per cent.

Table 4.8.1 Key Indicators in Namibia's Tourism and Travel-related Services Sector

Measure	**2011 Contribution to Economy**		**Projected Growth, 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	4.3	0.49	10.0	1.38
Total GDP	20.3	2.29	8.3	5.40
Direct Employment ('000)	6.8	29.2	7.4	62.9
Total Employment ('000)	27.0	116.0	6.4	222.9
Visitor Exports	9.9	0.68	5.7	1.34
Investment	10.6	0.34	5.2	0.61

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Namibia'.
Notes: Monetary values are expressed as US$ billions.
2022 projections in constant 2011 prices.

Tourism and travel-related activities directly contributed US$ 0.49 billion to Namibia's GDP in 2011, and is to rise by 10.0 per cent per annum from 2012 to 2022, to US$ 0.68 billion in 2022. The total contribution of the sector was US$ 2.29 billion or 20.3 per cent of GDP. This is expected to rise by 8.3 per cent per annum to US$ 5.40 billion by 2022.

The sector accounted for 6.8 per cent of total employment by providing 29.2 thousand jobs in 2011. This is expected to rise by 7.4 per cent per annum to 62.9 thousand jobs (10.6 per cent of total employment) in 2022. The total contribution of tourism and travel-related services to employment was 116,000 jobs in 2011 or 27.0 per cent of total

[141] World Bank, 'Namibia', Sub Saharan Africa Tourism Database, 2012.

employment. By 2022, the sector is forecast to support 222.9 thousand jobs, an increase of 6.4 per cent per annum over the period.

In 2011, visitor exports generated US$ 0.68 billion, which represented 9.9 per cent of total exports. This is forecast to grow by 5.7 per cent per annum, from 2012 to 2022, to US$ 1.34 billion in 2022. Investment in 2011 was US$ 0.34 billion, or 10.6 per cent of total investment. It should rise 5.2 per cent per annum over the next ten years to US$ 0.61 billion in 2022.

Economic Structure and Level of Competition

There is a significant level of foreign investment by other SADC states in the accommodation sector in addition to some investment from international players such as the Hilton. South Africa's Protea, Legacy Hotels and Sun International as well as Zimbabwe's Africa Sun are players in the Namibian hotel sector.[142] & Beyond of South Africa and Wilderness Safaris of Botswana have made significant investments in the lodges sector with the latter operating 8 lodges in Namibia.

The Hospitality Association of Namibia (HAN) has some 300 accommodation providers listed as its members, but a total of over 1300 accommodation providers are registered with the Namibia Tourist Board (NTB).[143] The bulk of those numbers are from self-catering and bed and breakfast establishments. It is estimated that 15 per cent of the sector is foreign owned, 75 per cent is owned by nationals and the remaining 10 per cent represent joint ventures.

Competition is strong in Namibia and the market share of local operators far exceeds regional/foreign operators. The Sun Group only has one hotel in Namibia – the Windhoek Kalahari Sands Hotel with 173 rooms. Its biggest competitor in Windhoek is the 500 room Safari Hotels, the single largest, fully Namibian owned hotel. Other competitors include Arebbusch Travel Lodge and the Windhoek Country Club and Resort as well as Hilton.

In terms of mobile accommodation, Desert Express and Pack Safari have "rolling accommodation", while a number of establishments have added camp sites and rest camps to their lodge facility to cater for that part of the market. This is a growing segment in Namibia due to price competition and the growth of self-drive tourism. According to NTB figures, there were some 100 rest camps, camp-sites and similar operations registered in 2010, but it should be noted that due to regulations, even operations such as Arebbusch Travel Lodge are still registered as rest camps, although this establishment offers self-catering bungalows, camp sites and luxury rooms, and thus also competes with the standard hotel accommodation market. It is roughly estimated that

[142] World Bank, 'Namibia', Sub-Saharan African Tourism Database, 2012; and Anna Spenceley, 'Tourism Product Development Interventions and Best Practices in sub-Saharan Africa: Part 1: Synthesis,' Report to the World Bank, 2010, 43 - 44.

[143] Hospitality Association of Namibia, response to questionnaires.

10 per cent of these operators are foreign, 70 per cent local and 20 per cent joint venture operations. Foreign service providers are in the luxury camping and conservancy/community campsites and lodges sub-sectors. The market share between foreign and local is 50/50 with operators from the region accounting for 20 per cent of this market.

Since restaurants and bars are not regulated as tourism related businesses, there appears to be no central registrar for them and no available statistics. There are however a huge number of restaurants, (40 alone in the coastal town of Swakopmund) most of which are locally owned. Namibia has franchises for Ocean Basket in Windhoek and Swakopmund, Mugg & Bean (which has two outlets in Windhoek), as well as Steers, Debonnaires and Wimpy, but the bulk of the services are local operations and the franchises may be locally owned.

There is also foreign investment in travel agency and tour operators sector. One example is Sure Travel of South Africa. Namibia has 138 tour operators.

Regulatory Regime and Trade Openness

Key documents governing the tourism industry include the National Tourism Board Act 2000 and the related regulations. Also relevant to the operation of the sector are the following pieces of legislation:

- Environmental Management Act, 2007;
- Pollution Control and Waste Management Act;
- Marine Resources Act, 2000;
- Water Resources Management Act, 2004;
- Tourism Industry Transformation Charter, 2004; and
- Government Notice 121 on General Health Regulations.

A number of tourism services have been declared regulated activities. (See Table 4.8.2 below). Operators of regulated businesses are not permitted to appoint a non-resident or non-national as a manager.[144] If a resident is appointed as a manager, he must be in possession of a permanent residence permit or a work permit.

Table 4.8.2 Regulated Tourism Business in Namibia

(a) activity operators (providers of recreational facilities, equipment and training to tourists in relation to activities such as horse riding, air ballooning, boat trips, dolphin cruises, white water rafting, quad biking or other similar activities); (b) air charter operators; (c) booking agents; (d) conference centre operators; (e) foreign tour operators; (f) shuttle and transport service operators;

[144] Namibia Tourism Board Regulations, 2004, Article 14 (3).

(g) tour facilitators (persons conducting business for providing services for planning and arranging all-inclusive tour packages for tourists, either fixed tour programs or customized tour programs);
(h) tour and safari operators;
(i) trophy hunting operators;
(j) vehicle rental operators.

In order to register as a tour guide in Namibia, the applicant must have either a valid employment permit, permanent residence permit or a domicile certificate.[145]

Among the conditions imposed on foreign tour operators is the requirement that all of their staff who accompany and provide services to clients on a tour in Namibia who are not Namibian nationals are authorised by an appropriate permit or other authorisation issued under the immigration laws of Namibia.[146] This has affected the entry of other staff related to mobile safari operations such as the vehicle driver, cooks and tour leaders.[147]

Another bottleneck to tour operators is the quantum of fees charged. An application fee of N$10,000 and a registration fee of N$2,000 are levied annually.[148] Operators have also to pay an application fee and a registration fee for every vehicle to be used during the year. Park entry fees per vehicle have to be paid at each entry point.

National treatment restrictions also apply to liquor licences as these are unavailable to non-nationals or persons not in possession of a permanent residence permit.[149]

Access to the Namibian labour market is subject to an economic needs test. The lengthy and administratively burdensome process of obtaining work permits is among investors' greatest complaints about Namibia.[150] This is certainly not limited only to foreign investors as the Namibian industry itself has voiced frustration at the complexity and difficulty in importing the necessary human resources to upgrade the industry.[151] A RETOSA study found that criteria for temporary work permits applications frequently changed without adequate notice to the tour and

145 Regulations relating to Tour Guides in Namibia, Article 4 (1).

146 Namibia Tourism Board Regulations, 2004, Annexure 6, Article 4.

147 Natasha Ward, 'Technical Report: Tourism and Travel-related Services Consultations, Botswana', Gaborone: USAID Southern African Trade Hub, 2012, 11.

148 Nyaruwata, Mukogo and Mushayavanhu, 'Final Study Report on the Identification of Bottlenecks to Free Trade in Tourism Services in Southern Africa', 48.

149 Liquor Act, 1998, Article 19.

150 US Department of State, '2011 Investment Climate Statement – Namibia', available from /www.state.gov/e/eb/rls/othr/ics/2011/157331.htm, accessed December 5, 2012.

151 Natasha Ward and Richard Self, 'Technical Report: Tourism and Travel-related Services Consultations, Namibia', Gaborone: USAID Southern African Trade Hub, 2012, 13.

safari operators coming into the country, thereby creating uncertainty and confusion in the industry.[152]

Namibia's new equitable economic empowerment framework (NEEEF) establishes a scoring system to incentivise compliance with a set of policies aimed to bring about a higher level of social equity.[153] To achieve compliance, a business will have to score more than 50 points in total and a minimum of 10 points on each of the three pillars of ownership, management control and employment equity, and human resources and skills development is mandatory.

Companies that fail to comply with NEEEF targets will not be eligible to tender for Government or state owned enterprise contracts or to receive fishing, mining, telecoms or other licences.

If a business is 25 per cent owned by previously disadvantaged Namibians, it will score the minimum 10 points. For certain categories of companies above a specified size, a minimum score of 10 points will be awarded if their combined board and top management structures are 50 per cent filled by previously disadvantaged Namibians. Human resources development and skills development will be linked to the availability of employment visas for expatriate employees. Businesses will be scored in proportion to the degree to which they assist previously disadvantaged businesses through procurement, mentorship, joint ventures and other initiatives.

Namibia levies withholding taxes on non-residents, whether corporate or individual.[154] (See below).

Table 4.8.3 Withholding Tax Rates

Payments	**Withholding Tax Rates (%)**
Dividends	10 / 20
Interest	10
Services	25

Namibia has DTAs with a few SADC countries and offers preferential withholding tax rates as indicated in Table 4.8.4 below.

Table 4.8.4 Maximum Withholding Rates once the DTA is applied

DTA	**Withholding Tax Rate (%)**
Botswana	10
Mauritius	5/10*
South Africa	5/10*

[152] Nyaruwata, Mukogo and Mushayavanhu, 'Final Study Report on the Identification of Bottlenecks to Free Trade in Tourism Services in Southern Africa', 48.

[153] Government of Namibia, 'The New Equitable Economic Empowerment Framework', 2012.

[154] Deloitte, 'Guide to Fiscal Information', 114 – 115.

* The lower rate will be applicable when the recipient of the dividend holds a minimum level of shareholding.

A summary of the market access and national treatment restrictions is captured in Table 4.8.5 below.

Table 4.8.5 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
Entry and temporary stay of natural persons governed by ENT	Residency requirement or work permit for managers of regulated tourism activities
Potential limits on equity, the number of foreign directors and foreign senior managers under the NEEEF	Work permit or residency requirement for tour guides
	Work permit required for staff of foreign tour operators
	Citizenship or residency requirement for liquor licensees
	Withholding taxes on non-residents

WTO Commitments

Namibia has made a number of commitments in tourism. It has not maintained any restrictions on the supply of hotels and restaurants services or travel agency or tour operator services in any mode of supply. These sector-specific commitments are conditioned on restrictions inscribed in Namibia's horizontal schedule. With regard to market access, foreign service providers supplying services via mode 3 are required to incorporate or establish the business locally. For the supply of services via mode 4, the sole restriction relates the entry and temporary stay of natural persons involved the implementation of foreign investment. Namibia provides access only for managers and experts in this instance. Such expatriate staff must be agreed on by the contracting parties and approved by the Government of Namibia.

Namibia's GATS concessions for the tourism and travel related services are decidedly liberal; however, its applied regime appears to be somewhat less so. The restrictions in relation to the staff of tour operators, the use of ENTs to control the entry and temporary stay of natural persons, the residency requirement for managers of regulated business and the application of withholding taxes to non-resident reflect the less generous nature of the applied regime. A similar conclusion may be drawn in relation to the potential limits that maybe translated into Namibia's legislative framework for tourism and travel-related services through the application of the NEEEF. In the case of tour guides, Namibia has not made any commitments and the current regime reflects this.

4.9 Seychelles

In 2010, the Seychelles received a record-breaking 175,000 tourist arrivals.[155] Europe accounted for 76 per cent of all tourism arrivals in 2010, making the Seychelles dependent on the economies in the main source countries of France and Italy. The main short-haul market is South Africa. Preliminary arrival statistics for 2011 show 11 per cent growth as arrivals reached 195,000.

Table 4.9.1 Key Indicators of the Seychelles Tourism and Travel-related Services Industry

Measure	2011 Contribution to Economy		Projected Growth, 2012 – 2022	2022 Projection
	%	Value	% p.a.	Value
Direct GDP	24.8	0.24	3.6	0.35
Total GDP	60.7	0.60	3.5	0.84
Direct Employment ('000)	25.8	10.9	1.3	11.9
Total Employment ('000)	59.8	25.3	0.9	26.8
Visitor Exports	33.2	0.36	3.7	0.51
Investment	38.3	0.12	3.3	0.17

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Seychelles'.
Notes: Monetary values are expressed in US$ billions
2022 projections are in constant 2011 prices

The direct contribution of tourism and travel-related services in 2011 was US$ 0.24 billion (24.8 per cent of GDP). The direct contribution of the sector to GDP is expected to grow by 3.6 per cent per annum to US$ 0.35 billion by 2022. The total contribution of the sector to GDP was US$ 0.60 billion in 2011 (60.7 per cent of GDP). It is forecast to rise by 3.5 per cent per annum to US$ 0.84 billion by 2022.

In 2011, 10.9 thousand jobs (25.8 per cent of total employment) were generated by hotels, airlines, travel agents, restaurants and bars and other industries directly supported by tourists. By 2022, these activities will provide 11.9 thousand jobs, an increase of 1.3 per cent per annum over the next ten years. The total contribution of sector to employment was 25.3 thousand jobs in 2011 (59.8 per cent of total employment). By 2022, the sector will support 26.8 thousand jobs, an increase of 0.9 per cent per annum over the period.

Seychelles generated US$ 0.36 billion in visitor exports in 2011 and by 2022, international tourist arrivals are forecast to reach 246,000, generating expenditure of US$ 0.51 billion, an increase of 3.7 per cent per annum. Tourism and travel-related services attracted capital investment of US$ 0.12 billion in 2011. This is expected to rise by 3.3 per cent per annum over the next ten years to US$ 0.17 billion in 2022.

[155] World Bank, 'Seychelles', Sub-Saharan Africa Tourism Database 2012.

Economic Structure and Level of Competition

The majority of tourism accommodation businesses are owned by Seychellois, and for the most part these businesses are smaller self-catering businesses, guesthouses and small hotels (less than 25 rooms).

Foreign ownership of tourist accommodation has long existed in the Seychelles, and 20 of the larger hotels are currently foreign owned (less than 10 per cent of the businesses), out of 200 accommodation enterprises in the country. Foreign investment accounts for some 68 per cent of the revenue potential in the tourism accommodation sector.[156] Regional hotel chains in the Seychelles include Southern Sun, Constance Hotels, Beachcomber, and Naiade Resorts.

More than 60 establishments are registered as independent tourist restaurants/ cafeterias, typically with 50 - 60 covers, giving a total capacity of more than 3,000 covers.[157] Most are owned and operated by Seychellois.

There are more than a dozen companies registered as destination management companies/ support services, of which the two largest are Creole Travel Services and Mason's Travel. The current licensing requirement is that the minimum ownership of tour operators must be two-thirds Seychellois. It is proposed to lower the minimum Seychellois ownership to 51 per cent.

There are around twenty dive centres in the Seychelles and nearly 400 vessels licensed in the Seychelles covering a wide spectrum of 10 services including excursions, glass bottom boat trips, deep sea fishing, ferries, shuttles (client), shuttles (staff/ workers) and live aboards.

Regulatory Regime and Trade Openness

Seychelles has indicated that it is undertaking a review of its regulatory regime for the tourism sector. While it is understood that regulatory change is likely in the sector, this study will provide a snapshot of the regime in place up to the time of production.

Seychelles has reserved a few tourism activities for its nationals and limited foreign participation in a number of others.[158] Diving, car rentals and tour guides are reserved for Seychellois only. In some cases, even these operations have restrictions. For example, an

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[156] Anna Spencely, 'Tourism Product Development Interventions and Best Practices in Sub-Saharan Africa: Part 1: Synthesis', 102.

[157] David McEwen and Oliver Bennet, 'Seychelles Tourism Value Chain Analysis', 2010, 8 – 11.

[158] Policy Statements on Car Hire, January 2006; Policy for Recreational Diving Business, October 2006; Policy Statements on Integration in Tourism, July 2008; Policy on Ownership of Holiday Homes/Luxury Villa; Criteria for Self-Catering and Criteria for Luxury Villas.

individual cannot have stakes in more than one car rental operation and each car rental can only have up to 30 cars. One person cannot own more than two dive centres and a diver operator may not have more than 5 boats.

Hotels below 25 rooms and luxury villa projects with five or less villas are required to have 100 per cent national ownership. However, foreigners may have a minority stake in self-catering establishments with less than 25 rooms.

Charters for boats below 50 feet and yachting operations of three boats and less have been reserved for nationals. The fleet size for yachts is limited to 30 boats per operation. If a foreigner operates a fleet of 4 to 5 yachts, he can own a maximum of 49 per cent in the business. For larger fleets, foreigners may own 100 per cent of the operation. There is a maximum limit on the total number of yachts of 200.

There are also restrictions on vertical and horizontal integration in the industry. In Mahe, large hotels (25 rooms or more) are not allowed to invest in car hire operations or vice versa while in Praslin no hotel may invest in a car hire operation or vice versa. A person operating a dive centre cannot operate a hotel or vice versa. A hotel may own chauffeur-driven cars for use by the hotels clients at a ratio of one car for every ten rooms with a maximum limit of 4 cars per hotel. An air carrier may not own a hotel of more than 200 keys and vice versa.

A tour operator cannot own or have an interest in a car hire or air carrier operation or vice versa. In addition, it may not own a hotel of more than 150 rooms and vice versa. A tour operator can operate its own hirecraft operation of up to 5 boats and it can also operate a maximum of one restaurant.

Other rules include hotels not being able to purchase other hotels if the aggregate number of rooms exceeds 15 per cent of the total number of rooms available and in operation in the country. A tour operator cannot own or have an interest in another tour operator.

Foreign owned proprietary companies require approval by the Minister of Economic Planning to be incorporated. All foreign investments need prior approval. The Seychelles Licensing Authority may require foreigners to pay applicable licence fees in a currency other than the currency of Seychelles. The purchase or lease of land by a foreigner requires prior approval.[159] Investment projects below SR 150,000 are required to submit a project memorandum to the competent authority only if a foreign partner is involved.

With respect to the temporary movement of natural persons, a labour market needs test is applied and the employers must submit a

[159] Immovable Property (Transfer Restriction) Act, 1963, Article 4.

training and localisation programme.[160] For hotels and restaurants, the maximum allowable number of foreign employees on Mahe depends on net daily revenue per occupied room, as follows:

- US$ 400 + category: 50 per cent of total workforce;
- US$200 - 399 category: 35 per cent of the workforce;
- US$ 50 - 199 category: 20 per cent of the workforce.

On islands other than Mahe, the maximum is 60 per cent of the total workforce. The quota for the employment of expatriate workers is subject to a 5 per cent decrease every two years and at the gainful occupation permit (GOP) fee of SR 500 (~US$39.11) per person per month (for both Mahe and other islands).

For food serving services, only one foreign employee per business/ service licence is permitted. Tour operators and travel agents are allowed to have 2 foreign employees or 3 per cent of the total workforce. A licence will be granted for one foreign overseas designated representative of major overseas tour operators working jointly with a national tour operator. There is a residency requirement for tour operators.

Seychelles imposes a 15 per cent withholding tax on dividend and interest paid to non-residents. However if the interest is paid to a financial institution, no tax is paid.

A summary of the market access and national treatment restrictions is captured in Table 4.9.2 below.

Table 4.9.2 Snapshot of Market Access and National Treatment Restrictions

Market Access	**National Treatment**
Reservation of some tourism activities for nationals only- diving centres, tour guides, small hotels, small luxury villa projects, small boat operations	Foreign owned proprietary companies require the approval of the Ministry of Economic Planning
Limitation on the total number of assets in some sectors- car hire, boat charters or maximum limitation on the total number of operators in a sector- yachts	Approval required for the acquisition of real estate
Limitations on the number of operations in which an investor may be involved in some sectors	Foreign operators may be required to pay licence fees in foreign currency
Foreign equity limitations on small yacht fleets	For investments below SR 150,000, there is a requirement

[160] Employment Act, 1995, Article 18.

	for project memorandum to be submitted where foreign investment is involved
A single hotel may not own more than 15 per cent of the total room stock	Residency requirement for tour operators
ENTs and quotas on the entry and temporary stay of natural persons	

WTO Commitments

Seychelles is in the process of acceding to the WTO and hence they are in the process of negotiating commitments.

4.10 South Africa

South Africa is the number one-ranked destination in the region for tourist arrivals and tourist receipts.[161] It is also regarded as the most competitive destination in Sub Saharan Africa. Annual tourist arrivals have almost doubled to just over 8 million international overnight visitors in 2010 since the introduction of democracy in 1994. Tourism in South Africa is dominated by travellers from within the African region - 77 per cent of international tourists (more than 7 million visitors) are from neighbouring countries and 60 per cent from its five neighbouring countries. Domestic tourism is also a significant income generator for the country, with almost 30 million domestic trips taken in 2010. Despite the impressive growth, tourist related revenues and job creation are not as high as would be expected, suggesting that tourism is not yet performing to its potential.

Table 4.10.1 Key Indicators for South Africa's Tourism and Travel-related Services Sector

Measure	**2011 Contribution to Economy**		**Projected Growth, 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	2.7	10.95	4.3	17.65
Total GDP	8.5	34.6	3.9	53.07
Direct Employment ('000)	3.8	512.8	2.4	681.4
Total Employment ('000)	9.0	1188.2	2.0	1498.1
Visitor Exports	8.6	10.32	4.4	17.39
Investment	7.5	5.85	3.0	7.97

Source: WTTC, 'Travel and Tourism Economic Impact 2012: South Africa'.
Notes: Monetary values are expressed in US$ billions.
2022 projections are in constant 2011 prices

[161] World Bank, 'South Africa,' Sub Saharan Africa Tourism Database 2012.

Tourism and travel-related services directly contributed US$ 10.96 billion or 2.7 per cent to total GDP in 2011 and is forecast to rise by 4.3 per cent per annum, from 2012 to 2022, to US$ 17.65 billion in 2022. The total contribution of these activities to GDP was US$ 34.6 billion in 2011 (8.5 per cent of GDP). This is forecast to rise by 3.0 per cent per annum to US$ 53.07 billion by 2022.

In 2011 the sector directly supported 512.8 thousand jobs representing 3.8 per cent of total employment. This is expected to rise by 2.4 per cent per annum to 681.4 thousand jobs in 2022. The total contribution of tourism and travel-related services to employment was 1188.2 thousand jobs in 2011 which was 9.0 per cent of total employment. By 2022, the sector forecast to support 1498.1 jobs, an increase of 2.0 per cent per annum over the period.

As a share of total exports, visitor exports accounted for 8.6 per cent, standing at US$ 10.32 billion in 2011. This is forecast to grow by 4.4 per cent per annum, from 2012 to 2022, to US$ 17.39 billion in 2022. Investment in 2011 was US$ 5.85 billion or 7.5 per cent of total investment. It should rise by 3.0 per cent per annum over the next ten years to US$ 7.97 billion in 2022.

Economic Structure and Level of Competition

In 2010, there were 2, 808 hotels and similar establishments in South Africa.[162] In addition, there were 7, 349 other accommodation establishments. South Africa's hotel industry is characterised by strong local ownership.[163] The major local hotel chains are Sun International, Protea, Southern Sun, Three Cities and the City Lodge Group. In 2004, these five hotel chains represented 71 per cent of combined market share and total sales.

The largest local players in the travel agency market are the Bidvest Group, Tourvest, Cullinan Holdings, Sure Travel, Wings, Travel with Flair, eTravel, Club Travel, Flight Centre and SA Travel Centre.[164] Most of them offer both travel agency services and tour operator services. The bigger groups are also involved in accommodation and transport. There are 620 tour operators in the South Africa market.[165]

Regulatory Framework and Trade Openness

No restrictions were detected in South Africa's current tourism legislation. The draft Tourism Bill, however, precludes those who do not

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[162] Government of South Africa, Statistics South AfricaTourism Satellite Account for South Africa, provisional 2010, 54.

[163] Calvin Manduna, Takudzwa Fundira and Sharifa Powell, 'National Assessment Study on Trade in Services in Six Services Sectors in South Africa', UNCTAD, 2008, 155.

[164] Interview with the Association of Southern African Travel Agents.

[165] World Bank, 'South Africa,' Sub Saharan Africa Tourism Database 2012.

have permanent residence or a work permit from providing tourist guides services.

However, consultations with service suppliers in other SADC Member States pointed to a few bottlenecks for tour operators and tour guides attempting to enter the South African market. Tour guides and operators considered the time required to process work visas to be particularly long, in some cases taking months.[166] Also registration requirements have proven to be a challenge as South Africa does not offer a 'national' tour operator license. Instead, foreign operators must register with each province in South Africa. Moreover, it appears that access to national parks is limited to national operators only.

In addition, in the case of the TFCA between Botswana and South Africa, the latter's prohibition of the use of roofless safari vehicles has impeded Botswana operators from making full use of the shared resource.[167]

Other restrictions relate to the provision of a service through the establishment of a commercial presence. There are local borrowing restrictions on entities in which 75 per cent or more of the shares, voting or control, right to capital or income are held by foreign residents.[168] South African branches of foreign companies or foreign-owned South African companies may borrow up to 300 per cent of the total shareholders investments. Borrowing for investment in residential property is limited to 100 per cent.

There are no controls over the removal of investment income or capital gains by non-residents.[169] However, repayment of foreign loans by South African residents requires prior approval. Loans from foreign residents to South African residents also require the prior approval of the South African Reserve Bank. The approval procedures take two to three weeks. All loans from outside the Common Monetary Area require prior exchange control approval. Approval is normally granted provided the loan is for a minimum of one month, and a market interest rate is charged.

Foreign companies are required to register as external companies before immovable property can be registered in their name.

A withholding tax is imposed on the proceeds of the sale of immovable property by non-residents where the proceeds exceed ZAR 2 million (~US$ 219, 881).[170] The amount to be withheld by the purchaser from payments made to the non-resident seller is 5 per cent of the amount

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[166] Ward and Self, 'Technical Report: Tourism and Travel-related Services Consultations, Namibia', 10 – 11.

[167] Ward, 'Technical Report: Tourism and Travel-related Services Consultations, Botswana', 11.

[168] Deloitte, 'Guide to Fiscal Information 2011 – 2012', 164.

[169] WTO, 'Trade Policy Review - Report by the Secretariat - Southern African Customs Union' - Annex 4 - South Africa, 2003, A4-223.

[170] Deloitte, 'Guide to Fiscal Information 2011 – 2012', 153.

payable where the seller is a natural person and 7.5 per cent where the seller is a company.

The Broad-Based Black Economic Empowerment (BBBEE) Tourism Charter is an important feature of the South African tourism industry. The Charter sets goals for transforming businesses through seven key pillars and establishes a scoring system to ensure compliance by 2014.[171] A few of these are mentioned in the following discussion. In terms of ownership, tourism enterprises should attain an overall level of ownership by black South Africans of 35 per cent.

Multinational corporations are permitted to score equity ownership points through the use of mechanisms which do not involve the transfer of equity provided that these mechanisms are approved by the Department of Trade and Industry (DTI) and the multinationals have a global corporate policy of owning 100 per cent of the equity in their subsidiaries.[172] The process for obtaining such approval is complicated and requires a significant effort from the company. However, recently the transparency of the process has been improved and as a result the rate of approval has increased.

With respect to strategic management, enterprises should achieve an overall level of board representation of black people of 50 per cent.[173] A similar commitment is set for black women to be represented at this level of 25 per cent.

Enterprises must also have 50 per cent black people participating in executive management and also 25 per cent black women at this level within this same timeframe. In addition, the target is set for enterprises to commit 3 per cent of payroll to skills development (of which 75 per cent must be spent on black employees). There is a target of 50 per cent of all procurement from black entities.

The policy is reinforced through different pieces of legislation such as the Employment Equity Act, the Preferential Procurement Act and regulations and the Skills Development Act.

A summary of the market access and national treatment restrictions is captured in Table 4.10.2 below.

Table 4.10.2 Snapshot of Market Access and National Treatment Restrictions in the Tourism and Travel-related Services Sector

Market Access	National Treatment
Potential limitation of foreign equity and numbers of foreigners holding strategic management positions	Work permit or residency requirement for tour guides

[171] Tourism BEE Charter and Scorecard, 2004.

[172] US Department of State, 2011 Investment Climate Statement - South Africa, available from www.state.gov/e/eb/rls/othr/ics/2011/157358.htm, accessed December 10, 2012.

[173] Tourism BEE Charter and Scorecard, 2004.

and directorships	
	Local borrowing restrictions
	Prior approval required for the repayment of foreign loans
	Foreign companies are required to register as external companies in order to acquire real estate
	Withholding tax on sales of real estate beyond a specific threshold by foreign investors

WTO Commitments

South Africa has made commitments on all classes of activity in the sector with the exception of the undefined "other" category. For all other subsectors it has completely liberalised modes 2 and 3 and restricted mode 4 access to that provided for in the horizontal section, namely allowing services salespersons (for 90 days), ICTs (for three years) without an economic needs test and personnel engaged in establishment. On mode 1, market access for tourist guides services was left unbound on account of technically feasibility and the market access commitment the hotels and restaurants subsector is limited to catering services only.

In this context, how does South Africa's applied regime correspond to commitments? With respect to tourist guides services, which are provided predominantly via mode 4, South Africa is free to impose a residency requirement or work permit as the commitment made is to permit the entry of a limited category of persons. Clearly a tourist guide does not fit into the description of the services salesperson as he is not negotiating a sale, rather he is engaged in delivering a service. Neither is the tourist guide employed by a juridical person in South Africa who is supplying the service through a branch, affiliate or subsidiary. Even if one were so enterprising to suggest that a tour guiding operation in another SADC state could establish a juridical person in South Africa to facilitate this movement, the question would be whether a tour guide would be considered a specialist which is defined in the South African schedule as a natural person within an organisation who possesses a knowledge at an advanced level of continued expertise and who possesses proprietary knowledge of the organisation's product, service, research equipment, techniques or management. The response would seem to hinge on what constitutes proprietary knowledge and how this will be measured.

It was noted earlier that South Africa had made a full commitment on mode 3; however, there is a horizontal restriction on mode 3 national treatment commitments that indicates that local borrowing by South African enterprises with a non-resident shareholding of 25 per cent and more is limited. In this regard, the qualification on local borrowing by entities with 75 per cent or more foreign shareholding appears to be consistent with the commitment and the applied regime appears to be far more generous than the commitment.

The GATS preserves Member States right to regulate. South Africa's rules relating to approvals for taking and repaying foreign loans would appear to be intended to assist with regulation of the country's foreign exchange controls.

4.11 Swaziland

Tourism only represents a small percentage of GDP, but it is a well developed sector, attracting almost 900,000 overnight visitors in 2010 and earning US$ 51 million in receipts.[174] The UK was the largest long-haul source market in 2010, with just over 21,000 visitors. The other top five source markets are the US, France, Germany and the Netherlands. South Africa is the main regional market. Notwithstanding good organisation, tourism arrivals have stagnated in recent years and the length of stay is extremely short. South Africa is a major competitor for tourist arrivals as are Namibia and Botswana. Demand for tourism and travel-related services is expected to increase at a rate of 3.3 per cent per year over the next decade.

Table 4.11.1 Key Indicators for Swaziland's Tourism and Travel-related Services Sector

Measure	**2011**		**Projected Annual Growth 2012 - 2022**	**2022 Projection**
	%	Value	% p.a.	Value
Direct GDP	1.8	0.08	2.0	0.09
Total GDP	4.0	0.16	1.8	0.19
Direct Employment ('000)	1.6	5.8	1.3	6.5
Total Employment ('000)	3.5	12.7	1.1	13.9
Visitor Exports	1.8	0.04	2.9	0.05
Investment	4.9	0.02	1.5	0.03

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Swaziland'.
Note: Monetary Values are expressed in US$ billions.
2022 projections are in constant 2011 prices.

Tourism and travel-related activities which are directly supported by tourists accounted for 1.8 per cent of GDP in 2011 generating US$ 0.08 billion. With a projected annual growth rate of 2.0 per cent per annum over the ten year period ending in 2022, this is expected to climb to US$ 0.09 billion. Taking into account indirect and induced spending on tourism and travel-related services, the total contribution of the sector to GDP was US$ 0.16 billion or 4.0 per cent of GDP in 2011. This is forecast to rise by 1.8 per cent per annum to US$ 0.19 billion in 2022.

In 2011 the sector directly supported 5.8 thousand jobs (representing 1.6 per cent of total employment). This is expected to rise by 1.3 per cent

[174] World Bank, 'Swaziland', Sub Saharan Africa Database 2012.

per annum to 6.5 thousand jobs in 2022. The total contribution of the sector to employment was 12.7 thousand jobs in 2011 (3.5 per cent of total employment). By 2022, the tourism and travel-related services sector is forecast to support 13.9 thousand jobs, an increase of 1.1 per cent per annum over the period.

Spending by international visitors generated US$ 0.04 billion or 1.8 per cent of total exports in 2011. This is forecast to grow by 2.9 per cent per year, from 2012 to 2022, to US$ 0.05 billion in 2022. Investment in the sector in 2011 was US$ 0.02 billion, or 4.9 per cent of total investment. It should rise by 1.5 per cent per year over the next ten years to US$ 0.03 billion in 2022.

Economic Structure and Level of Competition

There are 139 operations in the fixed accommodation sector with 10 per cent of this stock being owned by foreigners, 10 per cent by joint ventures with citizens and 80 per cent by locals.[175] The majority of tourism accommodation is located in the game reserves. While there are a variety of types of accommodation, most establishments are geared to budget tourists. South Africa's Sun International is currently the only international hotel brand in the country with three properties near Milwane Wildlife Sanctuary.[176] The Ezulwini hotel in Milwane Wildlife Sanctuary captures 50 per cent of all room nights sold in hotels and similar establishments, and accounts for approximately 60 per cent of hotel expenditures.

There are five operators in mobile accommodation sector of which 5 per cent are joint ventures and the remainder are local.[177] There are five travel agents in the market, three of which are wholly owned by nationals. There are six tour guides all of whom are local.

Regulatory Regime and Trade Openness

One of the main restrictions relates to access to land. The Trading Licences Order requires that if the business is carried out on Swazi nation land, then a trading licence can only be granted, amended or transferred with the written consent of the Ngwenyama or any person authorised in writing by the Ngwenyama to grant such consent.[178] The Swazi Constitution vests all land, except privately held title-deed land, in the Ngwenyama.[179] In practice, foreigners and foreign companies cannot operate businesses on Swazi Nation land.

The issuance of a liquor licence is subject to economic needs testing, among the criteria to be considered are the public need for the licence in the locality or more broadly, having regard to the number of licensed premises and the provision, generally, of a high standard of hotel

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175 Swaziland Tourism Authority, response to questionnaires.
176 World Bank, 'Swaziland', Sub Saharan Africa Tourism Database 2012.
177 Swaziland Tourism Authority, response to questionnaires.
178 Trading Licences Order 1975, Article 8.
179 Constitution of Swaziland, Article 221.

accommodation, services and meals.[180] Applicants for a casino licence are required to have, among other things, a 60 room hotel, a restaurant and swimming pool.[181]

The Empowerment Bill seeks to reserve specific areas of commerce, industry and trade for targeted citizens, citizen empowered companies, citizen influenced companies and citizen owned companies.[182] Trading licences for foreigners to engage in specific business will be granted on the basis of joint ventures with citizens and citizen owned companies. Priority for concessions, licences and incentives are to be granted to companies which are implementing broad-based economic empowerment programme. Empowerment measures include the identification and elimination of barriers to the employment of targeted citizens and ensuring that targeted citizens have access to opportunities to be represented at the level of the board and management. Procurement thresholds are to be determined for the participation of targeted citizens and companies for the procurement of goods and services for the State.

Swaziland imposes withholding taxes on certain payments to non-residents.[183] These WHTs are all final taxes, but may be reduced by applicable DTAs. Swaziland has agreements with Mauritius and South Africa. Under the Mauritian DTA, withholding tax applied to non-resident payments is 7.5 per cent on dividends and 5 per cent on interest. For payments to non-residents from South Africa, the tax liability for dividend payments ranges from 10 to 12.5 per cent and for interest payments, it is 10 per cent. If the dividends are paid to companies which are incorporated in Botswana, Namibia, Lesotho or South Africa but are not subsidiaries or branches of companies registered elsewhere, the rate is 12.5 per cent.

Table 4.11.1 Withholding Tax Rates

Payment	**Rate for Residents**	**Rate for Non-Residents**
Dividends	10	15
Interests	10	10
Royalties		15
Management fees, construction fees, entertainers and sportsmen and services contracts		15
Rental payments		10

A summary of the market access and national treatment restrictions is captured in Table 4.11.2 below.

[180] Liquor Act 1964, Article 10 (2).
[181] Casinos Act 1963, definition of term 'casino'.
[182] Draft Empowerment Bill 2012.
[183] Deloitte, 'Guide to Fiscal Information', 173 – 174.

Table 4.11.2 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
Possible reservation of sectors	Limitations on access to land
Possible joint venture requirements	Discriminatory withholding taxes
	Possible limitations on the number of foreign nationals

WTO Commitments

At the WTO, Swaziland has undertaken limited commitments on the hotels and restaurants subsector by providing access for suppliers of hotel lodging services (CPC 64110) and meal serving services with full restaurant service (CPC 64210). For modes 2 and 3, Swaziland has made full commitments, while mode 1 market access is unbound due to lack of feasibility. On mode 4, Swaziland permits chief executives, senior managers and chef cooks in the case of hotels and chef cooks in the case of restaurants and does not maintain any restriction on national treatment for this mode of supply.

In assessing Swaziland's applied regime to its WTO commitments a few observations can be made. First, the limitation of access to Swazi Nation land is a national treatment discrimination and should have been subject to scheduling. Second, the definition of a casino as having a hotel and restaurant is a limitation to the provision of entertainment services. However, no commitment was made and hence Swaziland is free to maintain such a restriction.

It is yet early days for the Empowerment Bill, however, as is the case with South Africa, imposing targets for the representation of targeted citizens is likely to limit the number of foreign nationals on boards of directors and in executive management as well as the staff of any enterprise. In addition, subjecting trading licences to joint ventures and partnership will also constitute a limit on market access.

4.12 Tanzania

Table 4.12.1 Key Indicators for Tanzania's Tourism and Travel-related Services Sector

Measure	2011 Contribution to Economy		Projected Growth, 2012 - 2022	2022 Projection
	%	Value	% p.a.	Value
Direct GDP	5.0	1.27	5.5	2.28
Total GDP	13.3	3.38	6.1	6.46
Direct Employment ('000')	4.2	430.6	1.4	500.9
Total Employment ('000)	11.5	1182.2	1.9	1465.8

Visitor Exports	17.7	1.40	5.0	2.39
Investment	10.8	0.74	5.8	1.36

Source: WTTC, 'Travel and Tourism Economic Impact Tourism: Tanzania'.
Note: Monetary values presented in US$ billions.
2022 projections are in constant 2011 prices.

The direct contribution of tourism and travel-related services to GDP was US $ 1.27 billion or 5.0 per cent of total GDP) in 2011, and is forecast to rise by 5.5 per cent per year, from 2012 to 2022, to US$ 6.46 billion in 2022. The total contribution of tourism activities to GDP was US$ 3.38 billion which represented 13.3 per cent of GDP in 2011, and is forecast to rise by 6.1 per cent per annum to US$ 6.46 billion in 2022.

In 2011 the sector directly supported 430.6 thousand jobs accounting for 4.2 per cent of total employment. This is expected to rise by 1.4 per cent per year to 500.9 thousand jobs in 2022. In 2011, the total contribution of the sector to employment, including jobs indirectly supported by the industry, was 11.5 per cent of total employment or 1182.2 thousand jobs. This is expected to rise by 1.9 per cent per annum to 1465.8 thousand jobs in 2022.

Visitor exports generated US$ 1.40 billion or 17.7 per cent of total exports in 2011. This is forecast to grow by 5.0 per cent per year, from 2012 to 2022, to US$ 2.39 billion in 2022. Investment in 2011 was US$ 0.74 billion, or 10.8 per cent of total investment. It should rise by 5.8 per cent per annum over the next ten years to US$ 1.36 billion in 2022.

Economic Structure and Level of Competition

Unfortunately, the study did not access any information on the economic structure of and level of competition in Tanzania's tourism industry.

Regulatory Regime and Trade Openness

The Tourism Act empowers the Minister to specify facilities and activities to be operated only by Tanzanian citizens.[184] It further reserves a few areas of the tourism industry for nationals only. These include travel agency (though an exception is made for foreign airlines); mountain climbing or trekking; tour guides; car rental; or any other activity that the Minister may specify. However, foreign tour leaders are permitted to accompany or lead any foreign tourist group.

Hunting companies are required to employ a minimum number of 50 per cent nationals.[185] Professional hunting licences for non-citizens must be endorsed with the name of the employer of the hunter and the employer must be the same as the one endorsed on the work permit. Any change of employer will invalidate the licence, but the hunting guide may apply for a new one. There is an element of discretion on the part

[184] Tourism Act, 2008, Article 58.
[185] Wildlife Conservation Act, 2009, Articles 48 and 49.

of the authorities issuing the licence as they may waive the requirement of testing or attach conditions to the licence.

In order to qualify for incentives under the Investment Act, the value of joint ventures with Tanzanians and wholly owned foreign projects must exceed US$ 300,000. If locally owned, the minimum investment capital is not less than US$ 100,000.[186]

In terms of access to land, foreigners and foreign companies can only obtain the right of occupancy for purposes of investment approved under the Investment Act; a derivative right for the purposes of investment approved under the Investment Act; or an interest in land under a partial transfer of interest by a national for purposes of investment approved under the Investment Act in a joint venture.[187] Rights of occupancy and derivative rights may be granted for periods up to 99 years and are renewable.

Investors are permitted to hire up to 5 foreign nationals during the start-up period of the business.[188] The Tanzania Investment Centre will consider requests for additional expatriate workers taking into consideration the availability of qualified Tanzanians; complexity of the technology employed by the business and agreements reached with the investors.

A foreign investor is permitted to obtain credit from domestic financial institutions up to a limit established by the Bank of Tanzania in consultation with the Tanzania Investment Centre. In determining this limit, consideration is given to the amount of foreign capital invested in the enterprise.

Certain payments are subject to withholding tax, the rates of which are set out below. The non-resident WHTs specified below are final taxes.[189] The resident WHT rates for dividends and interest from a financial institution to an individual are final taxes. The repatriated income of a local permanent establishment (PE) of a non-resident person is subject to a WHT of 10 per cent. The WHT rates may, in respect of payments to non-residents, be reduced by an applicable DTA. Tanzania's DTA with Zambia reduces the WHT on dividends to 0 per cent if the dividend payment is taxed in the recipients' country of residence.

Table 4.12.2 Withholding Taxes Imposed by Tanzania

Withholding Tax Rates	**Residents**	**Non-Residents**
Dividends:		
Paid by listed company	5	5
Paid by unlisted company	10	10

186 US Department of State, '2011 Investment Climate Statement- Tanzania', available from www.state.gov/e/eb/rls/othr/ics/2011/157369.htm, accessed December 10, 2012; and Investment Act, 1997.
187 Land Amendment Act, 2004, Article 3.
188 Investment Act, 1997, Articles 24 and 25.
189 Deloitte, 'Guide to Fiscal Information 2011 – 2012', 182.

To company controlling 25 per cent of shares or more	0	10
Interest	10	10
Service Fees	0	15

A summary of the market access and national treatment restrictions is captured in Table 4.12.3 below.

Table 4.12.3 Snapshot of Market Access and National Treatment Restrictions

Market Access	**National Treatment**
Reservation of some tourism activities for nationals only	Discriminatory procedure for maintaining hunting licences
Hunting companies required to employ 50 per cent nationals	Minimum investment requirements
ENT concerning entry and stay of foreign nationals beyond quota	Limit on access to land
	Limit on domestic borrowing

WTO and EAC Commitments

Tanzania's GATS commitments are limited to hotels of four stars and above, restaurants and catering services. There are no restrictions on the provision of services via modes 1 or 2. Mode 3 market access commitments are conditioned by the limitations that approval is required for the acquisition of firms and mergers by foreigners or the acquisition of land by foreigners or domestic companies which are deemed foreign because of foreign equity ownership. Under mode 4, access is permitted only for senior managers that possess skills not available in Tanzania.

Tanzania's EAC commitments are far more liberal. Commitments for hotels and restaurants apply to operations rated as three stars and above; however, for the islands, national parks and game reserves, the commitment is for operations of four stars and above. There are no limitations on access for modes 1 and 2, while market access through mode 3 is subject to an economic needs test and Tanzania reserves the right to impose higher licensing fees for foreigners.

There are also no limitations on the supply of travel agency and tour operators services (except in the islands) via modes 1, 2 and 3. However, there are some restrictions in relation to mode 4. On the market access side, Tanzania indicates that movement is in accordance with the Schedule of Free Movement of Workers and with respect to national treatment, Tanzania has reserved the right to charge higher licensing fees to foreigners.

For tourist hunting and sport fishing, access through modes 1 and 2 are unfettered. Mode 3 access for tourist hunting is subject only to the national treatment restriction of higher licensing fees for foreigners. For this same mode, sport fishing is solely limited by the market access restriction of higher registration requirements for foreigners. On mode 4, for both of these subsectors, market access granted in accordance with the Schedule on the Free Movement of Workers and the right to impose higher licensing fees on foreigners is reserved.

As Tanzania has no commitments on tourist hunting in the GATS, there is no inconsistency with its applied and bound regime. However, the case is somewhat different with the EAC commitment as the only discrimination inscribed related to fees. However, the Wildlife Conservation Act discriminates against foreign professional hunters in terms of the greater level of difficulty in maintaining their licence. The reservation of activities for nationals is consistent with Tanzania's GATS commitments. The same applies to its EAC commitments with the exception of travel agency services. The national treatment restriction with respect to access to land tallies with the GATS commitment. It is also in line with the EAC commitment as Article 15 of the Protocol on the Establishment of the East African Community Common Market reserves the right of Member States to deal with issues of access to and use of land through national laws and policies. The immigration quota of 5 persons is more generous than the GATS regime. However, the EAC regime is far more liberal. The limit on domestic borrowing and the distinction with respect to WHT are neither consistent with Tanzania's GATS nor its EAC commitments.

4.13 Zambia

Zambia's tourism sector has shown variable performance over the last decade.[190] Tourist arrivals have fluctuated between 700,000 and 900,000 since 2006. Arrivals increased by 100,000 between 2009 and 2010. However, the number of long haul travellers from important markets such as North America and Europe dropped significantly. Arrivals from China and India increased. Zambia also faces considerable competition from elsewhere in the region. Visitors from elsewhere in Africa make up three-quarters of all arrivals. Zimbabwe and Tanzania are the largest regional markets, most entering by land borders, mostly for business. The South African market is particularly important for the Livingstone area around Victoria Falls.

Table 4.13.1 Key Indicators of Zambia's Tourism and Travel-related Services Sector

Measure	2011 Contribution to Economy		Projected Growth, 2012 - 2022	2022 Projection
	%	Value	% p.a.	Value
Direct GDP	2.2	0.39	6.7	0.80
Total GDP	5.0	0.90	6.1	1.93
Direct Employment ('000)	1.3	21.9	1.4	27.8
Total Employment ('000)	3.6	57.8	2.8	78.1

[190] World Bank, 'Zambia', Sub Saharan Africa Database 2012.

Visitor Exports	1.9	0.19	1.4	0.21
Investment	1.8	0.07	7.7	0.14

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Zambia'.
Note: Monetary values expressed in US$ billions
2022 projections are in constant 2011 prices.

The direct contribution of tourism and travel-related services to Zambia's GDP was US$ 0.39 billion or 2.2 per cent of total GDP. It is estimated that by 2022, with a growth rate of 6.7 per cent this would have climbed to 2012 to 2022, to US$ 0.80 billion in 2022. The total contribution of the sector was US$ 0.90 billion and this should reach US$ 1.93 billion in 2022 with an annualised ten year growth rate of 7.2 per cent.

In 2011 the sector directly supported 21.9 thousand jobs which accounted for 1.3 per cent of total employment. This is expected to rise by 2.2 per cent per annum to 27.8 thousand jobs in 2022. In 2011, the total contribution to employment, including jobs indirectly supported by the industry, stood at 3.6 per cent of total employment (57.8 thousand jobs). This is expected to rise by 2.8 per cent a year to 78.1 thousand jobs in 2022.

Spending by international visitors amounted to US$ 0.19 billion or 1.9 per cent of total exports in 2011. This is forecast to grow by 1.4 per cent a year, from 2012 to 2022, to US$ 0.21 billion in 2022. Investment in the sector in 2011 was US$ 0.07 billion, or 1.8 per cent of total investment. It should rise by 7.7 per cent per annum over the next ten years to US$ 0.14 billion in 2022.

Economic Structure and Level of Competition

Regional hotel chains/franchises present in Zambia are Protea Hotels, Southern Sun and Sun International.[191] In addition, there are a number of small luxury lodges (mostly foreign-owned) and many small, informal enterprises (mostly Zambian-owned). Zambia's tourism sector, however, is dominated by small and medium sized operators that are not vertically integrated. There are 938 tourist accommodation establishments throughout Zambia. There is also investment from the other SADC states in the tour operators sub-sector such as Maplanga, David Livingston Safaris and Wilderness. There are 45 tour operators in Zambia.

Regulatory Framework and Trade Openness

Regulation of tourism service suppliers is undertaken through the Tourism and Hospitality Act, 2007, the Wildlife Amendment Bill, 2001 and the Liquor Act, 2011.

[191] UKAID and World Bank, 'What would it take for Zambia's Tourism Industry to achieve its potential?' UKAID and World Bank, 2011, 2; and Zambia Development Agency, 'Tourism Sector Profile', 2012, 2.

Under the Liquor Act, a licence cannot be granted or transferred to a non-resident.[192] In addition, licences can only be granted to natural persons. Among the reasons for which a new application for a licence can be rejected is that the applicant has not satisfied the licensing committee that, having regard to all the circumstances of the case, including the number of existing licences in the area concerned, there is a public need for such licence.

The Wild Life Act and related legislation are administered by the Zambia Wildlife Authority (ZAWA). Box 4.13.1 below gives an idea of some of the permits required by tourism services providers.

Box 4.13.1 Business Permits and Licences granted by ZAWA

Apprentice Professional Guides Licence
Apprentice Professional Hunters Licence
Authorisation to reside in
Bird Licence
Certificate of Ownership of Trophies
Certificate of Valuation for Trophies
Commercial Photographic Licence
Hunting Outfitters Permit
Permit to enter a national park
Permit to fish in a national park
Permit to moor or beach vessel in a national park, bird or wildlife sanctuary
Permit to reside in national park
Photographic Tour Operators licence
Professional Guides Licence
Professional Hunters Licence
Special Licence
Trophy Dealer's Permit

In theory, non-residents can participate in the hunting and tour guiding sectors; however, they are subject to different fees than locals. Unfortunately more information was not readily available on the licensing regime for these professionals.

Table 4.13.2 Licensing Fees for Select Tourism Operators

Category	Citizen		Resident		Non-resident US$
	ZMK	~US$	ZMK	~US$	
Professional Hunter	1,500,120	281.50	4,000,140	750.65	6,000
Apprentice Professional Hunter	500,040	93.83	2,000,160	375.34	6,000
Restricted Professional Hunter	750,060	140.75	2,000,070	375.32	3,000

[192] Liquor Act 2011, Articles 7 and 8.

Professional Tour Guide	200,160	37.56	2,000,060	375.32	6,000
Apprentice Professional Tour Guide	200,160	37.56	1,500,120	281.50	2,000

Republic of Zambia, Business License Portal, available from www.businesslicenses.gov.zm, accessed December 10, 2012.

Generally, concern has been expressed over the number of licences required of operators in the tourism sector.[193] This is compounded by the number of different authorities who review the same business proposal. The number of licenses, the time required obtaining them, the discretion given to authorities in their decision-making process, the requirement for annual renewal, the associated and often uncoordinated inspections and the cost of fees represent an impediment to many foreign investors.

For a hotel that offers different types of tourism services such as hunting and gaming as many as 74 licences could be required.[194] In addition the cost of compliance is high as it is estimated that a basic five room guesthouse faces a compliance cost of ZMK 10 million (~US$ 1,867.56). The Hotel and Catering Association of Zambia suggests that the cost of the licences is disproportionate to the cost of administering them. While it could not be verified whether these excessive licensing requirements continue to remain in place, the problem is alluded to in UNCTAD's 2006 Investment Policy Review of Zambia.[195] However, it appears that the situation is being reviewed.

Also raised as an issue is the unpredictability of land policy where leases could be obtained for shorter periods than desired by businesses and legal commitments could be disregarded by public authorities.

The Empowerment Act enables the Ministry responsible for commerce, trade and industry to reserve specific areas of commerce, trade and industry for targeted citizens, citizen empowered companies, citizen influenced companies and citizen owned companies.[196] In addition, licenses for foreign investors to engage in specific businesses will be granted on the basis of joint ventures. Also priority for concessions, licences and incentives will be granted to companies that are implementing broad based economic empowerment. The study was unable to verify whether any tourism activities fall into this category of reserved business.

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[193] UNCTAD, 'Investment Policy Review of Zambia', New York and Geneva, 2006, 32.

[194] Olivier Cattaneo, 'Tourism: The Unfulfilled Promise', *Services Trade & Development: The Experience of Zambia*, ed. Adaditya Mattoo and Lucy Payton, World Bank and Palgrave Macmillan: Washington, D.C., 2007, 227

[195] UNCTAD, 'Investment Policy Review of Zambia', New York and Geneva: United Nations, 2006, 32.

[196] Citizens Economic Empowerment Act, 2006, Articles 19 – 29.

Under the Companies Act, more than half of the directors of a company including the managing director and executive director must be resident in Zambia.[197] For foreign companies registered in Zambia, there should be at least one resident local director and if the company has more than two directors, then more than half of them should be Zambian residents. In addition, the minimum paid-in capital requirement is different for foreign and domestic companies.[198] A private foreign-owned company must have a minimum capital of ZMK 5 million (~US$ 938.28) while a domestic company must possess ZMK 50 thousand (~US$ 9.38). For foreign-owned public companies, the paid-in capital requirement is ZMK 50 million (~US$ 9,382.80).

Certain payments to residents and non-residents, whether individual or corporate, are subject to WHT. These taxes are a final tax in respect of payments to non-residents.[199]

Table 4.13.3 Withholding Taxes Applied in Zambia

Withholding Tax Rates	Residents	Non-Residents
Commission paid to non-employees	15	15
Dividends, royalties, rental income, management and consulting fees	15	15
Interest	--	15
Non-resident contractors	--	15

The Immigration and Deportation Act enables the Immigration Department to issue work permits on the basis of the applicant's qualifications and experience and on the basis of local labour market tests. [200] However, a holder of an investment licence who invests at least US$ 250 thousand and employs at least 200 nationals, will be entitled to a self-employment or a residence permit and to assistance in obtaining work permits for up to five expatriate employees.[201] However, these employees must be managerial or technical positions. Work permits are generally issued for two year periods.

A summary of the market access and national treatment restrictions is captured in Table 4.13.4 below.

Table 4.13.4 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
JVs and reservation of activities under Citizen Economic	Ministerial approval for licences for non-residents under Liquor Act

197 Companies Act (Amendment) Act, 2000, Articles 208 and 248.

198 World Bank Group, 'Investing Across Borders 2010', Washington D.C., 2010, 168.

199 Deloitte, 'Guide to Fiscal Information 2011 – 2012', 221.

200 UNCTAD, 'Investment Policy Review of Zambia', New York and Geneva, 2011, 27; and Immigration and Deportation (Amendment) Act, 1997.

201 UNCTAD, 'Investment Policy Review of Zambia', New York and Geneva, 2011, 27; and Zambia Development Agency Act, 2006, Article 65 (1).

Empowerment Act	
Minimum capital requirements	Discriminatory licensing fees for professional hunters and guides
ENT under Immigration and Deportation Act	Residency requirement for directors under Companies Act
	Discriminatory withholding taxes

WTO Commitments

Zambia has made significant commitments on the tourism and travel related services sector under the GATS. It has not inscribed any sector specific limitations on modes 1, 2 or 3 and mode 4 has been left unbound subject to horizontal restrictions.

Overall, Zambia's horizontal commitments on mode 3 are subject to the limitations that a foreign controlled company can obtain loans or overdrafts up to one-third of its paid up capital. For mode 4, access is only provided for management and expert jobs for the implementation of foreign investment. The employment of such persons is to be agreed upon by the contracting parties and approved by the Ministry of Home Affairs. In addition, enterprises are required to provide training to Zambians to enable them to assume specialised positions.

With respect to the minimum capital requirements, these are not restrictions in the sense of GATS Article 14 as they are in the form of a *minimum* limits rather than a *maximum* limits. However, they do give domestic business an advantage over foreign ones and are in contravention of Zambia's commitments. This is also the case for the residency requirements for directors.

As was the case with the capital requirements, the minimum investment requirement is not a restriction in the sense of GATS Article 14. However, it does not constitute a national treatment restriction as it applies to both foreign and national investors and simply sets the threshold at which all investors qualify for immigration related incentives.

Given that Zambia has not made any commitment on mode 4 except to provide access to managers and experts, it is free to impose discriminatory licensing fees for professional hunters and guides and apply the labour market needs test for all categories save managers and experts.

Unfortunately, it could not be definitively determined whether any tourism activities fall within the scope of the Citizens Economic Empowerment Act. However, if they did the joint venture requirements and reservation of sectors would constitute market access restrictions. Priority for concessions, licences and incentives for companies implementing broad based empowerment programme would not violate national treatment as the law appears to apply equally to foreigners and nationals. Neither would any preferential treatment for the procurement of goods and services by state institutions represent a national treatment limitation as government procurement is not covered by the GATS. A similar case would obtain under the SADC Protocol.

4.14 Zimbabwe

Table 4.14.1 Key Indicators of Zimbabwe's Tourism and travel-related Services Sector

Measure	2011		Projected Growth 2012 – 2022	2022 Projection
	%	Value	% p.a.	Value
Direct GDP	5.7	0.37	5.0	0.64
Total GDP	11.7	0.77	5.1	1.33
Direct Employment ('000)	4.2	42.7	3.4	62.0
Total Employment ('000)	9.1	93.3	2.0	117.5
Visitor Exports	9.1	0.41	5.7	0.75
Investment	6.1	0.05	5.0	0.09

Source: WTTC, 'Travel and Tourism Economic Impact 2012: Zimbabwe'.
Note: Monetary values expressed in US$ billions.
2022 projections are in constant 2011 prices.

The direct contribution of tourism and travel-related activities to GDP was US$ 0.37 billion or 5.7 per cent of total GDP in 2011, and is forecast to rise by 5.0 per cent per annum, from 2012 to 2022, to US$ 0.64 billion in 2022. The total contribution of the sector to GDP was US$ 42.7 billion (11.7 per cent of GDP) in 2011, and is forecast to rise by 5.1 per cent a year to US$ 1.33 billion in 2022.

In 2011 the sector directly supported 42.7 thousand jobs accounting for 4.2 per cent of total employment. This is expected to rise by 3.4 per cent per annum to 62.0 thousand jobs in 2022. In 2011, the total contribution to employment, including jobs indirectly supported by the industry, stood at 9.1 per cent of total employment (93.3 thousand jobs). This is expected to rise by 2.0 per cent per annum to 117.5 thousand jobs in 2022.

Visitor exports generated US$ 0.41 billion or 9.1 per cent of total exports in 2011. By 2022, this should grow by 5.7 per cent per annum, from 2012 to 2022, to US$ 0.75 billion. Tourism and travel-related capital investment in 2011 was US$ 0.05 or 6.1 per cent of total investment. It should rise by 5.0 per cent over the next ten years to US$ 0.09 billion in 2022.

Economic Structure and Level of Competition

Most hotels are operated by a few hotel chains with control over industry. African Sun controls 35 per cent of market share.[202] Relative to the size of the economy and the tourism market, the principal tour and

[202] Notando, Zunga, 'Zimbabwe's Hospitality Sector – Undeniable long term value given the country's prime tourism assets', Imara Investing in Africa: Securities, 2011, 6.

hotel firms are large, but relative to the world industry, they are small. There is a large number of smaller providers, particularly where non-accommodation activities are important. The principal groups cater for all levels of hotel accommodation and all parts of the country. Zimbabwe has three hotel groups, plus the national parks' group of lodges, but it also has a growing number of individually owned hotels or lodges. Additional non-accommodation services are provided by small firms, or, in the case of CAMPFIRE and similar exercises in cultural tourism, by communities. There are also large tour groups, both to intermediate between foreign companies and local hotels and to provide direct tour services.[203]

Most of the hotel chains are locally owned, although some have management contracts with foreign chains. There are at least 75 travel agents in Zimbabwe.[204]

Regulatory Regime and Trade Openness

The sector is mainly regulated by the Tourism Act, 1996 and the Parks and Wildlife Act, 1975 and the Liquor Act, 1985. Unfortunately, the regulations to these Acts were unavailable for review. However, a few restrictions were observed in the Liquor Act. These included residency requirements for approved managers; ministerial discretion to discontinue and limit particular classes of licences for a specified period; ministerial veto is required to override the prohibition on granting licences to individuals who are not nationals citizens or companies which do not have a majority of Zimbabwean directors.[205]

Other barriers cited during consultations with private operators in other SADC Member States include prohibitive landing fees levied on aerial scenic tours over Victoria Falls as well as the need to comply with lengthy documentary requirements.[206]

The Indigenisation and Economic Empowerment Act requires that public companies and other businesses with a net asset value of or above US$ 500 thousand be 51 per cent owned by indigenous Zimbabweans; no project or proposed investment in a sector which is open to national and foreign investors is approved unless a controlling interest is reserved for Zimbabweans; government entities and all companies procure 50 per cent of their goods and services (which is subject to the Procurement Act) from businesses in which indigenous Zimbabweans hold a controlling interest.[207]

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[203] Sheila Page, 'Tourism and Development: The Evidence from Mauritius, South Africa and Zimbabwe', 1999, 64.

[204] Association of Zimbabwe Travel Agents, 'About AZTA', available from www.azta.co.zw accessed November 30, 2012.

[205] Liquor Act, 1985, Articles 67, 70 and 72.

[206] Ward, 'Technical Report: Tourism and Travel-related Services Consultations, Botswana', 12.

[207] Indigenisation and Economic Empowerment Act, 2007, Article 3 and Indigenisation and Economic Empowerment (General) Regulations, 2010, Article 3.

It also reserves some sectors for indigenous investors. Investment in these sectors by non-indigenous Zimbabweans is only permitted with the approval of the minister responsible for the administration of the Indigenisation Act and the minister responsible for the administration of the Zimbabwe Investment Authority Act. These include a few tourist-oriented activities such as taxis and car hire.

Exchange control approval is required when a foreigner acquires shares in an existing company.[208] There are limitations on the number of shares that can be acquired by foreigners. The maximum limit is 40 per cent with a single foreign investor not being allowed to hold more than 10 per cent of the shares on offer.

In terms of measures which affect commercial presence service supply, companies are required to have no less than two directors one of which must be a resident.[209] The Investment Act reserves the possibility of different incentives for domestic and foreign licensed investors and to specify the sectors of the economy exclusively reserved for domestic investors.[210]

Companies may employ expatriate staff, but subject to providing proof that the required skill cannot be sourced within Zimbabwe and that training and development plans are in place to eventually replace foreign staff with nationals.[211] Certain multinational companies have had employment permits granted on the grounds that it is the policy of their organisations to have expatriates heading their operations abroad. Residents do not require work permits even if they are foreign citizens. Residency can be obtained as part of the investment process when an application for new investment is made.

A summary of the market access and national treatment restrictions is captured in Table 4.14.2 below.

Table 4.14.2 Snapshot of Market Access and National Treatment Restrictions

Market Access	National Treatment
Possibility of numerical limitations on liquor licences	Residency requirement for managers of liquor establishments
Citizenship requirement for liquor licensees	Residency requirement for directors
Foreign equity limits under Indigenisation Act and Foreign Exchange Act	Possibility of different incentives for foreign and domestic investors under the Investment Act
Reservation of sectors under the Indigenisation Act and the	Prior approval is required for foreign investors to acquire shares

[208] Deloitte, 'Doing Business in Zimbabwe: The Jewel of Africa', 2010, 10 and 44.
[209] Companies Act, 1952, Article 169.
[210] Zimbabwe Investment Authority Act, 2006, Articles 24 and 25.
[211] Deloitte, 'Doing Business in Zimbabwe: The Jewel of Africa', 29.

Investment Authority Act	in existing companies
ENTs for foreign staff	

WTO Commitments

Zimbabwe's GATS commitments on tourism and travel related services are subject to a few limitations on modes 3 and 4. In terms of commercial presence, foreign investors who seek to acquire shares in companies listed on the Zimbabwe Stock Exchange are limited to 25 per cent per counter of the listed issued share capital; this limit is in addition to any existing foreign holding in a company. Also, a single investor is limited to a maximum of 5 per cent of the shares on offer and foreign investors bringing in hard currency may invest a maximum of 15 per cent of their assets in primary issues of bonds and stocks.

For mode 4, market access is limited to the intra-corporate transfer of executive and senior managerial personnel subject to lack of availability in the local labour market. The transfer of specialists is also permitted, but it is not subject to a labour market needs test. With respect to these three categories of persons no national treatment discrimination is provided for.

For modes 1, 2 and 3 of the hotels and restaurants subsector, Zimbabwe has made full commitments, while mode 4 remains unbound except for the three categories of persons mentioned above. In the tour operators and travel agents and tour guides subsectors, there are full commitments on modes 1 and 2. Mode 3 market access is subject to the limitation that tour operators operating a vehicle of over three tonnes or using more than 20 vehicles must pay an annual levy for each park while Zimbabwe reserves the right to favour national services and service suppliers by requiring foreign based tour operators to park entry fees in foreign currency. In addition, only locally registered Safari operators may obtain concessions to offer hunts through "leasing"; or auctions by which hunting areas are leased out. As was the case for hotels and restaurants there is no commitment to permit access by any category of natural person other than the mentioned ICTs.

Several of the measures identified in Zimbabwe's applied regime appear inconsistent with its GATS commitments. The possible limitation on the number of liquor licences, citizenship requirement for liquor licensees, foreign equity limits, joint venture requirements, residency requirements for directors, prior approval for acquiring shares in a new company fall into this category. However, there is consonance between Zimbabwe's horizontal limitations and the ENTs for allowing foreign employees. Only for specialist ICTs would there be an inconsistency.

In terms of the ability to offer different incentives to foreign and domestic investors, this would only be incompatible with Zimbabwe's commitments if it modifies the conditions of competition.

Government procurement falls outside of the scope of the SADC Protocol on Trade in Services and hence Zimbabwe is free to impose these requirements. The local use and local content rules requiring companies to procure from indigenous Zimbabweans may de facto national treatment discriminations, but this would have to be determined on a case by case basis. The reservation of sectors such as car hire and taxis do not contravene Zimbabwe's GATS commitments as these services are classified as rental of transport with an operator and not as tourism services and there are no commitments on the former. The residency requirement for the managers of liquor establishments are also permissible since it is expected that a manager would be require to remain in Zimbabwe for an extended period of time and would need to comply with immigration formalities.

5 SYNTHESIS AND CONCLUSIONS

Tourism and travel-related services have been identified as one possible area of economic activity for diversification. Even more important is the potential of the sector to contribute to efforts to reduce poverty. While all SADC Member States possess significant natural resources some have had relatively more success in exploiting these resources. The statistics presented in Section 1.2 highlight the importance of the industry to all Member States in terms of the contribution to GDP, employment, foreign exchange earnings and investment. The study also highlights the fact that there is vibrant trade taking place in SADC with intra-SADC visitors constituting a significant proportion of overall visitor arrivals in many Member States and a number of cases of intra-SADC investment in the industry. Nevertheless, it is clear that the region’s tourism performance could be better.

It is in this context that the SADC trade in services negotiations should be approached with a view to enhancing the region’s ability to achieve more positive economic impacts in the tourism industry through the establishment of a predictable, secure and transparent framework within which business operates.

In exchanging requests, SADC negotiators may want to draw inspiration from the SITCA to ensure that activities which are deeply integrated into the production of tourism services, but would not be considered tourism activities *per se* under the W/120 list, are also covered by meaningful commitments.

However, it is evident that tourism success cannot be predicated solely on a liberalisation agenda. Certainly, this needs to be complemented by a clear strategy for holistically developing the industry as is embodied in the Protocol on Tourism Development. Elements of the Protocol which would clearly have a strong impact on the industry and would be a significant fillip to liberalisation commitments include the UNIVISA and the harmonisation of tourism education and of tourism standards.

While tourism services are relatively more liberalised than other services sectors, there is scope for SADC Member States to improve on commitments made at the multilateral level. From the trade in services perspective, negotiators will need to give serious consideration to addressing many of the barriers identified in the study. For the most part, many of these measures are located in the cross-cutting legislation and policies and impede trade in tourism services via modes 3 and 4.

Among the main barriers identified are:

Measures which affect the temporary movement of natural persons

- Bureaucracy and delays in visa issuance
- Delays and redtape surrounding work permits
- Residency requirements

Measures which affect commercial presence

- Restrictions on capital movement
- Restriction on real estate acquisition
- Restrictions related to directors
- Authorisation requirements

Cross-cutting measures

- Licensing issues
- Empowerment policies

In the final analysis, many Member States will need to carefully consider the areas in which they face capital and skills shortages and the extent to which commitments can assist in overcoming these challenges. Other Member States will need to secure opportunities for their nascent as well as already competitive services providers to tap into the larger regional market.

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ANNEXES

ANNEX 1:

TERMS OF REFERENCE OF THE CONSULTANCY

Terms of Reference
For a Short Term Expertise (STE) Study

Liberalisation of Tourism Services in the Southern Africa Development Community

1. PROJECT INFORMATION

The small size of the individual markets of most of the Member States of the Southern African Development Community (SADC) inhibits economies of scale and frustrates the optimal allocation of labour and capital. Consequently, advancing market integration is a core priority of SADC. However, the implementation of the SADC Regional Indicative Strategic Development Plan (RISDP) is proving difficult at both the regional and national levels. Problems at the SADC level include weak coordinating and monitoring mechanisms, and inadequate technical, sector-specific capacities for the design of appropriate reform measures. At the same time, decision-makers and institutions within Member States are not fully able to prepare and implement effective regional agreements at the national level.

The GIZ financed Programme "Strengthening of economic and trade-related capacities and competences in SADC" based in Gaborone, Botswana, aims to address these key problems. Its key objective is to strengthen the economic and trade policy capacities and competences of the relevant institutional regional and national actors for intensifying regional economic integration within the context of the RISDP priorities. The Programme seeks to build institutional capacities within the SADC Secretariat, particularly at the *Trade, Industry, Finance and Investment Directorate (TIFI)*, helping it to perform its function of steering and coordinating/moderating the process of regional economic integration. It also promotes the development of sector-specific competence at the TIFI Directorate. Finally, it aims to strengthen the implementation of regional rules at the Member State level. In doing so, the programme contributes to the goals of the SADC Treaty and the RISDP. The target group of this intervention is the entire population of the SADC Member States, numbering around 262 million.

The Programme consists of 4 components, of which Component 1, 2 and 4 are implemented directly by GIZ. A consortium composed of GFA Consulting Group GmbH, Hamburg, Germany and DNA Economics, Pretoria, South Africa has been entrusted with providing technical assistance to the SADC TIFI Directorate to ensure the proper and timely implementation of Component 3 of the Programme. The overall objective of Component 3 and the related project is "The integration process with regard to trade in services within the SADC is structured coherently and in a manner promoting development." The current project phase will run until 31 December 2012.

2. DESCRIPTION OF THE ASSIGNMENT

2.1. Introduction

The SADC negotiations on the liberalisation of six priority services sectors (Communication, Construction, Energy-related, Financial, Tourism, and Transport Services) were launched in April 2012, and are expected to be concluded within three years. The current roadmap on the negotiations foresees that SADC Member States present each other with requests for market opening in the tourism services sector by early 2013. Initial offers for market opening are to follow by mid-2013.

For several SADC countries, such as Botswana, Namibia, Mauritius, or the Seychelles, the tourism sector is an important source of foreign exchange, as well a key sector for the generation of employment. Other countries in the region consider themselves to not have exploited their full potential to date. Tourism is the service sector with the highest incidence of WTO commitments by SADC Member States (12 Member States for Hotel Services, 9 for Tour Operator Services, and 7 for Tour Guide Services), which indicates a recognition of the need to attract foreign investment in the sector.

In order to be able to formulate negotiating positions on tourism services, Member States have to undertake some important preparatory work, which requires information, inter alia, on the structure, scope of liberalisation, and competitiveness of the domestic and regional markets in tourism services, including any existing regulatory restrictions and restrictive business practices.

The project is commissioning a study that will build on existing work undertaken by compiling, updating and presenting information in a comparable format. Some limited travel to close information gaps is foreseen.

The study will need to be available at the early stages of the negotiations (i.e. at the beginning of 2013), so that Member States will be able to draw upon the information contained therein for the formulation of requests and offers, and throughout the negotiating process.

2.2. Purpose

The purpose of the study is to compile and complement existing information on trade in tourism services with the view of assisting SADC Member States' participation in the regional negotiations on trade in services.

2.3. Scope of work

The study will cover tourism services, as covered in the WTO W/120 classification, including a review of the use of "other" category by WTO Member States. The study should also explore the linkages of the Tourism classification with other services sectors (such as certain business services, transport, and recreational services) and depict the basic value chain for tourism services, ideally from a regional perspective. In this context, the STE should also review the Standard International Classification of Tourism Activities" (SICTA) of the World Tourism Organization, and assess whether the existing classification is sufficient to address all scheduling issues in the sector, or whether SICA contains any value addition that should be proposed to Member States.

2.3.1. Regulatory regime and trade openness

The study will provide an assessment of the relevant policies and laws and regulations that govern the tourism services sector in each SADC Member State (excluding Madagascar, which is currently suspended from SADC structures), in particular trade restrictions in the sense of Articles 14 (Market Access) and 15 (National Treatment) of the Draft SADC Protocol on Trade in Services.[1]

For all subsectors contained in the W/120 classification, the consultants will attempt to identify the most important and relevant restrictions to Market Access and National Treatment, such as:

- Quantitative limitations on the numbers of suppliers, or the value of transactions or assets, (e.g. are there quotas or prohibitions on the number of licenses available to foreign suppliers, legal or otherwise). If there are fixed numbers of licenses, the number shall be specified;
- Limitations on the scope of the service/ or reservations of certain market segments only for nationals (e.g. restrictions on foreign suppliers to operate hotels below or above a certain star rating; maximum or minimum limitations on the number of beds, etc.)[2]
- Are foreign suppliers allowed to enter by investing in a local supplier, and acquire a controlling stake? (what is the maximum foreign investment by a single foreign supplier?); Limitations on aggregate foreign investment in a local supplier;
- Restrictions on operations (e.g. are there branching restrictions on locally incorporated operators);
- Any Economic Needs Tests relating to the limitations above?
- Restrictions or requirements on the legal form in which enterprises can establish (e.g. are foreign operators permitted to supply services through direct branching from abroad, or are they required to incorporate locally?; are there limitations to maintain only representative offices?);
- Requirements to establish a joint venture with a local partner (where possible indicate the terms of the joint venture e.g. the percentage of ownership by the parties);
- Investment measures such as minimum capital or investment requirements for foreign capital;
- Licensing requirements:

[1]These Articles are substantively identical to Articles XVI and XVII of the GATS.

[2] Note that these limitations are sometimes included in the sector-column, rather than the Market Access, or National Treatment column.

- Do licensing requirements distinguish between foreign and local applicants?
- Does fulfilment of licensing requirements ensure issuance of a license, or is there discretion?
- Does the length of licenses differ between local and foreign applicants?
- If licenses are limited in numbers, how are they allocated (first come first serve, competitive tender, etc.);
- Do licenses need to be renewed after certain time periods? Do renewal requirements and periods distinguish between foreign and local applicants?

- Discriminatory measures among suppliers based on nationality (i.e. favour local operators, or operators from other countries) such as nationality requirements for boards of directors or employees, or restrictions on the repatriation of earnings;
- Local content requirements: are there discriminatory requirements to use a certain amount/percentage of local goods or services in the provision of the service? [3]
- Limitations on employment: how many foreign staff are tourism suppliers permitted to employ? Are there restrictions on accepting short term trainees that a supplier wants to transfer from abroad for training/experience purposes?
- Limitations on short-term cross border movements: Are Tour operators/guides permitted to cross into the territory from abroad with tourists? For example, are there any limitations (e.g. change of vehicle, driver, guide) to such movements?
- Other restrictions: on the basis of existing information, are there any other restrictions that operators are experiencing in other markets which do not fall under the items listed above?

2.3.2. Structure of the sector and level of competition

The assessment of the sector is expected to provide an overview of the tourism services landscape for each subsector, considering (1) the number of operators in each market and the structure of ownership, i.e. foreign, local and/or joint venture; (2) the type of services offered by foreign entities; (3) market share between foreign and local operators[4]; (4) regional market-share of key operators (e.g. Sun Group)

[3] The study should focus on de jure discrimination in this regard; as de facto discrimination will often be difficult to determine with certainty.

[4] In case of joint ventures, if more than 50 per cent is owned by foreign operators such entity will be categorised as foreign.

2.3.3. State of liberalisation

Assess the state of liberalisation across the region according to (1) Member States' liberalisation commitments in tourism services under WTO, EAC (for Tanzania), concessions and other bilateral agreements (as applicable); (2) the way these commitments compare to actual regulations and the level of applied openness[5]; (3) the sub-sectors in which restrictions exist and whether these have been scheduled in existing agreements; (4) if Member States offer any preferential access to other countries or enforce any specific requirements, which may impede the implementation of regional MFN in individual sub-sectors. If considered useful on the basis of existing data, a scorecard of applied regimes should be developed.

2.3.4 Comparison with the SADC Protocol on Tourism

The study should briefly depict the main features of the SADC Tourism Protocol, the main achievements of work, and elements of current activities. Any synergies or potential conflicts between the Trade in Services and Tourism Protocols should be highlighted. It should be assessed whether any issues of cross-cutting nature (e.g. UNIVISA initiative could be furthered through the TIS Protocol). On the basis of available data, the implementation of the Tourism Protocol should be described.

[5] For SADC MS without commitments in tourism services, the applied regimes should be described without comparison.

3. REQUESTED SERVICES

3.1. Duties and responsibilities

The short-term expert is responsible for carrying out the work envisaged above in coordination with the Project Team Leader.
All documents created by the short-term expert have to be acceptable for publication and must therefore comply with professional standards in terms of language and formatting.

3.2. Activities

The short-term expert is expected to carry out the following activities in order to deliver the expected results of the assignment:

- Undertake desk research of relevant literature on tourism services, in the region in particular, in accordance with section 2 above;
- Describe key obligations, activities and the level of implementation under the Tourism Protocol (see section 2.3.4);
- In order to complement, update and verify any missing information, prepare a data collection tool (such as a questionnaire or discussion questions), based on existing tools such as from UNCTAD or the World Bank. Depending on the data collection approach recommended by the short-term expert, in consultation with the project team, collect and analyse the data;
- Based on the outcome of the above activities prepare a draft report. Refine the draft report based on the comments from the sectoral stakeholders, project team and Secretariat as appropriate; and submit a final report (in soft and hardcopy);

3.3. Expected results

It is expected that the study will provide a report containing the following results:

- Comparative analysis of the size, structure, openness (state of liberalisation and existing trade restrictions), and state of competition in the tourism sector across all SADC Member States

3.4. Key deliverables

S/N	Deliverable	Deadline	Working days
1.	Inception report	15 October	5 days
2.	Progress Report	12 November	20 days
3.	Draft Final Report	7 December	20 days
4.	Submit Final Report	21 December	10 days
	Total days		**55 days**

4. REQUIRED EXPERT PROFILE

Qualifications and skills

- At least a Master's degree in Economics, Law, or equivalent;
- Fluent in written and spoken English;
- Computer literate.
- Fluency in French and/or Portuguese would be an asset.

Professional experience

- At least 7 years of professional experience in economic analysis and regional economic integration;
- Professional work experience on regional economic integration issues in the area of trade in services in the SADC region;
- Research experience with tourism services markets in the SADC region;

5. REPORTING

The short-term expert is expected to report to the GFA Project Team Leader on the deliverables over time during the assignment. The reporting channel will include emails, phone-calls, letters and physical visits as appropriate.

ANNEX 2:

KEY DEFINITIONS

Direct contribution to GDP – GDP generated by industries that deal directly with tourists, including hotels, travel agents, airlines and other passenger transport services, as well as the activities of restaurant and leisure industries that deal directly with tourists. It is equivalent to total internal Travel & Tourism spending (see below) within a country less the purchases made by those industries (including imports).

Direct contribution to employment – the number of direct jobs within the Travel & Tourism industry.

Total contribution to GDP – GDP generated directly by the Travel & Tourism industry plus its indirect and induced impacts (see below).

Total contribution to employment – the number of jobs generated directly in the Travel & Tourism industry plus the indirect and induced contributions (see below).

Direct Spending Impacts

Visitor exports – spending within the country by international tourists for both business and leisure trips, including spending on transport.

Domestic Travel & Tourism spending – spending within a country by that country's residents for both business and leisure trips. Multi-use consumer durables are not included since they are not purchased solely for tourism purposes. Outbound spending by residents abroad is not included here, but is separately identified. (see below).

Government individual spending – government spending on individual non-market services for which beneficiaries can be separately identified. These social transfers are directly comparable to consumer spending and, in certain cases, may represent public provision of consumer services. For example, it includes provision of services in national parks and museums.

Internal tourism consumption – total revenue generated within a country by industries that deal directly with tourists including visitor exports, domestic spending and government individual spending. This does not include spending abroad by residents.

Business Travel & Tourism spending – spending on business travel within a country by residents and international visitors.

Leisure Travel & Tourism spending – spending on leisure travel within a country by residents and international visitors.

Indirect and Induced Impacts

Indirect contribution – the contribution to GDP and jobs of the following three factors:

- **Capital investment –** includes capital investment spending by all sectors directly involved in the Travel & Tourism industry. This also constitutes investment spending by other industries on specific tourism assets such as new visitor accommodation and passenger transport equipment, as well as restaurants and leisure facilities for specific tourism use.
- **Government collective spending** – general government spending in support of general tourism activity. This can include national as well as regional and local government spending. For example, it includes tourism promotion, visitor information services, administrative services and other public services.
- **Supply-chain effects** – purchases of domestic goods and services directly by different sectors of the Travel & Tourism industry as inputs to their final tourism output.

Induced contribution – the broader contribution to GDP and employment of spending by those who are directly or indirectly employed by Travel & Tourism.

Annex 3:
Specific Tourism Commitments of SADC Member States

Angola

9.TOURISM AND TRAVEL RELATED SERVICES A. Hotel and restaurant services (including catering) (CPC 64543)		
Hotels	(1)None (2)None (3)None (4)Unbound, except for measures affecting senior managers and specialists with knowledge essential for the provision of the service.	(1)None (2)None (3)None (4)Unbound, except for measures affecting senior managers and specialists with knowledge essential for the provision of the service.
Restaurants	(1) None (2) None (3) None (4)Unbound, except for measures affecting natural	(1) None (2) None (3) None (4)Unbound, except for measures affecting

	persons in the following categories: directors, senior managers and specialists with knowledge essential for the provision of the service.	natural persons in the following categories: directors, senior managers and specialists with knowledge essential for the provision of the service.

Botswana

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
A. Hotel and restaurants including catering (CPC 641-643)	1) None 2) The amount of local and foreign currency entitled to permanent residents is limited for each trip and for the whole year by the Bank of Botswana. 3) The service should be supplied through commercial presence. 4) Unbound except as indicated in the Horizontal Commitments.	1) None 2) Unbound 3) The service supplier should meet all residency requirements. 4) Unbound except as indicated in the Horizontal Commitments.
B. Travel agencies and tour operators	1) None 2) None 3) None 4) Unbound except as indicated in the Horizontal Commitments.	1) Permanent residents should not purchase tickets to enable non-residents to visit Botswana and accept payment outside Botswana. 2) None 3) None 4) Unbound except as indicated in the Horizontal Commitments.

D.R. Congo

9.TOURISM AND TRAVEL RELATED SERVICES A.<u>Hotels and Restaurants</u> (including catering) (CPC 641-643)		
Hotels	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I
Restaurants	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I

B. Travel Agencies and Tour Operators Services (CPC 7471)	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I
C. Tourist Guide Services (CPC 7472)	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I	(1)None (2)None (3)None (4)Unbound, except as indicated in Part I

Lesotho

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
9. TOURISM AND TRAVEL RELATED SERVICES		
A. Hotels and Restaurants (including catering) (CPC 643)	1) Unbound except for catering: none 2) None 3) Unbound except as indicated in the horizontal section 4) Unbound except as indicated in the horizontal section	1) Unbound 2) None 3) Unbound except as indicated in the horizontal section 4) Unbound except as indicated in the horizontal section
B. Travel Agencies and Tour Operators Services (CPC 7471)	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section	1) Unbound 2) Unbound 3) Unbound 4) Unbound except as indicated in the horizontal section
C. Tourist Guide Services (CPC 7472)	1) Unbound* 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) Unbound* 2) None 3) None 4) Unbound except as indicated in the horizontal section

Malawi

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
9. TOURISM AND TRAVEL RELATED SERVICES	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section

Mauritius

9. <u>TOURISM AND TRAVEL RELATED SERVICES</u> ~~(1)~~ **A.** Hotel ~~Operators~~ **Services (CPC 641)**	1) ~~The operator has to incorporate a company (Hotel Management Act 1982)~~ **None** 2) None 3) ~~Foreign participation in hotels with less than 100 rooms limited to 49 per cent. In hotels with more than 100 rooms full foreign participation is allowed: none~~ **None** 4) Unbound except as indicated in the horizontal commitments ***Foreign establishments must be staffed predominantly by Mauritians except for scarcity areas***	1) ~~Free repatriation of profit governed by Bank of Mauritius Act and Income Tax Act~~ **None** 2) None 3) ~~Foreign establishments must be staffed predominantly by Mauritians~~ **None** 4) Unbound except as indicated in the horizontal commitments

~~(2)~~ Restaurant ~~Operators~~ **Services** **(CPC 642 + 643)**	1) ~~Foreign participation is allowed in projects of more than Rs 10 millions~~ **None** 2) None 3) ~~The project must not be less than RS 10 Million~~ **Priority will be given to innovative projects and new cuisines** 4) Unbound except as indicated in the horizontal commitments ***Foreign establishment must be staffed predominantly by Mauritians except for scarcity areas***	1) ~~Free repatriation of profit governed by Bank of Mauritius Act and Income Tax Act~~ **None** 2) None 3) ~~Foreign establishments must be staffed predominantly by Mauritians~~ **None** 4) Unbound except as indicated in the horizontal commitments

~~(3) Travel Agencies~~	~~1) Travel agencies established outside of Mauritius must work through an agency established in Mauritius~~ ~~2) None~~ ~~3) Requires bank guarantee and licence. Clearance to be obtained from the Ministry of Tourism and Ministry of Internal and External Communication~~ ~~4) Unbound except as indicated in the horizontal commitments~~	~~1) None~~ ~~2) None~~ ~~3) None~~ ~~4) Unbound except as indicated in the horizontal commitments~~
~~(4) Tour Operators~~	~~1) Restricted to Mauritian nationals~~ ~~2) None~~ ~~3) Permit requirement from the Ministry of Tourism, Ministry of Finance and Prime Minister's Office~~ ~~4) Unbound except as indicated in the horizontal commitments~~	~~1) Restricted to Mauritian nationals~~ ~~2) None~~ ~~3) To comply with the regulations of the National Transport Authority~~ ~~4) Unbound except as indicated in the horizontal commitments~~
B. <u>Travel Agencies and Tour Operator Services</u> **(CPC 74710)**	**1) None** **2) None**	**1) None** **2) None**

	3) None **4) Unbound, except as indicated in the horizontal commitments**	**3) None** **4) Unbound, except as indicated in the horizontal commitments**
~~(5)~~ **C.** Tourist Guide Services **(CPC 7472)**	1) ~~Limited to Mauritian nationals. Exception made for languages not spoken by Mauritians~~ **None** 2) None 3) ~~Allowed only in linguistic scarcely areas~~ **None** 4) Unbound except as indicated in the horizontal commitments **Allowed only in linguistic scarcity areas.**	1) ~~Governed by Immigration Laws~~ **None** 2) None 3) ~~Governed by Income Tax Laws~~ **None** 4) Unbound except as indicated in the horizontal commitments
~~(6)~~ Tourist Transport Operation (car rental) **(CPC 83101)**	1) ~~Limited to Mauritian nationals only~~ **None** 2) None 3) ~~Limited to Mauritian nationals only~~ **None** 4) Unbound except as indicated in the horizontal commitments	1) ~~Limited to Mauritian nationals only~~ **None** 2) None 3) ~~Limited to Mauritian nationals only~~ **None** 4) Unbound except as indicated in the horizontal commitments
~~(7)~~ Yacht Chartering & Cruising Services (**CPC 96499**)**	1) ~~Reserved to Mauritian nationals. Pleasure Craft Act 1993~~ **None** 2) None 3) ~~Reserved to Mauritian nationals. Pleasure Craft Act 1993~~ **New licences only for**	1) ~~Reserved to Mauritian nationals~~ **None** 2) None 3) ~~Reserved to Mauritian nationals~~ **Foreign services suppliers must have a minimum investment of Rs 15 million.**

	innovative services 4) Unbound except as indicated in the horizontal commitments	4) Unbound except as indicated in the horizontal commitments
~~(8)~~ Tourist Duty-Free Shops	1) ~~Limited to Mauritian nationals~~ **None** 2) None 3) ~~(i) Requirement of an Export Service Certificate~~ ~~(ii)~~ **None, except** foreign participation limited to 30 per cent 4) Unbound except as indicated in the horizontal commitments	1) ~~Limited to Mauritian nationals~~ **None** 2) None 3) ~~(i) Subject to customs supervision~~ ~~(ii) Transaction in foreign currency with tourist customers only~~ **None** 4) Unbound except as indicated in the horizontal commitments
Circus, amusement parks and similar attractions (CPC 96194)	**1) None** **2) None** **3) None** **4) Unbound except as indicated in the horizontal commitments**	**1) None** **2) None** **3) None** **4) Unbound except as indicated in the horizontal commitments**
Recreational parks	**1) None** **2) None** **3) None**	**1) None** **2) None** **3) None**

	4) Unbound except as indicated in the horizontal commitments	**4) Unbound except as indicated in the horizontal commitments**

Namibia

Sector or Sub-sector	**Limitations on Market Access**	**Limitations on National Treatment**
9. TOURISM AND TRAVEL RELATED SERVICES		
A. Hotels and Restaurants (CPC 641-643)	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None
B. Travel Agencies and Tour Operators Services (CPC 7471)	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None

South Africa

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
9. TOURISM AND TRAVEL RELATED SERVICES A. <u>Hotels and Restaurants</u> (including catering) (CPC 641)	1) Unbound except for catering: None 2) None 3) None 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section.
B. <u>Travel Agencies and Tour Operators Services</u> (CPC 7471) C. <u>Tourist Guide Services</u> (CPC 7472)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section. 1) Unbound* 2) None 3) None 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section. 1) Unbound* 2) None 3) None 4) Unbound except as indicated in the horizontal section.

Swaziland

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
9. TOURISM AND		

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
TRAVEL RELATED SERVICES A. <u>Hotel and Restaurant Services</u> (CPC 64110 and 64210)	1) Unbound* 2) None 3) None 4) Unbound except for chief executives, senior managers and chef cooks in the case of hotels and chef cooks in the case of restaurants	1) None 2) None 3) None 4) None

Tanzania

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
9. TOURISM AND TRAVEL RELATED SERVICES Hotels of four stars and above (CPC 641-643)	1) None 2) None 3) Acquisitions of domestic firms and mergers by foreigners are subject to approval The acquisition of land by foreigners or domestic companies which are deemed foreign because of foreign equity ownership is subject to approval 4) Unbound except for measures concerning senior managers that possess skills not available in Tanzania	1) None 2) None 3) Unbound 4)Unbound

Zambia

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
9. TOURISM AND TRAVEL RELATED SERVICES	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section

Zimbabwe

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment
9. TOURISM AND TRAVEL RELATED SERVICES		
A. Hotels and restaurants	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section
B. Travel agencies and tour operators C. Tourist guide services	1) None 2) None 3) Tour operators operating a vehicle of over three tonnes or using more than 20 vehicles must pay an annual levy for each park 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) Foreign-based tour operators must pay park entry fees in foreign currency. Only locally registered Safari operators may obtain concessions to offer hunts through "leasing"; or auctions by which hunting areas are leased out. 4) Unbound, except as indicated in the horizontal section