Chapter 2
Policies and Legislations Governing Marketing and Food Trade: Southern Africa

Abstract Trade policies and trade agreements support smooth trading among participating partners. The globalization of markets and the expansion of free-trade agreements have encouraged many areas of the world to consider regional integration as a means to better compete in the world economy. Thus regional integration has allowed several different countries to come together and form common markets. International institutions such as World Customs Organization (WCO), World Trade Organization (WTO) provide guidance on the formulation of policies and legislations governing marketing and trade among countries WTO requires regional trade agreements to reduce tariffs between countries, but does not allow these countries to increase tariffs on countries which are not part of the agreement. Many countries in Africa including those in SADC have embraced market-based food systems and market reforms to enhance farm profitability. Organs such as the Common Market for Eastern and Southern Africa (COMESA) and Southern African Customs Union (SACU) have been formed and are active in trade liberalization in Southern Africa region. Namibia, an emerging free market area has put in place several policies and enacted a variety of legislations to protect, guide and enhance trade in its agricultural sector. Namibia heavily depends on trade through which she imports food products to meet the shortfall in her locally produced foods. Meanwhile, Namibia is vigorously working towards self-sufficiency in food production through her Green Schemes and other undertakings discussed in chapters two, three, five and seven of this book. Despite the concerted efforts being made, there are many constraints that face the country which dictate that Namibia continue to depend on food imports.

Keywords Trade policies and legislations • Trade agreements and common markets • Regional integration • Trade liberalization • Food self sufficiency • Green schemes

Introduction

Policies are statements of intent formulated to guide the activities of any given organization or entity in order to achieve specific objectives which reflect the intent of the organization/entity that formulated them. Policies contain directives of what is to be done and what not to be done. Good policies are contextually formulated to

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address varying conditions and specific situations. Such policies should reflect the needs, interests and aspirations of the intended beneficiaries for effective implementation. It has been recognized that for policies to be relevant and well understood by all concerned, the policy making process has to be participatory and inclusive.

Some authors have argued that policy be considered as a long series of more or less related activities and their consequences for those concerned rather than as a discrete decision. That is a proposed course of action of a person, group or government within a given environment providing obstacles and opportunities which the policy was proposed to utilize and overcome in an effort to reach a goal and/or realize an objective or a purpose. This concept of policy focuses attention on what is actually done as against what is proposed and/or intended. It differentiates a policy from a decision which is a choice among competing alternatives. On the other hand, public policy has been defined as the course of action by government towards an aspect of the economy, including the goals a government seeks to achieve and choices of the methods to pursue those goals. Similarly, Fischer goes further and defines public policy "as political agreement on a course of action, mutually designed to resolve or mitigate problems on a political agenda". Arguably, whether public policies are arrived at through political deliberations or formal vote, they involve a specification of goals to be pursued as well as the means for achieving them (Anderson 2003; Ellis 1992; Fischer 2003).

Trade policy has been described as a collection of rules and regulations which pertain to trade. Trade, the exchange of goods i.e. the transfer of ownership of goods and products from one owner to another or from one entity to another takes place in a network known as a market. Every nation has some form of trade policy in place, with public officials formulating the policy which they think would be most appropriate for their country. The purpose of this policy is to guide smooth running of a country's trade by setting clear standards and goals which can be understood by potential trading partners.

In many regions such as Southern Africa, a number of countries come together to formulate policies on mutually beneficial trade laying down rules and regulations that take into consideration each other's interests, rules and regulations. Such policies include aspects such as import and export taxes, tariffs, inspection regulations, and quotas. A nation's trade policy attempts to protect their local products and industries with trade policies which restrict importation of goods similar to what they produce so as to allow domestic producers of goods and services to have access to local market without competition (protectionist policies). Two countries may enter into agreement to trade with each other and sign a bilateral trade agreement which is used to improve economic trade imbalances between the two nations. Taxes, tariffs and quotas are often lifted, reduced or restricted on specific goods or services to realign trade deficits and restore economic stability between the two parties. On the other hand, regional trade agreements contain terms and conditions on which the trade relationship among the countries will be based on.

Trade agreements support smooth trading among partners as they take into consideration the interests of participating trade partners who append their signatures to such agreements. Regular meetings may also be held to discuss changes in

the financial climate, and to make adjustments to trade policy accordingly. While multilateral trade agreements regulate trade between participating countries without discrimination, they are usually intended to lower trade barriers between participating countries and, as a consequence, increase the degree of economic integration between the participants. Such agreements include security issues as well as issues of product safety to ensure that product conform to standards spelt out by each participating partner. Meanwhile some governments might impose some protectionist policies that support local employment such as imposing tariffs to imports or offer subsidies to exports. Many governments may also restrict free trade to limit export of natural resources through the imposition of import quotas, high taxes and specific regulatory legislation.

Regional trade agreements have a number of advantages including that of lower prices through the reduction of tariffs between the countries which are part of the trade agreement. The World Trade Organization requires regional trade agreements to reduce tariffs between countries, but does not allow these countries to increase tariffs on countries which are not part of the agreement. Tariff reductions allow people to purchase goods from other countries at lower prices. Regional trade agreements also provide trade advantages for all countries in a region which improve their worldwide competitiveness, including in the markets of countries not included in the trade agreement. Furthermore, regional trade agreements can encourage other countries that are not part of the trade agreement to reduce their trade barriers.

In recent years, the globalization of markets and the expansion of free-trade agreements have encouraged many areas of the world to consider regional integration as a means to better compete in the world economy. Countries that alone may not have sufficiently large markets for production and consumption join together with regional neighbours in order to create favourable flow of areas where goods and services can flow relatively freely in response to market demand. This gives the region comparative leverage when trading as a unified block of economic activity. Every complex political and economic venture such as regional trade blocks has both advantages and disadvantages.

Regional integration usually allows several different countries to come together and form common markets. This is done by opening up borders and eliminating tariffs and taxes on imports and exports between member nations. Where before it might have been difficult for a manufacturer in country A to find enough demand, it is now able to easily market and sell its products in countries B, C and D, thus allowing it to expand its business. Manufacturers and other firms operating in countries B, C and D can do the same, thus increasing economic activity overall. That in turn raises GDP and if properly managed, this can lead to a better standard of living for all citizens within a regional block. A trading block has the advantage of increased global competitiveness as it enjoys a larger market which allows the internal economic output within the regional block to increase as well as putting the block at an advantage in relation to other countries around the world. Increased economic output and better efficiency through free trade across borders allows the regional block to offer many more goods and services on the international market than competitors.

The disadvantages include the loss of sovereignty as member nations give up some of their sovereignty to the newly created supranational body such as a regional parliament or council. This body will have to be entrusted to make binding decisions which affect every member country, effectively subordinating some national legislative and executive power to that body. This means that member countries may no longer be able to enact policies that meet their specific needs and interest, especially if such policies would come into conflict with regional initiatives. A transparent system governing the appointment of members to such regional bodies is a necessity to uphold democracy and accountability. Lack of transparency could create the perception unfair control.

Furthermore, regional integration can make it difficult for national governments to create and implement policies based on their own particular needs. This can be problematic when the specific economic conditions within a member country require actions such as adjusting the money supply or increasing public debt in order to finance infrastructure development or entitlements. These policies, while necessary for one member nation, could skew the economies of other member nations, especially if there is a unified currency. Additionally, poorer member countries may pull down the richer members as they may have to bail out the poorer members. Currency devaluation by the poorer member countries could jeopardise the whole regional economy as regional integration binds member countries together during times of prosperity and hard times.

Among the issues that emerged from the UN World summit held in Johannesburg, South Africa during 2002 included the need to strengthen decision-making and harnessing science and technology that would facilitate the management of linkages to the global economy and overcoming obstacles to reforms on the social dimension of sustainable development. Solutions were envisioned to lie with making markets work for sustainable development through adjusting prices and instituting regulations which allow imposing market-based instruments such as taxes and tradable permit systems (World Summit 2002).

International Institutions

Internationally there are several institutions which have been put into place to provide guidance on aspects to be taken into consideration during the formulation of policies and legislations governing marketing and trade among countries. These include the World Customs Organization (WCO) which is the intergovernmental organization exclusively focused on Customs matters. The WCO particularly works in the areas covering the development of global standards, the simplification and harmonization of Customs procedures, trade supply chain security, the facilitation of international trade, the enhancement of Customs enforcement and compliance activities, anti-counterfeiting and piracy initiatives, public-private partnerships, integrity promotion, and sustainable global Customs capacity building programs. The WCO also maintains the international Harmonized System Goods Nomenclature,

and administers the technical aspects of the World Trade Organization (WTO) Agreements on Customs Valuation and Rules of Origin. By promoting the emergence of an honest, transparent and predictable Customs environment, the WCO directly contributes to the economic and social well-being of its Members. The WCO's mission is to enhance the protection of society and the national territory, and to secure and facilitate international trade (WTO 2006).

Another institution put in place to provide guidance on trade policy and legislation formulation is the Harmonized System Goods Nomenclature (HS) The Harmonized Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS" which is a multipurpose international product nomenclature developed by WCO. It comprises about 5,000 commodity groups; each identified by a six digit code, arranged in a legal and logical structure that is supported by well-defined rules to achieve uniform classification. The system is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98 % of the merchandise in international trade is classified in terms of the HS. The HS contributes to the harmonization of Customs and trade procedures, and the non-documentary trade data interchange in connection with such procedures, thus reducing the costs related to international trade. It is also extensively used by governments, international organizations and the private sector for many other purposes such as internal taxes, trade policies, monitoring of controlled goods, rules of origin, freight tariffs, transport statistics, price monitoring, quota controls, compilation of national accounts, and economic research and analysis. The HS is thus a universal economic language and code for goods, and an indispensable tool for international trade (WCO 2012).

The HS is governed by "The International Convention on the Harmonized Commodity Description and Coding System". The official interpretation of the HS is given in the Explanatory Notes (five volumes in English and French) published by the WCO. The Explanatory Notes form part of a commodity database giving the HS classification of more than 200,000 commodities actually traded internationally. The maintenance of the HS is a WCO priority. This activity includes measures to secure uniform interpretation of the HS and its periodic updating in light of developments in technology and changes in trade patterns. The WCO manages this process through the Harmonized System Committee (representing the Contracting Parties to the HS Convention) which examines policy matters, takes decisions on classification questions, settles disputes and prepares amendments to the Explanatory Notes. The HS Committee also prepares amendments updating the HS regularly. Decisions concerning the interpretation and application of the Harmonized System, such as classification decisions and amendments to the Explanatory Notes or to the Compendium of Classification Opinions, become effective soon after the approval by the HS Committee.

WTO Agreement on Customs Valuation formally known as the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) 1994 established a customs valuation system that primarily bases the customs value on the transaction value of imported goods which is the price actually paid or payable for the goods when sold for export to the country of importation plus certain adjustments

of costs and charges. It constitutes the taxable basis for customs duties. It is also an essential element for compiling trade statistics, monitoring quantitative restrictions, applying tariff preferences, and collecting national taxes. Imported goods are valued in terms of the provisions of the WTO Agreement on Customs Valuation. The Agreement is intended to provide a single system that is fair, uniform and neutral for the valuation of imported goods for Customs purposes, conforming to commercial realities and outlawing the use of arbitrary or fictitious Customs values. The Agreement, by its positive concept of value, recognizes that Customs valuation should, as far as possible, be based on the actual price of the goods to be valued.

WTO Agreement on Rules of Origin provides transparency to regulations and practices regarding Rules of Origin, with the main purpose of preventing unnecessary obstacles to the flow of international trade. The Agreement establishes a platform for harmonizing Non-Preferential Rules of Origin. The main goal is to bring about further liberalization and expansion of world trade. The other motivation is to impose very precise disciplines on the application of Rules of Origin both now (transition period) and after the harmonization of Non-Preferential Rules of Origin. Under the Agreement, Members are obliged to adhere to the following disciplines:-

(i) Not to use Rules of Origin as instruments to pursue trade policy objectives.
(ii) Not to create restrictive, distorting or disruptive effects on international trade.
(iii) Not to discriminate against imports and exports or between Members.
(iv) To administer Rules of Origin in a consistent, uniform, impartial and reasonable manner.
(v) To base Rules of Origin on a positive standard.
(vi) To publish laws, regulations, judicial decisions and administrative rulings relating to Rules of Origin.
(vii) To provide origin assessments upon request.
(viii) Not to apply changes in Rules of Origin retroactively.
(ix) To treat confidential information confidentially.

Technically, regulatory laws are applied to a dynamic competitive market with the aim of achieving an objective which the market cannot reach alone either because there is a technical problem such as the lack of an essential infrastructure or where it is necessary to impose a structure for the common good of the national economy. The regulatory system of a particular market such as that involving trading of agricultural products facilitates the realization of specific objectives such as enabling access to products by the consumers and/or industries. In order to achieve this objective, the regulatory system must have specific rules and regulations due to the linkage that exist between laws and regulations which often leads to the setting up of specific institutions to serve as regulators. Technically, a regulatory system essentially takes into account the specificity of products which influences the rules and regulations surrounding those products.

While setting up regulatory mechanisms for certain products, it should be appreciated that inadequate understanding of supply and demand for agricultural products as well as inadequate handling and processing of these products could lead to dangerous outcomes and therefore food safety has to be accorded proper

consideration when setting up a regulatory system. The necessity for a regulatory system can arise because some products which are vital for people living in certain geographical and social conditions are not easily accessible to them. A regulatory system is therefore necessary to overcome breakdowns in the production chain of agricultural products to avoid universal risks. Furthermore, demand for agricultural products is closely linked to culture and consumers' eating habits. This should be taken into account when designing a regulatory system; likewise, the agricultural activity itself which is part of land development should be linked to regulatory systems for other sectors such as environment, tourism, mining, energy, transportation and telecommunications.

It is therefore prudent to set up regulatory policies that are not a set of exceptions but rather taking full cognizance of specific rules shaped by the technical specificity of a product and its market conditions; the main purpose being to understand the conditions of the suppler while targeting satisfaction of the consumer. For example, in terms of setting up a commercial system providing wider access to certain agricultural products, a long-term production policy with great transparency on the nominal nature of products in circulation is necessary. In the same way, the interactions between the agricultural sector, water regulatory systems, health policies and the protection of innovative medicines call for "inter-regulatory" systems, that take into consideration several aims and interactions in the decision-making in each sector. Consequently, a regulatory system must be set up with political and technical requirements in mind because the functioning of this system depends on the policies governing the production and distribution of given commodities. Harmonious policies and regulations would guarantee the success of a specific regulation governing agricultural marketable goods.

Various countries around the globe have devised regulatory systems to manage the entry and exit of agriculture related products in such a manner that the agriculture sectors of their countries are protected, sustained and developed to serve wide-ranging national interests. These are either in the form of food security, plant and animal health, industrial development, trade development or safeguarding national sovereignty.

USA and EU Examples

First example worth quoting here is United States of America (USA) where a web of laws and institutions are in place to create a legal context and mechanism of controlling border entry and exit of agricultural products, in line with the country's multitude of national interests. These include institutions that control and guard various sectors including:-

1. The United States Department of Agriculture (USDA) which works towards strengthening the American agricultural economy, building vibrant rural communities and securing a stronger future for the American middle class. It monitors the export of products from the U.S. through a standard set of regulations and policies.

2. The Marketing and Regulatory Programs (MRP) that facilitate domestic and international marketing of U.S. agricultural products and ensure the health and care of animals and plants, with agencies that are active participants in setting national and international standards.
3. The Agricultural Marketing System (AMS) that administers programs that facilitate the efficient and fair marketing of U.S. agricultural products, including food, fiber, and specialty crops.
4. The Animal and Plant Health Inspection Service (APHIS) with the basic charge of "Protecting American Agriculture" under the pretension of ensuring the health and care of animals and plants. The regulations guiding (APHIS) categorically state that while foreign regulatory systems need not be identical to the U.S. system, they must employ equivalent sanitary and health measures that provide the same level of protection achieved domestically for imported goods.
5. The Farm Service Agency (FSA) implements agricultural policy that administers credit and loan programs, and manages conservation, commodity, disaster and farm marketing programs through a national network of offices.
6. Center for Nutrition Policy and Promotion (CNPP) that works to improve the health and well-being of Americans by developing and promoting dietary guidance that links scientific research to the nutrition needs of consumers.
7. Food and Nutrition Service (FNS) which increases food security and reduces hunger in partnership with cooperating organizations by providing children and low-income people access to food, a healthy diet, and nutrition education in a manner that supports American agriculture and inspires public confidence.
8. Food Safety and Inspection Service (FSIS) which enhances public health and well-being by protecting the public from food borne illness and ensuring that the nation's meat, poultry and egg products are safe, wholesome, and correctly packaged.
9. Foreign Agricultural Service (FAS) which works to improve foreign market access for U.S. products. This USDA agency operates programs designed to build new markets and improve the competitive position of U.S. agriculture in the global marketplace.
10. Forest Service (FS) that sustains the health, diversity and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.
11. The Grain Inspection, Packers and Stockyards Administration (GIPSA) which facilitates the marketing of livestock, poultry, meat, cereals, oilseeds, and related agricultural products, and promotes fair and competitive trading practices for the overall benefit of consumers and American agriculture.
12. The Grain Inspection, Packers and stockyards Administration (GIPSA) which facilitates the marketing of livestock, poultry, meat, cereals, oilseeds, and related agricultural products and promotes fair and competitive trading practices for the overall benefit of consumers and American agriculture. GIPSA ensures open and competitive markets for livestock, poultry, and meat by investigating and monitoring industry trade practices.

13. National Institute of Food and Agriculture (NIFA) whose unique mission is to advance knowledge for agriculture, the environment, human health and well-being, and communities by supporting research, education, and extension programs in the Land-Grant University System and other partner organizations. NIFA doesn't perform actual research, education, and extension but rather helps fund it at the state and local level and provides program leadership in these areas.
14. Natural Resources Conservation Service (NRCS) which provides leadership in a partnership effort to help people conserve, maintain and improve the national natural resources and environment.
15. Risk Management Agency (RMA) that helps to ensure that farmers have the financial tools necessary to manage their agricultural risks. RMA provides coverage through the Federal Crop Insurance Corporation which promotes national welfare by improving the economic stability of agriculture.

Another example worth noting is that binding the European Union countries. For most European countries, the common commercial policy is a pillar for the external relations of the European Union. It is based on a set of uniform rules under the Customs Union and the Common Customs Tariff and governs the commercial relations of the Member States with Non-EU Member Countries. The purpose of the instruments of trade defense and market access is mainly to protect European businesses from obstacles to trade. The EU has evolved during the process of globalization by aiming for the harmonious development of world trade and fostering fairness and sustainability. It actively encourages the opening of the markets and the development of trade in the multilateral framework of the World Trade Organization (WTO).

The objective of the European Union's food safety policy is to protect consumer health and interests. In order to achieve this objective, the EU ensures that control standards are established and adhered to as regards food and food product hygiene, animal health and welfare, plant health and preventing the risk of contamination from external substances. It also lays down rules on appropriate labeling for these foodstuffs and food products. The current food safety policy is based on a series of principles applied in line with the integrated approach 'From the Farm to the Fork' specifically include transparency, risk analysis and prevention, the protection of consumer interests and the free circulation of safe and high-quality products within the internal market and with third countries. A certain number of bodies, in particular, the European Food Safety Authority, are responsible for helping to guarantee food safety.

Africa and SADC

Many countries in Africa have since the 1990s been dismantling government controls and converting to market-based food systems, believing that market reforms would enhance farm profitability through their positive effects on prices, investment

levels, and commercialization. In fact, the need for such agrarian reforms, including commercialization of the smallholder production systems, received considerable attention from governments and development organizations, including SADC states. However, the results of the reform programs were mixed and frequently inconsistent with the expected increases in productivity. It was then realized that the sector-based reform prescriptions in many cases had been based upon superficial knowledge of the prevailing economic institutions and how they affect economic outcome in particular economies. It was then appreciated that it was prudent to go beyond generalizations so that property rights, market rules and exchange mechanisms were required to actually conduct pragmatic applied research on the specific kinds of property rights, rules, and exchange arrangements that would most contribute to the development of markets among states (Muchopa et al. 2004).

Globalization, a major influence on the development of institutions, should be considered when designing policies and legislations governing markets including markets for agricultural products. The globalization process, fuelled by such forces as the simultaneous opening of financial capital markets and the dismantling of closed trade in agricultural commodities, raises questions about the links between natural resources, government, household and private sector strategies and the economic welfare of a country or group of countries. If the globalization process and the creation of the correct institutions are to be the catalyst for economic growth and development in emerging and developed markets, then understanding these links is crucial. This calls for a fundamental review of the whole basis for policies that regulate agricultural investment and marketing in SADC (Muchopa et al. 2004).

The objectives of SADC include the achievement of development and economic growth, alleviation of poverty, enhancement of standard and quality life and support socially disadvantaged groups through regional integration. These objectives are to be achieved through the implementation of various protocols agreed upon to guide each cooperation area. The SADC Protocol on Trade calls for trade liberalization, the elimination of trade barriers and of import and export duties, harmonization with the trading practices of the WTO and SPS information management system (SPS IMS). The SPS IMS sets out basic rules on how governments can apply food safety and animal and plant health measures. The system allows users to track and obtain information on measures that member governments have notified the WTO (an obligation for WTO members), specific trade concerns, documents of the WTO's SPS Measures Committee, member governments' national enquiry points and their authorities handling notification. Through the liberalization schedules of each Member States, a free trade area has been established within SADC to allow freer movement of goods within the region (SADC 2006a).

The liberalization and promotion of agricultural trade is one of the main goals of SADC. There is a specific Directorate of Food, Agriculture and Natural Resources which promote trade in agriculture as one of its main functions. The SADC Protocol on Finance and Investment (FIP) signed in August 2006 and entered into force in April 2010 looks into legal and practical commitments to improve the investment climate in Member States and catalyze foreign and intra-regional investment as well as to enhance cooperation, coordination and harmonization of the financial sectors

in SADC (SADC 2006b). Regional financial integration is an economic and political process whereby capital and financial markets are increasingly integrated and capital is able to freely cross the intra-regional borders. These include the elimination of barriers and constraints to regional capital mobility, adoption of regionally integrated payment systems and harmonization of regulatory and supervisory frameworks. Other relevant protocols entered into include the SADC Protocol on Transport, Communication and Meteorology which aims to establish transport, communications and meteorology systems which provide efficient, cost-effective and fully integrated infrastructure and operations, which best meet the needs of customers and promote economic and social development while being environmentally and economically sustainable (SADC 1996).

Other organs including Common Market for Eastern and Southern Africa (COMESA) and Southern African Customs Union (SACU) are active in trade liberalization in Southern Africa region. COMESA, formerly known as PTA (a free trade area with 19 states stretching from Libya to Zimbabwe) existed since 1994 replacing the Preferential Trade Area (PTA) which existed since 1981. In 2000, nine of the members formed a free trade area (FTA – Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe) with Rwanda and Burundi joining the FTA in 2004 and the Comoros and Libya in 2006 and Seychelles in 2009. COMESA is one of the pillars of the African Economic Community. In 2008, COMESA agreed to an expanded free-trade zone including members of two other African trade blocs, the East African Community (EAC) and SADC. Namibia participated in the process of establishing the FTA in the context of SACU, having made a single joint liberalization offer to the rest of the SADC countries (Wikipedia).

The aim of SACU (a customs union among five countries – Botswana, Lesotho, Namibia, South Africa and Swaziland), is to maintain the free interchange of goods between member countries. It provides for a common external tariff and a common customs area. Its specific aims are to facilitate the cross-border movement of goods between the territories of the Member States; to create effective, transparent and democratic institutions which ensures equitable trade benefits to Member States; to promote conditions of fair competition in the Common Customs Area; to substantially increase investment opportunities in the Common Customs Area; to enhance the economic development, diversification, industrialization and competitiveness of Member States; to promote the integration of Member States into the global economy through enhanced trade and investment; to facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States and to facilitate the development of common policies and strategies (Wikipedia).

Trade liberalization among SACU Member States covers free movement of domestic products within the SACU region; goods imported from outside the Customs Union; customs duties on imported goods; specific excise and ad valorem excise duties and specific customs and ad valorem customs duties on imported goods of the same class or kind. The trade liberalization agreement also covers legislation relating to customs and excise duties; customs cooperation; freedom of transit; import and export prohibitions and restrictions as well as protection of infant industries. Covered also are rail road transport; technical barriers

to trade; arrangements for regulating the marketing of agricultural products and SPS measures (SACU 2004).

The SACU agreement states that no Member State shall enter into new preferential trade arrangement with third parties or amend existing arrangements without the consent of other Member States. Member States may maintain preferential trade and other related arrangements existing at the time of entry into force of the 2002 SACU Agreement in July 2004. SACU Member States, with the exception of South Africa may, as a temporary measure, levy additional duties on goods imported into its area to enable infant industries in its area to meet competition from other industries in other SACU countries. The SACU Agreement also calls upon Member States to cooperate in the application of regulations for agricultural products marketing and consult from time to time in matters affecting the production and consumption of agricultural commodities. It requires Member States to consult on matters affecting the improvements of such commodities. However, each Member State is at liberty to impose marketing regulations for agricultural products within its borders in favor of emergent agriculture and related agro-industries and for any other purpose as may be agreed upon between Member States (SACU 2004).

Namibia's National Legislations

Namibia, as an emerging free market area has put in place several policies and enacted a variety of legislations to protect, guide and enhance trade in its agricultural sector. The Plant and Quarantine Act of 2008 enables the law enforcement unit in the Directorate of Extension and Engineering Services to oversee the prevention, monitoring, controlling and eradication of plant pests. The unit is responsible for facilitating the movement of plants, plant products and other regulated articles within, into and out of Namibia. The unit provides certification of the phytosanitary standards of plants and plant products imported into Namibia following the WTO guidelines which have set rules and regulations that individual countries can use to ensure that each country's consumers are being supplied with food that is safe to eat. Safety is benched on the standards that the country considers to be appropriate while ensuring that strict health and safety regulations are not being used as an excuse to protect domestic producers. In terms of section 2 (1) of the Plant Quarantine Act, the line Ministry (or such other authority as the Minister by notice in the Gazette may designate) has the authority and responsibility to function as the official national plant protection organization of Namibia for purposes of the Convention (Parliament of Namibia 2008a).

In terms of the standing regulations under the Animal Health Act of 2011, the Directorate of Veterinary Services issued import and export permits for the importation and exportation of all animals and animal products from foreign countries into or out of Namibia. It also makes provision for the prevention, detection and control of animal diseases to provide for the maintenance and improvement of animal health incidental matters. In terms of section 4 (1) and (2) of this act, the Minister,

on the recommendation of the Chief Veterinary Officer, may in writing authorize a person to perform the function and exercise the power of a veterinary official that are specified in the authority. An authority under subsection (1) has effect for the period specified in the authority or, if no period is so specified, until the authority is revoked by the Minister. In terms of section 33 (1), (a) and (q), the Minister may make regulations relating to any matter which in terms of the Act is required or permitted to be prescribed as well as any other matter or action that the Minister considers necessary for the purpose of protecting human and animal health. In terms of section 33 (2) (d), regulations made under subsection (1) may confer powers or impose duties on any person (Parliament of Namibia 2011).

The Agronomic Industry Act of 1992 established the Namibian Agronomic Board as a statutory body in terms of the act. The mission of the Board is to develop and promote a sustainable and diverse Namibian agronomic industry through management, facilitation, advice and regulation. The aim is to facilitate production, processing, storage and marketing of controlled products (as listed in the Act). In terms of the Agronomic Industry Act section 10 (1) the Minister in the line Ministry may by notice in the Gazette make regulations with respect to the qualifications of persons who are authorized to examine and grade controlled products under this Act and the method of grading as well as any other matter which the Minister may deem necessary or expedient to regulate for the achievement of the objects of this Act (Parliament of Namibia 1992).

The Meat Industry Act of 1981 as amended established the Meat Board of Namibia whose main objective is the promotion of the interests of meat industry in Namibia. The Meat Board of Namibia facilitates the development of markets and matches consumer requirements with local supplier abilities. The mission of the Board is to manage, promote and represent the interests of the meat industry in Namibia effectively and efficiently. The functions of the Meat Board of Namibia include market development, livestock marketing, compilation and dissemination of strategic information and maintaining meat and food standards for the integrity of Namibia. The Board has jurisdiction over the marketing of cattle, sheep, goats, pig meat and other meat products. It carries out regulatory control of standards, quality assurance and import/export control of cattle, sheep, goat, pig meat and other meat products according to the directives of the portfolio Minister. The line Minister may by notice in the Gazette make regulations and appoint persons or organizations which the Minister may deem necessary or expedient to regulate for the achievement of the objects of this Act (National Assembly of South West Africa 1981; Parliament of Namibia 1992).

The State-owned Enterprises Governance Act of 2006 was enacted to harmonize all Acts including the ones governing the performance and regulation of the agricultural sector. The State-owned Enterprises Governance Act makes provision for the efficient governance of State-owned enterprises and the monitoring of their performances. It also makes provision for the restructuring of state-owned enterprises; state-owned enterprises Governance Council and defines its powers, duties and functions as well as provision for incidental matters. In terms of the State-owned Enterprises Governance Act under schedule 1 number (1) (2) and (9) the

Meat Board of Namibia and Namibian Agronomic Board are listed as State-owned Enterprises. By definition, in this Act, the portfolio Minister of the line ministry currently the Minister of Agriculture, Water and Forestry is responsible for the administration of the law governing the establishment and functions of the agricultural sector and is holding the shares and exercising the rights attached to the shares in the sector on behalf of State (Parliament of Namibia 2008b).

Namibia's Vision 2030 adopted in 2004, clearly spells out the country's development programs and strategies to achieve its national objectives. Vision 2030 is centered on the people of Namibia in as far as their social, economic and overall well-being is concerned. The Vision is seen as a road map guiding Namibia as she strives to achieve healthy and food-secure state for all including the promotion of diversified and open market economy with a resource-based industrial sector and commercial agriculture with a competitive export sector in terms of product quality and differentiation. The Vision as well as the ruling party manifesto commits the Namibian Government to devise programs and projects that contribute meaningfully to national economic growth (Office of the President 2004; Office of the Prime Minister 2012).

The third Five-year Strategic Plan of the Ministry of Agriculture, Water and Forestry identified key strategic issues while the National Agricultural Policy (NAP) set objectives of achieving increased agricultural production, trade and the sector contribution to GDP. The Agriculture Marketing and Trade Policy and Strategy are one of the catalysts aimed at achieving the agriculture sector's objectives as highlighted in Vision 2030, National Development Plans and the National Agriculture Policy (NAP). The aim of this policy is to further harmonize all policies and strategies across the agricultural sector and sub-sectors. It is categorically stated that the Agriculture Marketing and Trade Policy and Strategy make concerted efforts by hosting all role players within the Government, private sector and civil society to meet the envisioned policies and targets. Furthermore, it is stated that the policy function in full cognizance of relevant international cooperating partners as well as work closely with other various government departments, statutory bodies, regulatory bodies and any relevant organization as provided in various Acts. Therefore the policy should be utilized to protect the local market, uncover international trade irregularities, contact forensic investigation, carry out quality control, obtain data and information and advance economic analysis to ensure smooth marketing and trade environment for agricultural products in the local market and in the international markets.

Different public legislative organs are in place to oversee the functioning of the various Acts and legislations. The Ministry of Agriculture, Water and Forestry has the mandate to promote, develop, manage and utilize agriculture, water and forestry resources, with a mission to realize the potential of such sectors towards the promotion of an efficient and sustainable socio-economic development of Namibia. The Ministry's vision is to promote and manage the sustainable utilization and development of agricultural, water and forest resources for a prosperous Namibia through stakeholder partnerships. The Ministry of Trade and Industry is responsible for the development and management of Namibia's economic regulatory regime on the basis of

which the country's domestic and external economic relations are conducted. This includes putting in place appropriate policies to attract investment, increase trade and development of the country's industrial base in order to stimulate growth and development of the economy. Of relevance to the agriculture sector is putting in place border control mechanism and overseeing the activities of the Agriculture Trade Bureau. The functions of the Agriculture Trade Bureau include the management, regulation and facilitation of trade, commercial and business activities in the context of bilateral, regional and multilateral trade relations.

On the other hand other institutions whose functions affect the health of the agriculture sector include the Ministry of Works and Transport that is mandated with the responsibility of developing policy and regulation in the transport and construction sectors while ensuring infrastructure development and maintenance. The other institution is the Ministry of Finance that is mandated with the responsibility of protecting the society with respect to the international movement of goods and people; collecting, securing and managing revenue; facilitating trade whilst exercising appropriate control and advancing the country's interests regionally and internationally in these areas. The Directorate of Customs and Excise in the Ministry of Finance has a specific role that mainly encompasses the control of international movement of goods, people and conveyances.

Private Sector institutions which support trade and marketing of agricultural products include the Namibia Trade Forum which is a formal consultative and cooperative mechanism established to strengthen collaboration between the government and the private sector on matters related to international trade and investment. It was established in 2005 as an organization not for gain. Its role is to serve as the main consultative body representing the private sector views to the government. It is thus the highest public private partnership institution on international trade and investment matters. The rational for its establishment was that at the time, private sector input and government feedback into the process of international trade and investment was on a case by case basis lacking uniformity and therefore needed systematization and formality. The forum is seen as a necessity towards achieving a joint effort towards the realization of national aspiration and objectives and the positioning of the country competitively in international trade and investment arenas. In particular the private sector is encouraged to aggressively utilize the advantages or opportunities presented in the various trade and investment agreements effected by the government.

The other private sector institution that is instrumental in facilitating trade and marketing of agricultural products is the Agricultural Trade Forum (ATF) which was founded in 1999 as a loose association of interested stakeholders of the private agricultural sector with active concerns in trade issues. The forum, formalized in 2003, registered as an incorporated association not for gain. The forum serves as the mouthpiece for the whole value adding chain of agricultural products, with participation of producer and processor organizations, marketing boards, research institutions and representatives of the line ministries involved in trade issues. The objective of the forum is to advance and strengthen agricultural production and processing sectors in order to promote these sectors in national,

regional and international trade relations and negotiations in a transparent way. This is done, amongst others, by promoting private sector participation in making inputs to the national trade process, formulating and presenting the opinion and negotiation proposals of the private agricultural sector in trade and trade-related matters to the line Ministries involved in trade negotiations. The forum promotes close cooperation with relevant stakeholders and briefs them on relevant inputs necessary for the implementation of agricultural development aspects of existing or to be negotiated trade agreements in the framework of successive National Development Plans and the Agricultural Policy of Namibia.

Namibia Agricultural Union (NAU) is yet another private sector institution established to spearhead organized agriculture in Namibia acting as the mouthpiece and mediator for the commercial farmers. While NAU represents the farmers' thoughts and aspirations up front, it also endeavors to develop the total agricultural community. The mission of NAU is to promote/enhance a favorable environment for sustainable agriculture. In order to achieve its objectives, NAU works in close collaboration with other stakeholders, negotiates and makes recommendations to the government, promotes sustainable and diversified agricultural production and investigates and promotes farmers involvement in value addition chain (NAU 2013).

In 1992, Namibian National Farmers Union (NNFU) was established as a not for gain association to serve as a mouthpiece for the communal and emerging farmers. Twelve regional farmers unions are affiliated to NNFU. The aims of NNFU are to increase food production for household food security; enhance marketing of farming products to increase household income; increase participation and recognition of women in farming and to contribute to environmental protection and sustainable utilization of natural resources. NNFU promotes active participation of the small scale producers in the design and drafting of conducive and enabling policy environment related to agriculture, water, land, credit among other needs. NNFU facilitates the implementation of national policies, acts and legislations; implementation of projects and schemes and serves as a conveyer belt between farming communities country-wide and service delivery institutions. NNFU is involved in institutional strengthening in order to create vibrancy at grass-root level that allows for complimentary actions.

Food Trade Overview

Namibia has a sizable market for agricultural and agro-industrial products that was valued at more than N$5 billion (computation from the National Account, 2000–2008). Of this, local industries have a market share of around one-third. During this time, the main local visible products included agricultural products such as livestock-based (cattle, goats, sheep, pigs and poultry) and crops and horticulture-based (including maize, wheat, cabbage, watermelon, potatoes, tomatoes, onion, grapes, dates, mangoes). On the agro-industrial side, products included processed meat (chilled, dried, canned); dairies; leather products; flour; confectioneries; oil;

beer and beverage as well as spirit and wine. Animal products, live animals, and crop exports constituted roughly 10.7 % of total exports. The majority of inputs for primary production in the agriculture sector such as equipment and machineries, veterinary medicine and food supplements, are imported. Meanwhile, the government encourages retailers of fruits, vegetables, and other crop products to source 30 % of their stock from local farmers (Namibia Statistical Agency 2013; Annual Statistics Bulletin 2012).

During the period 2000–2008, out of top 25 export products, only 20 % had undergone some degree of processing, and even fewer that could be regarded as at a final phase of value addition. Conversely, of the agricultural and agriculture-related products imported, 80 % were in processed form, which demonstrates the domination of the local market by processed agricultural imports. This fact supports the fact that there is a high demand for agricultural products which, if taken advantage of could support the growth of the development of local agricultural processing industries. Thus the limited range of Namibia's agro-industrial products is testimony to the fact that there is room for increasing this range through value addition to a wide range of agricultural produce which would stabilize agricultural trade for the local farmers as it is common knowledge that value added agro-industrial products are less price volatile to international shocks than raw agricultural produce (Annual Statistics Bulletin 2012).

For example, it emerges that during 2008–2009 periods, Namibia had a negative balance of trade in agricultural products, averaging more than N$1 billion. In 2009, Namibia imported agricultural products valued at N$5.9 billion versus export value of N$4.6 billion. This translates into an agricultural trade deficit of N$1.3 billion. A glimpse at Namibia's exports and imports over a series of years illustrates a state of the agricultural industry with a high potential, but with marginal exploitation of such potential for the benefit of the country and its citizens Namibia (Namibia Statistical Agency 2013).

During 2008–2009 periods, Namibia exported various agricultural products which averaged more than 500 products lines at the six-digit HS code level. In 2009, the top export products included malted beer, live bovine animals, meat (fresh, chilled and frozen), fresh grapes, sheep/lamb carcasses (fresh and chilled), fermented beverages, live goats, no-alcoholic beverages, spirit and wine. The main export markets included countries within SADC region (South Africa and Angola); European Union (United Kingdom, Spain, Switzerland) and Norway as well as the United States of America (USA). Namibia, with the facilitation of her competent authorities, has been able to meet the technical sanitary and phytosanitary requirements for her exports to those countries. China is emerging as a major viable market; the challenge now is to attain certification and eligibility to retain old markets and accessing and taking advantage of new export markets. During the same periods, the range of imported agricultural and agro-industrial products was close to 600 lines at six-digit HS code level of which sugar and confectionery, cigarette, frozen chicken, non-roasted malt, malted beer and prepared food featured prominently. Over 80 % of agricultural products are imported from or via South Africa (Namibia Statistical Agency 2013).

It is reported in the media and various other documents that the agricultural regulation system in Namibia is operating with government intervention through the established statutory boards. The boards are supposed to advise and protect the interests of role players in the agriculture value chain through the enacted various legislations. However, it is reported that the current regulatory arrangements for some sub-sectors are made complicated and mostly favoring main role prayers, thus making the system non-transparent and difficult to achieve the set national objectives as highlighted in Vision 2030, National Development Plan and the National Agriculture Policy (NAP). Regulatory institutions such as the Namibian Standards Institution (NSI), Namibia Competition Commission (NCC) and Namibia Board of Trade (NBT) seem minimally involved in the operations of the agriculture sector despite the fact that they have been charged with the responsibilities to develop and enforce laws and standards as well as maintain a competitive domestic market and ensure fair competition against the international business communities.

It is reported that the import and export of controlled grain, grain products and fresh produce from and into Namibia are currently outsourced to Agri-Inspect appointed by the Namibian Agronomic Board in 2008 to monitor and inspect products as listed under the Agronomic Industry Act. This arrangement also applies to the meat industry. Agri-Inspect, a South African company is working closely with government structures in South Africa, United State, Zimbabwe, Zambia, Swaziland and Namibia. Together with different departments and bodies, its services include market protection, investigations of illegal imports, quality control, data collection and economic analysis to ensure that the dumping of commodities do not have a negative impact specific on the South African market.

It is thus safe to conclude that Namibia heavily depends on trade through which she imports food products to meet the shortfall in her locally produced foods. Currently, Namibia is meeting its grain requirements through annual local production and imports. About 50 % of her annual grain consumption is locally produced, the shortfall of local production made up of imports. Namibia imports about 50 % of her maize needs; 75 % of wheat and about 37 % her Pearl Millet (*Mahangu*) annual requirement. She imports 75 % of pork, 70 % of chicken, 50 % of milk, 75 % of cheeses and 90 % of her butter requirements. She also imports 65 % of all fruit and vegetables as well as 100 % of her sugar requirements. Most of the food imports are sourced from the major food producing countries in SADC including South Africa, Zambia and Zimbabwe and a few others from outside SADC including Brazil, EU member states, the USA and a few others. On the other hand Namibia exports Namibia exports about 80 % of all its beef, 90 % of all its lamb and sheep and about 95 % of all its goats. Further, Namibia exports about 95 % of all fish caught in Namibian waters (Hoffmann 2012).

Most of the maize is imported from the Republic of South Africa; some maize is imported from Zambia and sometimes from Zimbabwe. This imported maize is used as both staple food and as animal and chicken feed. It is beneficial to import maize from SACU member states because of the customs union which affords no internal trade barriers to its Member States. Wheat on the other hand is sourced from outside SACU trading block because all SACU member States are net importers of

wheat. The quality of the Namibian wheat harvest has to be blended with Hard red Winter wheat of the USA and A4 wheat of the EU to give it the required quality of wheat flour that meets Namibian market demand. A small quantity of pearl millet (*Mahangu*) is imported from India to augment the locally produced quantity to meet commercial *Mahangu* needs (Hoffmann 2012).

On the other hand, until 2013, the dairy sector was totally unprotected so that about 50 % of the UHT and fresh milk was imported from South Africa as well nearly all the butter and cheese requirements of the Namibian market. Currently most of butter and most of cheese products are imported from South Africa; small quantities are (about 10 % of total requirements) are imported from the EU. However, the Government has started tightening import regulations on dairy products such as milk to afford some protection to the local industry. Similarly, in the pork sector, most of the Namibian requirements are imported from South Africa just like sugar requirements. Research efforts made to reverse this situation revealed that the capacity of any sugar mill to be profitable must have a capacity of 150,000 t of sugar per year, and that would create a surplus and locally produced sugar will not be a cheaper alternative (Hoffmann 2012).

Prior to 2012, 70 % of all chicken was imported from South Africa in a frozen state. However, a Namibian based company is producing chicken locally which is hoped will satisfy the local demand. The Namibian Agronomic Board in collaboration with the Ministry of Agriculture Water and Forestry have embarked on a drive to increase the share of locally produced horticultural produce and it is hoped that this will be carried out until about 65 % of all Namibian requirements are satisfied out of own production. However, rainfall unreliability and water scarcity is a threatening this drive. It suffices to note here that the majority of small-scale producers are self sufficient in their food requirements due to the fact that their diet highly determined by the availability of the foods they produce and/or harvest from the indigenous plant resources (Iita 2012; Hoffmann 2012).

While Namibia will continue to rely heavily on trade to fortify her food security, the Government recently created national strategic food reserves (Silos) with a storage capacity of 11,000 t, representing 3.5 % of annual national consumption. Fresh produce outlets have also been put up to prolong the life of horticultural produce. Livestock production, an important agricultural sector as livestock and livestock products provide a major source of food and income for the majority of the population is also receiving concerted efforts to stabilize it. Moreover, Namibia is vigorously working towards self-sufficiency in food production through support to the Green schemes and other undertakings discussed in detail in Chaps. 5 and 7 of this book. Chapters 2 and 3 also contain relevant information on efforts being made by Namibia Government towards this endeavour.

Nevertheless, it must be appreciated that despite the concerted efforts being made, there are great constraints that face the country which dictate that Namibia continue to depend on food imports. These include the harsh climatic conditions characterized by unreliable and unpredictable rainfall, recurrent droughts and the fact that it will take a very long time (if ever) for Namibia to be self sufficient in all grains such as rice and wheat which are emerging as minor but important staples because these as

well as sugar-cane have high water requirements, a very scarce resource for Namibia. The other constraint is affecting fruit and vegetable production which can only be feasibly produced in Namibia to meet up to 65 % of total demand of the formal sector. Thus all these commodities have to be imported for the foreseeable future while promoting indigenous vegetables and fruit tree domestication.

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